

May 26, 2015

In re: Alton Cooper

Docket No.: 36REINPZY9649

15-14

Statement of Record

- 1) Alton Cooper ("Petitioner") filed a petition for Appeal with the Tax Review Board (TRB) on December 10, 2013 requesting abatement of interest, liens, and penalties for real estate taxes for the property located at 5134 Chester Avenue Philadelphia, Pa("Property").
- 2) A public hearing before a TRB Master was scheduled for March 3, 2014. The decision of the Master, as ratified by the TRB, was to abate 100 percent of the penalty and 50 percent of the interest, with the Petitioner to have 30 days to make payment arrangements.
- 3) Petitioner requested and was granted a rehearing before the full TRB.
- 4) A public hearing before the full TRB was scheduled for May 27, 2014. The decision of the TRB was to deny the petition due to Petitioner's failure to appear for the hearing.
- 5) Petitioner requested and was granted a rehearing before the TRB. The rehearing was scheduled for August 14, 2014. The hearing was continued due to a quorum of the TRB not being present to hear the case.
- 6) The rehearing before the TRB was rescheduled for October 7, 2014. It was continued to give the parties an opportunity to meet to resolve the matter.
- 7) The rehearing before the TRB was rescheduled for January 27, 2015. The rehearing was continued by the TRB.
- 8) The rehearing before the TRB was rescheduled for April 2, 2015 and heard at that time. At the conclusion of the hearing, the decision of the TRB was to abate 75 percent of the interest and 100 percent of the penalty, with Petitioner to have 60 days to make payment arrangements.
- 9) Petitioner filed an appeal to the Philadelphia Court of Common Pleas.

Findings of Fact:

- 1) The tax years under appeal for the Property were 1998 through 2003 and 2005 through 2006. The principal amount due was \$5,068.64; interest due of \$5,579.66 and penalties due of \$354.82 as of the date of the final TRB hearing, lien charges of \$160.00 and legal

fees of \$901.37, for a total due of \$12,064.49. There were no outstanding taxes, interest, or penalties for 2004 and 2007 through 2014.

- 2) Petitioner owned and resided in the property throughout the periods in question.
- 3) Petitioner testified that he had stopped making payments toward the delinquent taxes in question because he had been unable to get an accurate accounting or reconciliation of the outstanding amounts due and believed his payments were not being properly applied. More current tax years had been paid and satisfied.
- 4) Petitioner testified that he had contacted the City several times for an accounting of how much was owed, even hiring an attorney to make the request at one point. He did not receive any response and so was reluctant to continue making payments without a clear understanding of what was due.
- 5) Petitioner was able to meet with the Law Department during the time afforded by the TRB and now believed the current amounts provided by the Revenue Department as due to be correct. He requested the Law Department abate 100 percent of both interest and penalties. The Law Department did not agree to those terms, and so no agreement was reached between the parties thus bringing them back to the TRB for the hearing.
- 6) Petitioner is a disabled military veteran. He suffered a medical relapse in or around 1999, causing him to be incapable of making some of his payments on time.
- 7) Petitioner testified that, if the full penalties and interest were abated, that he could pay in one lump sum and would not need to make a payment arrangement.

Conclusions of Law

- 1) The party initiating an action carries the burden of proving his or her claim in an administrative hearing. *Dep't of Transportation v. Pa. Human Relations Comm'n*, 84 Pa. Commwlth. 98, 480 A.2d 342 (1984). As the petitioning party, Petitioner has the burden of proof to establish with substantial evidence that there is a basis to abate or reduce the penalties and interest that have accrued on the properties due to unpaid property tax.
- 2) 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."

- 3) Petitioner was seeking relief on the interest, penalties, and other fees in order to facilitate his ability to make payment. He acknowledged that taxes were owed and not paid timely. However, he believed that his bill may have been incorrect and acted responsibly to confirm what was actually owed. He did pay the Real Estate taxes due for other years. In addition, his disability, coupled with his relapse during the time in question, added to the substantial evidence that Petitioner met the standard of “good faith, lack of negligence and no intent to defraud” as required by The Philadelphia Code for relief on interest and penalties.
- 4) Petitioner met his burden of proof to establish a basis for relief on some, but not all, of the outstanding interest and penalties. Petitioner did not argue that the amounts owed were incorrect, particularly as applied to the principal and admitted that the taxes were delinquent. It is the decision of the TRB to abate 75 percent of the interest and 100 percent of the penalty, with Petitioner to have 60 days to make payment arrangements.

Concurred:

Nancy Kammerdeiner, Chair

Joseph Ferla

George Mathew, CPA