

**October 16, 2024**

**IN RE: Frazier, Cierra**

**DOCKET NO: 36OOMERZZ7330**

**STATEMENT OF RECORD:**

1. Ms. Cierra Frazier (hereafter "Petitioner") filed a petition with the Tax Review Board, ("TRB") to appeal the City's denial of her application into the Owner- Occupied Payment Agreement, ("OOPA") program for outstanding real estate taxes on the property address 6714 Akron St. Philadelphia, PA.
2. Petitioner filed a petition on July 22, 2022.
3. A public hearing was held before a Tax Review Board Hearing Officer at a Departmental/ 1<sup>st</sup> Level Hearing on December 16, 2022. The Hearing Officer denied the petition.
4. On February 14, 2023, Petitioner requested an appeal before the full board. Petitioner also filed another petition dated February 14, 2023 in an attempt to have another hearing.
5. The TRB erred and scheduled the case for another Departmental/1<sup>st</sup> Level. This was held on May 2, 2023.
6. The Hearing Officer marked the petition as "No Action Needed" and directed the Petitioner to re-apply to the OOPA program.
7. On June 16, 2023, the City appeal the decision and requested a review before the full Tax Review Board.
8. The case was then listed on November 21, 2023. The Tax Review Board rendered its decision, denying the petition due to "timeliness and uncertainty of ownership due to deed issues".
9. The Petitioner has appealed to the Philadelphia Court of Common Pleas.

**FINDINGS OF FACT:**

1. The property in question is 6714 Akron St., Philadelphia, PA.
2. Currently, the real estate tax principal due for years 1999 to 2023 is \$38,401.44, with interest of \$33,409.30 and penalty of \$2,481.46, as of the Tax Review Board hearing date, lien and legal fee charges of \$6,123.19, for a total of \$80,415.39. (Notes of Testimony; Pgs. 7-8; Lns. 20-3).
3. Petitioner asserts that she was gifted the property from a Ms. Selma Gettsberg who "was friends of the family, really good friends with my aunt. The very next day, she made that situation for me and my kids, we also said that I will do all the repairs in the house and take responsibility for the taxes, for all the basics, all the bills, so she gifts me the house... she didn't need it, she didn't want nothing to do with that property and that was it." (Id.; Pg. 25; Lns. 11-20).
4. Petitioner also explained that the deed was transferred "in the public—the notary—the mobile notary...at the property". (Id.; Pg. 26; Lns. 1-10).
5. Petitioner also testified that this occurred in "November of 2021". (Id.; Pg. 31; Ln. 8-9).

6. The City's witness, OOPA liaison for the Revenue Department, Ms. Lisa Bender explained that upon review of the Petitioner's OOPA application and deed she realized "this was not a good conveyance. I spoke to my colleague, Carmen Sanchez, who is very familiar with the owner of the property and she confirmed that the owner had passed away prior to that deed signing". (Id.; Pg. 16; Ln.1-6). Ms. Bender notes that this is the reason the OOPA was denied.
7. Ms. Carmen Sanchez also testifies regarding her personal knowledge that the person who is purportedly signed this deed was deceased at the time that the deed was acknowledged. Specifically, "Selma died in –on January 30, 2020. I attended her funeral and I'm still talking with her sister." (Id.; Pg. 23; Ln.19-21).
8. Lastly, Mr. Sam Scavuzzo testified that he conducted some investigation regarding the notary on the Petitioner's deed. Mr. Scavuzzo explained that upon contacting the notary, he learned that the notary was not familiar with this property or the people in this case, did not notarize this deed, and works "in bulk mortgage company transactions, people can't come off the street and contact him". (Id.; Pg. 21-22; Ln.24-2). The notary also explained that the notary seal on the deed failed to have commission number on it, which his seal does.
9. The initial TRB decision was dated December 16, 2022 and mailed on December 15, 2022. TRB decisions can be appealed within 30 days of the decision mailing date. The Petitioner did not appeal the decision until February 14, 2023.

#### CONCLUSIONS OF LAW:

Under the Philadelphia Code Chapter 19-1305, the City is authorized to enter into Installment Payment Agreements with Philadelphia residents with the intention to prevent tax foreclosures through various programs. Specifically, the City has developed and implemented the Owner Occupied Payment Agreement program, to allow homeowners to make monthly payments on their past due real estate taxes. The TRB is authorized to "*review any adverse final decision or determination of the Department relating to initial or continued eligibility for a payment agreement*". The burden remains on the Petitioner to prove that the City, in this case, the Department of Revenue erred in its denial of her OOPA application.

The Petitioner failed to provide any proof to dispute or discredit the persuasive arguments the City presented regarding the fraudulent deed and its subsequent denial of the OOPA on that basis. Specifically, the City's witnesses' testimony regarding Ms. Selma Gettsburg death in 2020 and the notaries' failure to recollect notarizing this deed form a conclusion that the deed was in fact fraudulent. The Petitioner's explanation regarding a lack of consideration for the property also indicates that this conveyance was less than a legitimate transaction.

The City's conclusion regarding the Petitioner's November 2021 deed being fraudulent disqualifies the Petitioner's eligibility to participate in the OOPA program. Specifically, to enter into an installment agreement, an applicant must be considered an:

*(e) Owner shall mean both (a) an owner of record, as recorded with the Department of Records, and (b) an equitable owner, defined as a person who can demonstrate an ownership interest in a property as provided by law. An equitable owner includes, but is not limited to: a person who has inherited an interest in a property; a person who has entered into a contract to purchase a property; and a person who was the owner of record before a fraudulent conveyance of the property.*

Therefore, the decision of the Tax Review Board to deny the petition, based on the timeliness of the appeal of the original 1<sup>st</sup> Level decision and more importantly, on the City's second argument, that the conveyance of the deed to the Petitioner was fraudulent were correct.

Concurred:

Nancy Kammerdeiner, Chair

Paula Weiss

Ryan Boyer

George Mathews