

July 1, 2022

IN RE: 4000 Wells Street Matters

<u>CCP Case No.</u>	<u>Owner Name</u>	<u>Docket No.</u>	<u>Account No.</u>	<u>Property</u>
220303140	Staci Thompson	28WAMERZZ7876	0188222004012001	4012 Wells St.
220400092	Shawn Gallagher	28WAMERZZ7865	0188222004015001	4015 Wells St.
220303144	Curry, John & Diane	28WAMERZZ7872	0188222004019001	4016 Wells St.
220400060	Birkholz, Daniel & Jodi	28WAMERZZ7873	0188222004022001	4022 Wells St.
220303141	Schemm, Susan	28WAMERZZ7877	0188222004023001	4023 Wells St.
220303142	Espinosa, Cristina	28WAMERZZ7871	0188222004025001	4025 Wells St.
220303143	Isdell, Chuck	28WAMERZZ7870	01882220040290001	4029 Wells St.

Statement of Record:

- 1) The owners of various properties on the 4000 block of Wells Street (hereafter "Petitioners"), filed Petitions for Appeal with the Tax Review Board ("TRB") on October 28, 2021. The petitions requested a review of a Meter and Repair charge of \$384.69 to each of the Petitioner's accounts by the Philadelphia Water Department (hereafter "PWD") for repair made to the private main on their block.
- 2) A public hearing was scheduled on February 15, 2022 before the TRB.
- 3) After hearing evidence and testimony, the TRB granted the above petitions. Additional cases were included in this matter; however, these cases remain in different postures and have not been appealed to this Court.
- 4) The City filed an appeal to the Philadelphia Court of Common Pleas.

Findings of Fact:

- 1) As noted above, the Petitioner's own the following properties on the 4000 block of Wells Street, in Philadelphia, Pa.
- 2) At issue is the Philadelphia Water Department's charges to the properties for repairs made on the private water main on the 4000 block of Wells Street in the amount of \$4,950.86. This amount was then split among the 13 property owners on the block; \$380.84 for each property.
- 3) On February 7, 2021, a resident contacted PWD and reported a leak between 4016 and 4020 Wells Street. (Notes of Testimony; pg.14; Lns. 23-25).
- 4) PWD Leak Inspector Unit went out, records indicate first on February 23, 2021, and then on February 24, 2021 – noting that "a crew made inspection and found water coming up from the street...may be a private main on Wells, need to verify". (pg. 29; Lns. 24-25).

- 5) The case was then referred to Customer Filed Services for further inspection. Customer Field Services Supervisor Anthony Sanders testified that determined that there was “no City main out there...Leak in street is coming from leak on private water main. Abatement plumber assigned” (Pgs. 29-30; Lns.3, 20-22).
- 6) On March 8, 2022, PWD hand delivered *Notice of Defect* to all affected properties. The document notes “Repair Broken Private Main” with no information checked from the three options given.
- 7) Plumbing business Bart Emmanuel and Son- of Philadelphia, sent an invoice to PWD dated March 8, 2022 noting work done to repair a private water main on 4000 block of Wells Street. Records indicate that permits were acquired and the work was done from March 11, 2022 to March 16, 2022. (City Exhibits #5).
- 8) PWD then billed each property in June of 2021 for the worked performed on the 4000 block of Well Street.

Conclusions of Law:

The City relies on the Philadelphia Code, Section 13-502 (2), which states:

§ 13-502. Service Pipe, Valves, and Stop-Cocks.

(1) Every person having a connection to the City's water supply system of between 1/2-inch and 2 inches in diameter shall provide and maintain a sufficient stop-cock and shut-off valve affixed to such connection, and shall keep it adequately protected and easily accessible.

(2) Every person having a connection to the City's water supply system of 2 inches or less shall maintain in good repair at his own expense a service pipe from the City's main into the premises.

(3) Any person having a connection to the City's water supply system in excess of 2 inches shall not be required to maintain the service pipe from the City's main to the curb line.

(4) The provisions of subsections 13-502(2) and (3) do not apply to existing connections made pursuant to ordinances which provide for maintenance and repair by the City.

However, during the hearing, the Board found that the City failed to show that the under *Section 13-502(2)* that it applies to the circumstances on the 4000 block of Wells Street. Specifically, no evidence was presented that the pipe on Wells Street was “two inches or less” at the time of the leak. Specifically, when ask on direct examination, Supervisor Sanders, could not identify the photo from the ERV of the 4000 block of Wells Street block as having a private water main less than 18 inches. In fact, City Exhibit 2, page 2, reflects “Pipe ID 21577-(18” RCP)”, which Supervisor Sanders testified to looking like “an 18-inch pipe”. (Notes of Testimony; pg.23; Ln. 14). Without this determination, the Board concluded that PWD failed to establish that the 4000 Block of Wells Street does in fact have water main pipe that causes the residents to assume the expense maintaining/repairing the service pipe.

Additionally, the Board concluded that March 8's *Notice of Defect* sent to each Petitioner was lacking in providing clear information to the Petitioner's in regard to the determination of their block having a private water main or their responsibilities to maintain the water main pipe. Specifically, the assessment of the main as a private water main, the possible cost to the residents of the repair, the ability for the residents to correct the defect immediately, etc. None of this was effectively communicated to the Petitioners, despite their credible testimony that they attempted to communicate with PWD. Further, by the time the Notice of Defect was send to the Petitioners, PWD had already assigned the case to an abatement plumber; giving the Petitioner's no opportunity to assess their options.

Concurred:

Nancy Kammerdeiner, Chair

Paula Weiss

George Mathews

Dominique Ward