

October 4, 2024

IN RE: Ali, Rashidian

Address: 1806 Diamond Street

Docket No: 35WRMERZV9204

Statement of Record:

- 1) Ali Rashidian (hereafter "Petitioner") filed a Petition for Appeal with the Tax Review Board ("TRB") on July 11, 2023. The petition requested a review of a bill charged to the petitioner's account for the property at 1806 Diamond Street, Philadelphia, Pa by the Water Revenue Bureau (WRB).
- 2) A public hearing before a Hearing Officer at the 1st level (Department Level) was held on January 8, 2024. After the presentation of evidence, the Hearing Officer abate 100% of the penalties assessed.
- 3) The Petitioner appealed the decision to the full Tax Review Board.
- 4) The case was listed before the Tax Review Board on June 4, 2024.
- 5) After hearing the evidence and testimony, the Board denied the petition on the merits, abated 100% of the penalties, and provided the Petitioner 30 days to enter into a payment agreement.
- 6) Petitioner has filed an appeal to the Philadelphia Court of Common Pleas.

Findings of Fact:

- 1) Petitioner is the owner of the property at 1806 Diamond Street, Philadelphia, Pa.
- 2) This property is a "five-bedroom property on 18th & Diamond. It's a rental property that I bought...[and has been tenant occupied] on and off". (Notes of Testimony; Pg. 7; Ln. 15-21).
- 3) At issue is the billing period from August 10, 2011 through February 14, 2023. At the time of the hearing the unpaid balance totaled \$4,235.42 (principal of \$3,929.88 and penalties of \$305.54).
- 4) Petitioner alleges that the bill issued by the Water Revenue Bureau due to the meter change was unfair as "[t]here was no warnings, no actual separate letter sent that, 'You're getting estimated readings. Please make action upon this, do anything like that. So getting this amount put on me at this period is very tough, and I'm really trying to work this out and get this cleared'." (Notes of Testimony; Pg. 6-7; Ln. 21-3).
- 5) The City's representative testified that during the period in question the Encoder Receiver Transmitter, ("ERT"), had stopped transmitting the monthly usage to the Water Department. As such, WRB sent estimated readings to the Petitioner.
- 6) In February 2023, the technicians from the Water Department went out to the property to "check the equipment and they changed the ERT because ...the meter wasn't registering...[t]he ERT wasn't registering the usage from the meter". (Id.; Pg. 13; Lns.10-18).
- 7) The City's representative also explained, "for the period of time, they were billing him estimated water usage at 100 cubic feet of water usage monthly...the applied average should have been 500 cubic feet per month". (Id.; Pg. 14; Lns. 5-14).

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.

The Tax Review Board notes that the Petitioner failed to present any evidence or meet the burden that the City's assessment was improper or incorrect. The bills during the disputed period were estimated and did not account for the actual usage due to the ERT's malfunction. Once replaced, an actual reading of the water usage resulted in the back-bill which the Board finds to be reasonable based on the type of property; 5-unit rental that was sporadically occupied; and a rather long, 12- year disputed period.

While the Board is understanding to the Petitioner's frustration regarding the lack of notice, what is not in dispute is that the water was used at the property and not accurately recorded or paid for.

As such, the Board denies the petition on the merits but abated 100% of the penalties as set forth in the Philadelphia Code Chapter 19-1705(2), as the Petitioner did not act in bad faith or with negligence in regards to the assessment of the penalties.

Concurred:

Paula Weiss, Chair

George Matthew

John O'Connor

Nancy Kammerdeiner