

February 6, 2015

**IN RE:** Shi G. Chen

**DOCKET NO.** 35WRMERZW6185

**Statement of Record:**

1. Shi G. Chen (hereafter "Petitioner") filed a Petition for Appeal with the Tax Review Board (TRB) on June 27, 2013 requesting review of a Water Revenue Bureau (WRB) bill for the property located at 2000 E. Cumberland Street, Philadelphia, PA.
2. A public hearing before a TRB Hearing Master was scheduled for November 18, 2013. This hearing was continued at Petitioner's request.
3. A public hearing before a TRB Hearing Master was scheduled for January 31, 2014. The decision of the Master as ratified by the TRB, was to deny the petition.
4. Petitioner requested and was granted a rehearing before the full Tax Review Board.
5. A public hearing before the TRB was scheduled for October 23, 2014. This hearing was administratively continued by the Tax Review Board.
6. A public hearing before the TRB was scheduled for November 13, 2014. At the conclusion of the hearing, the TRB announced its decision to adjust the balance to \$0 for the period 11/7/1997 to 1/30/2008, adjust usage to 563 cubic feet per month for period 2/1/2008 to 8/10/2012, and abate penalties. Petitioner was provided 30 days from date of the adjusted bill to enter into a payment arrangement.
7. The City of Philadelphia WRB filed an appeal to the Court of Common Pleas.

**FINDINGS OF FACT:**

1. Petitioner purchased the property at 2000 E. Cumberland Street, Philadelphia, PA in 2008.
2. At the time of purchased, Petitioner believed the WRB bill for the property was paid in full and therefore his responsibility would be for the monthly water bills for the property from the time of purchase going forward.

3. From the time of purchase through September 2012, Petitioner's bills reflected current monthly charges with no delinquencies. Petitioner paid these monthly bills as they were received.
4. About August 2012, a new water meter was installed by the City of Philadelphia Water Department.
5. The WRB bill received by Petitioner after the installation of the new meter showed a delinquency amount due of \$16,862.00
6. WRB records indicated that all bills from 1997 through to August 2012, when the meter was replaced, were billed using estimated usage amounts. There were no actual meter readings during that time.
7. WRB records showed that the property was coded as vacant by the Department on 11/7/1997 at which time billing ceased on the account.
8. At the time of the new meter installation on 8/10/2012, it was determined that there was registered usage that had not been billed on the meter that was being replaced.
9. The WRB used the actual reading on the replaced meter to generate several bills for usage dating back to 1997. The first bill assumed the meter was at 0 in 1997 and billed Petitioner for all usage on the meter. The second delinquency bill was a recalculation of unbilled usage using a 1997 starting number of cubic feet on the meter of 212,000 from a prior reading, thus reducing but not eliminating the delinquency amount.
10. At the time of purchase for the property, \$1549.24 was allotted for the water bill delinquency by the Title Company based on information from the Water Revenue Bureau that this was the amount outstanding on the account. The title company called the WRB for a final amount due and both the title company and Petitioner relied on WRB provided information to clear the account so Petitioner could purchase the property free and clear.

11. WRB records showed that an inquiry was made in February 2008, at or around the time of purchase, to determine what was owed on the account.
12. After the property was purchased and billing resumed, it took 4 years for the WRB to replace what they determined to be a non-working meter, all the while continuing to bill monthly for service, storm water, and usage charges.
13. Petitioner's bill to the present date of the hearing continued to be based on estimated usage as the equipment installed in 2012 was no longer functioning for purposes of automated readings and the Water Department had been unable to gain entry to the property to repair or replace it.
14. There were actual readings of 563 cc per month for the first eight months and 0 usage for all months thereafter.
15. Petitioner's recent bills were for storm water and sewer charges only with no usage billed although Petitioner testified that three adults and one child were living in the property.

#### Conclusions of Law:

At the time of purchase in 2008, both Petitioner and the title company responsible at the time of the property transfer relied on information from the City of Philadelphia to determine the outstanding delinquency for the water/sewer bill on the property. WRB records noted the request for information on March 17, 2008 but did not have any information or notations to establish that the title company or Petitioner were informed that the amount they were told was due might not be accurate. They reasonably believed that when the WRB representative told them that the amount due on the water bill was \$1549.24 that payment of that amount would clear all balances on the account.

As important, the City representatives did not provide sufficient information to the TRB to establish that the account was not cleared by that payment of \$1549.24. The city's records showed the property had been vacant for some period of time prior to Petitioner's purchase and that all billing had stopped since no water was being used. The city billed and then rebilled for the back years based on its own differing estimates as to what meter reading should be considered the actual starting reading.

As to the years subsequent to Petitioner's purchase, Philadelphia Water Department Regulation 305.1(a) provides that "(w)hen an accurate reading cannot be obtained at the time of a scheduled meter reading or when necessary for administrative purposes, the quantity of water used may be estimated for billing purposes. Estimated usage will be based upon actual meter

readings from prior cycles or by such other fair and reasonable methods as shall be approved by the Water Commissioner.” As there were no “prior readings” for Petitioner’s usage at the property from the time of Petitioner’s purchase in 2008 until August 2012, the TRB used an average of the actual readings received for the months following the installation of the new meter in 2012.

Concurred:

Nancy Kammerdeiner, Chair

Christian DiCicco, Esq.

Joseph Ferla

George Mathew, CPA