

October 27, 2011

**In Re: Jacob Kanofsky/Estate of Philip Kanofsky**  
**Docket No: 26NUMERZZ8117**

STATEMENT OF RECORD:

1. Jacob Kanofsky (hereafter "Petitioner") filed a Petition for Appeal with the Tax Review Board on April 1, 2010 requesting review of a bill issued by the City of Philadelphia Department of Licenses and Inspections (L&I) for the property located at 1904 Conlyn St. Philadelphia, Pa.
2. A public hearing was scheduled for July 29, 2010 and continued at Petitioner's request.
3. A public hearing was scheduled for May 19, 2011 and continued at Petitioner's request.
4. A public hearing was held on July 14, 2011 following which the Tax Review Board announced its decision to reduce the principal due by 50% and abate 100% of the administrative costs, accrued interest and lien charges.
5. Petitioner appealed the Tax Review Board decision to the Philadelphia Court of Common Pleas.

STATEMENT OF FACTS:

1. Petitioner requested a review of a nuisance abatement bill issued by the City of Philadelphia Department of Licenses and Inspections (L&I) for cleaning and sealing the property at 1904 Conlyn St. Philadelphia, Pa. The costs associated with this bill were principal of \$20,882.99, administrative costs of \$4,385.43, interest accrued as of the TRB hearing date of \$2,147.78, and lien charges of \$1269.92, for a total due of \$28,686.12.
2. The property belonged to Petitioner's father who has been deceased since 1997. Since that time, Petitioner had assumed responsibility for taxes and maintenance of the property.
3. The property has been vacant since 1997.
4. Petitioner testified that he and his brother visited the property from time to time and took care of keeping the property clean.
5. The City of Philadelphia sent a Notice of Violation on December 31, 2009 declaring the property to be unsafe. The notice was sent to "Philip Kanofsky and Mollie" at Petitioner's acknowledged mailing address.
6. The Violation Notice stated that the property was inspected and determined to be in violation of the noted sections of The Philadelphia Code and stated that failure to comply with the notice could result in the City proceeding to undertake the required repairs and billing the owner for costs incurred.
7. The violations cited in the notice were failure to obtain a license for a vacant property, unsecured openings accessible to trespass, and unsafe conditions in accordance with the Philadelphia Property Maintenance Code. See City Exhibit 5.
8. There was no Vacant Property License on file at L&I to direct the department to any other responsible party or mailing list. Petitioner admitted to not having this license.
9. Photos taken of the property's interior prior to the City's work and provided by the City showed piles of trash, books and household items throughout the rooms. See City Exhibit 7
10. Photos taken by the City after the clean and seal work showed the rooms and closets free of trash and debris. See City Exhibit 8.

11. Petitioner testified that he did not recall receiving this Notice of Violation. He stated that he had received other such notices in the past and had complied at those times. The Notice of Violation of December 31, 2009 did note that a violation related to “weeds or plant growth in excess of 10 inches” had a status of “complied” and was probably referring to a prior Notice of Violation issued on July 13, 2009. See City Exhibit 4.
12. Petitioner did not produce evidence to dispute the other violations. He questioned the large dollar amount of the bill for a property with one small house.
13. The City provided testimony by the L&I foreman for the work performed. He testified that the interior of the property was cleaned out due to the large amount of materials inside that created a fire hazard.
14. The TRB reviewed the Abatement of Nuisance Worksheet and Bill which indicated work dates of January 11, 12, and 13, 2010, and indicated that 9 trucks with 9 drivers spent 202.5 work hours, and 20 abatement workers provided 450 hours of laborer. See City of Philadelphia Exhibit 2.
15. The TRB questioned the computations on the bill as the calculations did not all seem consistent or easily understandable, particularly with regard to the actual number of workers and hours worked. There was a column noting 20 workers and a column noting 10 workers, with no clear explanation as to this discrepancy. There were only 8 worker’s names listed on the work sheet but 20 workers noted when hours worked were calculated. There was no explanation provided as to how the workers were counted for the 3 different work days. Similarly, there were columns that noted 9 drivers and 9 trucks and then columns noting 4.5 drivers and 4.5 trucks. When the bill was calculated by multiplying the number of hours worked with the numbers of drivers and trucks, the higher numbers of 9 trucks and 9 drivers were used.

#### CONCLUSIONS OF LAW:

The Philadelphia Property Maintenance Code provides that “(a)ll vacant premises shall be maintained in a clean, safe, secure and sanitary condition as provided in this Chapter generally and in this Section specifically, so as not to become unsafe or otherwise adversely affect the public health or safety. **PM-306.1**

“The owner of any vacant building shall keep the interior and exterior of the premises free of garbage and rubbish. The owner of any vacant building shall keep all doors, windows and openings from the roof or other areas in good repair. Where such doors or windows or entrance to openings are readily accessible to trespassers, they shall be kept securely locked, fastened or otherwise secured...” **PM-306.2**

“If the owner does not comply with the order of the Department to correct the conditions prohibited by this Section, the Department is authorized to correct the conditions or demolish the building with its own forces or by contract and charge the costs thereof to the owner, and with the approval of the Law Department, collect the costs, including administrative costs, by lien, or otherwise.” **PM-306.6**

It was clear from the photographs provided by the City that Petitioner’s property was in violation of the requirement that vacant properties be kept in a cleaned and sealed condition.

The Violation Notice provided was mailed to Petitioner’s address with the violations listed and the requirement to repair and bring the building into compliance with the Philadelphia Property Maintenance Code. The Notice also stated that failure to comply would permit the City to take actions as necessary and bill the owner for all costs incurred.

Therefore the decision of the Tax Review Board was that Petitioner was responsible for costs incurred by the City.

Petitioner questioned the large dollar amount of the bill and scope of the work relative to the size of the property- a small house.

When reviewing the Abatement of Nuisance Worksheet and Bill, the TRB found it to be inconsistencies that the City did not explain. The initial testimony was the work took 2 to 3 weeks (Notes of Testimony, page 15) The document and subsequent testimony (N.T. page 23) clarified that the work only took 3 days. This subsequent testimony was those days were over 2 to 3 weeks, while the bill showed 3 days in a row.

The rows with the cost calculations had columns that, again, could not be adequately explained to the TRB. For example, why does one column note 20 workers, another column note 10 workers, and 8 names appear on the worker list?

The method of calculation was also confusing and unclear from both the worksheet and the explanation at the hearing.

The Tax Review Board has the authority to abate interest and penalty when in the opinion of the Board “where in the opinion of the Board the petitioner acted in good faith, without negligence and no intent to defraud”. The Philadelphia Code Chapter 19-1705(2).

Petitioner’s testimony was that he and his brother tried to keep the property maintained. In this particular instance he would have responded and complied but he did not recall receiving this specific Notice of Violation, although he had received others in the past. There was evidence of past compliance to substantiate that Petitioner made an effort to maintain the property.

However, the photographs provided by the City showed a substantial amount of combustible trash in the property prior to the City’s intervention and clean up.

Therefore after evaluating both the testimony and documentation, the decision of the TRB was to abate 50% of the principle, abate 100% of the administrative charge, abate 100% of the interest, and abate 100% of the lien charges.

**Concurred:**

Nancy Kammerdeiner

Joseph Ferla

George Mathew