

June 25, 2018

IN RE: Cox, John- 355 E. Price Street

Docket No: 28SWMERZZ9868

Statement of Record:

- 1) John Cox (hereafter "Petitioner") filed a Petition for Appeal with the Office of Administrative Review (OAR) on January 17, 2017. The petition requested a review of a bill charged to the petitioner's account for the property at 355 E. Price Street, Philadelphia, Pa by the Water Revenue Bureau (WRB).
- 2) A public hearing was held on July 31, 2017 before a Hearing Master who recommended a reduction of the bill's principal amount to \$11,679.93 and 100% abatement of the penalty.
- 3) On August 9, 2017, the City of Philadelphia appealed the Master decision to the Tax Review Board (hereafter "TRB").
- 4) On August 30th, 2017, the Petitioner also appealed the decision to the TRB.
- 5) This case was then scheduled before the TRB on October 31, 2017. The Petitioner requested and was granted a continuance.
- 6) The case was rescheduled for February 13, 2018 and at the end of the public hearing, the TRB's determination abated 100% of the penalty and lien charge and gave the Petitioner 60 days to arrange payment arrangements.
- 7) Petitioner filed an appeal to the Philadelphia Court of Common Pleas.

Findings of Fact:

- 1) Petitioner is the owner of the property at 355 E. Price Street, Philadelphia, Pa.
- 2) The Petitioner has been the owner of the non-residential vacant lot at this location for approximately 10 years.
- 3) At issue is the billing period from October 24, 2011 to approximately January 2017. At the time of the hearing the unpaid balance totaled \$29,502.69 (principal of \$25,822.01, penalties/interest of \$3,560.01, and liens in the amount of \$120.00).
- 4) During the period in question, the Petitioner's property did not have water usage at the property.
- 5) According to the City representative, the Petitioner's account was billed for stormwater charges.
- 6) Bills previously issued from October 24, 2017 to January 2017 were sent to the property address of 355 E. Price Street. This was also the mailing address listed at the Office of Property Assessment.
- 7) Petitioner asserts that he never received a bill at the property location and only has been receiving bills for the property since updating his address.

Conclusions of Law:

The Petitioner bears the burden of proof to establish by substantial evidence that the City's bill had been improperly assessed. *Ernest Renda Construction Co., Inc v. Commonwealth*, 94 Commonwealth Ct.,

608,504 A2d 1349 (1986). This evidence may be in the form of testimony, documentation, or other demonstrative evidence. Petitioner failed to meet this burden.

While the Petitioner asserted that he never received the bills for the stormwater charges, he failed to present any documentation or evidence to show that the charges should not be assessed or were assessed incorrectly by the City.

The City's evidence revealed that as the lot was non-residential, the WRB used a formula which compared the square footage of the impervious area to the total area to calculate the monthly stormwater usage. No objections were made in regard to the calculations or the amount due. Additionally, the City showed the TRB that the address on record with the Office of Property Assessment and the Water Revenue Department was the address of the property; again, this was not rebutted by the Petitioner.

As the Petitioner failed to present any evidence or meet his burden that the City's assessment was improper or incorrect, the Tax Review Board decision to not disturb the principal amount was appropriate. Lastly, under the Philadelphia Code 19-1702, the Board exercised their authority to abate penalties, wherein it determined the Petitioner acted in "good faith, without negligence and no intent to defraud".

Concurred:
Nancy Kammerdeiner, Chair
Joseph Ferla
Ryan Boyer