

January 5, 2004
IN RE: MATTIE PENDER
DOCKET NO. 26DEMZZ9838

STATEMENT OF RECORD:

1. Mattie Pender (hereafter "Petitioner") filed a Petition for Review with the Tax Review Board on June 10, 2003 regarding a bill received for the demolition of the building at 3626 North 15th Street Philadelphia, Pa.
2. A public hearing was held before the Tax Review Board on September 18, 2003. At the conclusion of the hearing, the Board announced its decision to abate one-half (1/2) of the administrative charge and one-half (1/2) of the lien charge assessed.
3. Petitioner appealed to the Philadelphia Court of Common Pleas.

FINDINGS OF FACT:

1. Petitioner is the owner of the property at 3626 North 15th St. She inherited the property in May 2000 from her deceased husband. It was an apartment building with six (6) apartments.
2. At the time Petitioner assumed ownership the building was in disrepair. Despite this, there were still two (2) tenants living in the property, an elderly man on the third floor, and a woman on the second floor who was continuing to pay rent to Petitioner. At some point the female tenant died, and then with the help of some social services agencies, Petitioner was able to have the elderly male tenant moved.
3. In October 2000, Petitioner decided to attempt to repair and rehabilitate the property. She applied for a mortgage and received approval for \$69,000 to repair the building. A survey she commissioned put the cost for repairs and renovation at over \$100,000, so Petitioner set about looking for additional funds from City programs. In the Spring of 2001, Petitioner applied to government program for funds. Petitioner did not complete the application process and so did not receive any money from this program.
4. During this time Petitioner admitted receiving violation notices from the City of Philadelphia Department of Licenses and Inspections (hereafter "L&I"). Petitioner testified that these notices were for a variety of conditions related to the building, "...trash, and the building, the windows and all kinds of things." Notes of Testimony, Page 5.
5. The first violation notice from L&I was sent on or about June 25, 2001 following an inspection that took place on or about May 4, 2001. This notice told Petitioner, among other things, that the property was unfit to be inhabited.
6. Petitioner then had the property boarded up. Due to illnesses, Petitioner was unable to pursue the repair of the building and so she left it as is and boarded up.
7. She continued to receive violation notices from the City of Philadelphia. All notices were sent to her residence at 1510 West Kerbaugh St. Philadelphia, Pa. On or about October 11, 2002, Petitioner received a violation related to property maintenance pursuant to The Philadelphia Code, Property Maintenance Section 306. The notice stated, among other items, that the property could be demolished if not repaired within the time frame listed in the notice.
8. Petitioner also received violation notices related to the Fire Code. She testified that at a hearing on those violations she received approval to allow the building to be without a fire alarm system since it was vacant. This hearing did not address the L&I violations that ultimately led to the building's demolition and the bill that was the subject of the Tax Review

Board hearing. Petitioner also testified that she recalled being at some other hearing involving L&I but could not be specific as to what that was about or its outcome, nor could she supply any documentation on this.

9. In April 2003, Petitioner went past the building and saw that it was in the process of being demolished.
10. Paulose Isaac, a staff engineer for L&I, testified that on March 20, 2003 he inspected the building as a follow up to a report made by an L&I inspector on March 14, 2003 that recommended the building be demolished. Following the March 14th inspection the building a poster was affixed to the front of the building by L&I indicating the property was considered dangerous and would be demolished. The City provided photographs of the building for purposes of showing the condition of the property and the L&I notice of impending demolition posted on the building.
Mr. Isaac testified that on March 20, 2003, he observed this three (3) story vacant building attached on either side by occupied buildings. He observed that Petitioner's building had a partially collapsed first floor with cracks in a load bearing structural wall. It was his opinion that the second and third floors were "ready to collapse" and that this property was going to significantly harm the buildings on either side. See Notes of Testimony, Page 16.
Therefore, arrangements were made by L&I for immediate demolition. Mr. Isaac conducted a curbside bid on March 20, 2003. The contractor with the lowest bid was awarded the contract and demolition began that day.
Petitioner did not receive any further notice at this time because the City was taking immediate action.
11. The three (3) story building and two (2) rear garage were demolished at a cost of \$28,888.
12. At the close of the hearing, Petitioner testified that she did not believe she received prior notice of the demolition.

CONCLUSIONS OF LAW

The Property Maintenance chapters of The Philadelphia Code provide guidance and authority to the Department of Licenses and Inspections of the City of Philadelphia for addressing properties within the City of Philadelphia that cause a threat to the public welfare and safety.

As early as May 2001, L&I sent notices to petitioner at her home address to inform her that the property was in violation of the Property Maintenance Code. The property was designated as unsafe. The notices listed the steps required of the property owner to keep the subject premises and adjoining properties safe. The Philadelphia Code Chapter 4, Subcode "PM" (Property Maintenance) §306.1 requires a property owner to maintain "(a)ll vacant premises...in a clean, safe, secure and sanitary condition...so as not to become unsafe or otherwise adversely affect the public health or safety." The Philadelphia Code Chapter 4, Subcode "PM" (Property Maintenance) §301.2 further states that "(a)ll premises, whether occupied or vacant, shall be maintained in such repair and in such safe and sanitary condition that no physical damage shall be caused to any adjoining premises."

In addition, the notices to Petitioner stated that failure to take action to repair or rehabilitate could result in the action of the City to either complete the repairs or demolish the building, as it deems necessary, (emphasis added).

Petitioner testified that she both received the notices and was fully aware that the property was in need of extensive repairs. She was concerned enough about the state of the property that she took steps to have the two elderly tenants removed because she knew it was not safe for them to remain in the property.

Petitioner also took several steps toward securing the funds for the repair of the property. She applied for and received approval for a bank loan in the amount of \$69,000. She also hired a company to do an assessment of the required repairs with a cost estimate that was over \$100,000, well beyond the \$69,000 Petitioner was able to borrow on her own. Petitioner then began the application process for a government assistance program. She did not complete this process.

Petitioner admitted that she did not follow through on her plans to fix up the building due to illness and insufficient funds.

The first notices sent to Petitioner were in 2001. L&I did not act to have the property demolished until March 2003 when an engineer's visual inspection determined that the building was in a state of partial collapse and a danger to adjoining properties. Petitioner had almost a full two years to repair the property and bring it in compliance with The Philadelphia Code building maintenance requirements.

Petitioner admitted to receiving the department's notices. She may not have read them fully enough to understand that the demolition of the property was a potential consequence of her failure to comply but the notices did provide this information and she did understand that L&I was directing her to make the building safe.

After two (2) years the building was in a state of collapse such that L&I could no longer wait for Petitioner to act. The building was a danger to adjoining properties. Therefore, pursuant to violations of The Philadelphia Code Chapter 4, Subcode "PM" (Property Maintenance), the City posted the property, providing notice of impending demolition, held a curbside bid and had the building demolished.

It was the finding of the Tax Review Board that Petitioner was properly notified of all violations and of the City's authority to act if Petitioner failed to secure the property and make it safe. Petitioner failed to take action to make the necessary repairs to the building despite several notices from L&I. Petitioner's health concerns and finances were mitigating factors although they could not and did not completely absolve her of her responsibilities as a property owner.

Therefore the Tax Review Board decision was to provide limited relief in the form of abatements of $\frac{1}{2}$ of the administrative charge and $\frac{1}{2}$ of the lien charge assessed by the City.

Concurred:

Derrick Johnson, CPA, Chair
Christopher Booth, Jr.
Una Vee Bruce
Joseph Ferla