

June 26, 2024

IN RE: Curtis Simmons

Docket No: 26DEMERZZ8963

Property: 1004 S. 20th Street

Statement of Record:

- 1) Curtis Simmons (hereafter "Petitioner") filed a Petition for Appeal with the Tax Review Board("Board") on October 11, 2023. 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 1004 S. 20th Street, Philadelphia, PA billed on November 21, 2019.
- 2) The petition was considered untimely, and the Tax Review Board Chair reviewed the petition and approved the Nunc Pro Tunc after the petition was filed.
- 3) A public hearing before the Board was scheduled for February 22, 2024.
- 4) At the beginning of hearing, the City objected to the Board's jurisdiction to hear the case due to the petition being filed late. The Board overruled the objection as the Petitioner explained that he was a victim of deed fraud during this period.
- 5) After hearing evidence and testimony pertaining to the demolition, the Board decided to abate 100% interest and arrange installment payments within 30 days of the new bill for the remainder of the balance.
- 6) Petitioner filed an appeal to the Court of Common Pleas.

Findings of Fact:

- 1) Petitioner is the owner of the property located at 1004 S. 20th Street, Philadelphia, PA.
- 2) Petitioner's mailing address is an out of state address.
- 3) Petitioner was deeded the property in 2010 from his mother and in December 2018, it was fraudulently deeded to a third party, Delta Property Investments, LLC.
- 4) The Petitioner engaged in a civil suit in Philadelphia from December 2018 to January 2023. (Petitioner's Exhibit, Civil Court Docket Report).
- 5) In November 2018, L&I visited the property and determined it was "unsafe" and issued a notice directing the Petitioner "to make all repairs or demolish the structure to remove the unsafe condition". This notice was mailed to the Petitioner's out of state address. (City Exhibit-1, Pg. 1).
- 6) On December 21, 2018, L&I issued a Final Warning to the Petitioner again directing the repairs of "the front wall" due to collapsing. (City Exhibit-1, Pg.3).
- 7) L&I received a request for a permit on December 24, 2018, "for a demolition of the property at 1004 S. 20th Street... [from]the owner was recorded or was named Delta Property Investments and then the applicant was the demolition contractor". (Notes of Testimony; Pg. 46-47; Ln. 18-2). The request for the permit eventually expired as Delta Property Management failed to submit additional information. (Id.; pg. 47; Ln. 13-14).
- 8) The property was reinspected by L&I on June 17, 2019 and a Final Notice of Violation and Order Imminently Dangerous Building, designated the property as Imminently Dangerous, was mailed to Delta Property Investments at a Philadelphia address. (City Exhibit-1; Pg. 19).

- 9) The property was put out to bid to contractors on August 13, 2018 to handle the demolition on the property and was awarded to Manguel Demolition, Inc. They provided the lowest bid at \$32,122. (Id.; Pg. 34-36).
- 10) The Department of License and Inspections issued a bill on November 21, 2019, to Delta Property Investments for the demolition costs. At the time the amount due and owing are "principal amount-\$33,122, administrative costs-\$6,745.62... the interest-\$6,607.22 for a total of amount due is \$45,474.84. (Notes of Testimony; Pg. 15; Ln. 17-24).
- 11) The Tax Review Board abated 100% interest and ordered Petitioner's to arrange installments for the remainder of the fee.

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 be 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 that they should not be responsible for the cost of the demolition because of the circumstances regarding the deed theft and subsequent sale to another owner at the time of the demolition. The Petitioner explains, "[w]hen the property was demoed, the bills were sent to Delta. My client will tell you he was aware that it was going to be demoed, tried to stop the demolition but didn't have the standing according to Judge Patrick. The bill should remain with Delta properties...Mr. Simmons had no control over the property at 1004 S. 20th Street when the demo occurred nor did he have any power to stop the demolition according to our courts". (Id.; Pg. 66-67; Ln.12-1).

The Board does acknowledge that the fraud that occurred with the Petitioner's deed significantly impaired the Petitioner from securing a permit after the property was declared imminently dangerous. However, the Board finds it probative that from 2010 to 2018, during the Petitioner's ownership, the property sat vacant and deteriorated. The Petitioner did not provide any evidence regarding steps taken during his period of ownership to improve or secure the property. The Board found the photographs presented by the City, found in City Exhibit-1, very persuasive. Specifically, photographs before the demolition reveal there was no roof and trees growing in and through the property windows. The City has a responsibility to repair and make safe properties in Philadelphia that are not being kept in good repair. The Board believes that either the Petitioner or the City would have to bear the cost of the demolition as the process to repair had begun while the Petitioner was still the owner of the property.

Therefore, the decision of the Tax Review Board to deny the petition and abate 100% of the interest was appropriate.

Concurred:

Paula Weiss, Chair

Ryan Boyer

John O'Connor