

September 14, 2012

In Re: Jacinth Brown

Docket No: 36REINPZZ3711

STATEMENT OF RECORD:

1. Jacinth Brown (hereafter "Petitioner") filed a Petition for Appeal with the Tax Review Board (TRB) on August 2, 2007 requesting waiver of interest and penalty accrued against delinquent Real Estate Taxes for the property at 5709 North Park Ave. Philadelphia, Pa. for the years 1999 through 2009.
2. A public hearing before a Tax Review Board Master was held on October 12, 2007. The decision of the Master, as ratified by the Tax Review Board, was to abate the penalties accrued for the years 1999 through 2009.
3. Petitioner requested and was granted a rehearing before the full tax review board.
4. A public hearing before the Tax Review Board was held on November 17, 2009 following which the Board announced its decision to deny the petition because Petitioner did not appear for the hearing.
5. Petitioner requested and was granted a rehearing.
6. A public hearing was scheduled for June 22, 2010 and continued at that time.
7. A public hearing was scheduled for September 23, 2010 and continued at that time.
8. A public hearing was scheduled for November 9, 2010. At the conclusion of the hearing, the TRB announced its decision to deny the petition.
9. Petitioner filed a timely appeal to the Court of Common Pleas on December 1, 2010 but did not provide the Tax Review Board with the transcript of the proceedings until September 11, 2012 so that the record of the TRB proceeding could be certified to the Court.

FINDINGS OF FACT:

1. Petitioner requested abatement of interest and penalty accrued against Real Estate Taxes for the years 1999 through 2009 for the property at 5709 Park Ave. Philadelphia, Pa.
2. As of the date of the Tax Review Board hearing, the Real Estate Tax amounts due for this property were tax principle of \$8355.8, interest of \$3,779.45, penalty of \$584.90, lien charges of \$158.28, and legal fees of \$1,713.54 for a total due of \$14,591.98.
3. Petitioner testified that she was the owner of 5709 Park Avenue and also 5707 Park Avenue.
4. The 5707 Park Avenue property was Petitioner's primary residence for all relevant time periods. Petitioner had filed a separate Tax Review Board petition for this property requesting a waiver of interest and penalty on Real Estate Taxes accrued against this property as well and a low income agreement.

5. Petitioner purchased the 5709 Park Avenue property in 1988 at which time was zoned for 4 apartments and had 3 tenants. Shortly after her purchase, Petitioner testified that she evicted the tenants and that the property had been vacant since that time.
6. Through the years, Petitioner had been making payments towards the taxes but at the time of the TRB hearing was unemployed and therefore not able to pay the current delinquent amounts.
7. Petitioner's plan for this property was to allow her son to reside in the property once he was released from a current hospitalization.
8. Petitioner had no plan for how she would pay the taxes on this property even if the TRB provided an abatement of interest and penalties.
9. Petitioner had filed a separate petition for Appeal for her primary residence at 5707 Park Ave. and testified that she was also delinquent in paying the real estate taxes on that property and was seeking to be approved for a low income agreement

#### CONCLUSIONS OF LAW:

The Philadelphia Code Chapter 19-1705(2) provides that "(u)pon the filing of any petition for the waiver of interest and penalties accruing upon any unpaid money or claim collectible by the Department of Revenue, for or on behalf of the City or the School District of Philadelphia, the Tax Review Board may abate in whole or in part interest or penalties, or both, where in the opinion of the Board the petitioner acted in good faith, without negligence and no intent to defraud."

At the time of the TRB hearing, the real estate tax delinquency for this property and others owned by Petitioner had been ongoing for many years. While she had made some payments through the years, she had been unable to resolve even the basic tax principal on this or the property next door which she also owned and used as her primary residence.

Petitioner testified that she was currently unable to pay off the principal balances and was in the process of applying for a low income agreement for her primary residence.

At a hearing on October 12, 2007 the TRB Master issued a decision abating the penalties provided Petitioner entered into a payment agreement for the balance. Petitioner appealed this decision to request a greater abatement, all penalties and all interest. The liabilities in question dated back more than 10 years for this property that was a commercial 4 apartment building that had been sitting vacant since Petitioner's purchase and subsequent eviction of the then tenants. The city had waited all this time for its tax money

She gave no information or indication that she had plans for the property other than to allow her son to live in it when he was released from the hospital

Therefore the decision of the Board was to deny the petition.

Concurred:

T. David Williams, Esq., Chair

Nancy Kammerdeiner

George Mathew, CPA

Lavon Wells-Chancy

Joseph Ferla