

February 3, 2014

IN RE: S3- Enterprises, LLC

DOCKET NO: 26DEMZZ9480

Statement of Record:

1. S3-Enterprises LLC (hereafter "Petitioner") filed a Petition for Appeal with the Tax Review Board (TRB) on August 14, 2012 requesting review of a bill issued by the City of Philadelphia for the cost of demolition of the property located at 1825 North Van Pelt St. Philadelphia, Pa.
2. A public hearing before a TRB Master was scheduled for November 12, 2012. Petitioner appeared and the City was represented by a Department of Licenses and Inspections (L&I) representative. The decision of the Master, announced at the conclusion of the hearing and subsequently ratified by the TRB was to abate the administrative charge contingent on Petitioner's entering into a payment arrangement with the Department of Revenue (Revenue) within 60 days.
3. Petitioner requested and was granted a rehearing before the full TRB.
4. A public hearing was scheduled before the TRB for August 22, 2013 . At the conclusion of the hearing, the TRB announced its decision to abate the administrative charge and ½ of the interest contingent on Petitioner entering into a payment agreement for the remaining balance within 60 days of the revised bill to be issued by Revenue.
5. The City of Philadelphia filed an appeal to the Philadelphia Court of Common Pleas.

Findings of Fact:

1. The Petition for Appeal in this matter requested review of a bill issued by the City of Philadelphia for demolition of the property located at 1825 North Van Pelt St. Philadelphia, Pa.
2. The city representatives read into the record the amounts due for the bill under appeal. The original amounts read were principal amount due of \$12,728.09 with an administrative charge of \$5,907.12, interest as of the TRB hearing date of \$2,142.91, a lien charge of \$947.26, for a total due of \$21,725.38.
3. During the hearing, the TRB questioned the amount of the administrative charge which it understood to be a chargeable at a flat 21% of the principal. In reviewing the actual billing documents , the city representative put onto the record that the principal amount due was actually \$15,401 with an administrative charge of \$3,234.21. There were no updated interest or lien charge amounts confirmed.
4. The initial hearing that resulted from this Petition for Appeal was before a TRB Master. A representative for the city was present at that hearing and did not raise any jurisdictional challenges to the petition. The hearing proceeded to conclusion. A decision was rendered from which a timely appeal was taken to the TRB.

5. Pauline Singhal and Ajay Singhal testified as the representatives of Petitioner corporation before the TRB..
6. Petitioner was the owner of record for the property at 1825 North Van Pelt St. Philadelphia, Pa. for all times pertinent to this Petition for Appeal.
7. A Violation Notice was issued regarding this property by the Philadelphia Department of Licenses and Inspections (L&I) and was sent to Petitioner on or about April 13, 2011.
8. This Violation Notice designated the property at 1825 North Van Pelt St. as "Imminently Dangerous" within the meaning of the Philadelphia Property Maintenance Code and went on to provide detail as to the specific structural violations. It also stated that the "NOTICE IS FINAL".
9. Petitioner admitted receiving Notices of Violation for this property from the Philadelphia Department of Licenses and Inspections (L&I).
10. Petitioner did not appeal this Violation Notice to the appropriate L&I board nor did Petitioner contact the inspector or L&I after receiving the notices.
11. Petitioner did not act promptly to repair or demolish the property as required by the Violation Notice.
12. On May 24, 2011, L&I held a curbside bid for demolition bids for 16 properties on the 1800 block of North Van Pelt St., including Petitioner's property at 1825. Multiple bids were received and the lowest bid was accepted.
13. All work associated with the demolition was completed on September 12, 2011.
14. A demolition bill dated September 12, 2011 was sent to Petitioner as provided for in The Philadelphia Code. This bill was sent by certified mail with a receipt that was signed upon delivery.

Conclusions of Law:

1. The City challenged the jurisdiction of the TRB stating that the Petition for Appeal had been filed beyond the 60 day limit set forth in The Philadelphia Code Chapter 19-1702. It was the finding of the TRB that the city was on notice at the hearing before the Master of Petitioner's appeal and of any issues as to the timeliness of his petition for appeal and by their own admission failed to raise it and proceeded with the hearing.

While the proceeding before the TRB was de novo thus allowing all issues to be revisited, including the jurisdictional challenge, it was the decision of the TRB members in this instance to allow the appeal to proceed as all parties were present and prepared to do so. There was no element of surprise to harm the city or impede its ability to present its case. There was no argument made that the passage of time had somehow eroded the availability or quality of the city's evidence.

2. Petitioner testified that he received the Violation Notice and proceeded to engage a contractor to correct the cited violations. It was his belief that the violations were correctable, the building salvageable and demolition unnecessary. However his failure to respond directly to L&I or to act within the time frame stated on the Notice caused the city to proceed to the demolition.

It was the finding of the TRB That Petitioner did not substantively address any issues concerning the validity of the bill under appeal and therefore did not meet its burden of proof as the petitioning party to provide substantial evidence to prove to the TRB that the bill should be abated. Petitioner did not provide evidence or documentation to challenge the bill under appeal.

Petitioner's testimony was primarily related to the condition of the property and the TRB is not the appropriate City board or agency for determining whether a building meets the Property Maintenance Code requirements for structure and safety. In addition there was no testimony or evidence that the City did not meet all requirements for notice to the property owner in circumstances such as in this case.

3. Petitioner demonstrated that it did not willfully ignore or abandon the property but may not have fully grasped that the city would proceed as quickly as turned out to be the case here. He testified credibly that it was his belief that the property was not in danger of collapse and could be rehabilitated, which was his intention. He did not demonstrate bad faith or an intent to ignore the problems with this property. Therefore the TRB determined that an abatement of the administrative charge and ½ of the interest was a fair adjustment contingent on Petitioner's payment of the remaining balance consisting of the full demolition cost from the contractor , ½ of the interest and the lien charges.

Concurred:

Nancy Kammerdeiner, Chair

Christian DiCicco, Esq.

Joseph Ferla

Milton Oates

George Mathew, CPA