

July 13, 2006

IN RE: **EDWARD DIX**
DOCKET NO: **36REINPZZ5741**

STATEMENT OF RECORD:

1. Edward Dix (hereafter "Petitioner") filed a petition for waiver of interest and penalty accrued against delinquent Real Estate taxes for the property at 1825 Orthodox St. Philadelphia, Pa. The petition was filed on February 28, 2005.
2. A public hearing before a Tax Review Board Master was held May 26, 2005. The decision of the Master, as ratified by the Tax Review Board was to deny the petition.
3. Petitioner requested and was granted a rehearing before the full Tax Review Board.
4. A public hearing before the Tax Review Board was held on October 6, 2005. At the conclusion of the hearing, the Tax review Board announced its decision to abate interest, penalties and the lien charges.
5. The City of Philadelphia has appealed to the Court of Common Pleas.

FINDINGS OF FACT:

1. Petitioner was the owner of the property at 1825 Orthodox St. Philadelphia, Pa. for the tax years 1991 through 2004.
2. Petitioner contracted a debilitating illness in 2004 and was unable to work for most of the subsequent 10 years and therefore was unable to pay the taxes on this property.
3. Petitioner has recovered and is now able to work.
4. Petitioner requested abatement of interest and penalty so that he could begin to pay down the principal and eliminate this debt to the City.
5. Petitioner had a previous Tax Review Board Master hearing in 2002 for the tax years 1999 to 2001. Due to continuing financial hardship and illness, he was unable to comply with that decision to abate penalties, ½ of the interest and the lien charges contingent on maintaining a payment agreement.

CONCLUSIONS OF LAW:

Real Estate Tax principal is billed by the Department of Revenue using property assessments provided by the Board of Revision of Taxes, as provided by The Philadelphia Code Chapter 19-1301.

It is not the purview of the Tax Review Board to review or adjust these assessments. Therefore the jurisdiction of the Tax Review Board is limited in cases involving the real Estate Tax to interest, penalties and certain other charges collectible by the Department of Revenue.

The Philadelphia Code Chapter 19-1702(1) provides the Tax Review Board with jurisdiction to review "any decision or determination relating to the liability of any person for any unpaid money, or claim collectible by the Department of Revenue, for or on behalf of the City or School District of Philadelphia, including, but not limited to, any tax, water or sewer rent, license fee or other charge, and interest and penalties thereon...".

It is the determination of the Tax Review Board that lien charges assessed by the City fall into the category of "other charge(s)" that may be reviewed and adjusted or abated by the Tax Review Board. These charges are claims collectible by the Department of Revenue on behalf of the City or School District and therefore subject to administrative review under this Code section absent a showing that there is some other designated forum for review.

The Tax Review Board is the administrative forum for taxpayers seeking a review of the City's claims. Absent a specific statutory provision granting jurisdiction to another forum, as, for example, is the case with Real Estate Tax assessments (The Philadelphia Code Chapter 19-1300) and legal fees that may be assessed by the City of Philadelphia on tax collection matters (53 P.S. §7106(a.1)), the Board provides a venue for taxpayers seeking administrative review.

The Philadelphia Code Chapter 19-1705 provides the standard for review in cases involving requests for abatement of interest and penalties. This standard requires a showing that the taxpayer has "acted in good faith, without negligence and no intent to defraud."

It was the decision of the Tax review Board that the severe physical and financial hardship of Petitioner, along with his stated desire to pay the taxes due now that he was able to start working again, warranted an abatement of interest, penalties and lien charges.

Concurred:

Derrick Johnson, Chair
Una Vee Bruce
Wade Stevens
Joseph Ferla

Exhibit A

1. Copy of Tax Review Board petition for waiver of interest and penalty dated February 28, 2005.
2. Copy of Tax Review Board acknowledgement letter dated March 8, 2005.
3. Copy of Tax Review Board hearing notice dated April 8, 2005.
4. Copy of Tax Review Board decision letter dated June 8, 2005.
5. Copy of Tax Review Board letter granting Petitioner's rehearing request.
6. Copy of Tax Review Board hearing notice dated September 7, 2005.
7. Copy of Tax Review Board decision letter dated October 11, 2005.
8. Tax Review Board Opinion dated July 13, 2006.