

**BEFORE THE
PHILADELPHIA WATER, SEWER AND STORM WATER RATE BOARD**

In the Matter of the Philadelphia Water Department’s Proposed Changes in Wastewater and Stormwater Rates and Related Charges :
: For: Fiscal Years 2022-2023
:

ORDER DENYING REQUEST FOR RECUSAL: SKIENDZIELEWSKI

On May 10, 2021, Micheal Skiendzielewski, a participant in the pending general rate proceeding for Fiscal Years (FY) 2022 and 2023, by email requested “recusal of counsel to the Water Rate Board due to the relevant decision-making, conflicts” claiming that “WRB has a basic and primary professional responsibility to ensure and safeguard the processes, reports and deliberations that occur and are produced from such deleterious effects such as conflicts of interest, unprofessional conduct, unethical decision making, etc. as evidenced on the record by counsel to the Water Rate Board.” He attached as support a letter, dated May 18, 2017, from this counsel.

This request is DENIED. Not only did Mr. Skiendzielewski fail to present any credible evidence to support his request, but the letter also itself makes clear the probity, professionalism and integrity of the involved individual, who was tasked by the Mayor with responding “behalf of the entire City of Philadelphia” to Mr. Skiendzielewski’s “abusive and disruptive” behavior in repeatedly contacting City officials. Indeed, I have attached the letter which speaks for itself.

Mr. Skiendzielewski has shown the same behavior in this case, with his continued refusal to recognize the scope of the proceeding before the Rate Board, in both this and the preceding rate proceeding, to the point where I had to issue an Order in Limine (April 16, 2021) addressed to his participation. Specifically, I excluded from the proceeding “(i) allegations of “financial impropriety” in the operation, management and disposition of the HELP Loan program, (ii) allegations of misconduct by Counsel for Water Revenue Board (“WRB”), and (iii) allegations related to the 2017 investigation by [name omitted].”

While the Rate Board welcomes the participation of the customers in conducting open and transparent proceedings to evaluate the rate requests of the Philadelphia Water Department, it cannot allow Mr. Skiendzielewski to continue to raise issues that are clearly outside the scope of this proceeding to address the proposed rates and charges for FY 2022 and 2023.

Marlane R. Chestnut
Hearing Officer

May 11, 2021

ATTACHMENT I



CITY OF PHILADELPHIA

LAW DEPARTMENT
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Sozi Pedro Tulante, City Solicitor

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May 18, 2017

Via First-Class Mail and Email to skiadvocat@aol.com
Michael Skiendziewski
516 Parkhollow Lane
Philadelphia PA 19111

Re: Request for review and investigation

Dear Mr. Skiendziewski:

I write on behalf of the City's Chief Administrative Officer, Christine Derenick-Lopez, in response to your letter to her dated April 29. I also write on behalf of the entire City of Philadelphia concerning your surfeit of letters and emails on the same general topic. I will answer your questions of Ms. Derenick-Lopez, and must then request that you honor your previous representation to Mayor Kenney that you would stop writing City officials about this.

First, you ask the Chief Administrative Officer to investigate what you call the Tax Review Board's "failure to notify petitioners, who have had their final appeals denied, of their option/right to request a new hearing with additional information from the TRB, which option is made available under Article 15 of the Tax Review Board regulations."

You complained of this in the spring of 2016. You fail to mention that, in response, the Tax Review Board granted you a rehearing so that you could submit whatever new facts or arguments you wished to make to the Board concerning your appeal. It is my understanding that you received certain documents you had requested from the City. If the City denied you access to any public records, you had time to request them formally under the Right-to-Know Law and to appeal any denial you saw as improper. And as far as procedures generally, because of your complaint the Board now notifies all petitioners in the written instruction sheet for filing a Board petition of their right under Section 15 to request a timely rehearing in appropriate circumstances. In your particular case, of course, the issue is moot since you did, in fact, receive a rehearing.

Second, you complain that during your testimony at your second Board hearing on January 12, 2017, while Board members were asking "questions about the origin of a city computer record" that you were presenting to the Board in support of your appeal, "an unidentified female, who was seated in the hearing gallery, went up to where the board members were sitting, discussed the issue with them and then returned to her seat."

Your description leaves open possibilities that this event was entirely proper. By way of examples only, the individual could have been a City attorney who made arguments audible to you so that you could respond; or could have been a Board staff member ensuring that Board members could locate and review the document to which you were referring. Regardless, you

could and should have addressed any alleged impropriety by objecting at the time and by appealing on that basis to the Court of Common Pleas if you believed such impropriety caused you any harm. You have not alleged that it did, or even that the Board refused to consider your evidence. There is no basis for an investigation.

Third, you ask numerous questions about the presence of a uniformed Deputy Sheriff in the Board's hearing room at the time of your hearing. Such presence is not unusual, as the Sheriff's office is in the same building and the building has no formal security. The Deputy's presence was specifically requested in your case because of your unusual persistence in emailing Board members individually and repeatedly stating your intention to contact them at their homes or private places of business. As in most other instances when a Deputy is present, the purpose was not to respond to any threat but rather to discourage the possibility of any disturbance, on the off chance a petitioner or member of the audience might consider making one. The Deputy does not intimidate anyone or interfere with hearings in any way. But if the Deputy did so (which you have not alleged), again, your remedy was to object at the actual hearing and to appeal any alleged misconduct to the Court of Common Pleas.

You knowingly and intentionally decided not to appeal the Board's decision, which you could have done without hiring a lawyer. You could also have sought the Court's leave to waive your filing fee if you could not afford it, by filing an application to proceed in forma pauperis under Rule 240 of the Pennsylvania Rules of Civil Procedure.

I am confident that the City would have prevailed on the merits had you taken an appeal. There is no rule of law that requires the City, once it enters into a litigation settlement with one person, to make the same offer to everyone else, whether or not similarly situated. Courts favor settlements, and would never adopt a rule that had the effect of inhibiting them in the way your claim suggests. Your claim ultimately arises from what may have been defective work done by or for the developer of your home in or around 1997. The apparent defect is or was in a lateral, the repair of which is the responsibility of the property owner, not the City. Instead of using your own resources or a private loan to meet your obligation, you financed the repairs through a HELP loan from the Water Department. There is no legal or equitable reason why the Water Department – funded entirely by customers, including you yourself – should in effect insure your home and pay the cost of repairs made to your own facilities.

In the course of your attempts to secure loan forgiveness from the City, you have written or called dozens of City officials, many of them many dozens of times, since the summer of 2014. You continue to do so. I write also to request you to stop this, as it has become abusive.

You have the right to petition City officials for the redress of grievances. In your situation, your first avenue of redress was an appeal to the Tax Review Board, a right you received not once but twice. You had the opportunity to introduce testimony and documents and make whatever arguments you thought appropriate – and to appeal the failure of your petition. Separately, you have the right to contact City officials about what you believe to be improper or inadequate City processes. However, you do not have the right to use the latter as a substitute for an appeal, or to contact officials so often that the volume becomes abusive and disruptive. Every piece of correspondence takes time, even if, eventually, only to decide that there is nothing new in it that requires response. Nor do you have the right to try to intimidate City officials (or former officials) by threatening to contact them outside of the ordinary course of business, at their homes or private places of business, or by impugning their integrity with people and organizations with which they may interact in their private (non-City) lives.

Just by way of example of the volume, during the 20 business days between March 30 and April 26 of 2016, you wrote at least sixteen emails to twelve City officials about this matter. You wrote the Water Department, the Water Rate Board, the Tax Review Board, and several different units in the Law Department. As time went by, you added the Chief Administrative Officer, the Chief Integrity Officer, the Mayor, various Deputy Mayors, and who knows who else. In each case, the root of your complaint was the Water Department's refusal to offer and the Tax Review Board's refusal to award you remission of some or all of your HELP loan. You have added in requests for investigation of offices that failed to grant you relief, and requests for investigation of why your neighbor did receive some relief years earlier. You often insinuate that people who have denied you relief must lack integrity. But many City officials have taken your claims seriously, have looked into them carefully, and have simply concluded that it would not be just or in the public interest to grant you the money you seek.

Your correspondence has accelerated since you decided not to appeal to the Court of Common Pleas from the Tax Review Board's denial of your claim on rehearing. In a ten-page letter to Mayor Kenney dated March 20, 2017, you outlined your complaints about the Water Department, the Tax Review Board / Office of Administrative Review, and the offices of the Chief Administrative Officer and the Chief Integrity Officer. At the close of the letter, you wrote the following:

In any case, this correspondence represents the final effort by this writer to have these matters reviewed, investigated and resolved by officials in Philadelphia city government. Hopefully, these matters can still be resolved at the city government level. However, should that not be possible, the concern and value of water resources, management, conservation and the host of environmental, ecology and engineering systems related to water conservation make the issues I have raised vitally important to many other public, private and professional agencies and groups, locally, nationally and internationally and I will most assuredly raise these concerns with such vital shareholders in the field of water conservation.

The Mayor asked the Chief Integrity Officer to respond on his behalf, both because of your insinuations of lack of integrity and because she had been one of the City employees who had already devoted the most time and effort to looking into your claims and, ultimately, approving the City's decision not to make you an offer outside of the normal administrative and legal processes. Given the very lengthy time that dozens of City employees have already spent on your matter and the lack of anything warranting further investigation, she informed you that there was no further action for the City to take and thanked you for agreeing that your letter to the Mayor was, as you put it, "the final effort by this writer to have these matters reviewed, investigated and resolved by officials in Philadelphia city government."

But it wasn't. On March 30, you sent the Chief Integrity Officer a list of on-line "resources in the field of 'public integrity,'" and wrote to eight of the Mayor's aides with copies of your March 20 letter and her March 24 reply. You also wrote to a Water Department contractor the same day concerning "issues and concerns relative to PWD leadership and management," citing your own situation, copying the Water Commissioner. In subsequent weeks you have copied the Water Commissioner and other City officials in further correspondence concerning your own lateral issue addressed to the American Water Works Association, the AWRA-PMAS, the Washington Square West Civic Association, East Point Breeze Neighbors, the Powelton Village Civic Association, the Economy League, the Committee of Seventy, and the Philadelphia Convention and Visitors Bureau. You have also written to the


Michael Skiendziewski
May 18, 2017

Page 4

Water Commissioner, the Chief Integrity Officer, the Executive Director and Chair of the Tax Review Board, the City Solicitor and other members of the Law Department, the Inspector General, all seventeen members of City Council, and the Chief Administrative Officer and members of her Professional Services Contracts unit. You have written to or copied most of them multiple times. In many instances you have also followed up asking for confirmation that City officials have received and read your documents. And these are only communications that have been referred to me; there may well be others. The Water Commissioner alone has received more than eighty emails from you relating to these matters.

You are harming the business of the City through your perseverating attempts "to have these matters reviewed, investigated and resolved" in ways more to your liking. If you think you have a valid legal or administrative claim, then by all means file it, and the City will respond. Otherwise, the City considers this matter closed, and will not respond to correspondence from you about it. If you want to continue to write to third parties in good faith, kindly include a copy of this letter with your submission so that they will know the City's position and will not need to make inquiries of City officials to learn of that position. We have work to do.

Respectfully,


Daniel W. Cantú-Hertzler

cc: Christine Derenick-Lopez, Chief Administrative Officer
Debra McCarty, Water Commissioner
Paula Weiss, Executive Director, Tax Review Board
Ellen Mattleman Kaplan, Chief Integrity Officer
Amy L. Kurland, Inspector General
Sozi Pedro Tulante, City Solicitor
Jane Slusser, Chief of Staff to Mayor Kenney