

December 18, 2019

IN RE: Ishaque M. Ibrahim
DOCKET NO: 26DEMERZZ9374
26LIMERZZ9037

STATEMENT OF RECORD:

1. Ishaque M. Ibrahim (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 demolition and seal work performed by the Department of License and Inspection at the property located at 42 North 50th Street, Philadelphia, PA. The bills being appealed were originally issued in 2014.
2. The Petition for Appeal was returned to Petitioner as untimely filed pursuant to The Philadelphia Code Chapter 19-702 which requires petitions for review to be filed within sixty (60) days after the mailing of the bill or notice for the tax or assessment for which review is being sought.
3. Pursuant to the Tax Review Board *Nunc Pro Tunc* policy, Petitioner responded with a statement that there had not been prior notice to them from the City regarding this work. The Tax Review Board approved the petition *nunc pro tunc* and agreed to provide a hearing for this matter.
4. A public hearing was held before a Tax Review Board Master on August 11, 2017. The decision of the Master, as ratified by the Tax Review Board, was to deny the petition.
5. Petitioner appealed for and was granted a hearing before the full Tax Review Board.
6. A public hearing before the Tax Review Board was held on January 25, 2018. Petitioner failed to appear at that hearing. The decision of the Tax Review Board was to deny the petition.
7. Petitioner filed for and was granted a *Nunc Pro Tunc* Appeal with the Philadelphia Court of Common Pleas.
8. A public hearing before the Tax Review Board was scheduled for July 12, 2018. Petitioner requested and was granted a continuance.
9. A public hearing before the Tax Review Board was held on December 13, 2018. At the conclusion of that hearing, the Tax Review Board announced its decision to abate the lien charge, abate the interest, abate the administrative charge, and Petitioner was ordered to enter into a payment arrangement with the Department of Revenue within ninety (90) days of the date of the revised bill for the bill ending in 9374. For the bill ending in 9037, the Tax Review Board announced its decision to abate the lien charge, abate the interest, abate the administrative charge, and Petitioner was ordered to enter into a payment arrangement with the Department of Revenue within thirty (30) days of the date of the revised bill.
10. The City of Philadelphia has appealed to the Philadelphia Court of Common Pleas.

FINDINGS OF FACT:

1. Petitioner acquired the property located at 42 North 50th Street, Philadelphia, PA on January 29, 2014 through sheriff sale.
2. The deed was recorded with the City of Philadelphia on May 2, 2014.
3. On December 9, 2014 the Department of Licenses and Inspections sent a violation notice to the owner of the property.
4. Petitioner acknowledged that he received the notice from the City regarding the violation.
5. On October 13, 2015, a Final Notice of Violation was sent to Petitioner informing him of the imminently dangerous condition of the property.

6. On November 20, 2015, the property was demolished by the City of Philadelphia through third-party contractors.
7. The principal amount due for the demolition was \$44,770, with a labor and materials charge of \$37,000, an administrative charge of \$7,770, a lien charge in the amount of \$2,254, and interest in the amount of \$8,058.60 for a total of \$55,082.
8. The principal amount due for the sealing work was \$157.30, with a labor and materials charge of \$130.00, an administrative charge of \$27.30, a lien charge of \$14.36, and interest in the amount of \$24.19, for a total of \$195.85.

CONCLUSIONS OF LAW:

The City challenged the jurisdiction of the Tax Review Board stating that the Petition for Appeal had been filed beyond the 60-day limit set forth in the Philadelphia Code Chapter 19-1702. 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* 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 his petition on May 23, 2017 insisting that the property had been demolished without providing him with the proper notice. The initial acceptance of his 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 argument rested on the elapse of time since the bills were issued. The first bill was mailed to Petitioner on December 1, 2015 and the final bill was mailed on June 10, 2016. The City argued that Petitioner did not file an appeal until "roughly a year after the second bill and nearly a year and a half after the initial bill. (Notes of Testimony, p. 23, ln. 23-24 and p. 24, ln. 1). While the City's arguments regarding prejudice is compelling, the Board found that Petitioner's testimony credible and accepted his *nunc pro-tunc* appeal.

The Board also found it credible that Petitioner attempted to remedy the violations and asked for guidance from the City as evidenced in the email that he sent to the Inspector after receiving the final notice. Furthermore, the Board assigned significant weight to the Petitioner's assertion that the notice specifically invited him to contact the Inspector if he had any questions and provided the Inspector's email address. It was the opinion of the Board that there was a lack of notice by the City as the Inspector did not respond to Petitioner's email.

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 both bills in full should stand.

Concurred:

Nancy Kammerdeiner, Chair

Ryan Boyer

Joseph Ferla