

September 2, 2010

**In Re: Joseph C. DeMayo**

**Docket Nos: 26CSMERZZ9103, 26NUMERZZ8192, 26DEMERZZ9535**

**STATEMENT OF RECORD:**

1. Joseph DeMayo (hereafter "Petitioner") filed 3 Petitions for Appeal with the Tax Review Board on October 22, 2009. The bills under appeal all relate to the property at 1338 South Corlies St. Philadelphia, Pa.
2. Docket No. 26CSMERZZ9103 is for the appeal of a Clean and Seal Bill for work performed by the Department of Licenses and Inspections. The bill attached to the Tax Review Board petition is dated January 12, 2007, sent to Petitioner by City of Philadelphia Co-Counsel, Angel Luis Franqui, Esq. The amount due is \$2008.50.
3. Docket No; 26NUMERZZ8192 is for appeal of a bill for clean up of the vacant lot at the property. The bill attached to the Tax Review Board petition is dated December 5, 2007. The amount due is \$197.78.
4. Docket No: 26DEMERZZ9535 is for appeal of a bill for a partial demolition of an existing structure. The bill attached to the Tax Review Board petition is dated January 12, 2007, sent to petitioner by City of Philadelphia Co-Counsel, Angel Luis Franqui, Esq. The amount due is \$955.79.
5. The petitions for appeal were returned to Petitioner on October 27, 2009 as being filed untimely and beyond the Tax Review Board jurisdiction for such appeals. At the time the petitions for appeal were returned to Petitioner, he received a letter advising him that the "Tax Review Board may consider accepting a late petition if the petitioner can clearly establish that the late filing was based on circumstances outside of his/her control. It is the responsibility of the petitioner to put forth any extraordinary circumstances to explain the delay in filing the petition."

In response to the Tax Review Board letter, Petitioner provided a short letter of explanation, stating he had been in litigation with the City but "the case was dropped.". This letter was reviewed by the Tax Review Board. The Tax Review Board did not approve this nunc pro tunc appeal by Petitioner.

However, a clerical error resulted in a letter to Petitioner stating that his nunc pro tunc appeal had been approved. Because Petitioner had been so notified, a Tax Review Board hearing was scheduled.

6. A public hearing before the Tax Review Board was scheduled for May 20, 2010. At that time, the Tax Review Board reviewed the petitions and bills and declined to review the matter as the petitions were filed beyond the jurisdictional limit set by The Philadelphia Code for the Tax Review Board. The petitions were denied.
7. Petitioner has appealed to the Court of Common Pleas.

## DISCUSSION:

The Philadelphia Code Chapter 19-1702 requires that “every petition for review of any decision or determination relating to the liability of any person for unpaid money or claim collectible by the Department of Revenue, for or on behalf of the City or School District of Philadelphia... shall be filed with the Tax Review Board within 60 days of such decision or determination to the petitioner.”

The bills attached to each of the petitions for appeal were each dated greater than 60 days prior to the filing of the Tax Review Board petitions.

The Tax Review Board Nunc Pro Tunc Policy provides for an extension of this mandatory filing requirement under limited circumstances. The policy states that the burden of proof is on the petitioning party to “demonstrate that the untimely filing was due to circumstances beyond their control, not a result of any negligence or laxity on their part...”, to show that “any delay was corrected as quickly as possible...” and “such delay in filing has not prejudiced the ability of the City to present and defend its assessment or bill.”

Petitioner’s correspondence and information provided to the Tax Review Board did not satisfy the nunc pro tunc requirements set forth for the Board to waive the 60 day filing requirement of The Philadelphia Code Chapter 19-1702.

Concurred:

Monique Delapenha, Esquire, Chair  
T. David Williams, Esquire  
Joseph Ferla  
LaVon Wells-Chancy, CPA