

**March 27, 2023**

**IN RE: Jerome Whack**

**Docket No: 35WRMERZW0252**

Statement of Record:

- 1) Jerome Whack (hereafter "Petitioner") filed a Petition for Appeal with the Office of Administrative Review (OAR) on November 8, 2021. The petition requested a review of a water bill assessed against the property at 1917 Ellsworth Street, Philadelphia, PA.
- 2) A public hearing before a Tax Review Board Hearing Officer was scheduled on February 25, 2022. After taking testimony and evidence, the Hearing Officer abated 100% of the Penalty.
- 3) On March 10, 2022, the Petitioner requested an appeal to the Full Tax Review Board.
- 4) A hearing was scheduled on November 15, 2022, the Petitioner failed to appear and the decision rendered by the TRB accordingly was "DENIED- DID NOT APPEAR."
- 5) Petitioner filed an appeal to the Court of Common Pleas.

Findings of Fact:

- 1) Petitioner is the owner of the property located at 1917 Ellsworth Street, Philadelphia, PA.
- 2) The City attorney represented that "the disputed period is like from 2007-2021 and there's a gap between April 2, 2018 to March 27<sup>th</sup>, 2019. In fact, most of the periods except from March 3<sup>rd</sup>, 2021 to November 5, 2021 were all covered by either municipal court, code enforcement judgement or Court of Common Please—judgement... for this case the actual disputed period if only March 2021 till November 2021. The rest of the periods are already adjudicated by the higher courts". (Notes of Testimony; Pg. 2-3; Ln. 23-9).
- 3) The Tax Review Board denied the petition.

Conclusions of Law:

In an administrative hearing before the Tax Review Board, the burden of proof rests with the petitioning party to provide substantial evidence to establish that the Petition of Appeal should be granted. The taxpayer bears the burden to prove that the City's assessment is incorrect or warrants adjustment, or in this case that the Petitioner should not have to pay the Refuse Collection Fee during the years alleged. See *City of Philadelphia v. Litvin*, 235 A.2d 157, Pa Super.1967.

In this matter, Petitioner failed to appear and therefore did not put forth any evidence by way of testimony or documentation to established to the Tax Review Board that the Water bill offered by the City was incorrectly assessed or applied. Further, evidence testified to by the City indicated that the Tax Review Board would not have jurisdiction over this matter due to prior judgments by higher courts.

Therefore, the decision of the Tax Review Board to deny the petition, as the Petitioner failed to appear was correct.

Concurred:  
Nancy Kammerdeiner  
Paula Weiss  
Dominique Ward, Esq.  
George Matthews

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