

March 1, 2006

IN RE: **MICHAEL TSOKAS**  
DOCKET NOS: **35WRMERZX3053**  
**35WRMERZX3037**

STATEMENT OF RECORD:

1. Michael Tsokas filed an appeal with the Tax Review Board on April 19, 2004 for the property located at 1329 Rising Sun Avenue Philadelphia, Pa. seeking review of bills issued by the City of Philadelphia Water Revenue Bureau.
2. A public hearing was held on November 12, 2004 before a Tax Review Board Master. The decision of the Master, as ratified by the Tax Review Board was to deny the petition.
3. Petitioner appealed this decision and was granted a rehearing before the full Tax Review Board
4. Petitioner also filed an appeal with the Tax Review Board, on July 9, 2004, for the property located at 3328 North Park Avenue Philadelphia, Pa. seeking review of bills issued to this property by the City of Philadelphia Water Revenue Bureau.
5. The public hearing before a Tax Review Board Master held on November 12, 2004 also addressed the appeal for this property and was continued at that time.
6. A Tax Review Board public hearing was held on August 16, 2005 for the purpose of addressing both petitions. The decisions at the close of the hearing were to deny both petitions.
7. Petitioner has appealed the decisions for the two properties to the Philadelphia Court of Common Pleas.

FINDINGS OF FACT:

1. Petitioner owns the properties at 3328 North Park Avenue Philadelphia, Pa. and 1329 Rising Sun Ave. Philadelphia, Pa., along with several other properties in their vicinity.
2. A. As to the property located at 1329 Rising Sun Avenue, Petitioner was questioning the bills from November 27, 1997 to January 5, 2004. The principal amount due was \$2,257.88, penalties, as of the hearing date, were \$211.46, lien charges were \$30, for a total of \$2,499.34.  
After being vacant for many years, this property opened as a restaurant on the first floor in August 2001. The restaurant was opened by tenants of Petitioner who signed a lease that stated they were responsible to pay the water bills for the property.  
The City's records reflect that a new water meter was placed at the property in August 2001.  
The restaurant operated for three years. During that time, the water bill became delinquent, with the tenants making some payments but not enough payments to pay the bills in full. Therefore there was an unpaid balance for the years from 2001 through the time when the tenants vacated the property.  
Petitioner admitted knowing that there were unpaid bills from the tenant.  
B. All bills from July 2004 to the hearing date were issued for service charge only, with no usage amount being billed.  
C. Petitioner's attorney stated that a hearing held in the Court of Common Pleas before Judge Bernard Avellino in 1997 resulted in the reduction of a previous unpaid bill for this property from an approximate amount of \$3600 to \$1800, which petitioner then paid.  
Petitioner produced a check in the amount of \$1800 paid to the Water Revenue Bureau. This check was dated 1994.  
Petitioner and his attorney did not explain the discrepancy in the dates i.e. how could a check dated 1994 have paid off a settlement amount not determined until 1997.  
Petitioner did not produce any other documents to substantiate the Court hearing or Judge Avellino's decision.  
D. The water service was not discontinued during any of the years in question whether the property was vacant or occupied.  
E. The Water Revenue Bureau representative testified that the Department's records showed that in 2001 an adjustment was made to the account and a bill of \$1100 was issued. There were some payments made by a check that was subsequently returned by the bank as insufficient.  
F. Petitioner's testimony referred to other properties in the area that he said he owned. He referred to previous purchasers and other bidders for the properties when he was buying them. His testimony was vague, confusing and unsubstantiated.

G. Petitioner charged the Water Revenue Bureau with corruption and “cooking the books” but, again, provided no detail or substantiation. See Notes of Testimony Pages 26 –27.

3. A. As to the property located at 3328 North Park Avenue, Petitioner was questioning the bill issued in May 2004, for the period April 3, 1998 through April 29, 2004. The principal amount due was \$5,259.87, with penalty, as of the hearing date, of \$243.54, a lien charge of \$10, for a total due of \$5,513.41.
- B. The Water Revenue Bureau records showed that the meter was not read from April 3, 1998, when a new meter was installed with a 000,000 reading, to April 1, 2004. At that time the meter read 215,400 cubic feet of usage.
- C. Petitioner first testified that the water for this property was shut off and that all water for the property was supplied by 3332 North Park Avenue, also owned by Petitioner.
- D. There is a swimming pool behind this property that needed to be refilled in April 2004.
- E. Petitioner testified that in order to refill the pool, he turned on the water at this property, 3328 North Park Avenue. He used the water from 3328 North Park Avenue and the adjacent property to refill the pool.
- F. Petitioner testified that there was no usage other than to fill the pool.
- G. The service remained connected at all times.

## CONCLUSIONS OF LAW:

### 1. 1329 Rising Sun Avenue

Petitioner appealed the water bill for the period November 27, 1997 through January 5, 2004.

Petitioner acknowledged that a portion of the delinquent bill, that part attributable to 2001 through 2003 usage, was the result of tenants in the property who used the water for a restaurant.

There was no dispute that the water was used and all of the bills were not paid.

As per Water Department Regulations, a tenant may become a customer of the Water Department by submitting the required documentation, after which the Department will notify the owner that the tenant has applied to become a customer. Bills will then be sent to the tenant. The owner of the property remains responsible for the bill even during any periods of time when a tenant is a customer for billing purposes. So, in the event that the tenant fails to pay the water bill it reverts to the property owner and may become a lien against the property. See Philadelphia Water Department Regulation 100.2

Therefore Petitioner is responsible for the bills arising from the period beginning 2001 when a tenant occupied the property. Petitioner’s representative acknowledged this at the Tax Review Board hearing.

As to any outstanding delinquency for the period prior to 2001, Petitioner testified that after a Court of Common Pleas hearing in 1997, Petitioner owed and paid \$1800, leaving a zero balance on the account. Petitioner failed to substantiate this claim in any way. He did not provide any settlement documentation, a Court Order or even a transcript of the proceedings. The one piece of paper offered by Petitioner was a check for \$1800 dated for the year 1994.

A previous Tax Review Board hearing before a Master on this property resulted in a decision under Docket Number 35WRMERZX4799 that service charges were to be billed for the period November 27, 1997 to August 16, 2001. There was no evidence presented as to whether petitioner complied with this decision and paid the service charges for these intervening years. He did not appeal the decision to the full Board within the required thirty (30) days and it was an administrative error by the Board that a second petition opportunity for the same billing period was accepted. The Board has no record of an appeal to the Court of Common Pleas.

It was the finding of the Tax Review Board that Petitioner did not meet his burden of proof to establish that in 1997 the account was paid in full.

However, even assuming Petitioner’s assertion to be accurate and that in 1994 or even in 1997, the bill was paid in full, additional bills would have immediately begun to accrue. Even a vacant building accrues monthly service charges that are the responsibility of the owner and if at any point the building is occupied and water is used it registers on the meter and is subject to billing. Therefore by 2001 there would have been a subsequent outstanding bill for this property for the intervening years between 1994 or 1997 and 2001.

The Tax Review Board denied the petition for 1329 Rising Sun Avenue.

2. 3328 North Park Avenue

Petitioner appealed the water bill for the period April 3, 1998 through April 29, 2004.

Petitioner testified that he had the meter at this property turned off and had the property supplied with water from a nearby property that he owned at 3332 North Park Avenue. He was unable to identify when the meter had been turned off. The service was not discontinued at any time.

In 2004, when Petitioner needed to fill a swimming pool located behind this property and an adjacent property, he turned on the water at both properties and filled the pool. This established that the water service was available at all times but did not establish how much water was actually used from this property.

Service charges continued to accrue for all the years in question.

Water Revenue Bureau records showed that a meter was installed April 4, 1998.

Petitioner did not provide any evidence to substantiate his statement that the property was being serviced by another property. He did not meet his burden of proof either through testimonial evidence or documentation to prove that the water usage registering on the meter was inaccurate or incorrect.

The Tax Review Board denied the petition for 3328 North Park Avenue.

Concurred:

Derrick Johnson, Chair  
Una Vee Bruce  
Joseph Ferla