

October 19, 2012

In Re: Michael Patterson Docket Nos. 36REINPZZ2425, 2426, 2427, 2428, 2429

Ashaw Construction Training Co. Docket No: 36REINPZZ3095

STATEMENT OF RECORD:

1. Michael Patterson (hereafter "Petitioner") filed a Petition for Appeal for Ashaw Construction Training Co. (Ashaw) on February 18, 2008 requesting waiver of interest and penalties accrued against delinquent Real Estate taxes for the years 1991 through 2007 for the property located at 3236 North 19th St. Philadelphia, Pa. This petition was assigned Tax Review Board docket no:36REINPZZ3095.
 - i. The matter was scheduled before a Tax Review Board Hearing Master for April 14, 2008 and denied because Petitioner failed to appear at the hearing.
 - ii. Petitioner requested and was granted a rehearing.
 - iii. A hearing was scheduled before a Tax review Board master for September 24, 2009 and again denied when Petitioner failed to appear.
 - iv. Petitioner requested and was granted a rehearing.
 - v. A hearing was scheduled before the full TRB for September 23, 2009 and continued at that time to be consolidated with the petition listed below under TRB docket no:36REINPZZ2427. Subsequent hearings for this docket number were as part of the case with the 5 petitions listed below, beginning with the TRB hearing of June 21, 2011 listed in item 4 below.
2. Petitioner filed Petitions for Waiver of Interest & Penalty with the Tax Review Board (TRB) on October 8, 2008 related to delinquent Real Estate Taxes accrued against the following properties located in Philadelphia, Pa.:
 - a. 3220 North Bailey St., assigned TRB docket no:36REINPZZ2425, for tax years 1995 through 2005 and 2007 through 2008;
 - b. 3123 North Patton St., assigned TRB docket no:36REINPZZ2426, for tax years 1991 through 2005 and 2007 through 2008;
 - c. 3236-98 North 19th St., (duplicative of the Ashaw petition) assigned TRB docket no:36REINPZZ2427, for tax years 1992 through 2005 and 2007 through 2008;
 - d. 3306 West Allegheny Ave., assigned TRB docket no:36REINPZZ2428, for tax years 1997 through 2008; and
 - e. 3066 North Judson St., assigned TRB docket no:36REINPZZ2429.

A public hearing before a TRB Master was scheduled for these 5 petitions for September 3, 2009. The decision of the Master, as ratified by the TRB, was to deny the petition.

- Petitioner requested and was granted a rehearing before the full TRB.
3. A public hearing before the TRB was scheduled for October 10, 2010 and was continued at that time by the TRB to allow the parties an opportunity to exchange information.
 4. A public hearing was scheduled for June 21, 2011. A continuance was requested by Petitioner's attorney and granted by the TRB. Petitioner's attorney was notified that the continuance was granted.
 5. A public hearing was scheduled for November 1, 2011. The matter was continued at the hearing with the following directions from the TRB:
 - a. the City representative was directed to coordinate a review with other appropriate City departments of Petitioner's allegations; and
 - b. the parties were directed to meet for discussion and negotiation;
 - c. the parties were directed to notify the TRB of the case status within 45 days.
 6. A public hearing was scheduled for February 12, 2012 as a status listing and continued at the request of Petitioner's attorney.
 7. A public hearing was scheduled for April 3, 2012 and continued at that time for:
 - a. the attorneys for each party to meet and reconcile, within 15 days, any payments to Petitioner from the City for work performed for the Department of Licenses & Inspections and any payments withheld and applied to Petitioner's tax liabilities, with this information to be provided by the City to both Petitioner and the TRB;
 - b. the City to provide a list to Petitioner and the TRB by April 9, 2012 of any of Petitioner's properties listed for Sheriff Sale; and
 - c. the parties to provide a jointly prepared written status report to the TRB within 90 days.
 8. A public hearing was scheduled for June 21, 2012. The continuance requested by Petitioner's attorney, received by the TRB on June 20, 2012, was denied.
 9. The decision of the TRB, rendered at the public hearing on June 21, 2012, was to deny the petition as Petitioner did not appear for the hearing to present his case.
 10. Petitioner appealed to the Philadelphia Court of Common Pleas.

DISCUSSION:

The burden of proof rests with the party who files the petition before an administrative board such as the Tax Review Board. City of Philadelphia v. Litvin, 235 A. 25 157, Pa. Super 1967. The responsibility to establish that the delinquent taxes were not due and owing to the City belonged to Petitioners, Michael Patterson and Ashaw Construction Training Co.

Recognizing that some of the records needed by Petitioner to establish his position were in the possession of certain City departments or agencies, the TRB provided several opportunities for Petitioner to meet with City representatives to gather the information he needed for evidence at a TRB hearing. To this end, multiple hearings were scheduled and continued at Petitioner's request or for his benefit, either to accommodate his schedule or so he could work with City representatives to get the information he needed to present his case and meet his burden of proof.

Finally, after almost 4 years from the filing of the petitions for relief, a public hearing was scheduled before the TRB for the purpose of going forward on the merits of the case. Petitioner's attorney requested another continuance and this request was denied by the TRB.

Continuance decisions are at the discretion of the TRB. In this circumstance, TRB members determined that ample time and an ample number of continuances had been provided to Petitioner. The time had come to go forward on the matter without further delay. There was no indication that an additional delay would yield new or more information relevant to the matter at hand.

At the TRB hearing, neither Petitioner nor his attorney appeared to put forth evidence to support his position and meet his burden of proof.

Therefore the decision of the Tax Review Board was to deny the petitions for all properties.

Concurred:

T.David Williams, Chair

LaVon Wells-Chancy

Joseph Ferla

Nancy Kammerdeiner

George Mathew