

April 29, 2021

IN RE: Alexander Fitchett

DOCKET NO: 26DEMERTZ9309

STATEMENT OF RECORD:

1. Alexander Fitchett (hereafter "Petitioner") filed a Petition for Appeal with the Office of Administrative Review on October 19, 2018. The petition requested a review of charges for demolition work performed by the Department of License and Inspection (L & I) at the property located at 909 South Yewdall Street, Philadelphia, PA. The bills being appealed were originally issued in 2018.
2. A public hearing before the Tax Review Board Master was scheduled for January 28, 2019. The matter was continued at the time.
3. A public hearing before the Tax Review Board Master was held on April 1, 2019. The decision of the Master, as ratified by the Tax Review Board, was to abate 100% of the lien and interest charges, and Petitioner was ordered to enter into a payment arrangement with the Department of Revenue within thirty (30) days of the date of the revised bill.
4. Petitioner appealed for and was granted a hearing before the full Tax Review Board.
5. A public hearing before the Tax Review Board was scheduled for October 31, 2019. Petitioner requested and was granted a continuance.
6. A public hearing before the Tax Review Board was held on January 16, 2020. At the conclusion of that hearing, the Tax Review Board announced its decision to abate 100% of the interest and 50% of the administrative charges. Furthermore, Petitioner was ordered to enter into a payment arrangement with the Department of Revenue within sixty (60) days of the date of the revised bill.
7. Petitioner has appealed to the Philadelphia Court of Common Pleas.

FINDINGS OF FACT:

1. Petitioner acquired the property located at 909 South Yewdall Street, Philadelphia, PA on February 9, 2008.
2. The deed was recorded with the City of Philadelphia on February 21, 2008.
3. On November 7, 2017, L & I declared the property "imminently dangerous".
4. On November 7, 2017, a Final Notice of Violation was sent to the previous owners of the property informing them of the imminently dangerous condition of the property.
5. Bids were requested by the City of Philadelphia for the demolition of the property.
6. Multiple bids were received. The City accepted the lowest bid.
7. On October 3, 2018, the property was demolished by the City of Philadelphia through a third-party contractor.
8. Following the demolition, a bill was sent to Petitioner as provided for in The Philadelphia Code. The bill was sent by registered mail and a signed receipt was obtained upon delivery.
9. Petitioner asserts that he did not receive proper notice from the City regarding the demolition.
10. The principal amount due for the demolition was \$16,940, with a labor and materials charge of \$14,000, an administrative charge of \$2,940, and interest in the amount of \$1,270.50, for a total of \$18,210.50.

CONCLUSIONS OF LAW:

The Philadelphia Property Maintenance Code Section PM-301.2 requires that “(t)he owner of the premises shall maintain the structures and exterior property in compliance with these requirements, except as otherwise provided. All premises, whether occupied or vacant, shall be maintained in such repair and in such safe and sanitary condition that no physical damage shall be caused to any adjoining premises.”

The Philadelphia Property Maintenance Code Section 308.2 provides that “(i)f an imminently dangerous condition is found, the code official shall serve on the owner, managing 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. Such notice shall require the person thus notified to declare immediately to the code official acceptance or rejection of the terms of an order to demolish.”

The City contends that after the property was declared “imminently dangerous” in November of 2017, the Notice of Violation was sent to the owners of the property and a Notice of Imminently Dangerous structure was posted to the subject premises. The City argues that by issuing the Notice of Violation to three different known addresses for the Petitioner, the City attempted to make full and ample notice to the Petitioner of the Imminently Dangerous structure. The City further contends that Petitioner failed to take any action to appeal the Notice of Violation or to abate the imminently dangerous conditions at the property. Therefore, the City asserts that it acted within its authority to demolish the structure to remove the imminently dangerous property.

Petitioner asserts that he did not receive proper notice of the demolition insisting that the notices were sent to incorrect addresses. Moreover, Petitioner insists that he hired a Structural Engineer to remedy the unsafe conditions of the premises and that he had secured the financing to do so. Additionally, Petitioner noted that he filed a Temporary Restraining Order with the Court of Common Pleas to stop the demolition.

The Board did not find Petitioner’s testimony that he was unaware of the condition of the building credible based on Petitioner’s admission that he saw the posted Notice of Violation on the property in November of 2017. However, the Board acknowledged that Petitioner attempted to repair the property by hiring a Structural Engineer and obtaining financing to do so. Furthermore, Petitioner’s Temporary Restraining Order was dismissed as procedurally improper.

After reviewing the evidence and testimony, the Tax Review Board determined that there was a level of shared responsibility on both parties. Therefore, the Board’s decision to abate 100% of the interest and 50% of the administrative charges should stand.

Concurred:

Nancy Kammerdeiner, Chair

George Mathew

Joseph Ferla