

March 4, 2024

IN RE: TR-Philadelphia, LP

Docket No: 26DEMERZZ9258

Property: 5554 Baltimore Ave.

Statement of Record:

- 1) TR-Philadelphia, LP. (hereafter "Petitioner") filed a Petition for Appeal with the Tax Review Board("Board") on November 23, 2021. The petition requested a review of the demolition fee and associated cost assessed by City of Philadelphia's License and Inspection Department ("L&I") against the property at 5554 Baltimore Ave., Philadelphia, PA billed on September 28, 2021.
- 2) A public hearing before TRB Department level was scheduled for April 6, 2022.
- 3) The Petitioner failed to appear and requested a rehearing on May 2, 2022. It was rescheduled for November 2, 2022.
- 4) The Hearing Officer continued the case- noting that it should be put before the full Tax Review Board.
- 5) The case was then listed before the Board on April 27, 2023 and the Petitioner requested a continuance to review recently provided evidence.
- 6) Another hearing was scheduled before the Board on October 5, 2023.
- 7) After hearing evidence and testimony, the Board announced its decision to abate 100% of the administrative charge and directed the Petitioners to arrange installment payments for the remainder of the balance within 30 days.
- 8) The Petitioner filed an appeal to the Court of Common Pleas.

Findings of Fact:

- 1) Petitioner is the owner of the property located at 5554 Baltimore Ave., Philadelphia, PA since approximately 2002.
- 2) Petitioner's mailing address is an off-site address; not the property address.
- 3) On or about January 23, 2018, L&I issued a notice of violation and ordered the building unsafe. Specifically, the notice detailed the areas the department found of concern, "partial collapsed front wall, collapsed Bilco doors, illegal electrical service connected to street light pole". (Notes of Testimony, Pg. 31; Ln. 16-18).
- 4) This notice was mailed to the Petitioner's offsite address.
- 5) Petitioner testified that after receiving the January 2018 notice, he "went down and repaired what they called Bilco doors. They were a vault plate with openings, we would call that on an electrical vault that actually runs under the City sidewalk... That's the second half of the violation. The first half is talking about exterior roofs and stairs and all that. And there's no building there, so I'm not even sure what that means... I bolted down plate steel. They weren't- really weren't in disrepair. I wasn't going to argue with anybody, so I just bolted down new steel permanently". (Notes of Testimony, Pg. 8-10, Ln. 5- 4).
- 6) Testimony indicates that sometime after receiving the initial Notice of Unsafe Condition, Petitioner met with a City Inspector and discussed the repairs he had planned to do.

- 7) On March 23, 2018, the City sent the Petitioner Final Notice Unsafe Building for the unsafe conditions on the property. This was mailed to the Petitioner's offsite address.
- 8) No permits were issued by L&I for the property during this period. (Notes of Testimony; Pg. 33; Lns. 5-7).
- 9) On or about February 24, 2020, the Department of L&I determine the property to be "Imminently Dangerous" and issued a Final Notice of Violation and Order Imminently Dangerous Building.
- 10) This notice, however, was addressed and mailed to the property address. A public posting was also placed in the front of building.
- 11) The Petitioner testified that he learned of the violation and subsequent demolition of the property when he received the bill in September 2021. (Notes of Testimony; Pg. 11-12; Ln. 19-3).
- 12) Supervisor Inspector Thomas Rybakowski testified that at the time of the Imminently Dangerous designation, the "structure is basically a front wall, no roof. The roof was removed at some point. And the back well, you can see that there is loose and missing material in the back wall of the property as well...[and] this photograph right here shows a fracture in the -- in the support for the concrete on top of this support post". (Notes of Testimony; Pg. 37; Lns. 14-22).
- 13) Supervisor Inspector Rybakowski then explained how L&I placed property out for demolition and contacted the contractors that are part of the master demolition program. The City then obtained bids from five contracts and the lowest bidder will be awarded that bid. (Notes of Testimony, Pg. 39-40; Ln. 19-4).
- 14) On or around March 2, 2020, L&I awarded the bid for demolition under the Master Demolition Program to RDS Contracting, for the property at 5554 Baltimore Avenue for the amount of \$31,221 for the demolition. (City Exhibit 43).
- 15) The demolition was invoiced to the City on September 8, 2021.
- 16) The Department of License and Inspections issued a bill to the Petitioner on September 28, 2021 for the demolition costs. At the time the amount due and owing are "Principal-\$31,221, even Administrative Charge- \$6,556.41...not have any access to the interest for this specific bill, so that total is \$37,777.41. (Notes of Testimony; Pg. 3; Ln. 17-20).

Conclusions of Law:

In an administrative hearing before the Tax Review Board, the burden of proof rests with the petitioning party to provide substantial evidence to establish that the Petition of Appeal should be granted. The taxpayer bears the burden to prove that the City's assessment is incorrect or warrants adjustment, or in this case that the Petitioner should not responsible for the cost associated with the City's action to demolish the property or some reduction should be given. See *City of Philadelphia v. Litvin*, 235 A.2d 157, Pa Super.1967.

In this matter, Petitioner asserts two separate arguments to compel the Board to grant the petition. First, that his actions after being notified in 2018 of the property's Unsafe condition- fixing the Belco doors and meeting with the Inspector—would not necessitate any further action on his part. Therefore, the two-year wait from the City to designate the property as Imminently Dangerous as a continuous escalation from the initial Unsafe condition was not properly communicated to the Petitioner. He did not fully grasp that his attempts at corrective actions did nothing to stop the property from its Unsafe designation and subsequent demolition.

However, the Board does not find this assertion compelling. As a property owner in the City of Philadelphia, the Petitioner is responsible for the condition and safe-making of the property. And it clear from the City's Exhibits, showing the condition of this property, that it was not made safe in 2018 and continued to deteriorate up and to March 2020- when it was demolished. The language in the 2018 Notice regarding the property's Unsafe Condition was very specific and the Board found that the Petitioner's testimony glossed over the various issues creating the conditions. Additionally, no permits were requested by the Petitioner or evidence showing improvements made were presented. Further, the City provided no indication to the Petitioner that property was now considered safe; in fact, Final Notice of Unsafe Condition was sent to the Petitioner's offsite address *after* the meeting with the Inspector.

Secondly, the Petitioner notes that the notifications regarding the Imminently Dangerous conditions and subsequent demolition were never mailed to his proper off-site address; especially as the City was on notice as they sent the 2018 correspondence to the proper address. This error failed to give the Petitioner notice and opportunity to correct or improve the conditions of the property after March 2020 but before May 2020. Additionally, the issuing of the bill to the Petitioner over a year and a half after the actual demolition was a failure to timely charge the Petitioner.

The Board finds this argument persuasive and holds that the City's failure to mail the notices in March 2020- which found the property Imminently Dangerous and subsequent demolition to the Petitioner's off site address—which they had previously used in 2018; and the late billing to Petitioner-occurring over a year and half after the actual demolition - were administrative failures of the City. In the interest of fairness, the Tax Review Board's determination to abate 100% of the administrative is appropriate.

Concurred:

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