

December 15, 2022
City of Philadelphia v. Tax Review Board
August Term, 2022 No. 00407

IN RE: Thorpe, Craig
TRB DOCKET NO: 36REINPZY5922
Property Address: 807 N. 63rd Street

TAX REVIEW BOARD OPINION

STATEMENT OF RECORD:

1. Mr. Craig Thorpe (hereafter "Petitioner") filed with the Tax Review Board a Petition for Appeal of interest and penalty accrued against delinquent Real Estate taxes for the property at 807 N. 63rd Street, Philadelphia, PA. This petition was filed on July 5, 2018.
2. A public hearing was held before a Tax Review Board Master on November 14, 2018 and continued at that time.
3. The public hearing was scheduled for March 13, 2019. Petitioner requested and was granted a continuance.
4. The public hearing was scheduled for June 3, 2019. Petitioner again requested a continuance, which was granted. The petition was marked, no further continuances.
5. The hearing was scheduled for September 23, 2019. Petitioner requested and was granted a continuance as he informed the hearing officer that he just retained an attorney.
6. The hearing was scheduled for later that week, on September 27, 2019. The decision of the Master, as ratified by the Tax Review Board, was to deny the petition.
7. Petitioner appealed for and was granted a hearing before the full Tax Review Board.
8. A public hearing before the Tax Review Board was scheduled for January 23, 2020 and it was continued at the time of the hearing.
9. A public hearing was scheduled for July 7, 2022 and the Board granted the petition.
10. The City has timely appealed to the Philadelphia Court of Common Pleas.

FINDINGS OF FACT:

1. Petitioner filed a Petition for Appeal requesting waiver of interest and penalty accrued against delinquent Real Estate taxes for the years 2014 to 2017 for the property at 807 N 63rd Street St. Philadelphia, PA.
2. The tax principal due was \$7,084.59, with interest of \$3,240.79 and penalty of \$754.21 and as of the Tax Review Board hearing date, lien charges of \$356.30 and legal fees of \$924.01, for a total of \$12,359.90.
3. Petitioner owned the property for all the tax years in question and became delinquent on the real estate taxes in 2014.
4. In May of 2017, Petitioner testified he entered into a 6-month agreement with the City wherein Petitioner would make payments totaling \$4,860.94 during that period.

5. Petitioner made 6 subsequent payments and believed he had satisfied the agreement in December 2017.
6. In April of 2018, Petitioner was informed, by email, that additional principal and corresponding interest and penalties were assessed on his account for the years 2014 to 2017 due to the property no longer being eligible for the Longtime Owner Occupants Program, "LOOP".
7. A discount to the real estate taxes had previously been deducted from the amount due; however as the City found the Petitioner's property was not eligible, they reassessed the property, and additional taxes became due from 2014 to 2017.
- 8.

CONCLUSIONS OF LAW:

The Philadelphia Code, *Chapter 19-1705(2)* provides that "(u)pon the filing of any petition for the waiver of interest and penalties accruing upon any unpaid money or claim collectible by the Department of Revenue, for or on behalf of the City or the School District of Philadelphia, the Tax Review Board may abate in whole or in part interest or penalties, or both, where in the opinion of the Board the petitioner acted in good faith, without negligence and no intent to defraud."

Through Counsel, Petitioner testified that he acted in good faith by entering into the payment agreement in May of 2017; making all payments in accordance the agreement and timely. Furthermore, Petitioner testified he went to the Department of Revenue each month to make payment and to ensure his delinquent real estate taxes would be paid. It was the opinion of the Board that there was no demonstrated negligence or intent to defraud the City by Petitioner.

Therefore, the decision of the Tax Review Board was to grant the petition, abating all interest and penalties.

It is of note that the Board is very much aware that its jurisdiction in regard to City assessed real property taxes are limited to interest and penalties; not principal or assessment amounts. The *Philadelphia Code, Chapter 2-303. Board of Property Assessment Appeals; Powers and Duties*, vests that power in the Board of Property Assessment Appeals. The Board's determination, while firmly grounded in common contract law of agreement and satisfaction, cannot be applied to the principal amounts due and owing by the Petitioner.

Concurred:

Nancy Kammerdeiner, Chair
Paula Weiss
Dominique Ward, Esq.
George Matthews
Ryan Boyer