

June 3, 2010

**In Re: Mazer Real Estate**  
**Docket No: 35WRMERZX1747**

Statement of Record:

1. Mazer Real Estate (hereafter "Petitioner") filed a Petition for Appeal of principal, interest and penalty for the water/sewer bill for the property at 7519 Woolston Avenue Philadelphia, Pa. The billing period on the petition was January to May 1998.
2. On January 18, 2007, a public hearing was held before a Tax Review Board Master. The decision of the Master, as ratified by the Tax Review Board was to deny the Petition.
3. Petitioner requested and was granted a hearing before the full Tax Review Board.
4. A public hearing before the full Tax Review Board was held on January 5, 2010 following which the Board announced its decision to direct the Water Revenue Bureau to credit Petitioner's Water Revenue account in the amount of \$5407.99.
5. The City of Philadelphia has appealed to the Court of Common Pleas.

Findings of Facts:

1. Petitioner filed a Petition for Appeal of principal, interest and penalty for a water/sewer bill issued in 1998 by the Department of Revenue for the Water Revenue account for 7519 Woolston Avenue Philadelphia, Pa.
2. Petitioner purchased the property in 1995 through a Sheriff's Sale.
3. A refund in the amount of \$5,407.99 was issued by the Water Revenue Bureau (WRB) on April 22, 1998 based on a credit to the account. The WRB records do not indicate to whom the refund was issued but do indicate that a refund check was issued based on a credit to the Water Revenue account for 7519 Woolston St.
4. The Water Revenue Bureau did not have any information as to who requested or received the refund. Any additional records were unavailable due to the age of the information being sought.
5. The refund was not requested nor given to Petitioner.
6. Issuing the refund created a delinquency on the account equal to the refunded \$5,407.99. The Water Revenue Bureau then sought this amount from Petitioner as the property owner.
7. Cynthia Okudo Norris, representing Petitioner, testified that at some point prior to any refund being issued, her company as owner of the property determined that there was a credit on the Water Revenue account for 7519 Woolston Avenue.  
Petitioner also owned a separate, unrelated property that had a large, unpaid Water Revenue bill. Petitioner requested that the credit on the Woolston Avenue account be transferred to the second property's account to cover its unpaid bill. The Water Revenue Bureau concurred that the Woolston Avenue account had this large credit and approved the fund transfer to a second property account.  
Several months after the credit was transferred to the second property, Petitioner received a bill from the Water Revenue Bureau for the Woolston Avenue property showing that the credited amount was now due and owing as an outstanding bill. Ms. Norris called the Water Revenue Bureau and was told that someone had requested a refund of that money and it had been approved. In addition, following the refund request, the funds were removed from the second property account, leaving that bill again unpaid, which Petitioner subsequently paid from its own funds.  
When the refund was granted, it left \$5,407.99 again due on the Woolston Avenue property for Petitioner to pay as well as the bill due again on the second property..

8. The City representatives acknowledged that an overpayment had been credited to Petitioner's Woolston Avenue account in 1998 and then refunded to an unknown party, leaving Petitioner with a large outstanding balance on 2 properties. The City records were sparse due to the age of the case and so there was little information to explain the City's actions.

Discussion:

The Tax Review Board decision was to direct the Water Revenue Bureau to return the \$5407.99 credit to the Water Revenue account for the Woolston Avenue property.

The delinquency on this Water Revenue account was created by the City's own error in giving away to an unknown party the funds from the account for this property when it was owned by Petitioner. There was no assertion by the City that it had paid this money to Petitioner, only that it had given this money out to someone and now expected the Petitioner to repay on an account that had originally been overpaid during Petitioner's ownership. There was no assertion or evidence from the City to establish that the money had been refunded to an entity legally entitled to it and yet the City was trying to recover the money from Petitioner by billing the account for the amount that the City had given to a third party.

In addition, when the credit existed in the City's records, the City allowed Petitioner to use it to cover an outstanding bill on another property. When the refund was granted, the City reinstated the outstanding bill on the second property as well as the Woolston Avenue account, thus requiring Petitioner to pay 2 large bills where there had been previously sufficient funds to pay both bills in full. Petitioner paid the outstanding balance on the second property and filed the current appeal.

It was the finding of the Tax Review Board that the Petitioner met its burden of proof to establish that the money refunded by the City of Philadelphia to unknown parties rightfully belonged to Petitioner as the owner of the Woolston Avenue property.

Therefore, the Tax Review Board directed that the amount of \$5407.99 be credited to the Woolston Avenue Water Revenue account to be used to cover any remaining delinquencies or future liabilities.

Concurred:

Monique DeLapenha, Esq., Chair

T. David Williams, Esq.

Joseph Ferla

LaVon Wells