

NOVEMBER 13, 2008

IN RE:           **JOHN & JULIA O'CONNELL**  
DOCKET NO: **35WRMERZX0004**

Statement of Record

1. John & Julia O'Connell (hereafter "Petitioners") filed a Petition for Review of Water/Sewer charges for the property at 431 Tasker St. Philadelphia, Pa. The petition was filed July 17, 2007.
2. The matter was continued at a public hearing before a Tax Review Board Master on November 19, 2007.
3. A public hearing before a Tax Review Board Master was held January 31, 2008. The decision of the Master, as ratified by the Tax Review Board, was to adjust the water usage for the period June 14, 2004 to August 2, 2005 to 600 cubic feet per month, and to abate all penalty and lien charges. The decision was contingent on full payment of any remaining balance within 30 days from the receipt of the new bill.
4. The Water Revenue Bureau requested and was granted an appeal to the full Tax Review Board.
5. A public hearing was held before the Tax Review Board on July 10, 2008. The decision of the Board, announced at the conclusion of the hearing, was to adjust the water usage to "0" cubic feet for the period May 11, 1992 to June 14, 2004, and to abate all penalty and lien charges; for the period June 14, 2004 to August 2, 2005 adjust the usage to 600 cubic feet per month; abate all penalty and lien charges.
6. The City of Philadelphia filed an appeal to the Court of Common Pleas.

Findings of Fact:

1. Petitioners purchased the property at 431 Tasker St., Philadelphia, Pa on June 14, 2004
2. Petitioners sought review for all billings prior to their purchase of the property.
3. Petitioner John O'Connell testified that at the time of purchase the bill presented by the City Water Revenue Bureau (WRB) had a \$0 balance and he purchased the property relying on that as a correct amount.

4. Petitioners renovated the building extensively, and had tenants move into the property in September 2005. Petitioners were not questioning the billings that accrued from the time of the purchase.
5. The account history provided by the WRB at the hearing indicated that at the time of Petitioners' purchase, the water meter had not been read since November 2, 1993. It was not read at the time of Petitioners' purchase, and was not read until August 2, 2005, leaving a period of 141 months between actual readings. All bills had been estimated during that time.
6. A new meter was installed in the property on August 2, 2005.
7. Following the meter reading on August 2, 2005, Petitioners received the bill being questioned, which had \$6195.96 principle, \$1074.48 penalty, \$40 in lien charges for a total of \$7310.44.
8. Petitioner presented to the Board the bill he relied on at the time of purchase that indicated the account for this property had a balance due of \$0.
9. The City representative stated that the bill in question had a notation of "estimate" on it, but acknowledged that the bill received by Petitioners stated a \$0 balance. See Notes of Testimony, Page 16.

#### Discussion:

It was the decision of the Tax Review Board that Petitioners were entitled to rely upon the bill received from the City's Water Revenue Bureau at the time the property was purchased that stated that the account had a \$0 balance due. While there may have been a notation marked "estimate" on the bill, as the Tax Review Board chairperson, Monique Delapenha, stated at the hearing, "I'm looking at it from a layperson's perspective, and to me it's not clear. If I looked at that, I would think there was a zero balance."

See Notes of Testimony, Page 17.

The City allowed 141 months to elapse without a water meter reading. Even after Petitioners purchased the property and became the new owners of record, the WRB continued to send out the same bills without any clear and direct notice to the Petitioner that a delinquent condition existed. WRB Regulations 100.4 (2) permits the Water Department or the WRB is to terminate service if it is "denied for two consecutive billing periods access to the residential property to read, or make changes or repairs to the meter." The city made no attempt to assert its right to a meter reading in 141 months of service and now comes forward over 10 years later to penalize a new owner without adequate notice of any prior problem with the bill.

Petitioners purchased a vacant property in June 2004, began extensive renovations in January 2005 and rented the newly renovated property beginning in September 2005. Petitioners were

satisfied that all bills covering the period of ownership since the installation of the new meter reflected accurate water usage.

Petitioners had been in contact with the Water Revenue Bureau in an attempt to resolve the billing dispute prior to filing a Tax Review Board Petition. It was the finding of the Board the Petitioners had acted in good faith, without negligence and intent to defraud the city.” The Philadelphia Code Chapter 19-1705.

The decision of the Tax Review Board was to reduce Petitioners’ liability at the date of purchase to \$0, as reflected on the bills he received at that time.

Therefore, the Board directed that the bill reflect “0” usage for the period 5/11/92 to 6/14/04; for the period from 6/14/04 to 8/2/05 the bill be calculated with usage of 600 cubic feet, per month which reflected an amount of usage consistent with actual readings obtained after 8/2/05; and penalty and lien charges be abated.

**Concurred:**

Monique Delapenha, Esq., Chair  
Joseph Ferla  
LaVon Wells-Chancy, CPA  
T. David Williams, Esq.  
Beatrice Turner