

April 13, 2006

In Re: **Charles Favors**

Docket No: **26NUMERZZ9188**

Statement of Record:

1. Charles Favors (hereafter "Petitioner") filed a petition for review with the Tax Review Board on November 21, 2003 contesting a Nuisance Abatement bill issued by the Philadelphia Department of Licenses and Inspections (hereafter "L&I) for the property at 4616 Sansom St. Philadelphia, Pa.
2. Petitioner listed his mailing address on the petition as 8336 Lynnewood Road Philadelphia, Pa. This is the address to which all correspondence from the Tax Review Board was mailed by first class mail.
3. The bill issued by L&I and contested by Petitioner was dated August 29, 2003. The Tax Review Board petition was filed beyond sixty (60) days from this bill date, as required by The Philadelphia Code Chapter 19-1702, and was therefore returned to Petitioner, as being untimely filed, with a letter explaining the Board's Nunc Pro Tunc policy. Petitioner provided a letter to the Board explaining why the petition was filed beyond sixty (60) days from the date of the bill and the petition was accepted by the Board.
4. A public hearing was scheduled for April 20, 2004 and Petitioner was so notified, as was L&I. Petitioner requested and was granted a continuance to a time after May 5, 2004.
5. A public hearing was scheduled for July 20, 2004 and Petitioner was so notified, as was L&I.
6. The decision of the Master following the hearing held on July 20, 2004 was to reduce the principal to \$300.00, abate the interest, abate the administrative charge and abate the lien charge. This decision was ratified by the Tax Review Board.
7. Petitioner's appeal for a hearing before the full Tax Review Board was granted.
8. A public hearing was scheduled for November 2, 2004 and Petitioner was so notified, as was L&I.
9. Petitioner requested and received a continuance prior to the hearing. He requested a continuance until "after April 2005".
10. A public hearing was inadvertently scheduled for January 25, 2005 and again continued at Petitioner's request which asked that the matter be continued "until April 2005." The continuance letter sent to Petitioner on January 19, 2005 advised that the matter had been continued but that "NO FURTHER CONTINUANCES will be granted for this matter."
11. A public hearing was scheduled for April 21, 2005 and Petitioner was so notified, as was L&I.
12. A de novo hearing was held before the Tax Review Board on April 21, 2005. Petitioner did not appear. The decision of the Tax Review Board was to deny the petition. A letter with this decision was mailed to Petitioner on May 9, 2005 to the Petitioner's address of record.
13. On May 27, 2005, the Tax Review Board received correspondence from Petitioner stating that he was not notified of the hearing because the letter was not forwarded to his new address in a timely manner and requesting a rehearing.
14. The Tax Review Board denied the rehearing request and Petitioner was so notified on June 22, 2005.
15. Petitioner has appealed to the Philadelphia Court of Common Pleas.

Discussion:

Petitioner bears the burden of proof to establish by substantial evidence that his petition should be favorably decided by the Tax Review Board. Petitioner failed to meet this burden of proof to establish that the bill issued by the City of Philadelphia and under appeal to the Tax Review Board was in any way defective, issued in error, or requiring an adjustment or that interest and penalties should be abated in whole or in part.

The Philadelphia Code Chapter 19-1702 provides the Tax Review Board with jurisdiction to review bills, assessments and other charges collectible by the Department of Revenue. In addition, the Board has the authority to reduce in whole or in part, interest and/or penalties where in the opinion of the Board the petitioner has acted in good faith and without negligence or intent to defraud.

Petitioner failed to appear and participate at the hearing provided by the Board for the purpose of providing evidence either by documentation or by testimony. Petitioner failed to provide the Board with any evidence to establish that the bill issued for work performed by L&I was in error in any way and deserving of an abatement or that any interest or penalty abatement was warranted because of the good faith efforts of Petitioner.

Petitioner was accorded “reasonable notice” of the hearing and “an opportunity to be heard” as required by Local Agency Law, 2 Pa.C.S. §553. Multiple hearing opportunities and continuances were afforded to Petitioner in an effort by the Board to accommodate Petitioner so that he could conveniently attend a hearing. All notices were mailed by first class mail to the address provided by Petitioner. None were returned as undeliverable by the U.S. Post Office.

The letter sent to Petitioner granting his requested continuance for the hearing date of January 25, 2005 advised Petitioner that it was the Board’s decision that “no further continuances” would be granted for this matter. Such continuances are at the discretion of the Board, and after providing Petitioner with several hearing opportunities only to have him be unavailable for each of them, the Board made the decision to deny the final continuance request and require that the hearing proceed on April 21, 2005.

The decision of the Tax Review Board was to deny the petition.

Concurred:

Derrick Johnson, Chair
Una Vee Bruce
Joseph Ferla