

August 1, 2002

IN RE: ENID LAWRENCE
DOCKET NO. 26DEMERZZ9868

STATEMENT OF RECORD:

1. Enid Lawrence (hereafter "Petitioner") filed a petition for review on October 23, 2001 of a bill for demolition of the building at 1725 North 17th St. Philadelphia, Pa.
2. A public hearing was held before the Tax Review Board on April 11, 2001 following which the Board announced its decision to reduce the principal amount of the bill to \$15,000 and to adjust the interest and lien charges by reducing them by the same percentage as the reduction in principal.
3. Petitioner has appealed to the Court of Common Pleas of Philadelphia.

FINDINGS OF FACT:

1. Petitioner is the owner of the property located at 1725 North 17th St. Philadelphia, Pa. Petitioner is an elderly woman who lives in New York and has not resided in Philadelphia for some years. The property was tenant occupied before becoming vacant.
2. This property was inspected by the Department of Licenses and Inspections (L&I) in the fall of 2000 and found to have a bulging front wall such that the property was considered imminently dangerous. In October 2000, the property was posted with this designation and a building violation notice was sent on October 12, 2000 to Petitioner with information about the violations found at the property and instructions to repair or demolish the property. Petitioner received the notice and contacted her attorney in Philadelphia for assistance.
3. Due to the dangerous condition of the property, L&I held a curbside bid process to take contractor bids for demolition of this three (3) story building. The contractor who submitted the lowest bid was awarded the contract. Part of the contract requirement included bracing the bulging front wall as a short term safety measure while L&I provided Petitioner the time to repair or demolish the property. The bracing was intended as a temporary effort to reduce the risk of collapse.
4. Following the issuing of the notice to Petitioner, Petitioner's attorney, Lawrence Avallone, contacted the L&I building inspector, Walter H. Weaver, Jr. and asked that L&I postpone any demolition so that Petitioner could try to take care of the problem or sell the property. Mr. Weaver agreed to the delay.
Petitioner's attorney wrote a letter dated November 20, 2000 that references a previous communication with Mr. Weaver whereby Mr. Weaver agreed to delay further L&I action to allow Petitioner the opportunity to inspect the premises and take corrective action. This letter states that Mr. Avallone will contact Mr. Weaver within two weeks of the letter to advise him of Petitioner's intention with regard to the property and violations. This follow up did not occur.
Under cross examination, Mr. Weaver admitted that the existing imminent danger could have been removed by dismantling the bulging wall and removing the bricks. Demolition was not the only solution. However, Petitioner did not have this work done.

5. Petitioner took no action to secure the property. Petitioner's attorney admitted that no work was done on the property after receipt of the L&I notice. See Notes of testimony, Page 50.
6. Mr. Weaver posted the property with the department's orange notice to inform the owner and any interested party that the property was considered imminently dangerous within the meaning of The Philadelphia Code Section PM308. This notice stated that the property owner was "ordered to repair or demolish said premises immediately." Failure to comply with the notice would result in the demolition of the premises and stucco of the exposed party wall at the direction of the City, with all costs to be billed to the owner. It was the testimony of Mr. Weaver that the building was in danger of collapse, exposing any passersby to the danger of falling bricks.
7. In May 2001, a full six (6) months from the time of the initial inspection and notice to Petitioner to take corrective action, the City hired contractor demolished the property. The principal cost was \$17,823, administrative cost was \$3,742.83, interest as of the hearing date was \$1,078.24, lien charge was \$1,093.79, for a total of \$23,737.86.
8. Petitioner did not submit any evidence to challenge the validity of the inspection or determination by L&I that the property was in a dangerous condition and required action by Petitioner.
9. Petitioner did not submit any evidence to establish that the cost for the demolition was unreasonable or in error.
10. Petitioner's attorney argued that the City should relent based on the advanced age of his client, 95 years old, and not hold her to the same standard that would apply to a younger person of sound mind. Petitioner's attorney related the difficulties in trying to explain the situation to her, as well as the difficulty in trying to coordinate any action on behalf of the property with Petitioner's New York attorney and family members.

CONCLUSIONS OF LAW:

The Philadelphia Property Maintenance Code (hereafter "Section PM"), part of Title 4 of The Philadelphia Code, provides the statutory responsibilities of property owners in Philadelphia. The Code requires property owners to maintain their properties in a safe condition.

"The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare."

Section PM-304.1. "All vacant premises shall be maintained in a clean, safe, secure and sanitary condition..., so as not to become unsafe or otherwise adversely affect the public health or safety." Section PM-306.1.

Petitioner had a responsibility, as a property owner, to ensure that her property was maintained in a safe condition. If, due to her advanced age, she was unable to carry out her responsibility, then it was incumbent on the professionals in her employ or relatives overseeing her affairs to do so on her behalf. Petitioner had a Philadelphia attorney who appeared at the Tax Review Board hearing and who referred to conversations with an attorney in New York and family members, all of whom were aware or made aware of the situation of Petitioner's Philadelphia property.

The City of Philadelphia Department of Licenses and Inspections fulfilled all of its responsibilities to Petitioner as a property owner and then some.

As required by Section PM-308.2, upon finding Petitioner's property to be in an imminently dangerous condition, a written notice was served on Petitioner "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."

This notice was received and passed on to Petitioner's attorney who contacted Mr. Weaver, the L&I inspector, to request additional time to either sell or make needed repairs to the property. In the meantime, it was the City who made arrangements to have the bulging front wall braced as a stop gap measure to halt any imminent collapse that could have hurt nearby individuals or properties. Petitioner took no steps to make the building safe. After six (6) months of waiting for Petitioner to take action, the City of Philadelphia brought in a contractor and had the building demolished, as authorized by Section PM-308.4. This section of the Philadelphia Property Maintenance Code provides that "(w)here the order to eliminate an imminent danger is rejected or not obeyed, or when, in the opinion of the code official, immediate action is required to protect the public safety, the code official shall cause the necessary work to be done to demolish the structure or to render the structure temporarily safe."

"Where the Department incurs costs of emergency repairs whether by itself or by contract, such costs shall be charged to the owner." Section PM-308.6.

The paramount obligation of L&I was to protect the public health and safety. The city is under no obligation to step in to repair or rehabilitate private property that is in violation of the property maintenance code and in an imminently dangerous condition. If Petitioner wanted the property repaired and the structure saved, it was incumbent on her or her representatives to do so. The City cannot be expected to step in and make renovation decisions and then take subsequent responsibility, financial or otherwise, for a privately owned property.

Mr. Weaver testified that at the curbside bid process, three (3) contractors submitted bids. The lowest bidder was selected to brace the wall first and then six (6) months later, complete the demolition. Petitioner did not provide any evidence that the process was flawed or that the bill was not justified. Petitioner did not meet its burden of proof to establish that the bid accepted by the City and the amount billed to Petitioner was an unreasonable amount.

Concurred:
Derrick Johnson, Vice-Chairman
Wade Stevens
Una Vee Bruce
Joseph Ferla

