

August 4, 2006

**IN RE: JANE McALINDEN**  
**DOCKET NO: 36REINPZZ4868**

**STATEMENT OF RECORD:**

1. Jane McAlinden (hereafter “petitioner”) filed a petition for appeal and waiver of interest and penalties for delinquent Real Estate taxes accrued against the property at 2649-89 Amber St. Philadelphia, Pa. for the tax years 1982 through 2006.
2. A public hearing before the Tax Review Board was held on April 18, 2006. At the close of the hearing, the Board announced its decision to abate interest, penalties and lien charges contingent on full payment of the balance in 30 days.
3. The City of Philadelphia has appealed to the Court of Common Pleas.

**FINDINGS OF FACT:**

1. Petitioner and her husband owned the property at 2649-89 Amber St. Philadelphia, Pa. during all tax years at issue.
2. Petitioner’s husband operated a trucking company, hauling steel from the waterfront, until sometime prior to his death in 2003. This property was undeveloped land on which he stored his trucks. Prior to his death the business had declined due to changes in the steel industry.
3. Petitioner was unaware that her husband had allowed these tax delinquencies to accrue.
4. As of the date of the Tax Review Board hearing, the principal tax amount due was \$83,023.28, with interest due of \$76,559.85, penalties due of \$5,821.62, lien charges due of \$280, and legal fees of \$4,765.85, for a total due of \$170,450.60. These liabilities represented tax years 1982 through 1991 and 1997 through 2005.  
Petitioner had made a payment of \$40,419, representing tax principal, interest, penalties and other charges to the City’s outside counsel, Linebarger, Goggan, Blair & Sampson, LLP, for the tax years 1992 through 1996.
5. Petitioner was represented by her daughter, Kathleen McAlinden, because she was ill and hospitalized at the time of the hearing. Ms. McAlinden testified that her mother’s only income was social security at this time. Ms. McAlinden testified that she had made the prior payment of \$40,419 using a loan from her pension plan and was prepared to do the same to pay off the remaining principal if the interest and penalty charges could be abated.
6. Ms McAlinden testified that a current appraisal indicated that the property was worth less than the current total amount due on the Real Estate taxes and that due to the state of the surrounding area, it was not currently marketable.

**CONCLUSIONS OF LAW:**

The Philadelphia Code Chapter 19-1702(1) provides the Tax Review Board with jurisdiction over petitions “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...”.

In this case, the tax principal was not in dispute. Petitioner was requesting relief from the additional charges accrued because of the delinquency in payment of the tax. The Philadelphia Code provides broad jurisdiction to the Tax Review Board to review charges claimed by the Department of Revenue. It is under this broad umbrella that the Board considers lien charges assessed by the City.

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(2) also provides that the Tax Review Board has the authority to waive interest and penalty in situations where, in the opinion of the Board, a taxpayer demonstrates good faith, lack of negligence or intent to defraud the city.

Petitioner demonstrated good faith with the prior lump sum payment of \$40,419 and the acknowledgement of responsibility for the remaining balance, along with an offer to pay it in full in one lump sum rather than require a lengthy payment agreement that would further delay the receipt of the tax money by the City.

Petitioner was an elderly widow whose husband ran his business leaving her unaware of the mounting delinquent tax liabilities.

Therefore the decision of the Tax Review Board was to abate the interest, penalties and lien charges provided full payment of the remaining balance due was made within 30 days.

Concurred:

Derrick Johnson, Chair  
Wade Stevens  
Una Vee Bruce  
Joseph Ferla