

March 15, 2023

IN RE: Robertson, Claudine

Property- 254 E. Albanus Street

Docket No: 35WRMERZW0532

Statement of Record:

- 1) Angelo Robertson (hereafter "Petitioner") filed a Petition for Appeal with the Tax Review Board ("TRB") on January 18, 2021. The petition requested a review of a bill charged to the petitioner's account for the property at 254 E. Albanus Street, Philadelphia, Pa by the Water Revenue Bureau ("WRB").
- 2) A public hearing before the Tax Review Board-Master Level- was held on May 17, 2021. The petition was denied. Petitioner appeal and was granted a re-hearing before the full Tax Review Board.
- 3) A hearing was scheduled for April 5, 2022. This hearing was continued for the Petitioner to get the proper power of attorney paperwork.
- 4) A hearing was then scheduled for June 7, 2022. After hearing evidence and testimony, the Tax Review Board denied the petition.
- 5) Petitioner has filed an appeal to the Philadelphia Court of Common Pleas.

Findings of Fact:

- 1) The property in question is 254 E. Albanus Street, Philadelphia, Pa. The deed currently reflects Claudine Robertson as the owner. Ms. Robertson passed away in 2012 and the property is now represented by her eldest son, the Petitioner.
- 2) At issue is the billing period from September 12, 2008 to September 11, 2020. At the time of the hearing the unpaid balance totaled \$4,659.63 (principal of \$3,138.15, penalties of \$1,300.03, and Lien of \$221.45).
- 3) During the period in question, the Petitioner's property was being billed for usage and storm water. (Transcript; Pg. 32; Ln. 13). Specifically, the Water Revenue Bureau testified that between "November 2012 through September 2020, there was no usage charges" (Id.; Pg. 33; Ln. 5-6), on this property.
- 4) Petitioner testified that "there was a fire at that property—2013 [and] an insurance pay out at that property of \$100,000". (Id.; Pg. 13; Ln.13-17). Petitioner also testified that he believes "the KML Group...[was] supposed to pay any liens that was attached to the property up until 2013". (Id.; Pg. 16; Ln. 12-14).
- 5) Petitioner testified that his youngest brother rented it out before the fire in 2013 but the Petitioner moved into the residence sometime in 2020. No additional information was given regarding the property during the period between the fire and the Petitioner moving back into the property.
- 6) Petitioner provided documentation regarding the property being insured by Great American Assurance Company and ensuing a payout on March 28, 2014 in the amount of \$86,680 to "Celink". (Petitioner Exhibit, Pg. 20).

- 7) Documentation was also provided by Petitioner which indicated that simultaneously on March 28, 2014, \$4,000 was issued under the Fire Insurance Escrow Act to the Treasurer, Philadelphia City "until the insured can document that either repairs or demolition of the structure has been completed". (Id., Pg. 23, Ln. 17-18). Additionally, payments were also directed to McKean County in the amount of \$13,320. (Id.).
- 8) Petitioner also provided documentation regarding a Loan Payoff of a mortgage on the property to Champion Mortgage as of February 28, 2014 in the amount of \$98,905.53.
- 9) The City testified that only one payment was applied to the account since 2008. (Transcript; Pg. 34; Ln. 1-6). No other payments to this water account have been made.

Conclusions of Law:

The Petitioner bears the burden of proof to establish by substantial evidence that the City's bill had been improperly assessed. *Ernest Renda Construction Co., Inc v. Commonwealth*, 94 Commonwealth Ct., 608,504 A2d 1349 (1986). This evidence may be in the form of testimony, documentation, or other demonstrative evidence. Petitioner failed to meet this burden.

While the Petitioner asserted that a payment from the Great American Assurance Company should have taken care of the water bill, he failed to produce documentation that an actual payment had been made to the City of Philadelphia for the water assessments before the fire in 2013. The Board attempted to piece together the Petitioner's argument with the various documents Petitioner provided, but nothing directly supported his contention. Further, the documents he did provide, indicated to the Board that the Great American Assurance Company's \$100,000 payoff to Celinek was parceled out to "McKean County" in the amount of \$13,320 and *possibly* \$4000 was sent to the City of Philadelphia in a Fire Escrow Account. But again, the Petitioner documents do not directly support payment for the bills that had accumulated over the years.

The Tax Review Board found that the Petitioner failed to present evidence or meet his burden that the City's assessment was improper or incorrect in regards to the stormwater and usage and also failed to show that the bills were paid from the proceeds of the insurance payout.

Therefore, the decision was to deny the petition.

Concurred:

Nancy Kammerdeiner, Chair

Paula Weiss

Dominique Ward, Esq.

George Matthew

Ryan Boyer