

February 3, 2006

In Re: **Zhang Jung Li**  
Docket No: **35WRMERZX3498**

Statement of Record:

1. Zhang Jun Li (hereafter "Petitioner") filed a petition for review of water charges for the property at 6000 Oxford Avenue Philadelphia, Pa.
2. A public hearing was held on July 9, 2004 before a Tax Review Board Master. The decision of the Master, ratified by the Tax Review board, was to deny the petition.
3. Petitioner requested and was granted a hearing before the full Tax Review Board.
4. A public hearing before the Tax Review Board was held August 16, 2005, following which the Board announced its decision to reduce the water usage for the period September 29, 2003 to November 26, 2003 to 1200 cubic feet per month.
5. Petitioner has appealed to the Philadelphia Court of Common Pleas.

Findings of Fact:

1. Petitioner was the owner of the property at 6000 Oxford Ave. Philadelphia, Pa. for all periods in question.
2. He filed a petition with the Tax Review Board requesting review of a water bill issued by the City of Philadelphia for the period July 29, 2003 to August 27, 2003. The principal amount due was \$11,264.71, with penalties, calculated through the date of the Tax Review Board hearing, of \$603.12, and lien charges of \$10.00, for a total due of \$11,877.83.
3. The bill covered the actual usage period of March 1, 2000 through August 27, 2003.
4. Petitioner purchased the property in 1998.
5. Between January 2001 and August 2003 there was no water meter in the property.
6. Bills were issued between March 2000 and August 2003 for service charge.
7. It was Petitioner's testimony that as a result of a water leak at the property in January 2001, the Philadelphia Water Department turned off the water and removed the meter that was at the property.
8. A restaurant opened in the property in September 2001. This restaurant had water use at the property beginning in September 2001 even though the property did not have a meter to register the usage.
9. The City records reflect that when workers arrived at the property in August 2003 to install a meter they noted that water was being used at the property and made a notation of tampering.
10. The Water Revenue Bureau then issued a bill with an estimated usage charge for the billing periods back to March 2000 that had been previously billed for service charge only.
11. Petitioner testified that the property was vacant in 2000 but went on to confirm that the property was in use beginning in June 2001, first for renovations and then for the restaurant starting in September 2001.
12. Once the meter was installed regular meter readings were received by the Water Revenue Bureau (hereafter "Bureau"). In determining how much usage to assess for the months where there was no meter to provide actual usage figures, the Bureau looked at the actual readings before the period in question, in an effort to estimate the usage.  
In February 2000, there was an actual usage reading of 11,300 cubic feet. In March 2000, there was an actual usage reading of 19,000 cubic feet. The Bureau used 11,000 cubic feet as its estimated monthly usage for the 41 month period during which it had billed only service charges.
13. After receiving what Petitioner believed were high readings in September, October and November 2003, petitioner called the Water Department and asked to have the meter checked. Petitioner testified that someone came to the property from the Department and adjusted the meter. The City records did not reflect that information.
14. Monthly usage readings after November 2003 were significantly lower than the previous months.

## Conclusions of Law:

A property owner using water at a property has certain responsibilities to the City of Philadelphia. Among them is to have a water meter installed in the property to correctly reflect the water usage so that accurate billing will occur that allows for proper and prompt billing and payment. Philadelphia Water Department regulations Section 401

In this case, Petitioner admitted to at least two years of water usage during which he knowingly paid only service charges each month.

Petitioner testified that the meter was removed and the water turned off by the Department in January 2001, yet water was used beginning in June 2001 for renovations and then for the restaurant that opened in September 2001 and continues in operation.

Therefore the conclusion to be drawn is that Petitioner turned the water on by reconnecting the pipes without a meter to register the usage so that the Bureau could bill for the water being used. This went on for two years.

The Philadelphia Water Department Regulations Section 410.6(a), (b), (c) and (d) address defective conditions related to missing meters, tampering, and illegal conditions, and all provide that where one of these defective conditions exist that results in a situation where an accurate meter reading is not available, “the Revenue Department shall determine the quantity of water used, based on the type of premises and meter size”; or where there is a defective meter, “the Revenue Department shall determine the quantity of water used based on the usage for the periods prior to the meter becoming defective or by the type of premises and meter size.”

In reviewing the usage history provided by the Bureau, it was the decision of the Tax Review Board that the Bureau had used a sensible and fair method to estimate the property’s water usage for the many months when there was no meter. It looked at the prior actual usage and, absent proof as to the actual usage, used this prior usage as the basis for the estimate.

Once the new meter had been installed in August 2003, the first few months continued to have very high usage readings before settling into a pattern of usage that ranged from 900 to 1600 cubic feet per month. Therefore the Board directed that the readings for the first three months be adjusted to reflect usage of 1200 cubic feet per month so as to be in line with the subsequent readings.

Concurred:  
Derrick Johnson, Chair  
Joseph Ferla