

August 30, 2024

IN RE: Elle Woods (Remand)

TRB Docket Nos: 26DEMERZZ9304

26LIMERZZ8937

Property: 1848 E. Russell Street

On August 30, 2023, the Court of Common Pleas remanded this case to the Tax Review Board, "TRB", "for further expedited evidentiary hearings to be conducted before the Tax Review Board to reassess the principal costs of emergency abatement/demolition work that had been performed after catastrophic fire and partial collapse of Appellants' structures at the property located at 1848 East Russell Street...and the originally resulting discounts that the Tax Review Board had provided to the Appellant."

Further, the Court held that the City "shall present evidence the Tax Review Board to justify the assessed principal costs of abatement/demolition work that had been performed."

As such, please incorporate the previous findings of fact from the April 2023 TRB opinion.

Statement of Record

- 1) The remanded hearing before the full Tax Review Board was scheduled on January 23, 2024.
- 2) After hearing evidence and testimony, the TRB held the case under advisement for a review of information presented at the hearing.
- 3) The TRB issued a decision on February 29, 2024 and "re-affirms its decision of September 15, 2022 in respect to the reduction of the principal by 20k, noting this should result in a corresponding reduction in the administrative charge. The Board now further abates the interest by 100% as it finds that the Petitioner has shown good faith and no negligence in pursuing this claim".
- 4) Both the Petitioner and the City of Philadelphia filed appeals to the Philadelphia Court of Common Pleas.

Findings of Fact:

- 5) The City presented Mr. Stephen Gallagher, L&I's Director of Emergency Services and Contractual Services. Mr. Gallagher testifies about the Master Demolition Program and how it provides city contract[s] "put out to do demolition, to hire contractor to do demolition in the city- within the city of Philadelphia for unsafe and dangerous and unsafe properties". (Hearing Transcript, 1/23/2024; Pg. 26-27; Ln. 23-3).
- 6) Mr. Gallagher explains that to participate in the Master Demolition Program, contractors have to "meet...a percentage they have to meet of the participation for minority businesses...these processes are met through their procurement process of vetting the contracts". (Id., Pg. 29; Ln. 9-15).
- 7) Mr. Gallagher also explains that is not a requirement of the City contracts "in the context of an emergency demolition...to do a thorough assessment of line by line of the different costs of what it will take to do a demolition". (Id., Pg. 29; Ln. 7-11).

- 8) The Petitioner again presented their expert, Mr. Desser. Mr. Desser explained that “taking the new documents with the old photographs, with the bills, I’m even of a stronger opinion that the –it was not a reasonable cost for this project and that this, based upon the information provided, was down, dirty, quick, no foundation slab on grade”. (Id., Pg. 99; Ln. 8-14). Specifically, Mr. Desser found issue with how Palmer Construction billed the City. For example, he pointed to “their invoices, their billing, and the numbers don’t make sense because prevailing wage is a very basic item that give you the wage and the benefits for a worker. And the wage and benefits for the worker, in this case, in the Palmer bill that we’re talking about was...approximately \$66 and change”. (Id., Pg. 91; Ln. 9-17).
- 9) Mr. Desser concluded, “four workers for two days, you can’t get above \$25,000 for this whole job with equipment, with everything, even paying prevailing wage”. (Id., Pg. 92; Ln. 14-17).

Conclusions of the Board:

The Tax Review Board notes that it was constrained by the City’s lack of documentation regarding an itemization of the work the City’s contractor did in order for the City to justify the total assessed principal costs of the demolition. However, the City’s presentation regarding the master demolition contractor program and its administration, justified the remaining amount and explained why a premium was charged to the City for this work; specifically, the cost to the contractor to meet the requirements to participate in the master demolition program and to be on-call to appear in emergency situations- as was done in this particular case. Further, the City did proceed with the lowest responsive bid, its only responsibility with regard to pricing under its rules and regulations.

The Board again found the Petitioner’s expert’s opinion partially persuasive regarding the reasonableness of the charges. However, his opinion and report were lacking in that they did not take these factors, as noted by the City, into account while crafting an estimation of the costs. A contractor participating in the City’s Master Demolition program and through it awarded a bid has significant bonding and insurance costs, safety and prevailing wage requirements, and hiring requirements - constraints and costs that a contractor operating in the private sector is not bound to follow. In addition, an owner cannot expect the City to be responsible to go out and look for the cheapest option in the way they might do, particularly when in an emergency situation as was the case here.

Concurred:
Paula Weiss, Chair
Nancy Kammerdeiner
George Matthews
Ryan Boyer
John O’Connor, Esq.