

October 2, 2013

In re: Agenor Mondesir

Docket No: 35WRMERZW7912

Statement of Record:

1. Agenor Mondesir (hereafter "Petitioner") filed a Petition for Appeal with the Tax Review Board (TRB) on March 19, 2010 requesting review of a water/sewer bill for the property located at 6142 Delancey St. Philadelphia, Pa.
2. A public hearing before a TRB Master was held on May 16, 2011. The decision of the Master as ratified by the TRB was to deny the appeal. Petitioner requested and was granted a hearing before the full TRB.
3. A public hearing before the TRB was scheduled for July 19, 2012. This matter was administratively continued
4. A public hearing was held before the TRB on October 2, 2012 and the matter was continued at that time.
5. A public hearing was held before the TRB on December 11, 2012. At the conclusion of the hearing, the Board announced its decision to adjust the water usage for the period from June 10, 1993 to August 13, 1996 based on 900 cubic feet per month of usage, and abate 100% of the penalty contingent on payment arrangements being entered into within 60 days of receiving the adjusted bill.
6. Petitioner filed an appeal to the Philadelphia Court of Common Pleas.

Findings of Fact:

1. Petitioner filed a Tax Review Board Petition for Appeal for the property located at 6142 Delancey St. Philadelphia, Pa. Petitioner requested review of the water usage charges for the period April 14, 1992 through September 11, 2007. The principal due was \$3929.24, with penalties as of the TRB Hearing date of \$1011.23, and lien charges of \$70, for a total due of \$5010.47.
2. Petitioner purchased the property in December 1990. At the time of purchase the property was vacant. The water service was off and no charges were accruing.

3. In 1992, the water service was restored to the property. Billing resumed for the period beginning July 15, 1992.
4. There were no charges on the account for any periods prior to July 15, 1992 charged to Petitioner.
5. For the years 1995, 2003, 2004, 2006, 2007 and 2008, Petitioner applied for and was accepted into the City's Water Revenue Assistance Program, known as "WRAP".
6. As a participant in WRAP, Petitioner paid a monthly amount toward the property's water/sewer bill that was less than the actual amount due. The balance of each month's bill was set aside to be paid at a later date, either when the property was sold or Petitioner no longer qualified for the program.
7. A portion of the bill being questioned by Petitioner was an amount set aside when Petitioner participated in WRAP.
8. Petitioner also questioned certain usage amounts in the mid-1990s that were significantly higher than most other periods of usage through the years with no explanation as to these fluctuations.

Conclusions of Law:

It was the finding of the Tax Review Board that despite Petitioner's contention that he was being billed for periods prior to his ownership of the property, all billings by the Water Revenue Bureau (WRB) were for time periods during which Petitioner owned the property. Petitioner testified that he purchased the property in December of 1990. WRB records indicated that the first water/sewer charges billed to Petitioner were in 1992.

The delinquent balances on Petitioner's bills were amounts that accrued during the years Petitioner participated in the City's WRAP. His monthly required payments were less than the actual monthly bills. The remaining monthly balances accumulated into the delinquent amount he was questioning before the TRB. These balances remained his responsibility although he was not required to make payments towards them while participating in WRAP.

Aside from the WRAP issues, the TRB reviewed the actual usage amounts for the years in question and directed the WRB to make an adjustment to the amount of usage billed for a period of unexplained, extraordinarily high usage.

The TRB also abated the accrued penalties contingent on Petitioner entering into payment arrangements for the remaining balance within 60 days of receiving the adjusted bill. Penalties were abated based a finding that Petitioner had acted in good faith and without negligence or intent to defraud the City as required by The Philadelphia Code Chapter 19-1705. At no time did Petitioner neglect to address the WRB bills. There was no evidence that he did not make the

required monthly WRAP payments. He acted promptly to address the delinquent bill amounts and seek an explanation and assistance.

Concurred:

Nancy Kammerdeiner, Chair

Christian DiCicco, Esq.

Joseph Ferla

George Mathew, CPA