

**August 1, 2022**

**IN RE: Dmitry Erastov**

**Docket No: 26DEMZZ9250**

**Property: 1950 N. Napa Street**

**Statement of Record:**

- 1) Dmitry Erastov (hereafter "Petitioner") filed a Petition for Appeal with the Tax Review Board("Board") on March 5, 2020. The petition requested a review of a demolition fee and associated cost assessed by City of Philadelphia's License and Inspection Department ("L&I") against the property at 1950 N. Napa Street, Philadelphia, PA billed on September 25, 2019.
- 2) The petition was considered untimely, and the Board approved the Nunc Pro Tunc petition.
- 3) A public hearing before a TRB Board was scheduled for June 10, 2021. The Petitioner failed to appear and the Board denied the petition.
- 4) The Petitioner requested a rehearing which the Board granted.
- 5) Another hearing was scheduled before the Board on February 10, 2022.
- 6) After hearing evidence and testimony, the Board decided to abate 100% interest and arrange installment payments for the remainder of the balance.
- 7) Petitioner filed an appeal to the Court of Common Pleas.

**Findings of Fact:**

- 1) Petitioner is the owner of the property located at 1950 N. Napa St., Philadelphia, PA.
- 2) Petitioner became the owner of the property on May 5, 2017 after purchase at Sherriff sale.
- 3) A call was reported to L&I in March 22, 2019 for an "emergency" noting "partial collapse at the rear of a vacant property" (City Exhibit; Service Detail Report).
- 4) A Final Notice of Violation and Order Imminently Dangerous Building dated on April 22, 2019, was mailed to the Petitioner.
- 5) The property was put out to bid to contractors on May 7, 2019 to handle the demolition on the property.
- 6) The demolition occurred "somewhere between one May 8<sup>th</sup> and May 22<sup>nd</sup>" and was deemed complete on September 11, 2019.
- 7) The Department of License and Inspections issued a bill on September 25, 2019 for the demolition costs. At the time the amount due and owing are "Labor-\$13,000, Administrative Charge-\$2,730, Interest to date-\$2,202.20. The total amount due is \$17,932.20. (Notes of Testimony; Pg. 15; Ln. 3-8).
- 8) The Tax Review Board abated 100% interest and ordered Petitioner's to arrange installments for the remainder of the fee.

**Conclusions of Law:**

In an administrative hearing before the Tax Review Board, the burden of proof rests with the petitioning party to provide substantial evidence to establish that the Petition of Appeal should be granted. The taxpayer bears the burden to prove that the City's assessment is incorrect or warrants adjustment, or in

this case that the Petitioner should not be responsible for the cost associated with the City's action to demolish the property or some reduction should be given. See *City of Philadelphia v. Litvin*, 235 A.2d 157, Pa Super.1967.

In this matter, Petitioner asserts that "the time period of the actual notice and the demolition did not give him enough time to be able to do the repairs required to get the permits that were required by the City in order to get the repairs done". (Notes of Testimony; Pg. 16-17; Ln. 23-4). He described a difficult process to work with L&I, explaining "you need about 6 months, because you need to hire an architect or engineer. You need to pull the drawings. You need to come to L&I and be tortured there at least three times. Wait and wait and come back and wait, and then they're maybe going to issue the permit". (Id.; Pg. 21; Ln. 13).

The Board does acknowledge the bureaucracy of the L&I Department and agrees that the process to receive permits and comply is tedious and may take longer than one hopes. However, the Board finds it probative that if the Petitioner visited or inspected the property, they would have seen that the structure on the property was unsafe and on the verge of collapsing. The Board additionally takes note that these are business records kept in the normal course. The City has a responsibility to repair and make safe properties in City that are not being kept in good repair. The notice that the City sent the Petitioner on April 22, 2020 could not have been the Petitioner's first inkling that the property was in fact eminently dangerous or at least needed significant additional work.

Further, upon receiving the Notice, the Petitioner testified that they went down to L&I and was told "there is nothing you can do". (Id.; Pg. 24; Ln. 19-20). However, the Petitioner did not produce any emails to the inspector listed on the Notice of Violation for further instructions or questioning the next steps. Nor did the Petitioner file an appeal within 5 days as directed in the Notice with the Board Administration Unit. (City's Exhibit; Notice of Violation dated 4/22/19; Pg. 2). The Petitioner's frustration with the City's process does not absolve him of the responsibility to make his property safe or to pay the City for the work it contracted to make it so.

Therefore, the decision of the Tax Review Board to deny the petition and abate 100% of the interest was appropriate.

Concurred:  
Nancy Kammerdeiner  
Paula Weiss  
George Matthews  
Dominique Ward, Esq.