

September 24, 2019

IN RE: ALIA QURESHI
DOCKET NO: 26LIMERZZ9038

STATEMENT OF RECORD:

1. Alia Qureshi (hereafter "Petitioner") filed a Petition for Appeal with the Office of Administrative Review on May 15, 2017. The petition requested a review of charges for work performed by the Department of License and Inspection at the property located 2219 McKean Street, Philadelphia, PA.
2. A public hearing before the Tax Review Board Master was held on August 11, 2017. The decision of the Master, as ratified by the Tax Review Board, was adjusted to abate the lien, abate the interest and to abate the administrative charge, contingent on petitioner entering into a payment arrangement within 30 days.
3. Petitioner appealed for and was granted a hearing before the full Tax Review Board.
4. A public hearing before the Tax Review Board was scheduled for May 9, 2019. At the conclusion of the public hearing, the Tax Review Board granted the petition.
5. The City of Philadelphia filed an appeal to the Philadelphia Court of Common Pleas.

FINDINGS OF FACT:

1. Petitioner filed an Appeal for review of a City of Philadelphia issued bill stemming from the Department of License and Inspection performing encapsulation work on the property at 2219 McKean Street, Philadelphia, PA. The principal amount due was \$10,661.16 with an administrative charge of \$2,238.84, interest as of the Tax Review Board hearing date in the amount of \$1290.00, for a total due of \$14,190.00.
2. The Petitioner purchased the property on June 23, 2003 at sheriff sale and the deed was recorded on July 9, 2003. See City Exhibit C.
3. The City contends that the work began on July 10, 2003 and was completed on August 1, 2003, and at that time, a bill was issued to the owner of the property.
4. The Petitioner asserts that she had no notice from the City regarding the violation and had never received any bills or notifications about the outstanding bill until she received a notice from Progressive Financial Services, Inc., a collection agent for the City dated March 9, 2017.
5. The City argues that Petitioner has failed to meet her burden to bring a *nunc pro tunc* appeal.
6. The City concedes that it has no factual evidence to prove that work was done at this property as a result of its "record retention policy, and a lack of records." (Notes of Testimony, p. 4, l. 19-20).

CONCLUSIONS OF LAW:

The Philadelphia Code Chapter 19-1702(1) requires that petitions for review be filed with the Tax Review Board no later than sixty (60) days from the date of the bill being questioned. However, the Board can consider accepting a petition outside of the prescribed time frame on a *nunc pro-tunc* basis. The Board's *nunc pro tunc's* policy reviews the appeals of petitioners who can demonstrate that the untimely filing was due to circumstances beyond their control, not a result of any negligence, where any delay was corrected as quickly as possible and there such delay has not prejudiced the ability of the City to present and defend its assessment of the bill.

The Petitioner submitted her petition on May 15, 2017 insisting that she purchased the property through a sheriff sale prior to the commencement of the work but did not receive any notice from the City. The initial acceptance of her petition by the Tax Review Board was based on the information submitted, however at the hearing the Board considered the City's position in regard to timeliness of the Petitioner's appeal. The City's brief, dated May 9, 2019, asserts that the work began on "July 10, 2003, and the completion date was August 1, 2003." (City Brief, p. 2). The City's argument rested on the elapse of time since the work was performed, arguing that it created a prejudice to the City as no records were available to present during the hearing and all the City could present was a legal argument.

While the City's arguments regarding prejudice is compelling, the Board found the Petitioner's testimony credible and persuasive, specifically that that she was not notified about the encapsulation work on the property. The Board also found it credible that the Petitioner's first notice of the outstanding amount was from the City's collection agency as she filed at the Tax Review Board shortly after receiving the notice indicating that the late filing was not a result of any negligence on the part of the Petitioner.

Further, the Board assigned significant weight to the Petitioner's assertion that encapsulation work could not have been performed as she was having repairs done to the home at that time. It was the opinion of the Board that there was a lack of notice by the City to the Petitioner regarding the initial violation and that there was insufficient timing between the commencement of the work in relation to the sheriff sale.

After reviewing the evidence and testimony, the Tax Review Board's determination to accept the Petitioner's *nunc pro tunc* appeal and decision to grant Petitioner's request to abate the bill in full should stand.

Concurred:

Nancy Kammerdeiner, Chair
George Mathew
Ryan Boyer
Joseph Ferla