

November 16, 2020

IN RE: Victor Gordon

DOCKET NO: 14STMERZZ6771

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STATEMENT OF RECORD:

1. Victor Gordon (hereafter "Petitioner") filed a Petition for Appeal with the Tax Review Board on September 17, 2018 requesting review of the Philadelphia Streets Department billing for a refuse collection fee for the property at 15 North 3rd Street, 13 North 3rd Street, and 31 North 3rd Street, Philadelphia, PA.
2. A public hearing before the Tax Review Board (TRB) Master was scheduled for December 17, 2018. Petitioner requested and was granted a continuance.
3. A public hearing before the TRB Master was held on March 26, 2019. The decision of the Master, as ratified by the TRB was to deny the petition as Petitioner failed to appear.
4. Petitioner requested and was granted a rehearing.
5. A public hearing before the TRB Master was held for August 5, 2019. The decision of the Master, as ratified by the TRB was to abate 50% the interest and to abate 75% the penalty.
6. Petitioner requested and was granted a rehearing before the full TRB.
7. A public hearing before the TRB was held on February 25, 2020. At the conclusion of the hearing, the TRB announced its decision to deny the Petition. The TRB further held that Petitioner must arrange an installment payment plan with the Revenue Department within sixty (60) days.
8. Petitioner filed an appeal to the Philadelphia Court of Common Pleas.

FINDINGS OF FACT:

1. Petitioner owns the property located at 15 North 3rd Street, 13 North 3rd Street, and 31 North 3rd Street, Philadelphia, PA.
2. For the property located at 15 North 3rd Street, the principal amount due for the years 2014 to 2020 is \$1,640.19, with interest of \$646.84 and penalty of \$1,014.49, for a total due of \$3,301.52.
3. For the property located at 13 North 3rd Street, the principal amount due for the years 2014 to 2020 is \$1,650, with interest of \$654 and penalty of \$1,024.92, for a total due of \$3,328.92.
4. For the property located at 31 North 3rd Street the principal amount due for the years 2011 to 2020 is \$2,400.16 with interest of \$1,302.17 and penalty of \$1,947.67, for a total due of \$5,650.
5. Petitioner testified that all three (3) properties were used for commercial purposes, although the property located at 15 North 3rd Street has been vacant for more than four (4) years, the property located at 13 North 3rd Street has been vacant since 2017, and the property located at 31 North 3rd Street has been vacant for the last five (5) years.

6. Petitioner requested abatement of the full bills, including principal, interest, and penalty on two grounds. First, he contends that he never generated any trash at any of the three (3) properties. Second, Petitioner argues that the Supreme Court has held that the government cannot force a citizen to “purchase something they do not need and do not want” (Notes of Testimony, p. 12, ln. 6-8).

CONCLUSIONS OF LAW:

The Philadelphia Code Chapter 10-717(2) states that “(t)here is hereby imposed on all owners of residential or commercial properties eligible for City curbside waste collection on annual fee of three hundred dollars (\$300) per property for neighborhood sanitation and cleaning services, including the collection of refuse, waste. And recyclable materials and related cleaning services...

Exemptions: The following are exempt from the fee:

- (a) Collection from single-family dwellings;
- (b) Collection from condominium and cooperatives, as defined by subsection (1);
- (c) Collection from a property in connection with which the property owner demonstrates, to the satisfaction of the Department, that it has in place one or more private waste hauling contracts that provide for collection of the refuse, waste and recyclable materials generated at the property.”

Petitioner testified that all of the properties were used solely for commercial purposes. Petitioner adamantly insisted that the properties were vacant during the period when the bills were issued. He also argues his neighbor has a “trash contract with a trash company” and the neighbor allows him to use the neighbor’s trash service (Notes of Testimony, p. 10, ln. 21-22).

The ordinance has very specific exemptions and Petitioner’s property does not meet the requirements for any of them. Petitioner acknowledged that the properties were commercial structures. The Board found his arguments that the three (3) businesses never produced any trash was not credible. Therefore, the decision of the TRB was to deny the petition. Petitioner was ordered to arrange an installment payment plan with the Revenue Department within sixty (60) days.

Concurred:

Nancy Kammerdeiner, Chair

Joseph Ferla

Ryan Boyer

Gaetano Piccirilli, Esq.