

June 29, 2006

In Re: **Michael & Susan Graveley; Graveley Co, Inc.**
Docket No: **36WMMERZZ9560**

STATEMENT OF RECORD:

1. Michael and Susan Graveley (hereafter "Petitioners") filed a Petition for Review with the Tax Review Board based on a bill issued by the Department of Revenue dated March 7, 2006 for Wage tax for the tax year 1987 for the business known as Graveley Co. Inc.
2. The Petition for Review was received at the Tax Review Board office on May 22, 2006.
3. The petition was returned to Petitioners with a letter explaining that the petition was not filed in a timely manner as required by The Philadelphia Code Chapter 19-1702, as it was filed beyond 60 days from the date on the notice. This letter went on to explain that Petitioners had the opportunity to provide an explanation as to why the petition was filed beyond the statutory requirement of 60 days and that the Tax Review Board would review the information to consider whether to accept the petition and provide the requested review.
Petitioners did not respond to this letter.
4. Petitioners filed an appeal with the Philadelphia Court of Common Pleas.

CONCLUSIONS OF LAW:

The Philadelphia Code Chapter 19-1702 governs "Petitions for Review" filed with the Tax Review Board. It states "(e)very petition for review of any decision or determination relating to the liability of any person for any unpaid money or claim collectible by the Department of Revenue...shall be filed with the Tax Review Board within 60 days after the mailing of a notice of such decision or determination to the petitioner."

In this case, Petitioner filed a Tax Review Board petition on May 22, 2006 requesting review of a bill from the Department of Revenue dated March 7, 2006.

The petition was received more than 60 days from the bill date and was therefore not accepted by the Tax Review Board because it was not filed within the time frame set by The Philadelphia Code.

However, the Board does have a Nunc Pro Tunc policy through which it will allow exceptions to the 60 day filing requirement. Pursuant to this policy, a letter is sent to any petitioner whose petition is not accepted because it is deemed late and not in compliance with the Code's 60 day filing limitation. This letter requests the petitioner to provide an explanation for the Board to consider as to whether to accept the petition and allow for a hearing on the matter.

This letter states in part that "(t)he Tax Review Board may consider accepting a late petition if the petitioner can clearly establish thjat the late filing was based on circumstances outside his/her control. It is the responsibility of the petitioner to put forth any extraordinary circumstances to explain the delay in filing the petition."

This letter was mailed to Petitioners on May 22, 2006. Petitioner did not reply.

Petitioner appealed directly to the Philadelphia Court of Common Pleas.