

BEFORE THE DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

DEPARTMENT OF CUSTOMER SERVICES

IN RE: [REDACTED]  
[REDACTED] 8<sup>th</sup> Street, NW  
Washington, DC 20011

Account No: [REDACTED]

Amount in Dispute: \$9547.40

Billing Periods:  
November 15, 2017 to October 15, 2018

ORDER

This matter comes before the Hearing Officer upon a Motion to Dismiss Administrative Hearing Petition by the District of Columbia Water and Sewer Authority (DC Water). The Hearing Officer has reviewed the customer's Administrative Hearing Petition, Investigative Reports, Interaction Records and considered the allegations and exhibits of the motion. Based upon the foregoing, the Hearing Officer finds that the customer has failed to dispute the charges in a timely manner or in the alternative, provided basis as to why the time limit should be tolled or waived.

Based upon the record in this matter, DC Water filed a lien for non-payment of the water and sewer charges regarding service at [REDACTED] 8<sup>th</sup> Street, NW on 10/23/2018. [REDACTED] was appointed Conservator over the property of [REDACTED] in February 2019 by the D.C. Superior Court. An asset of the ward's estate was real property located at [REDACTED] 8<sup>th</sup> Street, NW. [REDACTED] first contact with DC Water regarding the water and sewer account was April 7, 2019 when he telephoned the utility to get the email address where to send documentation. [REDACTED] contacted DC Water, again, on November 8, 2019, November 18, 2019 and December 12, 2019 requesting to set-up a payment plan and asking why the charges on the account were so high. DC Water repeatedly requested documentation from [REDACTED] of his appointment as Conservator and Guardian of [REDACTED] had not provided his letter of authority or guardianship as of the December 10, 2019 contact. On December 18, 2019, DC Water was contacted by Choice Settlements for a pay-off account balance which at that time was \$12,581.97. On December 30, 2019, DC Water received move-in notification that the real property had been sold on December 27, 2019. Per the settlement, DC Water received a check for \$12,581.97 to close the account balance owed by [REDACTED] however, the utility was contacted by Choice Settlements that it may have to pull the check back. A stop check was noted on January 10, 2020. [REDACTED] then, telephoned DC Water denying knowledge of a relationship with Choice Settlement and he questioned the water and sewer account balance. In a telephone contact with DC Water on January 13, 2020, [REDACTED] acknowledged that the property had been sold on December 27, 2019.

[REDACTED] asserts that his ward was mentally incapable of making a decision to dispute his bill back in 2018. He further asserts that [REDACTED] suffers from dementia and that

██████████ was hospitalized intermittently in 2018 and from December 2018 through April 2019.

DC Water records reflect that high water usage occurred at the property between January 12, 2018 and April, 11/2018 (465.71 CCF) and that high water usage continued at the property April 12, 2018 to May 10, 2018 (136.31 CCF), May 11, 2018 to June 13, 2018 (58.74 CCF), June 14, 2018 to July 16, 2018 (46.55 CCF), 7/17/2018 to 8/14/2018 (41.43 CCF), 5/15/2018 to September 17, 2018 (48.07 CCF) after which service was disconnected and the customer has been billed penalty, interest and fees thereafter.

██████████ disputes the water and sewer bills dated 11/15/2017 to 10/15/2018. ██████████ signed the Administration Hearing Petition in this matter on 1/22/2020 and it was received by DC Water on 2/13/2020.

DC Water has rule processing regulations relating to this matter. The first relates to the time in which a customer may dispute charges on a water and sewer bill. (See 21 DCMR 402) and second relates to the time in which a customer may request an administrative hearing following receipt of the utility's investigation report. (See, 21 DCMR 412)

21 DCMR 402.1 states:

An owner or occupant may challenge the most recent charges assessed by DC Water for water, sewer and groundwater sewer service by either:

- (a) Paying the bill, and notifying WASA in writing that he or she believes the bill to be incorrect and is paying under protest; or
- (b) Not paying the current charges contained in the bill and notifying WASA in writing, within ten (10) working days after receipt of the bill of the reason(s) why the bill is believed to be incorrect.

21 DCMR 402.2 states "Challenges received after the ten day (10) period stated in § 402.1 will be deemed to have been filed in an untimely manner..."

21 DCMR 412.1 states:

An owner or occupant may file a petition for an administrative hearing to review the Utility's decision within fifteen (15) calendar days.

21 DCMR 412.2 states:

A petition for administrative hearing shall be made in writing within fifteen (15) calendars of the date of the notice specified in § 409.1 of this chapter.

The notice referenced in § 409.1 is the utility's notice of investigation results. In this case, DC Water's Bill Investigation Report is dated 1/14/2020.

As pointed out by counsel for DC Water, the time for contesting the water charges is well past. Petitioner however seeks waiver of the time limitations based upon his assertions that his ward was incapacitated and lacked the ability to dispute his bills in the timely manner.

The Hearing Officer finds problems regarding the petitioner's assertions and granting the relief requested. First, [REDACTED], apart from his own bare assertions, provided nothing to substantiate [REDACTED] disability as to when it started and his capacity or incapacity to meet his financial obligations. The only fact provided to DC Water is/has been that a conservator was appointed in February 2019. The appointment of a conservator in 2019 does not support a fact determination that the property owner was unable to take care of his affairs in 2017 or 2018 or that he has dementia or that the court did not intervene for some other reason in its determination that a conservator was appropriate. Second, when [REDACTED] assumed the duty of conservator, it was his responsibility to marshal his ward's assets and to assess his financial responsibilities, yet the conservator did not address the ward's debt to DC Water. While [REDACTED] did telephone DC Water four (4) months after his appointment as conservator, he did not submit his letters of authority to the utility until over ten (10) months after appointment. He failed to pay anything on his ward's water and sewer account, and he did not file a petition to dispute the utility's investigative finding of untimeliness until a month after the report was issued.

As such, even if the Hearing Officer were to accept the petitioner's unsubstantiated assertion that his ward was incapacitated in 2017 and 2018, the Hearing Officer finds no basis to waive the time limitations after a conservator was appointed for [REDACTED]. Any tolling of the time to dispute the charges ended at the appointment of the conservator and in this case, the conservator failed and/or neglected to address his ward's outstanding water and sewer charges. Based on the facts presented, it appears that only when sale of the real property was pending did the conservator seek to challenge the charges, yet, DC Water placed a lien upon the property for non-payment in October 2019, nine (9) months after the conservator's appointment.

Based upon the foregoing, it is the determination of the Hearing Officer that the conservator of the property owner failed to dispute the charges in a timely manner.

The D.C. Court of Appeals has ruled that DC Water may waive the time limit for dispute of bill charges and petition requests but if the utility elects not to do so, a customer who fails to timely dispute or to file within the set time limit loses his right to dispute charges and to an administrative hearing. (See, *Gatewood v. DC WASA*, 82 A.3d 41, D.C. Court of Appeals 2013) Here DC Water has not waived its rule processing time limits and even if it would find that the same had been tolled due to the owner's disability, the time for dispute starting running at the appointment of a conservator in February 2019.

It is noted that DC Water has received payment of the outstanding charges on February 3, 2020 and released its lien against the real property on February 26, 2020. [REDACTED] debt to the utility appears to have been satisfied and no basis exists, as discussed above, for reimbursement of payment.

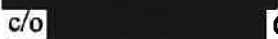
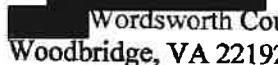
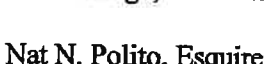
Accordingly, the Motion to Dismiss Administrative Hearing Petition filed by DC Water

is hereby GRANTED.

  
Janet W. Blassingame, Hearing Officer

Date: May 11, 2020

Copies to:

 c/o  Conservator  
 Wordsworth Court  
Woodbridge, VA 22192

Nat N. Polito, Esquire  
1776 K Street, NW, Suite 200  
Washington, DC 20006

**BEFORE THE DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY**  
**DEPARTMENT OF CUSTOMER SERVICES**

IN RE: Hilbert Humphrey  
7538 Abbington Dr.  
Oxon Hill, MD 20745

Account No: [REDACTED]  
Case No: 15-54894

Service Address:  
2117-19 R Street, SE

Amounts in Dispute: \$3,312.85

Before Janet W. Blassingame, Hearing Officer  
March 11, 2020 at 1:00 p.m.

The customer contested a water and sewer bill for the above account for the period March 23, 2019 to May 22, 2019. The DC Water and Sewer Authority (DC Water) investigated the dispute and determined that the charges were valid and no adjustment of the account was warranted. The customer requested an administrative hearing.

This matter was scheduled for hearing on March 11, 2020. Present for hearing were Hilbert Humphrey with his son, [REDACTED]; Kimberly Arrington, Supervisor, Customer Support, on behalf of DC Water; and, Arlene Andrews, DC Water.

The property involved is a six (6) unit apartment building owned by HRM Enterprises, Inc. controlled and own by Hilbert Humphrey operated as a group home licensed by the DC Department of Behavior Health. The building provides housing for up to fifteen (15) elderly and mental health community members. Within the building are two (2) three (3) bedroom apartments and three (3) two (2) bedroom apartments, plus an administrative office with a kitchen. Meal preparation is done by staff. There are four (4) live-in employees. There is one bathroom per apartment, radiators, dishwasher, washing machine and utility sink. The building has one outside faucet. Historically, the water and sewer bill has averaged Five Hundred Dollars (\$500.00) per billing cycle.

Mr. Humphrey testified that no April 2019 billing was received, that he disputes the May 2019 bill and by the time that he received a bill in June, the water usage was back to within normal range.

Mr. Humphrey asserted that he has two (2) maintenance employees on site who consistently check and clean the facility. He testified that the staff checks the plumbing daily and in addition, he has two (2) contractors on stand-by for any issue that may arise at the property. Mr. Humphrey proclaimed that there were no plumbing issues during the period in dispute. He, also, stated that DC Water sent no high-water usage alerts (HUNA alerts) regarding high water usage occurring at the property.

Mr. Humphrey stated that he paid a portion of the disputed bill charge and sent an email

on June 17, 2019 disputing the total charge and alleged amount of water usage. He stated that DC Water responded to him on June 26, 2019 declaring that the charges were correct.

Mr. Humphrey stated that the bill in dispute covers a 61-day period.

Ms. Arrington responded that she cannot say why the customer did not receive an April 2019 bill statement but sometimes when a high meter read is detected, the utility will want to verify the meter read before billing the customer for the usage.

Ms. Arrington asserted that the meter reads are actual and based on automated meter reads from the property. Upon looking at the meter reads from the property, she stated that a spike in water usage started on April 2, 2019 and continued thru May 7, 2019.

Mr. Humphrey countered that his maintenance staff was working everyday through out the period that high-water usage was allegedly occurring so there was no way that a leak would not have been detected. Mr. Humphrey proclaimed that as soon as something happens at the property, the problem is dealt with.

Ms. Arrington stated that DC Water did not send an alert of high-water usage occurring at the property because the usage did not meet the threshold of 6-times the normal/average usage.

Ms. Arrington testified that DC Water tested the water meter from the property and the meter was determined to have 100.68% accuracy.

Based upon the foregoing testimony and evidence adduced during the hearing, the Hearing Officer makes the following:

#### FINDINGS OF FACT

1. The property involved is a 6-unit apartment building operated as a group home for the elderly and members of the mental health community. (Testimony of Hilbert Humphrey)
2. The period in dispute is 3/23/2019 to 5/22/2019. (Testimony of the parties)
3. There was a significant spike in water usage registering on the water meter from 4/2/2019 thru 5/7/2019. (Testimony of Kimberly Arrington)
4. The property owner maintains an on-site maintenance staff and received no report of any plumbing issue or repair at the property during the period of alleged high-water consumption at the property. (Testimony of Hilbert Humphrey)
5. DC Water investigated the customer's dispute of the charges, verified the meter reads and, then, declared that the reads upon which the customer was billed, were actual meter readings from the property and were correct. (Testimony of Kimberly Arrington; DC Water Investigation Letter dated 7/15/19; Testimony of Hilbert Humphrey)
6. DC Water tested the water meter and the meter was determined to have 100.68% accuracy. (Testimony of Kimberly Arrington; DC Water Meter Test Results)
7. DC Water ruled out the existence of an underground leak because the usage declined. (DC Water Investigation Report dated 7/15/19)

### CONCLUSIONS OF LAW

1. The burden of proof is on the customer to show, by a preponderance of evidence, that the decision of DC Water is incorrect. (21 DCMR 420.7 and 420.8)
  
2. DC Water is obligated to investigate a challenge to a bill by doing any or all of the following:
  - (a) Verify the computations made in the formulation of the water and sewer charges;
  - (b) Verify the meter reading for possible meter overread or doubtful registration;
  - (c) If feasible, check the premises for leaking fixtures, underground invisible leaks, and house-side connection leaks;
  - (d) Check the meter for malfunction;
  - (e) Check the water-cooled air conditioning system, if any, for malfunction; and
  - (f) Make a reasonable investigation of any facts asserted by the owner or occupant which are material to the determination of a correct bill.  
See, 21 DCMR 403.

4. D.C. Municipal Regulations bar adjustment of a customer's bill when all checks and tests provide no reasonable explanation for excessive water consumption. (See 21 DCMR 408 which states: "In cases in which all checks and tests result in inconclusive findings that provide no reasonable explanation for excessive consumption, no adjustment shall be made to the bill for any portion of the excessive consumption, except as may be approved by the General Manager, based upon a demonstration by the owner or occupant that such an adjustment will further a significant public interest.")

### DECISION

The customer in this matter failed to establish that more likely than not the bill being disputed was incorrect.

The evidence and testimony established that a significant spike in water usage occurred at the customer's group home establishment during the period in dispute. The customer denied any knowledge of the existence of a water issue at the premises. DC Water determined that the charges were valid and based upon actual meter readings from the property

DC Water established, by testing, that its water meter was properly recording water used at the home and the utility presented meter reads from the property reflecting when the spike started and when it stopped. Unlike with residential property when the property is a commercial

property, DC Water does not provide an interior inspection of such property but relies upon the owner to inspect the property. As such, DC Water did not send a service technician to the property to inspect for interior leaks. The owner testified that he maintains a maintenance staff at the property which failed to detect any plumbing issues during the period at issue. The utility explained that the flow of water usage did not reach the threshold to trigger an alert from the utility of increased water usage occurring at the property. While an alert from the utility would have been helpful to the customer and his maintenance staff to alert them of water usage, the absence of an alert does not relieve the owner of liability for water used at the premises. The purpose of the alert is to allow the owner to mitigate loss if a leak is detected but the alert is a courtesy, not an obligation or duty of the utility which shifts responsibility for water usage from the owner.

The utility was able to rule out the existence of an underground leak because the usage declined without necessity of repairs being performed.


Pursuant to the regulations, the utility has the discretion to determine what tests and inspections are appropriate and material to the determination of a correct bill. (See, 21 DCMR 403) The Hearing Officer determines that the utility acted both reasonably and appropriate in investigating the disputed charges based upon the facts presented.

In instances where the utility's equipment is found to be operating properly and the cause of high-water consumption is undetermined, the municipal regulations bar DC Water from adjusting the customer's account for high water consumption. (See, 21 DCMR 408)

As noted above, the customer has the burden of proving by the preponderance of the evidence that the disputed charges are incorrect or for some other reason the customer should be relieved from responsibility for payment. In this instance, the Hearing Officer is convinced that the preponderance of the evidence weighs against the customer's contention that the charges of wrong.

It is beyond the authority of the Hearing Officer to considered relieving the customer from responsibility for payment of the excessive consumption under the facts presented, but, because the customer operates a group home for elderly and members of the mental health community, the customer was advised that he could seek consideration from the General Manager of DC Water , who in his discretion, has the ability to adjust an account upon a demonstration that it would be in the public interest. (See, 21 DCMR 408)

Accordingly, DC Water's determination that the charges are valid and no basis exists to adjust the customer's account is hereby AFFIRMED.

By:   
Janet W. Blassingame, Hearing Officer

Date: March 11, 2020



Copy to:

Mr. Hilbert Humphrey  
7538 Abbington Dr.  
Oxon Hill, MD 20745

HFM Enterprises, Inc.  
2117-19 R Street, SE  
Washington, DC 20020

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**BEFORE THE DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY**  
**DEPARTMENT OF CUSTOMER SERVICES**

IN RE: [REDACTED] c/o [REDACTED] (PR)

Account No: [REDACTED]  
Case No: 20-291078

Service Address:  
[REDACTED] Clay Street, NE

Amounts in Dispute: \$21,241.30

Before Janet W. Blassingame, Hearing Officer  
March 11, 2020 at 11:00 a.m.

The customer contested a water and sewer bill for the above account for the period February 23, 2019 to April 19, 2019. The DC Water and Sewer Authority (DC Water) determined that the dispute was untimely. DC Water informed the customer that disputes must be received within 10 days of receipt of the bill or the bill must be paid in full before the next bill date. The customer requested an administrative hearing. Notwithstanding its determination of untimeliness, DC Water granted the customer's request for a hearing.

This matter was scheduled for hearing on March 11, 2020. Present for hearing were: Eloise Patton, Personal Representative of the Estate of [REDACTED], deceased, along with her son, [REDACTED]; Grace Soderberg, D.C. Office of People's Counsel (OPC), representing the customer/estate; Rusheda Bpyd, Customer Service Outreach, OPC; [REDACTED], a neighbor/witness; Kimberly Arrington on behalf of DC Water; Geneva Parker, Manager, Customer Support and Collection, DC Water; and Arlene Andrews, DC Water, observing only.

In an opening statement, Ms. Soderberg asserted that the latest amount alleged owed by the customer was \$26,269.35 and said amount is the amount being disputed of the period 3/29/2019 to 4/27/2019. Ms. Soderberg stated that the utility had been sending the bill statements and notices regarding the account/usage to the house (service address). Ms. Soderberg stated that a personal representative was appointed by Court on November 25, 2019. She stated that no one is/was living in the house since the owner's death and that the property is boarded up.

[REDACTED] stated that the property is a single-family home that was owned by his uncle, [REDACTED], now deceased. The house has one bathroom, one kitchen and outside faucets. [REDACTED] was unsure whether the house had radiators and he did not know the number of outside faucets. He stated that his uncle was 81 years old at his death and that he died suddenly.

[REDACTED] stated that he had the house boarded one week after his uncle's death. He stated that he did a walk-thru but did not turn water off in the house. He stated that he has seen no sign of vandalism at the property and the neighbors have not reported seeing anything amiss

at the property. [REDACTED] stated that he went by the property once per month. He stated that notices were sent to the decedent's house but he believed that he was not authorized to open his late uncle's mail.

Ms. Boyd interjected that the average water and sewer bill for the property had been \$92.00 per billing cycle.

[REDACTED] testified that he contacted DC Water within 60 days of his uncle's death and requested that water service to the property be turned off but DC Water indicated that he lacked authority to discuss the account and to contact it when a personal representative was appointed for the estate.

Ms. Boyd interjected that no one was legally able to open mail coming to the house following the owner's death.

[REDACTED] testified that no one lives at the property and after the house was boarded, he never went back inside the house. He stated that junk was removed from the property in January 2020 and he did a walk-thru of the house in January 2020. [REDACTED] testified that he was told that between February 2019 and April 2019, \$18,000.00 in water charges were incurred. [REDACTED] asserted that he feels that the utility is trying to steal his mother's inheritance. He asserted that as an electrical contractor, he knows that equipment fails all the time. He added that a neighbor who lives a half block away from the house and the neighbor did not notice anything. [REDACTED] argued that he thinks that the water equipment is faulty, and DC Water is lying.

[REDACTED] stated that the property is not monitored by a security system.

[REDACTED] submitted photographs of the property and when asked about a basement window board appearing to be ajar, he stated that he put the board in an angled manner on the window as seen in the photograph.

[REDACTED] complained that a lien has been placed upon the property.

[REDACTED] identified himself as a neighbor of the decedent and that the [REDACTED] asked him to keep an eye on the decedent prior to his death. He testified that after [REDACTED] died, he checked on the house and picked-up the mail every time he walked his dog. [REDACTED] stated that lives around the corner from the property.

Ms. Parker asked [REDACTED] regarding payments made on the account following [REDACTED] death and [REDACTED] acknowledged that payments had been made and that the last payment was in October.

Ms. Boyd testified that as of 1/20/2019, there was a credit balance on the water account of \$8.86. She stated that DC Water disconnected service on 6/20/2019.

Ms. Arrington stated that the charges are not erroneous and that usage, as charged, was based upon actual meter reads from the property. She stated that DC Water tested the water

meter and the meter was determined to have 101.42% accuracy. Ms. Parker added that the Billing Department wanted a meter read. Ms. Arrington stated that something was going on within the house after the owner's death because the water meter was moving. She explained that the water meter registers water going thru the meter.

Ms. Parker testified that DC Water disconnects service based on cycles and typically, it takes approximately 45 days. She stated that the disconnection occurs generally when a customer is past due in the amount of \$200.00 for more than 30 days. She stated that in the case of this customer, the bill did not meet the criteria. She testified that continuous water usage registered on the water meter from 1/23/2019 to 3/28/2019 when the water meter stopped registering water being used. She stated that DC Water disconnected water service to the property on 6/18/2019.

Ms. Arrington pointed out that the customer's dispute was untimely. She noted that the Petition for hearing was dated 6/18/2019. She added that she cannot say what was going on in the property to cause a start and stoppage of water use.

Ms. Soderberg asserted that DC Water waived any time limit regarding the dispute.

Ms. Arrington stated that she asked to do an underground inspection at the property, but Mr. Patton said he was not available. She further stated that [REDACTED] would not agree to change the hearing date to accommodate the utility's doing the inspection. She stated that she spoke with [REDACTED] again on Monday, 3/9/2020, however, the test was not done.

Ms. Parker asserted that something had to stop at the premises for water to stop and she asserted that if there had been an underground leak on the owner's side, the utility could provide relief to the customer for its repair. She stated that at this time, DC Water does not have good cause to adjust the customer's account. She added that she is confident that if there is a leak, it is not on the public side of the property. She stated that there is no indication that anyone touched anything at the property.

The parties stated that the property owner died 11/23/2018.

Ms. Boyd posed the question of whether a meter could have been faulty/defective in the past but test within accurate range. Ms. Parker responded that meters are mechanical and subject to failure but generally a water meter slows down and cannot speed back up. Ms. Parker explained that a customer is charged fees on-going until the water meter is removed from a property and, even after the meter is removed, the utility bills for IAC (impervious area charge).

Ms. Soderberg cited 21 DCMR 407.4 regarding the existence of a leak on private property. She also cited 21 DCMR 408 regarding inconclusive findings of the cause of excessive water usage and that the General Manager has discretion to grant relief.

Based upon the foregoing testimony and evidence adduced during the hearing, the Hearing Officer makes the following:

## FINDINGS OF FACT

1. The property involved is a single-family home which is an asset of the Estate of [REDACTED] who died 11/23/2018. (Testimony of [REDACTED])
2. [REDACTED] as the decedent's sister and next-of-kin, was appointed by the Superior Court of the District of Columbia, a personal representative of the estate on November 25, 2019. The administration of the estate was delayed due to the inability of [REDACTED] to prove the existence of a will by her brother. The administration of the estate was further complicated and the appointment of a personal representative delayed due to the disbarment of the attorney hired by [REDACTED] to represent her before the Court. (Testimony of [REDACTED]; Order dated November 25, 2019 in the Matter of the Estate of [REDACTED], 2019 ADM 000167)
3. The period in dispute is undefined. The decedent's heirs failed to open his mail following his death and no payments were made on the water and sewer account from the owner's death until appointment of the Personal Representative. DC Water acknowledged a last payment was made on the account in October 2019 but specified no amount paid or dates of payment. Prior to Bill Summary dated 3/22/2019, the accrued balance due on the account was \$177.67 to DC Water. Per Bill Summary dated 3/22/2019, DC Water billed the customer's account charges in the amount of \$18,808.43. The balance owed to DC Water as of the hearing date, is \$21,241.30. (Testimony of the parties; Bill Summaries dated 3/22/2019; DC Water's note of the dispute amount on the Hearing Calendar for March 2020)
4. DC Water disconnected the water service at the property on June 18, 2019. (Testimony of Ms. Parker and Ms. Boyd)
5. When no water is being used at the property, the utility charges fees and after service is disconnected and the water meter removed from a property, DC Water charges for impervious area fees. (Testimony of Geneva Parker)
6. Following the death of [REDACTED] boarded up the house approximately one week later and requested a neighbor to go by the house to check on the house and to pick-up the mail; the neighbor did not enter the property. (Testimony of [REDACTED] and [REDACTED])
7. The house was unoccupied and neither [REDACTED] nor [REDACTED] were aware of anyone going into the house until Stevie Patton hired Junk Guys Washington DC to remove all trash from the property on the first floor. The trash removal occurred on 1/21/2020. (Testimony of [REDACTED]; Invoice of Junk Guys Washington DC dated 1/21/2020)
8. In response to inquiry by [REDACTED] on March 10, 2020, [REDACTED] of Junk Guys Washington DC responded, by email, that there was no water damage to the furniture, the floors were dry for him and his guys and that they saw no evidence of water while they worked. (Email trail between [REDACTED] and [REDACTED] dated March 10, 2020 and March 11, 2020)
9. [REDACTED] was unaware of water usage in the property following his uncle's death. (Testimony of [REDACTED])
10. There was continuous water registering on the water meter between 1/23/2019 and 3/28/2019 when usage stopped. (Testimony of Geneva Parker; DC Water meter reads)
11. DC Water tested the water meter and the meter was determined to have 101.42% accuracy. (Testimony of Kimberly Arrington; DC Water Meter Shop Test Results)
12. DC Water requested to conduct an underground inspection for leaks at the property, however, the test required presence of the customer and [REDACTED] indicated that he was not

available to be at the property for the test; no alternative test date was established and the test was not conducted. (Testimony of Kimberly Arrington; DC Water Interaction Notes)

13. DC Water attempted to notify the customer that high water usage was occurring at the property. HUNA alerts were attempted on 1/24/19, 1/30/2019, 2/5/2019, 2/11/2019, 2/17/2019, 2/23/2019, 3/1/2019, 3/7/2019 and 3/13/2019. The HUNA contact attempts were by phone per the customer telephone number on the customer's water and sewer account. (DC Water Interaction Records)

14. [REDACTED] called DC Water to discuss the large balance on his later uncle's water and sewer account, however, he was advised of DC Water's third party policy and told that a Letter of Administration would have to be submitted in order for him to handle the affairs of the water and sewer account with DC Water. (DC Water Interaction Records dated 9/3/2019)

14. [REDACTED] contacted DC Water on January 13, 2020 to submit a copy of his Letter of Administration, however, it was determined that the Letter of Administration was in his mother's name, [REDACTED], and DC Water told him that it would add [REDACTED] name to the water and sewer account. (DC Water Interaction Records dated 1/13/2020)

15. [REDACTED] contacted DC Water on January 27, 2020 to dispute the March and April 2019 bills. [REDACTED] name was added to the customer account based upon an email forward by [REDACTED] to DC Water. (DC Water Interaction Records dated 1/27/2020)

16. [REDACTED] was informed by DC Water on 1/27/2019 that his dispute of the March and April 2019 were untimely. (DC Water Interaction Records dated 1/27/2020)

#### CONCLUSIONS OF LAW

1. The burden of proof is on the customer to show, by a preponderance of evidence, that the decision of DC Water is incorrect. (21 DCMR 420.7 and 420.8)

2. 21 DCMR §402 is a dispute processing rule and limits the time in which a customer may request dispute charges contained in a bill. An owner or occupant of the property must notify DC Water in writing within ten (10) days after receipt of the bill of the reasons (s) why the bill is believed to be incorrect or an owner or occupant can pay the bill while stating to DC Water the s/he believes the bill is incorrect and is paying under protest. The D.C. Court of Appeals has ruled that DC Water may waive the time limit but if the utility elects not to do so, a customer who fails to file within the set time limit loses his right to an administrative hearing. (See, Gatewood v. DC WASA, 82 A.3d 41, D.C. Court of Appeals 2013)

3. D.C. Municipal Regulations bar adjustment of a customer's bill when all checks and tests provide no reasonable explanation for excessive water consumption. (See 21 DCMR 408 which states: "In cases in which all checks and tests result in inconclusive findings that provide no reasonable explanation for excessive consumption, no adjustment shall be made to the bill for any portion of the excessive consumption, except as may be approved by the General Manager, based upon a demonstration by the owner or occupant that such an adjustment will further a significant public interest.")

4. When bills for water and sewer service charges, meter maintenance and repairs or sanitary sewer services are more than sixty (60) days overdue, the Department shall provide the owner of record with a written notice of intent to file a lien. (21 DCMR 427.1)

5. If a underground leak is determined to be on private property or on property that is under the control of the owner or occupant, the owner or occupant shall repair the leak and the General Manager may, at his discretion, upon the request of the owner adjust the bill(s) for periods during which the leak occurred by an amount not to exceed 50% of the excess water usage....(See, 21 DCMR 407.5)

### DECISION

When someone dies, his or her water and sewer account is not suspended or tolled until a personal representative is appointed over the estate. To the contrary, water and sewer charges run with and may attach as a lien upon the decedent's property if the charges are not paid in a timely manner. In this case, the heir of [REDACTED] encountered difficulties and delay in her appointment as personal representative of his estate. While legal proceedings were dealt with, DC Water continued to charge certain fees to the account even though water was not being used within the decedent's home. Likewise, when water ran through the water meter at the property, the utility billed for water consumption. As such, the small amount owed by the decedent on his date of death, continued to increase and was not dealt with by his heir/personal representative until over a year after his death. By the time [REDACTED] family members paid attention to the water and sewer bill/account thousands of dollars were owed to DC Water.

[REDACTED] testified that he boarded the property approximately a week following his uncle's death and, thereafter, he would drive by the property on a monthly basis but did not go inside of the house, he did not turn-off the water within the house and he did not open mail being sent to the house in his late uncle's name. Not until January 2020 was anything done with respect to the decedent's house and most particularly, regarding his water and sewer account. By the time that the Pattons submitted Letters of Administration to DC Water and wanted to dispute the water charges on [REDACTED] account which attached in March and April 2019, the time for disputing such charges had expired.

The personal representative, through her counsel, asserted during the hearing that DC Water waived its dispute time processing rule. The Hearing Officer agrees with counsel that the utility waived the rule. The burden, however, still rests with the customer or his representative in this case to prove by the preponderance of the evidence that more likely than not the charges are incorrect or for some other reason relief is appropriate so that the charges should not be paid.

The petitioner asserted that, in January 2020, an inquiry was made of trash haulers whether they saw evidence of water damage or flooding inside of the property and the haulers responded that no evidence of such was observed when they were removing trash from the premises. The Hearing Officer finds such representations as irrelevant based upon the substantial lapse in time between when water consumption registered on the water meter (March/April 2019) and when the haulers were inside of the property (January 2020). Neither DC Water nor the petitioner could explain what, if anything, caused the water consumption, but, regardless of

cause, if water had been present on the floors or on the trash removed, such water had more than ample time to dry.

The heart of the petitioner's dispute is that the house was board and unoccupied following [REDACTED] death. The evidence was that the petitioner did not turn off water to the house, did not go into the house to inspect the same, failed to open the mail sent to the house notifying of a lien for non-payment of the water sewer charges and failed to pay the water and sewer charges both due at the time of the decedent's death and on-going since the account remained active regarding the property. On the DC Water's part, the utility tested that water meter and the meter was found to be accurately registering water used at the property. The utility had meter reads from the property showing when water usage occurred at the property and when water usage stopped. The utility, further, had evidence of its attempts to alert of high-water usage occurring at the property. Moreover, DC Water suggested that the cause of the water usage might have been an underground leak but because no water usage was occurring and the service was disconnected at the property, it thought that if there was an underground leak, the leak was on the owner's side of the property. DC Water explained that the customer could obtain relief from the utility if, in fact, an underground leak was detected, but, [REDACTED], acting on behalf of his mother, the personal representative, was unavailable to be present at the property in order for an underground inspection to occur and, as such, no inspection was done. DC Water has an obligation to investigate charges when disputed, but, no fault rests upon the utility when it suggests and want to do an inspection and the inspection does not take place due to lack of cooperation by the petitioner. In this case, [REDACTED] could have had a third-party substitute for him in order to have the inspection occur or he could have suggested an alternative date/time for the inspection. The testimony was, however, that Mr. Patton did not want to change his hearing date and no suggestion of alternate date/time for inspection was made. Even if the underground inspection had taken place and an underground leak was detected, such a finding of an underground leak existing does not support the petitioner's assertion that the charges are incorrect. If an underground leak had been detected, the petitioner could request relief from up to fifty percent (50 %) of the charges if certain requirements are met such as the repair being performed by a licensed DC plumber and submissions of proof of repair. If and when petitioner cooperates with DC Water to allow an underground inspection and if an underground leak is detected, nothing precludes the petitioner from requesting relief from the charges. Currently however, the petitioner has nothing to show entitlement to any relief from the charges based upon the discovery and repair of an underground leak,

Equity provides no defense for the petitioner under the facts in this matter. Petitioner comes with unclean hands, in that, as discussed above, in acting for his mother, [REDACTED] failed to take reasonable action which could have prevented, promptly discovered, and mitigated the water usage and consequently the large charges incurred on the water and sewer bills.

Counsel for petitioner cited 21 DCMR 407.4 which in relevant parts relates to the finding of an underground leak caused by DC Water or to be on public space. The regulation states that



the utility shall repair the leak and the General Manager shall adjust the bill. The regulation, further, has a "but" and states that if the leak is determined to have been caused by the owner or occupant, no adjustment shall be made. Counsel argued that it was premature because such a leak has not been found. The Hearing Officer finds no basis to consider an underground leak. As stated above, petitioner did not avail himself so that DC Water could conduct the investigation and petitioner has no independent evidence of the existence of an underground leak as a cause of the water usage.

Lastly, counsel for petitioner cited 21 DCMR 408 which relates to inconclusive findings and the discretion accorded the General Manager of DC Water to adjust a bill for any portion of excessive consumption based upon a demonstration by the owner or occupant that such an adjustment will further a significant public interest. 21 DCMR 408 dictates that when all checks and tests result in inconclusive findings that provide no reasonable explanation for excessive consumption, no adjustment shall be made to the bill except by the General Manager as noted above. In this case, petitioner has made no showing as to how the public interest benefits by an adjustment of the charges on this account. The evidence and testimony does show that the utility's equipment was functioning accurately and that water usage occurred at the property. Moreover, the discretion to adjust an account pursuant to 21 DCMR 408 is reserves to the DC Water General Manager and the Hearing Officer has no such discretion or authority. Accordingly, the Hearing Officer finds no basis to adjust the account pursuant to 21 DCMR 408.

While mindful that [REDACTED] was attempting to assist his mother following the death of her brother and that the family encountered legal difficulties in securing [REDACTED] appointment as personal representative of the estate, nevertheless, in large part the cause of the large amount owed in this matter is due to the inaction of the petitioner in doing due diligence to protect and secure the house as an asset of the estate pre-appointment of a personal representative. Nothing precluded the petitioner from going into the house to inspect for leaks and/or water damage; nothing precluded the petitioner from opening mail sent to the property; and, nothing precluded the petitioner from paying the water and sewer bill on a monthly basis and if the same had been done, he would have seen usage occurring in the March 2019 billing and could have prevent usage or at minimum had usage investigate before incurring high usage in April 2019.

Based upon the foregoing, even though DC Water waived the time for disputing charges, the petitioner failed to meet his burden of proof that the charges were incorrect or for some other reason he should be relieved of responsibility for payment. The Hearing Officer finds, based upon a preponderance of the evidence, that the charges are valid and no basis exists for adjustment of the account.

By:   
Janet W. Blessingame, Hearing Officer

Date: May 11, 2020

Copy to:

[REDACTED] P.R.  
Estate of [REDACTED] deceased

[REDACTED]

Grace Soderburg, Esq.  
Assistant People's Counsel  
1133 15<sup>th</sup> Street, NW, #500  
Washington, DC 20005-2710

**BEFORE THE DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY**  
**DEPARTMENT OF CUSTOMER SERVICES**

IN RE: Scott Kerns  
464 7<sup>th</sup> Avenue, 2<sup>nd</sup> Fl  
Brooklyn, NY 11215

Account No: [REDACTED]  
Case No: 20-164891

Service Address:  
3104 16<sup>th</sup> Street, NW

Amounts in Dispute: \$1,190.66

Before Janet W. Blassingame, Hearing Officer  
March 11, 2020 at 10:00 a.m.

The customer contested a water and sewer bill for the above account for the period June 27, 2019 to July 25, 2019. The DC Water and Sewer Authority (DC Water) investigated the dispute and determined that the charges were valid and that the account was billed on actual meter readings. The customer requested an administrative hearing.

This matter was scheduled for hearing on March 10, 2020. Present for hearing were: Scott Kerns; Kimberly Arrington on behalf of DC Water; and, Arlene Andrews, DC Water, observing only.

The property involved is a two (2) family townhouse consisting of an upper unit and a bottom unit. The upper unit has one and one-half (1 ½) bathrooms, a kitchen, a dishwasher and a washing machine. The bottom unit has one bathroom, one kitchen, a dishwasher and a washing machine. The property has two (2) outside faucets and a utility sink. Mr. Kerns testified that the townhouse was purchased in year 2005 and that the water and sewer bills have been approximately One Hundred Dollars (\$100.00) per billing cycle. He asserted that the water and sewer bills were consistent even on two (2) occasions of a broken pipe causing flooding. Mr. Kerns stated that there was a total of four (4) tenants occupying the townhouse throughout the period in dispute.

Mr. Kerns testified that, at his request, DC Water sent a service technician to the property on August 5, 2019 at which time, the technician conducted an inspection for leaks. Mr. Kerns testified that no leaks were found by the technician, but the technician informed his tenant (Carl) that the water meter was faulty. Mr. Kerns wrote in his Administrative Hearing Petition that the meter replacement was done pursuant to the request of Supervisor 47. Mr. Kerns stated that the utility adjusted the water and sewer bill for August 2019.

Mr. Kerns asserted that water usage at the property has been consistent except in July 2019. The customer asserted that he did not receive a bill in July and the bill dated 8/26/19 reflected overlapping periods over the course of 44 days. He testified that the bill showed water

usage occurring on meter #15321018 for the period 7/26/19 to 8/21/19 for 27 days, as well as, usage occurring on meter #16112758 for the period 8/5/19 to 8/21/19 for 17 days.

Mr. Kerns stated that Ms. Venus Marr of DC Water sent him an Investigation Report which said that the water meter passed in testing. Mr. Kerns argues, however, that DC Water tested the wrong water meter and, in fact, that the test was upon the new water meter placed at the property on August 5, 2019. The customer asserted that the utility did not test the faulty water meter which had been removed by the technician on August 5, 2019.

Mr. Kerns argued that the water meter at the property was broken in July 2019 and that the utility should have adjusted the water and sewer bill, accordingly.

Ms. Arrington asserted that the meter reads are actual. She testified that DC Water pulled the water meter on September 24, 2019 and the meter was tested on October 3, 2019. She stated that the water meter was determined to have 100.41% accuracy. Ms. Arrington stated that DC Water kept the water meter removed from the property on August 5, 2019 and that the removed water meter was, in fact, the water meter tested for its accuracy.

Ms. Arrington testified that spikes in water usage occurred at the property on:

7/5/2019 to 7/8/2019  
7/12/2019 to 7/13/2019  
7/14/2019 to 7/17/2019  
7/18/2019 to 7/20/2019  
7/19/2019 to 7/20/2019  
7/20/2019 to 7/21/2019  
7/22/2019 to 7/23/2019  
7/26/2019 to 7/27/2019  
7/27/2019 to 7/27/2019

Ms. Arrington asserted that one cannot look at a water meter and determine that the water meter is broken. She stated that in order to determine if a water meter is broken, the water meter must be tested.

Mr. Kerns asserted that one running toilet cannot result in water usage increasing ten-fold (x10). He stated that starting July 1, 2019, the one-day usage read at the property went up 300 Cu. Ft. as opposed to it having been 3 Cu. Ft. and 10 Cu. Ft. in the previous two (2) days, respectively. Ms. Arrington retorted that a toilet could cause the volume of water usage to have occurred at the property.

Ms. Arrington testified that DC Water attempted to give high usage alert notifications (HUNA alerts) to the customer on July 20, 2019, July 14, 2019, July 8, 2019 and July 2, 2019.

Mr. Kerns admitted that his tenant, Carl, had told him that sometimes he has to jingle the handle of the toilet. Mr. Kerns, however, denied that any repairs were made. Mr. Kerns testified that the DC Water service technician who came to the house said that usage continued registering on the water meter even when no usage was going on in the house.

Ms. Arrington stated that the customer's water and sewer bill for August 2019 was not adjusted because of a determination that the water meter removed from the property was faulty. Ms. Arrington did acknowledge that the water and sewer bill was incorrect because the usage periods reflected on the bill were overlapping with respect to the date of the old meter removed and the new meter placed at the property.

Ms. Arrington acknowledged the existence in DC Water notes in the service record on the property a comment note stating, "movement on meter/ then movement stop and then started again with no use/ pulled meter per 47". Ms. Arrington stated that "47" referenced in the service comment referred to the service technician's number. Ms. Kerns interjected that the service technician at the property observed the water meter moving when there was no water movement because all water in the property had been turned off. Mr. Kerns asserted water usage at the property increased over the course of the month of July 2019.

Ms. Arrington asserted that she believes that there was a toilet leak at the property. Mr. Kerns asked "shouldn't a toilet leak have consistency?" and Ms. Arrington responded in the negative and stated that toilet leaks start/run and then stop.

Mr. Kerns reasserted that the service technician observed the water meter registering usage without water, that the technician changed the water meter and, thereafter, water usage at the property went back to normal.

Based upon the foregoing testimony and evidence adduced during the hearing, the Hearing Officer makes the following:

#### FINDINGS OF FACT

1. The property involved in a two-family townhouse owned by Scott Kerns. (Testimony of Scott Kerns)
2. The period in dispute is 6/27/2019 to 7/25/2019. (Testimony of the parties)
3. There was a significant increase in water usage registering on the water meter in July 2019 and DC Water documented intermittent spikes between July 5, 2019 thru July 27, 2019. (Testimony of Kimberly Arrington)
4. DC Water sent a service technician to the property on August 5, 2019 at which time the technician inspected the property for leaks. No leaks were detected at the property, however, the technician observed movement on the water meter when all water to the property had been turned off. (Testimony of Scott Kerns; DC Water Service Notes- technician comments)
5. On August 5, 2019, a DC Water service technician pulled water meter number 15321018 from the property and replaced the same with water meter number 16112756. (Testimony of Scott Kerns; DC Water Service Notes- technician comments)
6. DC Water removed the water meter from the property for testing on September 24, 2019 and the water meter was tested on October 3, 2019. (Testimony of Kimberly Arrington)
7. DC Water presented a meter test dated October 3, 2019 reflecting that meter number 15321018 was tested on September 24, 2019 and the water meter was determined to have 100.41% accuracy. (Testimony of Kimberly Arrington; Meter Shop Test Results note log dated October 3, 2019)

8. DC Water sent the customer a Bill Summary dated 8/28/19 reflecting water usage registering on water meter number 15321018 for the period 7/26/19 to 8/21/19 and water usage registering on water meter number 16112758 for the period 8/5/19 to 8/21/19. (Bill Summary dated 8/28/19)

9. DC Water sent the customer a Bill Summary dated 9/24/19 reflecting water usage registering on water meter number 15321018 for the period 7/26/19 to 8/4/19 and water usage registering on water meter number 16112758 for the period 8/5/19 to 8/26/19. DC Water estimated the water usage for the period 7/26/19 to 8/4/19. Water usage registering on the new water meter number 16112758 was noted on the bill as being based upon an actual meter read. (Bill Summary dated 8/28/19)

10. DC Water credited the customer's account on the Bill Summary dated 9/24/19 by deleting the charge of \$186.20 from bill dated 8/28/19. (Bill Summary dated 8/28/19)

11. The customer's water usage for the period 8/27/19 to 9/26/19 as reflected on Bill Summary dated 9/24/19 reflected a significant decrease in water having been used at the property. (Bill Summary dated 9/24/19)

#### CONCLUSIONS OF LAW

1. The burden of proof is on the customer to show, by a preponderance of evidence, that the decision of DC Water is incorrect. (21 DCMR 420.7 and 420.8)

2. DC Water is obligated to investigate a challenge to a bill by doing any or all of the following:

(a) Verify the computations made in the formulation of the water and sewer charges;

(b) Verify the meter reading for possible meter overread or doubtful registration;

(c) If feasible, check the premises for leaking fixtures, underground invisible leaks, and house-side connection leaks;

(d) Check the meter for malfunction;

(e) Check the water-cooled air conditioning system, if any, for malfunction; and

(f) Make a reasonable investigation of any facts asserted by the owner or occupant which are material to the determination of a correct bill.

See, 21 DCMR 403.

3. If at any time, a meter, data collection device or transmitter fails to register correctly or collect, deliver or transmit data or otherwise operates or bears evidence of having been tampered with, as determined by qualified personnel of the Authority, the water charge for the interval in which the incident occurred shall be based on the average previous water consumption for the interval. (21 DCRM 308.4)

4. If the investigation reveals doubtful meter registration or possible meter malfunction, the Department shall remove the meter and test it and if the test results verify doubtful

registration or meter malfunction, the bill shall be adjusted to equal the average consumption of water at the same premises for up to three (3) previous comparable periods for which records are available. (See, 21 DCMR 405.2 and 405.3.

### DECISION

The preponderance of the testimony and evidence presented supports the customer's argument that the charges in dispute were more likely than not incorrect.


DC Water conducted two (2) tests in its investigation of this dispute. The utility conducted an interior inspection of the property and no leaks were found but the service technician found it appropriate to change the water meter noting that he saw movement on the water meter after all water to the property had been turned off. The utility, also, removed and tested the water meter from the property and the utility presented a meter test report reflecting that the meter had accuracy of 100.41%,

The customer asserted and argued that DC Water conducted the meter test on the wrong water meter and that the technician had clearly seen a defect in the meter that was at the property during the increased water consumption. The customer pointed out that historical usage at the property had been consistent except for during the disputed period and that upon removal of the meter that the technician saw registering usage when no usage was occurring, water usage at the property returned to within historical range. On the utility's part, it presented a meter test reflecting that it did, in fact, test the water meter observed by the technician to be defective-meter number 15321018. Ms. Arrington testified that the DC Water went to the property on September 24, 2019 and pulled the water meter for testing and that the test was conducted on October 3, 2019. In that meter number 15321018 was removed on August 5, 2019, the meter removed on September 24, 2019 for testing had to have been meter number 16112758 which had been placed at the property on August 5, 2019. DC Water asserted that it kept water meter number 15321018 removed on August 5, 2019 and that was the meter tested on September 24, 2019. DC Water provided no explanation as to why it pulled the water meter on September 24, 2019 and no meter test was presented regarding the meter pulled on September 24, 2019. Likewise, no explanation was provided to explain the coincidence on the meter being pulled for testing on September 24, 2019 and the meter pulled on August 5, 2019 being tested on the same day that the second meter was removed for testing from the property. The meter read records presented into evidence show meter reads thru 2/27/2020 from meter number 16112758 starting 8/5/2019. As such, the meter reads are in conflict with the testimony on behalf of the utility during the hearing that the meter had been pulled for testing on September 24, 2019.

The technician notes of August 5, 2019 are clear that the technician observed some irregularity regarding the water meter and a decision was made to remove and replace the water meter. In light of the questions regarding the meter test, the Hearing Officer gives no credence and weight to the technician notes that the water meter removed on August 5, 2019 was defective. The evidence and testimony that the water usage at the property returned to historical levels after the water meter was removed on August 5, 2019, further, bolstered and supports the customer's assertion that the meter removed on August 5, 2019 was the cause of the spike in water used at the property during the month of July 2019.

The customer asserted that DC Water adjusted his account based upon the technician's finding that the water meter was defective. The evidence and testimony, however, do not support the customer's assertion. The utility did adjust the customer's account per the Bill Summary dated 9/24/2019, however, the adjustment was to correct the overlapping of bill periods as charged on Bill Summary dated 8/28/2019. DC Water removed all charges from the 8/28/2019 Bill Summary and gave a credit to the customer for said charges on the Bill Summary dated 9/24/2019. In correcting the customer's account for the overlapping charges, the utility estimated the customer's usage on the old meter- number 15321018- for the period 7/26/2019 to 8/4/2019 at 3.95 CCF; the utility did not provide meter reads from the property on 8/4/2019. The utility reflected a prior read on meter number 16112758 which was placed at the property on 8/5/2019 at 196 and by 8/26/2019 the meter read was 366. As a newly placed meter read, meter number 16112758 should have started at zero (0), not at 196. DC Water provided no explanation as to why the meter was not set at zero when it was placed at the property on 8/5/2019. As such, even though the account was adjusted for the overlapping bill periods on the 8/28/2019 Bill Summary, the customer's account appears to still have been incorrectly billed because the new meter placed at the property on August 5, 2019 was not started at zero.

Based upon the foregoing, the Hearing Officer determines that the customer's account is incorrect, that more likely than not the meter at the property in July 2019 (the disputed period) was faulty and that the account adjustment reflected on the Bill Summary dated 9/24/2019 was incorrect. Accordingly, the utility's determination that the charges were valid and no basis exists for adjustment of the customer's account is REVERSED. DC Water is directed to adjust the customer's account charges for the period 6/27/2019 to 8/5/2019 to equal the average consumption of water at the premises for up to three (3) previous comparable periods for which the records are available. DC Water is further directed to investigate why its records regarding the water meter number 16112758 do not reflect the meter starting service at a meter read of zero and if, in fact, the meter was not set at zero when placed in service at the property on 8/5/2019, the utility shall adjust the customer's charges for water usage for the period 8/5/2019 to 8/26/2019.

By:   
Janet W. Blassingame, Hearing Officer

Date: May 11, 2020

Copy to:

Mr. Scott Kerns  
464 7<sup>th</sup> Avenue, 2<sup>nd</sup> floor  
Brooklyn, NY 11215



**BEFORE THE DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY**  
**DEPARTMENT OF CUSTOMER SERVICES**

IN RE: [REDACTED]  
[REDACTED] Congress Street, SE  
Washington, DC 20036

Account No: [REDACTED]  
Case No: 19-633620

Amounts in Dispute: \$718.49

Before Janet W. Blessingame, Hearing Officer  
March 10, 2020 at 10:00 a.m.

The customer contested a water and sewer bill for the above account for the period January 30, 2019 to February 28, 2019. The DC Water and Sewer Authority (DC Water) investigated the dispute and determined that the charges were valid and no adjustment of the account was warranted. The customer requested an administrative hearing.

This matter was scheduled for hearing on March 10, 2020. Present for hearing were: Victoria Wordsworth represented by Grace Soderberg, Esquire, of the DC Office of People's Counsel, along with Valca Valentine, Customer Services Outreach, DC Office of People's Counsel; Kimberly Arrington, Supervisor, Customer Support, on behalf of DC Water; and, Arlene Andrews, DC Water.

The property involved is a single-family residence owned and occupied by Ms. Wordsworth. Ms. Wordsworth purchased and moved into the property in mid-December 2018. She stated that she lives with her eight (8) year old daughter. The house has three (3) bathrooms, one kitchen, a dishwasher, a washing machine, and one outside faucet.

[REDACTED] stated that her house had been inspected and passed for the HPAC program. The customer presented a HPAC reinspection form dated 12/13/2018 reflecting inspection of the property.

The customer testified that her second water and sewer bill reflected that she used 12.05 CCF of water for the period 12/29/2018 to 1/29/2019. She testified that her first bill from DC Water reflected that she had used 10.54 CCF of water. [REDACTED] stated that she telephoned DC Water regarding the charges and was told that there had been a spike in her usage.

[REDACTED] asserted she did not use water in the amount charged. She stated that she leaves the house each day at 8:30 a.m. and does not return home until 7:00 p.m. She stated that none of her toilets are running, that she has had no guests in the home and that she did an interior inspection by walking thru the property and doing dye tests in the toilets and that she found no leaks. The customer stated that DC Water did not conduct an interior inspection of her home.

[REDACTED] denied performing any repairs at the property that might have affected

water usage at the home.

Ms. Arrington testified that the meter reads from the property are actual and that the charges are based upon meter read transmittals from the property.

The customer interjected that she rarely uses her basement bathroom. She estimated that the bathroom is used, maybe, once per week.

Ms. Arrington testified that between 1/30/2019 and 2/3/2019, a four (4) day period, the customer used .41 CCF of water. She stated that there was a spike in water usage between 2/3/2019 and 2/12/2019, a ten (10) day period, during which the customer used 54.13 CCF of water. Ms. Arrington testified that the customer used 1.68 CCF of water between 3/12/2019 and 2/20/2019. Ms. Arrington asserted that the customer's water usage was consistent after 3/12/2019 which signifies that the water usage at the property is controlled at the premises. Ms. Arrington suggested that the spike in water usage could have been caused by a toilet flapper.

Ms. Arrington testified that DC Water conducted a test of the water meter and the meter was determined to have 100.32% accuracy. She stated that the meter was removed from the property for testing on December 16, 2019.

██████████ stated that she did not worry about or question the charges on the first two (2) billing statements because she had never owned a house before and believed that she was being billed for a new account. When asked if she received a HUNA alert- notice of high-water usage, the customer stated that she did not receive such an alert. Ms. Arrington explained that because the customer had no historical usage at the premises, no alert was sent to her.

Ms. Soderberg asserted that her client did due diligence.

Ms. Arrington stated that by the time ██████████ contacted DC Water regarding her charges, the water usage at the property had declined and, as such, there was no reason for the utility to have conducted an underground test for a leak. Ms. Arrington stated that she would review the customer's account for late fees and would remove any inappropriate fees.

██████████ stated that she would provide an original HPAC inspection report within one week following the hearing.

In conclusion, Ms. Soderberg reiterated that ██████████ had done due diligence and that her client did not make any changes at the property that would have affected water usage.

Based upon the foregoing testimony and evidence adduced during the hearing, the Hearing Officer makes the following:

#### FINDINGS OF FACT

1. The property involved is a single-family home owned by first time homeowner, ██████████. (Testimony of ██████████)

2. The period in dispute is January 30, 2019 to February 28, 2019. (Testimony of the parties)
3. Having owned the property for only three (3) billing cycles, the customer's charges for water and sewer service were high and the customer contacted DC Water to dispute the charges. (Testimony of [REDACTED])
4. When contacted, the utility's customer service representative informed the customer that there had been a significant spike in her water consumption. (Testimony of [REDACTED])
5. DC Water has transmitted meter readings from the property and a review of such meter reads show a spike in water usage during the period in dispute and when the spike declined. (Testimony of Kimberly Arrington)
6. There was a significant increase in water usage at the property between February 12, 2019 and February 28, 2019. (Testimony of Kimberly Arrington)
7. The customer was not aware of any plumbing issues at the property and she conducted a self-inspection and found no leaks. (Testimony of [REDACTED])
8. By the time that the customer contacted DC Water to dispute the charges, water consumption had declined. (Testimony of Kimberly Arrington)
9. The customer denies doing anything to cause a decline in water usage at the property and DC Water performed no service repair at the property during the period in dispute. (Testimony of the parties)
10. DC Water tested the water meter and the meter was determined to have 100.32% accuracy. (Testimony of Kimberly Arrington)
11. DC Water did not conduct an interior inspection of the property or a test of an underground leak because water usage had declined by the time that the customer contacted the utility. (Testimony of Kimberly Arrington)

#### CONCLUSIONS OF LAW

1. The burden of proof is on the customer to show, by a preponderance of evidence, that the decision of DC Water is incorrect. (21 DCMR 420.7 and 420.8)
2. DC Water is obligated to investigate a challenge to a bill by doing any or all of the following:
  - (a) Verify the computations made in the formulation of the water and sewer charges;
  - (b) Verify the meter reading for possible meter overread or doubtful registration;
  - (c) If feasible, check the premises for leaking fixtures, underground invisible leaks, and house-side connection leaks;
  - (d) Check the meter for malfunction;
  - (e) Check the water-cooled air conditioning system, if any, for malfunction; and
  - (f) Make a reasonable investigation of any facts asserted by the owner or occupant which are material to the determination of a correct bill.See, 21 DCMR 403.
3. D.C. Municipal Regulations bar adjustment of a customer's bill when all checks and tests

provide no reasonable explanation for excessive water consumption. (See 21 DCMR 408 which states: "In cases in which all checks and tests result in inconclusive findings that provide no reasonable explanation for excessive consumption, no adjustment shall be made to the bill for any portion of the excessive consumption, except as may be approved by the General Manager, based upon a demonstration by the owner or occupant that such an adjustment will further a significant public interest.")

### DECISION

The customer in this matter failed to establish that more likely than not the bill being disputed was incorrect.

The customer testified that her home had been inspected for the HPAC program and during the inspection, no leaks or plumbing issues were detected that could have caused the usage alleged to have occurred at the property. [REDACTED] presented into evidence a copy of the property reinspection report and post-hearing, the customer provided a copy of the original inspection report which reflected no plumbing findings regarding to leaks within the property. The customer further testified that she was unaware of any plumbing issue and that she inspected her house for leaks and detected no leaks.

The evidence and testimony established that a significant spike in water usage occurred at the customer's home during the period in dispute. DC Water established that its water meter was properly recording water used at the home and the utility presented meter reads from the property reflecting when the spike started and when it stopped.

DC Water explained why no interior inspection of the property was performed, as well as, why it did not conduct an inspection for the existence of an underground leak. The utility's explanation was that with respect to both types of inspections, the increased water consumption had stopped by the time that the customer contacted the utility and, as such, to conduct such tests were not appropriate/warranted because whatever had caused the increased usage was no longer in existence.

In this case, the utility reviewed the meter readings from the property and it tested the water meter for its accuracy. Pursuant to the regulations, the utility has the discretion to determine what tests and inspections are appropriate and material to the determination of a correct bill. (See, 21 DCMR 403) And the Hearing Officer determines that the utility acted both reasonably and appropriate in investigating the disputed charges.

In instances where the utility's equipment is found to be operating properly and the cause of high-water consumption is undetermined, the municipal regulations bar DC Water from adjusting the customer's account for high water consumption. (See, 21 DCMR §408)


Accordingly, DC Water's determination that the charges are valid and no basis exists to

adjust the customer's account is hereby AFFIRMED.

By: *Janet W. Blassingame*  
Janet W. Blassingame, Hearing Officer

Date: *May 11, 2020*

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