

October 22, 2018

IN RE: Casa Caribe Inc.

Docket No: 35WRMERZW3283

Statement of Record:

- 1) Casa Caribe Inc. (hereafter "Petitioner") filed a Petition for Appeal with the Office of Administrative Review (OAR) on May 22, 2017. The petition requested a review of a bill charged to the petitioner's account for the property at 173 W. Allegheny, Philadelphia, Pa by the Water Revenue Bureau (WRB).
- 2) A public hearing before the Tax Review Board was held on May 1, 2018.
- 3) The Tax Review Board granted the petition.
- 4) The City of Philadelphia has filed an appeal to the Philadelphia Court of Common Pleas.

Findings of Fact:

- 1) Petitioner is the owner of the property at 173 W. Allegheny, Philadelphia, Pa.
- 2) The Petitioner has been the owner of a 52-unit apartment building at this location since 1997. At the hearing, Mr. David Gonzalez property manager with HACE, Hispanics Association of Contractors and Enterprises and Ms. Lynne Pitter, staff accountant with HACE, acted as representatives.
- 3) The Board requested a copy of the contract authorizing the Mr. Gonzalez to be the Petitioner's property manager and provide representation in this capacity. A copy of this contract was submitted to the TRB on June 4, 2018.
- 4) At issue is the billing period from January 22, 2011 to November 4, 2016. At the time of the hearing, the unpaid balance totaled \$52,662.37. These are based on actual usage.
- 5) During the period in question, Mr. Gonzalez testified that the property had access to water, paid the bills regularly, and in full, as charged to the account.
- 6) Ms. Pitter also testified that the bills during the period in question averaged around "three hundred, four hundreds (dollars) per month". (Hearing Transcript; Pg. 12; Lns. 16-17).
- 7) According to the City representative, the Petitioner's meter was changed in 2011 as part of routine maintenance and rotation required of the meters of that large size. The meter was again rotated for maintenance in 2016.
- 8) Bills issued to the property from 2011 through 2016 were lower than those issued before the 2011 meter change and after the 2016 meter change.
- 9) In November 2016, the WRB noticed "a calibration issue" with the readings from the meter that had just been removed. According to Ms. Cordie Norris, the WRB representative, "[a] small meter is -will bill-let's call it straight. A larger meter would bill ten times as much because of the volume. So this was a calibration issue and when the meter in between, where the readings were low, this was billed as though it were a smaller meter". (Hearing Transcript; Pg. 21; Lns. 5-14).
- 10) The "calibration issue" of the 2011 meter caused the account to be "billed at ten times less during that period". (Hearing Transcript; Pg. 22; Lns. 4-5).

- 11) The calibration of a water meter is the responsibility of the water department. (Hearing Transcript; Pg. 21; Lns. 18-20).
- 12) Mr. Gonzalez also explain that payment of this bill would cause a significant hardship to the Petitioner, as it operates as a non-profit and would have to tap into already low reserves to pay this bill.

Conclusions of Law:

As the property owner, Petitioner is responsible for all water usage and water service charges accrued during the period of ownership. The usage charges are measured and calculated each month by the meter reading acquired by the WRB. Additionally, the calibration of the meters and the determination of the rate charged to each account is the responsibility of the WRB. Therefore, upon the discovery of the "calibration issue" the WRB was well within its authority to re- adjust the Petitioner's account using the rate for large meters of this size, as they remained the owner during this period of erroneous billing.

However, the jurisdiction of the TRB in these matters, as set forth in the Philadelphia Code Chapter 19-700, is broad and provides the Board with latitude to act in an equitable manner when reviewing appeals. Based on the testimony at the hearing, it is the finding of the TRB that WRB's failure to properly calibrate the Petitioner's 2011's meter resulted in significant under billing for the 5 years in question. TRB further concluded that Petitioner and his representatives acted in good faith, by paying every bill monthly and in full. Further, while the bills did in fact drop after the installation of the new meter in 2011, the WRB gave the Petitioner no indication this was an error in the billing, as they continued to issue similar bills over the next 69 months.

As such the TRB granted the petition, specifically noting that payment of this balance bill, caused by the WRB's error, would cause a significant hardship to the Petitioner.

Concurred:

Nancy Kammerdeiner, Chair

Joseph Ferla

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