

August 28, 2013

In Re: Joel Palmer

Docket No: 35WRMERZW7007

Statement of Record:

1. Joel Palmer (hereafter "Petitioner") filed a Petition for Appeal with the Tax Review Board (TRB) on December 1, 2011 requesting review of a water/sewer bill for the property at 753 South 8th St. Philadelphia, Pa.
2. A public hearing was held on July 6, 2012 before a TRB Master. The decision of the Master, as ratified by the TRB was to deny the petition.
3. Petitioner requested, and was granted, a hearing before the full TRB.
4. A public hearing before the TRB was held on November 27, 2012. At the conclusion of this hearing, the TRB announced its decision to deny the petition.
5. Petitioner appealed the TRB decision to the Philadelphia Court of Common Pleas.

Findings of Fact:

1. Petitioner purchased the property at 753 South 8th St. Philadelphia, Pa. on or about August 2011.
2. Petitioner filed an appeal with the TRB to dispute a Philadelphia Water Revenue Bureau (WRB) bill received after his purchase covering the period April 18, 2005 to December 16, 2011 with a principal balance of \$10,566.07.
3. In January 2012, subsequent to filing the TRB petition, Petitioner sold the property. Funds sufficient to satisfy the charges at issue before the TRB were held in escrow at the time of that sale and subsequently paid over to the City of Philadelphia for this bill. These were funds that were part of the sale price that Petitioner would have received but for the outstanding water/sewer charges.
4. Petitioner caused a title search to be performed on or about October 2, 2009, prior to his assuming ownership, which did not disclose liens filed by the WRB for delinquent water/sewer charges.
5. After purchase, Petitioner received the bill in question with charges for periods prior to his assuming ownership of the property.
6. Petitioner contended that the liens had not been recorded by the WRB in 2009 when the title search was performed or in the alternative were defective and therefore Petitioner could not be held responsible for the bills reflected by any such liens. He based his position that the liens were not recorded on the fact that the title company he employed did not find them at the time of the title search.

7. The City presented its computer system data records kept in the normal course of its business activity that showed the \$10 lien charge assessed every 6 months as representative of the process it follows for every delinquent property. The City representative showed the TRB that WRB files a lien every 6 months and that is notated on the City's database with the \$10 lien charge. For the property in question, the system data demonstrated that liens had been regularly filed for water/sewer bill delinquencies beginning in 2005.
8. The WRB files liens using property address, account number and owner name information.
9. The City of Philadelphia Prothonotary uses the same or a similar database record to the WRB for these liens.
10. There was a question as to the correct name of the party or parties who owned the property prior to Petitioner and from whom he took title.

Conclusions of law:

Petitioner's evidence that the title company engaged at the time of Petitioner's purchase of the property did not locate any WRB liens for this property is not sufficient to establish that the liens were not properly in place at the time of Petitioner's purchase of the property.

The City presented sufficient evidence as to its standard practice to place liens every 6 months for all properties that meet the criteria for delinquent water/sewer bills and as to the specific business record for the property in question to rebut Petitioner's claim that the reason his title company did not find the WRB liens is that they had not been recorded and/or had not been properly recorded.

While the TRB recognizes that there are many instances where there is a question or lack of clarity as to the correct name for a property owner and that this can lead to confusion, the availability of property address and account number search options are sufficient to overcome any issue with the property owner name when researching a property.

It is clearly established law that water/ sewer bills are in rem claims that remain attached to a property despite an ownership change. These charges "are imposed against the property, not the owner. Consequently, they remained with the property even after a sale. By placing a lien on the property, a municipality was able to extend its claim to subsequent purchasers." *Bobby McArthur v. Tax Review Board*, 16 Phila. 329; 1987 Phila Cty Reporter. LEXIS 38.

Concurred:

Nancy Kammerdeiner, Chair

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