

January 3, 2011

**In Re: Frankford CDC**  
**Docket No: 26DEMERZZ9522**

**STATEMENT OF RECORD:**

1. Frankford CDC (hereafter "Petitioner") filed a Petition for Appeal on March 26, 2010 for review of a bill from the City of Philadelphia for demolition of the property at 4630 Griscom St. Philadelphia, Pa. The bill being appealed was issued originally in 2007.
2. The Petition for Appeal was returned to Petitioner as untimely filed pursuant to The Philadelphia Code Chapter 19-1702 which requires petitions for review to be filed within sixty (60) days after the mailing of the bill or notice for the tax or assessment for which a review is being sought.  
Pursuant to the Tax Review Board Nunc Pro Tunc policy, Petitioner responded with a statement that there had not been prior notice to them from the City regarding this work. The Tax Review Board (TRB) approved the petition nunc pro tunc and agreed to provide a hearing for this matter.
3. A public hearing was held before the TRB on July 29, 2010. At the conclusion of the hearing the Board announced its decision to abate the lien charge, abate 50% of the administrative charge, abate the accrued interest and allow 90 days to enter into a payment agreement for the balance due.
4. Petitioner filed a timely appeal to the Philadelphia Court of Common Pleas.

**FINDINGS OF FACT:**

1. Petitioner is a local Community Development Corporation that came into possession of the property at 4630 Griscom St. Philadelphia, Pa. on December 22, 2003 for the nominal price of \$1.00. The deed filed with the City of Philadelphia provided Petitioner's address of record as 4625 Frankford Ave. Philadelphia, Pa. All notices sent by the City Department of Licenses and Inspections (L&I) pertaining to the property were sent to this address.
2. Prior to the purchase, in 2002, L&I had inspected the property and determined it to be in an unsafe condition as defined by The Philadelphia Code Property Maintenance Code Section PM-307. The City introduced photos showing the disrepair and multiple dangerous conditions at the property.
3. On December 12, 2002, L&I posted the property with an orange poster stating the building was a danger and notifying the owner and the public to keep out of the property.
4. The property was again inspected by L&I in February 2006 and again posted on February 4, 2006 with an orange poster announcing that the building was in a dangerous and unsafe condition.
5. A Violation Notice designating the property as unsafe, with an order to repair or demolish the building was issued to Petitioner following the February 2006 inspection.
6. On or about October 2006, the City awarded a contract for demolition of the property, the building was taken down and all violations abated. A bill for the cost was sent June 27, 2007 to Petitioner's address of record.
7. In 2010, the delinquent bill for the demolition was transferred to a collection agency. After being contacted by the collectio agency for payment, the current appeal to the TRB was filed.
8. Petitioner was represented by its current Executive Director, Tracy O'Drain, and the Chair of its Board of Directors, Marie Delaney. Ms. O'Drain and Ms. Delaney testified that all activity relating to

this property, including its purchase, maintenance or development work, any receipt of notices from the City regarding violations or demolition, the demolition and subsequent billing, occurred prior to their assuming their current positions with Petitioner's organization. They made it clear that the responsible parties from 2003 to 2007, both staff and members of the Board of Directors, had not been able to maintain the organization, had abandoned the organization and allowed it to collapse sometime around 2007. They were part of a new Board that had stepped in and taken on the responsibility to sort out Petitioner's properties and responsibilities.

9. Petitioner's challenge to the demolition bill was lack of prior notice of the City's intent to demolish the building.

10. Ms. O'Drain and Ms. Delaney testified that for some of the time period, they were unaware that Petitioner even owned this property. The current staff and Board did not receive any notices of the violations.

11. Ms. Delaney testified that they were not contesting the condition of the property or the "reasons the property was taken down", only that they were not notified and given time to remedy the problems on their own. See Notes of Testimony, Page 8.

12. At some point, Petitioner moved its offices from the 4625 Frankford Ave. address listed on the deed as its mailing address. Ms. O'Drain testified that they had notified the City of the new address. As of the hearing date, the Frankford Ave. address was still on record with the Philadelphia Board of Revision of Taxes as Petitioner's mailing address and still being used by the City.

13. The property was posted by L&I on at least 2 occasions, in both 2002 and 2006, with orange posters to notify the owners and the community that the property was dangerous and unsafe, in danger of collapse and needing to be secured.

14. Petitioner's Board of Directors and staff failed to respond to either the Violation Notices or the posters. They failed to secure the property and make it safe for the community. There was no fencing around the property. It was in a partial state of collapse. It was open and unsealed.

15. Ms. Delaney testified that even after learning that Petitioner was the property owner, and despite having offices just 6 blocks away, they did not make visits to check on the property to ascertain its condition.

#### CONCLUSIONS OF LAW:

1. The Philadelphia Code Chapter 19-1701 requires the Tax Review Board to have 5 members appointed by the mayor for the purpose of hearing appeals of bills and claims or assessments made by the City of Philadelphia. A quorum for purposes of "conducting the business of the Board" shall be 3 members. The Philadelphia Code Chapter 19-1701(1)(d).

At the hearing on July 29, 2010, there were only 2 member of the TRB present. The parties agreed to waive the quorum, proceed with the hearing, and be bound by the decision of the members present.

2. The Philadelphia Code Chapter 19-1702 requires that petitions for review "shall be filed with the Tax Review Board within 60 days after the mailing of a notice of such decision or determination to the petitioner."

Although the Violation Notices were sent to the mailing address that the City has on record for Petitioner, at some point this ceased to be the correct mailing address. Petitioner's current Executive Director testified that she had notified the City and tried to get the records updated but this had not

been successful. Therefore the original demolition bill would have been mailed to an incorrect address and Petitioner would not have received it to be able to then appeal to the TRB within the required 60 day limit. Petitioner appealed when contacted by the collection agency hired by the City that made them aware of the outstanding bill.

The TRB approved this appeal nunc pro tunc and allowed Petitioner to proceed with the review hearing.

3. It was the finding of the Tax Review Board that L&I followed The Philadelphia Code required procedures and took appropriate action to demolish a property that had been unsafe and a danger to the Frankford community for at least 4 years. L&I gave Petitioner more than enough time to act to secure the property, and notice was provided both by mail and by prominently posting the property. Petitioner purchased the property knowing it was in need of major repairs and did not secure the property and make it safe. There was no dispute from Petitioner that the building needed to be demolished.

There was conflicting testimony from Petitioner's representatives as to whether any repairs had been done on the building. The photographs introduced by the City showed a building with major repair needs, open to the public and in a dangerous condition.

There was an acknowledgement by Petitioner's representatives that no one from the organization ever went by to check on the property, even though it was only a few blocks from their offices, both the previous and current office location. Had they regularly looked in on the property, they would have seen the posters on the property even if they did not receive the mailed notices from L&I.

Petitioner's current representatives explained this inaction and neglect of the property as due to the organizational disarray around the time of the demolition. However, Petitioner did continue in existence during all times in question and had an obligation to maintain the properties it owned. There was obviously some period of time when Petitioner completely abdicated its responsibility as a property owner thus requiring the City to come in and take action that was the responsibility of the property owner. There was a cost taken on by the City that is the responsibility of the property owner.

Taking into account the specific circumstances and difficulties of Petitioner's organization around the time of demolition, the decision of the Tax Review Board was to abate the interest charges, lien charge and one-half of the administrative charge with 90 days to enter into a payment plan for the balance.

Concurred:

Monique DeLapenha, Esq., Chair

LaVon Wells-Chancy, CPA