

**February 1, 2019**

**IN RE: Raza Homes, LLC**

**Docket No: 35WRMERZW2906**

**Statement of Record:**

- 1) Raza Homes, LLC. (hereafter "Petitioner") filed a Petition for Appeal with the Tax Review Board (hereafter "TRB") on January 22, 2018. The petition requested a review of a bill charged to the petitioner's account for the property at 144 N. Hobart Street, Philadelphia, Pa by the Water Revenue Bureau (hereafter "WRB").
- 2) A public hearing before the Tax Review Board was held on June 19, 2019.
- 3) The Tax Review Board abated 100% of the penalty.
- 4) The City of Philadelphia has filed an appeal to the Philadelphia Court of Common Pleas.

**Findings of Fact:**

- 1) Petitioner became the owner of the residential property at 144 N. Hobart, Philadelphia, Pa., on October 24, 2017.
- 2) At issue is the billing period from January 1, 2015 to November 13, 2017. At the time of the hearing, the principal balance, for storm water, service and usage totaled \$10,431.37 and penalty \$518.32 for a total of \$10,949.69. These are based on actual usage.
- 3) After purchasing the property, the Petitioner contacted the WRB to turn the water on as there was no water in the property.
- 4) The WRB then changed the meter and ERT and re-billed the property, noting "the ERT was not transmitting usage. This represents an advancement of 154,700 cubic feet [of water] over 34 months". (Hearing Transcript, pg. 13, ln. 16-19).
- 5) The Petitioner testified that his title insurance did not request a payoff of the WRB during the purchase of the property.

**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.

The Petitioner asserts that the property was vacant since it was listed for sale in October 2016 and therefore no water usage could have occurred as the water was shut off. However, he failed to present any documentation or evidence to show that water was not being used as he was not the owner at the time. Also, the Petitioner argued that he did complete a title search through his title company, working off his review of the meter which he believed was displaying actual usage. However, neither the Petitioner or his title company request a payoff amount; as required and assumed that the billing was up-to-date at the time of purchase. As stated by the City, the title company should have requested a payoff at the time of the purchase; which would have provided an accurate assessment of the water usage.

The City's evidence revealed that the ERT and meter both needed to be changed for the water to be restored to the property. The TRB determined that the Petitioner's assumption that the readings of the meter at the time of his purchase was actual usage, failed to consider the fact that the readings were out of date and did not reflect accurate readings as the ERT and meter needed replacing. This assumption has resulted in the backbilling.

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.

**Concurred:**

**Nancy Kammerdeiner, Chair**

**Joseph Ferla**

**Gaetano Piccirilli Esq.**

**George Matthew**