January 9, 2011

In RE: Edward Gay
Docket No: 26DEMERZZ9544

Statement of Record:

1. Edward Gay (hereafter "Petitioner") filed a Petition for Appeal with the Tax Review Board on August 31, 2009 for review of a bill from the City of Philadelphia for the demolition of the property at 117 North 63rd St. Philadelphia, Pa.
2. The demolition bill for which Petitioner was seeking an appeal was dated November 21, 2008. The Petition for Appeal was returned to Petitioner as being untimely filed pursuant to The Philadelphia Code Chapter 19-1702 which requires all petitions for review to be filed within sixty (60) days after the mailing of the bill or notice of the tax or assessment for which review is being sought.
3. Petitioner requested nunc pro tunc consideration providing information that he had made his best efforts to contest the bill promptly by hiring an attorney who failed to take action or communicate with Petitioner, thus requiring petitioner to engage a second attorney who filed the Tax Review Board petition.
4. The Tax Review Board approved Petitioner's request to proceed nunc pro tunc on September 22, 2009.
5. A public hearing was scheduled before the Tax Review Board on March 25, 2010. The matter was continued at the public hearing and Petitioner was directed to appear at the next scheduled hearing with evidence of a building permit for work done at the property prior to the demolition.
6. A public hearing was scheduled for June 3, 2010 and continued by the TRB.
7. A public hearing was held on July 29, 2010 and the matter taken under advisement at that time.
8. A public hearing was held on September 23, 2010 for the purpose of rendering a decision in this matter. At that hearing the Board announced its decision to abate the outstanding principal, lien charge and interest, leaving the administrative charge outstanding for payment by Petitioner.
9. The City of Philadelphia filed an appeal to the Court of Common Pleas.

Findings of Fact:

1. Petitioner acquired the property at 117 North 63rd St. Philadelphia, Pa. by deed dated September 15, 1992. City Exhibit 1.
2. Petitioner filed an appeal for review of a bill for the demolition of the property at 117 North 63rd St. Philadelphia, Pa., with a principal amount due of $19,000, administrative charge of $3,990, interest as of the TRB hearing of $2,999 and a lien charge of $1,165 for a total due of $26,454.
3. Petitioner received a Violation Notice from the City of Philadelphia dated May 27, 2004 informing Petitioner that the City of Philadelphia Department of Licenses and Inspections (L&I) had inspected the property and found it to be in imminently dangerous condition. The notice ordered Petitioner to "IMMEDIATELY demolish or repair the said premises as necessary to correct the violations…".City Exhibit 2.
4. In August 2004, Petitioner secured a "Structural Evaluation" from a professional engineer for directions on how to respond to the designation of the property as imminently dangerous with the appropriate repairs to make the building safe and in compliance with The Philadelphia Code. Petitioner's Exhibit 5.
5. In December 2004, Petitioner received a second Violation Notice to repair or demolish the property.

6. In January 2005, Petitioner went to L&I to secure the building permit required to make the repairs to secure the property. Petitioner's Exhibit 3.
7. Petitioner also secured liability insurance for the property. Petitioner's Exhibit 4.
8. In November 2004, even before receiving the building permit, Petitioner began to make the necessary repairs to the property based on the engineering report from August 2004.
9. Petitioner provided photographs from November 2004 to show the areas where he had replaced bricks and parts of the deteriorated cornice. Petitioner's Exhibits 8 and 9.
10. Petitioner testified that after completing his repairs the property was in a clean and sealed condition.
11. Petitioner did not notify L&I that he had made repairs to the building to comply with the Violation Notices.
12. Petitioner testified that he believed that obtaining the permit to do the repairs would be sufficient to stop L&I from moving forward to demolish the building.
13. On or about July 30, 2005, without further notice to Petitioner, the property was demolished by a city hired contractor and Petitioner received a bill for the costs.

Conclusions of Law:

Following receipt of the May 27, 2004 Violation Notice from L&I, Petitioner acted to comply with the order. He secured the required engineering report and building permits to make the necessary repairs to the property.

Petitioner testified as to the work he personally did to the building and provided photographs of the repairs made to bring the property into compliance with The Philadelphia Property Maintenance Code.

He believed that securing the permits from would put L&I on notice that he was securing the property, making repairs and doing what was needed to eliminate the code violations at the property.

He did not contact L&I subsequent to making the repairs because he did not understand that to have a second inspection to have the violations removed from L&I records it was his responsibility to call the department.

Petitioner did his best to comply with The Philadelphia Property Maintenance Code and corrected the violations cited by L&I. He secured the required engineering report, secured the permits from the City, purchased the supplies and made repairs. He secured and sealed the property.

L&I was on notice when Petitioner provided the engineering report and was issued the required repair permits that he intended to address the Violation Notices and make repairs. More than 6 months elapsed from the issuance of the second Violation Notice and the demolition ordered by the City. This significant amount of time coupled with the permits issued to Petitioner should have put the City on notice that an inspection was warranted before proceeding with a property demolition.

Concurred:
Monique DeLapenha, Esq., Chair
T. David Williams, Esq.
Joseph Ferla
George Mathews
Lavon Wells-Chancy, CPA