

**December 28, 2023**

**IN RE: Mulson, Andrew**

**TRB Docket Nos: 26LFMERZZ9751**

**Statement of Record:**

- 1) Andrew Mulson (hereafter "Petitioner") filed a Petition for Appeal with the Tax Review Board ("Board") on May 20, 2022.
- 2) The petition requested a review and abatement of a violation fees assessed by City of Philadelphia's Department of License and Inspections ("Department") against the Petitioner for violating the licensing requirements set forth in the Title 9 of the Philadelphia Code, specifically not providing subcontractor list for a commercial permit, liability insurance expired or not upload with the City of Philadelphia, and failure of the General Contractor to provide subcontract in allotted time frame.
- 3) A first level department public hearing before a hearing officer was scheduled for March 1, 2023. After hearing the evidence and testimony, the hearing officer granted the petition and abated the bill.
- 4) The City exercised its appeal rights and requested an appeal to the full Board on April 13, 2023.
- 5) The case was listed for hearing on September 14, 2023 before the full Board. Evidence and testimony were taken, and the Board granted the petition, again, abating the entire bill.
- 6) City of Philadelphia filed an appeal to the Court of Common Pleas.

**Findings of Fact:**

- 1) Petitioner is Andrew Mulson, a contractor who conducts business in the City of Philadelphia.
- 2) On January 15, 2021, a commercial building permit, CP-2020-003095, was issued to Baker Street Partners, LLC for new construction at the property on 4328 Main Street, Philadelphia. The Petitioner is listed on the permit as the contractor. (City Exhibit 31).
- 3) On March 16, 2022, L&I's Audits and Investigations Unit, Investigator R. William Michael sent the Petitioner an email notifying the Petitioner that permit CP-2020-003095 and associated property was selected for an audit. Investigator Williams requested that the Petitioner complete the "Subcontractor Auditor Form", listing all subcontractors working on the site and their licenses. (City Exhibit 43).
- 4) The email also lays out March 23, 2022 as the specific deadline for the Petitioner's compliance, noting "Failure to provide all the information requested above is a license violation that results in a \$1,000 fine, as set forth in 9-104(6)i. (Id.)
- 5) On March 30, 2022, a Licensing Violation Notice, CF-2022-021052, was issued to the Petitioner regarding violations Philadelphia Code Sections 9-1004.8, 9-1004.5(a)2, and 9-1004.6 for fines in the amount of \$4,000. (City Exhibit 3).
- 6) Specifically, L&I found that the Petitioner violated the following Philadelphia Codes:
  - a. 9-1004.8- did not provide a "subcontractor list on a commercial permit".
  - b. 9-1004.5(a)2- as the Petitioner's liability insurance expired or was not uploaded with the City of Philadelphia.
  - c. 9-1004.6- failed to provide subcontract list in allotted time- frame.

- 7) The City asserted that the Petitioner “did not provide proof for 367 days after work had begun at that work site at 4328 Main Street... because he had not uploaded that subcontractor list for so long, his permit was chosen for a department audit. The Department reached out to Mr. Mulson via email and said, “You must, within a week of this email, fill out this subcontractor form and return it to us”. And Mr. Mulson did not do so.” (Notes of Testimony; Pg. 8; 16-20).
- 8) Additionally, the City asserts that the Petitioner’s “insurance certificate that was issued in May 2021, expired on January 4, 2022. It took Mr. Mulson until April 4, 2022, 90 days later, to upload a new certificate of insurance wasn’t obtain until March 15<sup>th</sup> of that year.” (Id; Pg. 14; Ln. 5-11).
- 9) Petitioner testified that on March 16<sup>th</sup> he received an email “requesting information for the subcontractors for the site, not my insurance. I tried to upload the subcontractor information, which would be for the mechanical, plumbing, and electrical subcontractors”. (Id.; Pg. 16; Ln. 6-17).
- 10) The Petitioner also testifies to several attempts to contact and communicate to the Department regarding his compliance.

I tried to upload this information into Eclipse for the mechanical, electrical, and plumbing contractors that were already previously identified, because in order to obtain the permit, you have to submit their information into Eclipse system anyway. So I tried to put it in. I could not get Eclipse to work properly. I tried again several other times. After several failed attempts, I started keeping dates associated with this with unfortunate anticipation of—unfortunately, where we are right now, which after several failed attempts, I actually reached out to Mr. Michael as well as several other people within Audits and Investigation Units and countless phone calls. (Id.; Pg. 16; Lns.8-20).

- 11) Petitioner did submit subcontractor information “on April 8, 2022...the City does admit that it was uploaded as of that date”. (Id.; Pg. 17; Lns. 5-7).
- 12) Petitioner’s general liability insurance did not lapse from 2021 to 2022 as evidence by the certificates submitted by the Petitioner. (Petitioner’s Exhibit 10-14).
- 13) On May 3, 2022, the Department issued a Statement of Outstanding Fees, or bill to Petitioner, CF-2022-021052, for payment of the violation. Specifically, “Principal amount is \$4,000. No interest or administrative charge.” (NOT; pg. 6; Ln. 12-15).

#### **Conclusions of Law:**

Under Section 19-1702(1) of the Philadelphia Code, the Tax Review Board has broad jurisdiction to hear petitions for review.

#### ***§ 19-1702. Petitions for Review.***

*(1) Every petition for review of any decision or determination relating to the liability of any person for any unpaid money or claim collectible by the Department of Revenue, for or on behalf of the City or the School District of Philadelphia, including, but not limited to, any tax, water or sewer rent, license fee or other charge, and interest and penalties thereon, shall be filed with the*

*Tax Review Board within 60 days after the mailing of a notice of such decision or determination to the petitioner.*

In this matter, the Board finds the Petitioner's evidence and testimony credible; moreover, a believable and frustrating scenario in terms of contractors' interactions with the City's Department of License and Inspections. Simply, the Board finds that the City's strict application of the Code, punishable with a \$4,000 fine, without clear communication to the Petitioner or responses to their requests and attempts to understand and resolve, unfair and unreasonable.

Concurred:

Nancy Kammerdeiner, Chair

Paula Weiss

Dominique Ward, Esq.

George Matthews

Ryan Boyer