

7/2/2010

IN RE: ANTHONY JOHNSON

**DOCKET NOS: 26NUMERZZ8453, 26NUMERZZ8454, 26NUMERZZ8455
26NUMERZZ8456, 26DEMERZZ9568**

STATEMENT OF RECORD:

1. Anthony Johnson (hereafter "Petitioner") filed 5 Petitions for Appeal with the Tax Review Board (TRB) on March 3, 2009. These petitions requested review and abatement of 5 separate bills issued for work authorized by the City of Philadelphia Department of Licenses and Inspections (L&I) for the property at 2524 Federal St. Philadelphia, Pa.
2. A public hearing was held before the TRB on September 10, 2009. At the conclusion of the hearing the Board announced its decision to abate the lien charges and interest charges accrued against the 5 bills, contingent on Petitioner entering into an installment agreement for the balance due within 90 days of the date of the revised bill from the Department of Revenue.
3. Petitioner filed an appeal with the Philadelphia Court of Common Pleas.

FINDINGS OF FACT:

1. Petitioner owned the property at 2524 Federal ST. Philadelphia, pa. for all periods in question.
2. The City presented 5 bills associated with this property:
 - a. Docket No: 8453- Asbestos Removal; bill dated March 23, 2005 with principal due of \$282, administrative cost of \$59.22, interest as of the TRB hearing date of \$102.04, and lien charge of \$23.56, for a total due of \$466.82.
 - b. Docket No: 8454- Sealing a Lateral Pipe; bill dated March 8, 2008 with principal due of \$365, administrative cost of \$76.65, interest as of the TRB hearing date of \$61.69, and lien charge of \$28.58, for a total due of \$531.92.
 - c. Docket No: 8455- Asbestos Report; bill dated August 25, 2004 with principal due of \$85, administrative cost of \$17.85, interest as of the TRB hearing date of \$30.60, and lien charge of \$11.64, for a total due of \$145.09.
 - d. Docket No: 8456- Stucco; bill dated March 8, 2008 with a principal due of \$4260, administrative cost of \$804.60, interest as of the TRB hearing date of \$721.59, and lien charge of \$273.23, for a total due of \$6149.42.
 - e. Docket No: 9568- Demolition; bill dated December 6, 2006 with principal due of \$15,300, administrative cost of \$3213, interest as of the TRB hearing date of \$4998.36, and lien charge of \$941.15, for a total due of \$24,452.51.
3. Petitioner did not reside at the property.
4. Prior to 2004, Petitioner was incarcerated.
5. After being released from Prison, Petitioner resided at 4539 North 15th St. Philadelphia, Pa.
6. After being released from prison, Petitioner did not visit the Federal St. property to determine its status or condition.
7. Petitioner testified that he paid some taxes on the property.
8. During the time of Petitioner's incarceration and subsequent to his release, the property fell into disrepair.
9. The City established that in 2001, 2003 and 2004, L&I inspected the property and sent violation notices to the property.
10. In 2003, L&I posted a notice on the property that it was imminently dangerous.

11. In 2005, L&I had the property demolished.

CONCLUSIONS OF LAW:

The Philadelphia Property Maintenance Code § PM- 307.1 requires property owners in Philadelphia to maintain their properties in safe condition. It states “all structures that are or hereafter shall become unsafe, unsanitary or deficient because of inadequate means of egress facilities, or which constitute a fire hazard, or are otherwise dangerous to human life or the public welfare, or which involve illegal or improper occupancy or inadequate maintenance, shall be deemed unsafe. All unsafe structures shall be taken down and removed or made safe and secure as the code official deems necessary and as provided for in this Section.

The L&I Community Life improvement Program (C.L.I.P.) inspected Petitioner’s property in 2001 and again in 2003. Both times, the inspection revealed that the property was in violation of the Philadelphia Property Maintenance Code and was designated as “imminently dangerous” pursuant to section PM-308 which provides that “(W)hen, in the opinion of the code official, there is imminent danger of failure or collapse of a structure or any part thereof which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, the code official is hereby authorized and empowered to order and require the occupants to vacate the same forthwith in accordance with the cease operations provisions set forth in the administrative code. The code official shall cause to be posted at each entrance to such structure a notice stating the imminent danger and prohibiting occupancy.” I

In addition, §PM-308.2 provides that “(i)f an imminently dangerous condition is found, the code official shall serve on the owner, agent or person in control of the structure a written notice describing the imminent danger and specifying the required repair to render the structure safe, or requiring the imminently dangerous structure or portion thereof to be demolished within a stipulated time.” Following each inspection, L&I sent a Violation Notice to Petitioner at the property, the only address in L&I records.

L&I also posted the Violation Notice on the property in compliance with §PM-308.3: “Posting notice: Regardless of whether the person addressed with a notice of imminent danger receives service by one or more of the methods specified in the administrative code, a copy of the notice shall be posted in a conspicuous place on the premises; and such procedure shall be deemed the equivalent of personal notice.”

The Philadelphia Property Maintenance Code § PM-102.4 requires the following as to “(v)acant structures or lots: (t)he owner of every vacant lot, vacant building or vacant wharf, pier or dock shall obtain a license from the Department. Every person applying for a license shall supply such information as the Department requires and shall pay an annual fee as set forth in the administrative code.” In addition, owners of vacant property are required to obtain an annual license which, among other things, is to provide L&I with the correct and current address for notices to be sent to the owner.

Petitioner failed to obtain the required vacant property license. Therefore, L&I did not have an off-site mailing address to locate petitioner when it became necessary to notify him of violations and hazardous conditions at his property.

When the City was unable to locate him by mail, L&I posted on the property the required violation notice. Petitioner testified that even after his release from incarceration in 2004, he failed to visit the property even though he was living in Philadelphia.

Had Petitioner visited the property, he would have seen that the building was in a state of collapse and a danger to the community. He did not see the condition of the property and did not see the L&I notice posted on the property to inform him of the violations and requirement to repair or demolish to correct the violations because he did not visit the property. Petitioner testified that he did not even know that the property had been demolished until he received a notice from the City advising him that the vacant lot at the property address needed to be cleaned. When he inquired about that notice he learned that the building had been demolished.

While he did pay some of the taxes due on the property he made no effort to keep it maintained and in a safe or sealed condition.

Petitioner testified that because the Violation Notices were sent to the property and he lived elsewhere, L&I had failed to follow the required procedures for notifying him that the building was in violation, and this failure to properly notify him was sufficient to absolve him from responsibility for the bills generated when L&I had the required abatement and demolition work performed to abate the imminently dangerous conditions.

Petitioner's failure to obtain the required vacant property license and failure to even visit the property over so many years were the causes for his being unaware that the property was in a hazardous condition, and then after L&I took action, that the property had actually been demolished.

It was the finding of the Tax Review Board that the posting of the Violation Notice on the property was sufficient to comply with The Philadelphia Property Maintenance Code requirements.

Petitioner had shown a good faith effort to address the bills and other tax issues related to the property so the accrued interest and lien charges were abated contingent on Petitioner entering into a payment agreement for the balance within 90 days of the date of the revised bill.

Concurred:

Monique DeLapenha, Esq., Chair

T.David Williams, Esq.

LaVon Wells-Chancy, CPA

Joseph Ferla

Beatrice Turner