

February 27, 2023

IN RE: Calita Rogers-Moffit

Docket No: 26DEMZZ9268

Property: 5434 Market Street

Statement of Record:

- 1) Ms. Calita Rogers-Moffit (hereafter "Petitioner") filed a Petition for Appeal with the Tax Review Board("Board") on December 13, 2018. 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 5434 Market Street, Philadelphia, PA billed on December 13, 2018.
- 2) The petition was considered untimely and the Board approved the Nunc Pro Tunc petition.
- 3) A public hearing before a TRB Master level was scheduled for March 9, 2020. The Hearing Master abated 100% of interest and 50% of the Administrative Charge.
- 4) The Petitioner requested an appeal which the Board granted.
- 5) The case was administratively listed in error on July 15, 2021. It was then scheduled for October 14, 2021. The Petitioner failed to appear and the case was denied. The Petitioner filed a request for a re-hearing that was granted.
- 6) Another hearing was scheduled before the Board on September 22, 2022. After hearing evidence and testimony, the Board decided to reduce the principal amount to \$11,350 and 100% of the interest and administrative charge and directed the Petitioners to arrange installment payments for the remainder of the balance.
- 7) The City filed an appeal to the Court of Common Pleas.

Findings of Fact:

- 1) As testified by Supervisor Inspector Thomas Rybakowski, L&I opened a case for this the property sometime in 2013; noting it was imminently dangerous.
- 2) On April 11, 2018, L&I issued a Final Notice of Violation and Order Imminently Dangerous Building directing the owner to repair or demolish the building or else the City would demolish it. This notice was mailed to the prior owner at the property address. A public posting was also placed on the building.
- 3) Petitioner became the owner of the property located at 5434 Market St., Philadelphia, PA on June 6, 2018 after purchase at Sherriff Sale.
- 4) Petitioner testified that her and her husband purchased the property "thinking that [they] were going to move into a house, a fixer upper house, not a condemned house". (Notes of Testimony; Pg. 6; Ln.16-18).
- 5) On August 20, 2018, L&I issued another Final Notice of Violation and Order Imminently Dangerous Building to the Petitioner at Apt 704 7701 Lindberg Blvd. Phila, PA., the address listed on the Transfer Tax Certification. Supervisor Rybakowski testified that L&I received "one return undeliverable, and that was to the Lindberg Boulevard address". (Id.; Pg. 20; Ln.7-8).
- 6) After noticing the address on the August 2018 notice, L&I sent another notice out on September 11, 2018, correcting the address to 7701 Lindberg Blvd., Apt. 704, Phila., PA.

- 7) Petitioner testified that address listed was not the address her or her husband lived; it was her husband's grandmother's home and that they never received the notices. (Notes of Testimony; Pg. 10; Ln. 10-15).
- 8) The property was then put out to curbside bid on October 2, 2018 and awarded to Pedro Palmer Construction for \$22,700. The property was demolished on November 23, 2018 and invoiced to the Petitioner on December 13, 2018. This invoice was sent to 770 Lindberg Blvd., Phila. PA. (Id.; Pg. 26-27; Ln.10-4).

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 generally asserts that they did not have adequate notice from L&I of the upcoming demolition. Specifically, that the notice from L&I sent in August 2018 was returned as undeliverable and that the second notice was never received. Petitioner also argues that the property had been considered imminently dangerous for over 5 years and despite that, it was put up for Sherriff Sale- capitalizing a on a new buyer and then not provide enough time to remediate the property before demolishing it.

The City argues that it in fact provided adequate notice once they were aware of the new owner, the Petitioner- by sending notices to the address listed on the deed documents and posting the "Imminently Dangerous Structure" on the property. The City asserts that the Petitioner failed to appeal or take any actions in regard to the pending demolition despite the notices and the City was well within its authority to demolish the property as it was in fact, imminently dangerous.

While the Board notes that the Petitioner purchased the property at Sherriff Sale and was the owner at the time the property was demolished, the Board finds it probative that the property had been considered imminently dangerous for over 5 years and the City failed to proceed with a demolition or do anything to remediate the property.

The Board agrees that due to the limited time frame the Petitioner, the new owner, could not have improved the property or done something to prevent this demolition from occurring. In the interest of fairness, the Tax Review Board determination to reduce the principal to \$11,500 and 100% of the interest and administrative charge was appropriate.

Concurred:

Nancy Kammerdeiner

Paula Weiss

George Matthews

Dominique Ward, Esq.