

15-12

May 12, 2015

IN RE: JONG AE KIM
DOCKET NUMBER: 26LIMERZZ9401

Statement of Record:

1. Jong Ae Kim (hereafter "Petitioner") filed a Petition for Appeal with the Tax Review Board (TRB) on June 8, 2012 requesting review of a bill generated for work of the Philadelphia Department of Licenses & Inspections (L&I) at the property located at 3100 N. 5th Street, Philadelphia, PA.
2. A public hearing before a TRB Master was scheduled for January 25, 2013. The decision of the Master, as ratified by the TRB, was to abate the administrative charge contingent on payment within 30 days of the revised bill.
3. Petitioner requested and was granted a rehearing before the full TRB.
4. A public hearing before the TRB was scheduled for February 26, 2015. At the conclusion of the hearing the TRB announced the following decision:
Abate lien charge, administrative charge and interest. Principal should be calculated based on use of a backhoe for 8 hours; use of an excavator for 8 hours, 16 total man hours for labor and 16 total man hours for operations for hauling equipment.
5. The City of Philadelphia filed an appeal to the Court of Common Pleas.

Finding of Fact:

1. Petitioner owned the property located at 3100 North 15th Street, Philadelphia, PA during all relevant times.
2. On March 29, 2012, a fire occurred at this property.
3. The City of Philadelphia Fire Department responded to extinguish the fire.
4. After the fire, the building structure and debris that remained on the sidewalk and street was determined by the Philadelphia Department of Licenses & Inspections (L&I) to require immediate clean up for purposes of public safety.
5. While at the site of the fire, L&I inspectors determined that debris abutting in the right of way provided an immediate danger to the public. L&I engaged a contractor to

remove any building material and debris from the right of way and push it back on to the property so that there was no remaining danger to the public.

6. The City hired contractor cleaned all debris from the public right of way and pushed it back to the property line. AT the time of the TRB hearing, the total of the bill generated by the work contracted for by L&I was \$18,832.72 broken down as follows: principal of \$14,340, administrative cost for the city of \$3,011.40, interest of \$607.25, and lien charges of \$874.07.
7. Petitioner testified that he was at the scene 2 days after the fire and all work by the city's contractor had been completed. He testified that the sidewalk and street were clean and clear of debris, essentially agreeing with the city as to what the city's contractor did at the property.
8. The City did not provide any testimony of first hand observation of the work being performed by its contractor.
9. Petitioner made arrangements for the demolition of the remaining structure and clean up of all debris on the property resulting from the fire. They applied for all required city permits and hired their own contractors who performed the work to the satisfaction of the city.
10. Petitioner's contractor performed the remaining work to demolish any remaining structure and clear away all debris and leave the lot clean. The cost paid by Petitioner for this work was \$17,000.
11. The fire occurred on March 29, 2012. L&I had work performed on March 30, 2012.
12. Petitioner's contractor began its work on April 2, 2012.

Conclusion:

L&I contracted for certain demolition and clean up at 3100 N. 5th Street, Philadelphia, PA following a fire that occurred on March 29, 2012. The L&I hired contractor remediated a potentially dangerous condition on March 30, 2012 as soon as they could safely begin work after the fire was extinguished.

There was no dispute by Petitioner that certain work was performed on behalf of the City at the property owned by Petitioner.

However, based on the dates of all relevant events, Petitioner and the City evidence established for the TRB that the work occurred on only 1 day, March 30, 2012, while the billing of \$14,000 was for charges over 2 consecutive days. That second day the city is claiming for their contractor's work, Petitioner testified that he personally observed that the work had been completed. The City provided no first hand testimony to establish that the work it contracted for took a period of 2 days.

Therefore, it was the finding of the TRB that the principal amount of the bill should be reduced to \$7860 based on the following specific costs, as provided by the City, for one day of work:

- a) 15 hours of labor for 2 workers,
- b) 8 hours cost of a backhoe, and
- c) 8 hours cost of an excavator.

Petitioner acted in good faith, and responsibly with a prompt response to mitigate any dangerous conditions created by the fire at his property. The City representative confirmed that Petitioner followed the directions of L&I to make the property safe. Therefore, the TRB determined that administrative, lien and interest charges to be abated.

Concurred:

Nancy Kammerdeiner, Chair

Joseph Ferla

George Mathew, CPA

Christian DiCicco, Esq.