



CITY OF PHILADELPHIA

LAW DEPARTMENT
One Parkway
1515 Arch Street
Philadelphia, PA 19102-1595

December 16, 2016

Hearing Officer Nancy Brockway
Philadelphia Water, Sewer and Storm Water Rate Board
c/o Ms. Marie McNeill
Philadelphia Water Department
1101 Market Street, Fifth Floor
Philadelphia, PA 19107

RE: Application of the Philadelphia Water Department to Establish Special Rate for Community Gardens - Philadelphia Water Department's Response to the Hearing Officer Report

Dear Hearing Officer Brockway:

This correspondence is submitted on behalf of the Philadelphia Water Department ("Department" or "PWD") in response to the Hearing Officer Report, which was transmitted to the parties in connection with the above-referenced proceeding on December 9, 2016. The comments below are submitted by the Department pursuant to your Scheduling Order and Philadelphia Water, Sewer and Storm Water Rate Board Regulation II.8 (a), which provides that any participant may file a letter with the Board within seven (7) days of the Hearing Officer Report.

Part I – Procedural History - page 3

The Hearing Officer Report states: "Twenty-eight persons provided public testimony, on behalf of more than fifteen neighborhood gardens, concerned citizens and public interest groups." From a review of the transcripts, it appears that the witnesses who provided public testimony in support of a discount or exemption represented more than thirty neighborhood gardens, as some of the witnesses testified on behalf of organizations with multiple garden sites. See e.g., Transcript of October 25, 2016, at page 23 (testimony that Urban Tree Connection manages ten garden sites) and at page 41 (testimony that Neighborhood Gardens Trust holds title or leases for 36 community gardens and shared open spaces) and Transcript of November 14, 2016, at page 10 (testimony that the Norris Square Neighborhood Project includes six gardens).

Part IV.C – Number of Qualifying Gardens – page 8

The Hearing Officer Report states: "With respect to the number of qualifying community gardens eligible to receive the proposed exemption, the Water Department estimates approximately 231 parcels qualify today for the stormwater exemption pursuant to the Ordinance." As noted in the Department's responses to the written questions from Robert W. Ballenger and the Transcript Questions from the Public Hearing on October 25, 2016, the Department has assumed that 231 garden parcels are *potentially* eligible. However, the

Department has not determined *actual* eligibility based on the criteria in the Ordinance. Therefore, we recommend that this sentence be revised to insert the word “may” after “231 parcels” so as to state: “With respect to the number of qualifying community gardens eligible to receive the proposed exemption, the Water Department estimates approximately 231 parcels may qualify today for the stormwater exemption pursuant to the Ordinance.” See also Transcript October 25, 2016 at page 7, lines 20-22 and November 18, 2016 at page 7.

Part IV.E – Exemption v. Discount – page 11

Please correct the citation to the Philadelphia Code after the first sentence to: 19-1603(2).

In response to footnote 10 and the last sentence in this section, we were unable to find a statement in the record regarding administrative costs of a 100% discount as compared to a partial discount. However, on page eight of the Department’s brief, we noted that a 100% discount would simplify the billing system and eliminate the disincentive for transferring ownership of vacant parcels from the City to the garden organizations.

Respectfully submitted,



Scott Schwarz, Divisional Deputy City Solicitor
Susan Crosby, Divisional Deputy City Solicitor
Ji Jun, Deputy City Solicitor

Cc: Gemela McClendon, Esq. via email
Participants via e-mail