

March 19, 2018

IN RE: Taha, Babikir Mohamed

Docket No: 35WRMERZW3948

Statement of Record:

- 1) Babikir Mohamed Taha (hereafter "Petitioner") filed a Petition for Appeal with the Office of Administrative Review (OAR) on August 12, 2016. The petition requested a review of the decision of Water Revenue Bureau (WRB) to charge petitioner for usage from September 26, 2014 to March 1, 2016 at the property of 2843 N. 12th Street, Philadelphia, Pa.
- 2) A public hearing before the Tax Review Board Master was held on February 10, 2017. The Master abated one hundred percent of the penalty.
- 3) The Petitioner, represented by Mr. Jack Bernard, then requested an appeal before the full Tax Review Board which was scheduled for November 28, 2017. At the conclusion of the public hearing, the Tax Review Board announced its decision to "Abate one hundred percent of the penalty. Water bill usage adjusted for the period September 26, 2014 to March 1, 2016 to zero cubic feet per month and payment arrangements to be made within 60 days".
- 4) The City of Philadelphia has filed an appeal to the Philadelphia Court of Common Pleas.

Findings of Fact:

- 1) Petitioner is the owner of the property at 2843 N. 12th Street, Philadelphia, Pa.
- 2) The petitioner purchased this property in September 2014. Petitioner visited the property and found several people living in the property. In November 2014, Petitioner sent notice and requested that the "squatters" move within the next 30 days. Police were called and Petitioner was told to stay away from the property. Petitioner contacted counsel to obtain a Writ of Possession, which he was unable to serve for nearly a year.
- 3) The Petitioner contacted the WRB several times in early 2015 noting that the property is currently occupied by "tenants or squatters and there is a major leak at the property". Eventually on June 3, 2015, the water was shut off at the property. However, according to the Water Department records, the water was shut off but there was no lock place on the service valve.
- 4) Water usage continued to occur at the property and Petitioner asserts that the water was turned back on despite his requests to the Water Department.
- 5) In September 2016, Petitioner finally was able to take possession of the property and noted the broken meter. He contacted the Water Department for installation of a new meter.
- 6) The Petitioner requested review of a WRB's determination to charge him for usage for the billing period of September 26, 2014 to March 1, 2016. At the time of the hearing, the unpaid balance totaled \$8,035.76 (principal of \$7,450.49, penalties of \$565.27, and liens of \$20.00). The charges are all based on estimated usage due the broken meter.

Conclusions of Law:

The Petitioner established during the hearing that from the time of his ownership, September 2014 to the time he took possession in September 2016, he was diligent in his attempts to remove the illegal tenants, inform the Water Department of the illegal service to his property and have the service shut off.

The Board, in reviewing these circumstances, reduced the water usage charges to “zero cubic feet per month” due to “inability of the petitioner to access the property despite repeated efforts”. The Board found persuasive the multiple efforts of the Petitioner to remove the “squatters”; attempt police intervention and follow the legal process to take possession. More significant is the Petitioner’s numerous attempts to contact and inform the Water Department of the illegal service and requests to shut off the water to the property. The Board found it concerning that the Water Department shut off water yet did not place a lock on the service meter, despite being informed of the illegal tenants and service going to the property.

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

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George Matthew

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