

July 13, 2006

In Re: **Marcus Brown**

Docket No: **36REINPZZ5489**

STATEMENT OF RECORD:

1. Marcus Brown (hereafter "Petitioner") filed a Tax Review Board petition for waiver of interest and penalty accrued against delinquent Real Estate Taxes for the property at 5243 Hazel Ave. Philadelphia, Pa for the tax years 1987 through 2004. The petition was filed June 1, 2005.
2. A hearing was held before a Tax Review Board Hearing Master on August 4, 2005. The decision of the Master, as ratified by the Tax Review Board was to abate the accrued penalty for the tax years 1987 to 1989 and 1991 to 2004, contingent on entering into payment arrangements within 30 days.
3. Petitioner requested and was granted a hearing before the full Tax Review Board.
4. A public hearing was held before the Tax Review Board on October 6, 2005. At the conclusion of this hearing the Board announced its decision to abate interest and penalty for the tax years 1987 to 1989 and 1991 to 2004 contingent on maintaining payments of \$250.00 per month.
5. The City Of Philadelphia has appealed to the Court of Common Pleas.

FINDINGS OF FACT:

1. For the tax years at issue, the property at 5243 Hazel Ave. Philadelphia, Pa. was owned by Beatrice Saunders or the Estate of Beatrice Saunders, grandmother of Petitioner.
2. At the time of the Tax Review Board hearing, the tax principal due was \$78,787.70, with interest of \$5,923.51, penalty of \$615.14, lien charges of \$297.50, and legal fees of \$2,108.07 for a total of \$17,761.00.
3. In 2005, Petitioner became the owner of the property as an inheritance.
4. Petitioner appeared before the Tax Review Board seeking abatement of interest and penalty so that he could enter into a payment plan and begin to pay the taxes due.
5. During the years prior to his ownership Petitioner was in prison. Since his release he had taken over ownership of the property and moved into it as his residence. He was employed part time and had custody of his young child.

CONCLUSIONS OF LAW:

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

In this case, Petitioner was not the owner nor did he reside in the property at the time the tax delinquency accrued. He was incarcerated during much of the time the taxes were accruing. While he did not pay to purchase the property, he has stepped up to assume responsibility for the unpaid taxes even though he has limited resources and full time responsibility for a child at a time when he is trying to get on his feet.

It was the decision of the Tax Review Board that Petitioner had demonstrated sufficient good faith, lack of negligence and lack of intent to defraud the city to warrant an abatement of interest and penalty. In addition, the Tax Review Board ordered payments of \$250 per month to insure that to obtain the benefit of the interest and penalty abatement Petitioner would have to make significant payments and also to insure that the City would not impose a downpayment or monthly payment arrangement that Petitioner could not meet thus dooming both Petitioner's effort to pay the taxes and the City's chance of receiving the tax money it is due.

Concurred:

Derrick Johnson, Chair  
Una Vee Bruce  
Joseph Ferla  
Wade Stevens

## EXHIBIT A

1. Copy of Petition for Waiver of Interest and Penalty filed June 1, 2005.
2. Copy of Tax Review Board acknowledgement letter dated June 23, 2005.
3. Copy of Tax Review Board hearing notice dated July 5, 2005.
4. Copy of Tax Review Board decision letter dated August 10, 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.
8. Copy of Tax Review Board Opinion dated July 13, 2006.