

June 15, 2006

IN RE: **KELLY FOSTER**
DOCKET NOS: **36REINPZZ5765**
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STATEMENT OF RECORD:

1. Kelly Foster (hereafter "Petitioner") filed two petitions for waiver of interest and penalty with the Tax Review Board on February 28, 2005.
2. Several hearing dates were scheduled and continued at Petitioner's request.
3. A hearing was held on December 22, 2005. The petitions were denied because Petitioner failed to appear to present evidence to support the abatement request.
4. Petitioner requested and was granted a rehearing.
5. A public hearing was held before the Tax Review Board on March 9, 2006. At the conclusion of the hearing, the Board announced its decision to abate $\frac{1}{2}$ of the interest, $\frac{1}{2}$ of the penalties and $\frac{1}{2}$ of the lien charges with payment arrangements not to exceed 36 months, contingent on payment arrangements being entered into within 30 days of the decision.
6. The City of Philadelphia Department of Revenue appealed the decision to the Philadelphia Court of Common Pleas.

FINDINGS OF FACT:

1. Petitioner came before the Tax Review board requesting relief from delinquent real estate taxes and related interest, penalties and other charges for the properties at 2402 North Broad St. Philadelphia, Pa. and 2404 North Broad St. Philadelphia, Pa.
2. For the property at 2402 North broad St., the petition period was 1978 and 1989 to 2004. The amounts due were tax principal of \$4,394.44, interest of \$3,250.70, penalties of \$334.28, lien charges of \$290.00 and legal fees of \$1,313.54 for a total of \$9,582.96.
3. For the property at 2404 North broad St., the petition period was 1990 to 2004. The amounts due were tax principal of \$9117.18, interest of \$5,789.92, penalties of \$638.17, lien charges of \$272.52 and legal fees of \$2770.46 for a total of \$18,588.25.
4. The properties were vacant and sealed at the time of the Tax Review Board hearing.
5. Petitioner stated the intention to use the buildings for some type of community center but there had not yet been any steps taken toward this goal either by renovating the buildings or setting up a community organization.
6. Petitioner stated that if relief was granted for interest and penalty, the principal could be paid in full within a short period of time.
7. Petitioner also requested relief from the tax principal and an adjustment of the tax assessments.

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 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.”

The Board issued its decision to abate one-half of the interest, one half of the penalties and one half of the lien charges provided the remaining balance was paid in full within 30 days or if not paid in full, that installment arrangements were entered into within 30 days of the Tax review Board’s written decision. In addition, the Board provided that Petitioner would have a maximum of 36 months to complete the installment payments in equal installment amounts.

Concurred:

Derrick Johnson, Chair
Sharon Losier, Esquire
Una Vee Bruce
Joseph Ferla