

August 17, 2012

In Re: Samuel Cook

Docket No: 36REINPZZ2764

Statement of Record:

1. Samuel Cook (hereafter "Petitioner") filed a Petition for Appeal with the Tax Review Board (TRB) on June 23, 2008 requesting review of the Real Estate tax liabilities for the property located at 3211 North Carlisle St. Philadelphia, Pa.
2. A public hearing before the TRB was scheduled for August 8, 2008. The decision rendered following that hearing was to deny the petition.
3. Petitioner requested and was granted a rehearing on August 26, 2008.
4. A public hearing before the TRB was scheduled for June 2, 2009 and continued at that time.
5. A public hearing before the TRB was scheduled for September 23, 2010 and continued at the petitioner's request.
6. A public hearing before the TRB was scheduled for February 15, 2011 and continued at that time to allow the parties an opportunity to meet to reconcile Petitioner's payment records and receipts with the City's payment records.
7. A public hearing before the TRB was scheduled for June 9, 2011 and continued at that time.
8. A public hearing before the TRB was held on August 4, 2011. At the conclusion of this hearing, the TRB announced its decision to abate 100% of the penalties and 50% of the interest contingent on Petitioner entering into an installment agreement for the balance within 90 days. As part of the decision the City was directed to provide Petitioner with a reconciliation of his payments that would show each year at issue with the payments posted and balances still due for each year. The decision letter was dated August 15, 2011.
9. On October 27, 2011, Petitioner requested a rehearing to address the same issues addressed at the hearing on August 4, 2011. In lieu of a rehearing, the TRB issued an amended decision letter on November 16, 2011 providing for the same abatement of 100% of the penalties and 50% of the interest, with an additional 90 days from the date of this newly issued letter to enter into a payment agreement for the remaining balance for no longer than a 36 month period.
10. Petitioner filed an appeal to the Philadelphia Court of Common Pleas.

Findings of Fact:

1. Petitioner filed a Petition for Appeal requesting review of Real Estate tax liabilities and payments for the property at 3211 North Carlisle St. for the years 1990 through 2009. The tax principal due was \$11,539.11, interest of \$12,806.82 and penalties of \$811.43 as of the TRB hearing date, lien charges of \$340 and legal fees of \$1550.60, for a total due of \$27,048.56.
2. Petitioner provided many documents, including bills, receipts and payment agreements from the city to establish that he made payments for the taxes through the years. H

3. For many of the years when Petitioner made these payments, they had not been sufficient to cover the full tax amounts due for the years when the payments were made. In addition, the City was, for the most part, applying his payments to prior year liabilities and not to the payment year liabilities, and that was not always clear to Petitioner.
4. The City presented evidence and Petitioner's testimony confirmed that Petitioner's delinquencies originated in the 1980s and continued into the 1990s when there were tax years in which Petitioner made no payment at all.
5. Petitioner resumed payments in the 2000 years, some pursuant to low income agreements of \$40 per month, some made on his own after defaulting on these payment agreements by failing to make some required payments. In any event, his sporadic payments were insufficient to keep the total delinquency amount from continuing to rise.
6. Petitioner's dispute with the City centered on the application of the payments he had made through the years and his belief that all payments had not been properly credited to his account, thus erroneously inflating the delinquent tax amount the city claimed as still due.
7. The City reviewed the information submitted by Petitioner and provided a reconciliation that showed Petitioner's payments to be inconsistent and not in keeping with the City's requirements that payments made pursuant to an installment agreement be made each month without fail in order to stay compliant with the agreement.
8. Petitioner's payments were also not sufficient to have paid all of the liabilities through the years, thus a delinquent balance had accrued.

Conclusions of Law:

1. 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."
2. The tax liabilities at issue in this petition date back to 1990, more than 20 years. Through these many years, Petitioner made many small payments toward the annual Real Estate tax bills for this property. He also had many years when there

were no payments made and many years when his payments fell short of the full tax liability for that year, some years because of participation in city offered low income agreements and some years on his own. This created confusion for Petitioner as he struggled to understand the accumulating delinquencies despite his many payments, although confusion of his own making to a large degree. His voluminous records did not provide evidence of the full payment record he insisted was established by the many papers in his files.

3. The City's method of applying payments to the earliest open liabilities added to the confusion as payments were being applied to prior year balances, while , in some cases, Petitioner believed he was covering current year liabilities. Even the reconciliation the City provided at the hearing was not organized so as to clearly show the Petitioner how his payments were applied to each year and how the remaining balances were distributed.
4. Therefore, as part of its decision the Board requested the City to provide a revised reconciliation that year by year identified what was due, what was paid, and what, if any balance remains on that year.
5. The TRB found however, that Petitioner had attempted through the years to address the tax liabilities although not able to fully keep up the full payments or follow through on the agreements he entered into with the city. Therefore, the decision of the TRB was to abate 100% of the penalty and 50% of the interest provided petitioner entered into a payment plan for the remaining balance within 90 days of the reissued decision letter.

Concurred:

T. David Williams, Esq., Chair

LaVon Wells-Chancy

Joseph Ferla

Nancy Kammerdeiner

George Mathew, CPA