

October 1, 2015

IN RE: 2350 N. FRONT Street; Joo Seok Kim

Docket Numbers: 26DEMERZZ9445, 26DEMERZZ9446

Statement of Record

1. On July 17, 2014, two Petitions for Appeal were filed with the Tax Review Board (TRB) for the property located at 2350 North Front Street, Philadelphia, PA. requesting review of 2 bills issued by the Philadelphia Department of Licenses & Inspections (L&I).

L&I Bill #430200 dated 06/05/14 for site improvement in the amount of \$6231.50, was given TRB Docket No. 26DEMERZZ9445.

The second L&I Bill, also marked #430200, dated 06/23/14 was for demolition of the property, was given TRB Docket No. 26DEMERZZ9446.

These two petitions were consolidated for purposes of the TRB hearing and review process.

2. A public hearing for both bills was held on December 5, 2014 before a TRB Master. The decision of the Master, as ratified by the full TRB, are as follows:
 - a. Docket No. 26DEMERZZ9445: Abate 50% of the administrative charge with 60 days from the revised bill to remit payment.
 - b. Docket No. 26DEMERZZ9446: Abate 25% of the administrative charge with 60 days from their revised bill to remit payment.
3. Petitioner appealed and was granted a rehearing before the full TRB.
4. A public hearing was held before the full TRB on June 11, 2015. At the conclusion of this hearing, the TRB announced its decision, applicable to both bills under appeal, to abate the administrative charges, and also to abate any lien charges, interest or other charges due or accrued after February 28, 2015, the date of Petitioner's payment.
5. The City of Philadelphia filed an appeal to the Philadelphia Court of Common Pleas.

Findings of Fact

- 1) For TRB Docket Number ending in 9445, the principal amount due was \$5150.00 and the administrative charge added by the City of Philadelphia was \$1081.50, for a total due of \$6231.50. Petitioner made payments on this bill of \$5714.64 prior to the TRB hearing. There was a balance due of \$1,123.00 at the time of the TRB hearing.

This bill was for the costs charged by L&I to remove debris to assist the Fire Department at 2350 N. Front Street, Philadelphia, PA.

- 2) For TRB Docket Number ending in 9446, the principal amount due was \$20,000.00, with the administrative charge added by the City of Philadelphia of \$4,200.00, interest of \$1,116.58 and a lien charge of \$1,225.50 for a total due of \$26,542.08. Petitioner made a payment on this bill prior to the TRB hearing in the amount of \$24,293.50. There was a balance due of \$2,342.00 at the time of the TRB hearing.

This bill was for the costs charged by L&I to demolish the structure on the property at 2350 N. Front Street, Philadelphia, PA.

- 3) Petitioner owned the property located at 2350 N. Front Street, Philadelphia, Pa. during all relevant time periods
- 4) On or about May 24, 2014, there was a fire at this property.
- 5) In order to complete its investigation, the Philadelphia Fire Marshall requested assistance from L&I to have removed from the property a masonry wall left standing after the fire. This work was done at the City's direction and Petitioner billed for the cost of \$6230.00.
- 6) After being informed by L&I that the remaining structure on the property required demolition, Petitioner agreed to allow L&I to have the work done.
- 7) Petitioner was not challenging or contesting the principal amounts of the two bills.
- 8) Petitioner testified that he and his mother, who were both present on the property, were told by the L&I inspector on site, that the administrative fee of 20% of the principal cost generally added by the City would not be charged to them and if it was charged on their bill, he advised to appeal it and it would be removed.
- 9) Following the TRB Master level hearing, Petitioner received adjusted bills for both the site improvement and the demolition costs which removed ½ of the administrative charges as per the decision of the Master. Petitioner paid both bills in full and on time although he continued with the appeal process to the full TRB to request full abatement of the administrative charges.

However since the Master's decision was on appeal for full consideration by the TRB, the city's records continued to carry as due, the portion of the bill abated by the TRB

Master which were reflected on the adjusted bills paid by Petitioner. The remaining amounts considered due by the City were read into the record at the start of the TRB hearing and are restated above.

10) At the TRB hearing, the City conceded the remaining balances of \$1123.04 for site improvement bill and \$2342.00 for the demolition bill.

11) Petitioner asked that the remainder of the administrative charges be abated in full as verbally agreed to at the work site, even though he had already made some payments towards these charges by paying the adjusted bill received after the Master hearing.

Conclusions of Law:

The decision of the Tax Review Board, applicable to both the site improvement bill, and demolition bill was to abate 100% of the administrative charge and, also, any lien charge, interest or other charge that accrued after the February 28, 2015 payments made as payments in full of the bills received by Petitioner.

Petitioner acted responsibly and in good faith at all times regarding the public safety needs for this property after the fire. Petitioner did not dispute responsibility for the principal costs due for both the site cleanup required for the safety of the Fire Department personnel and the costs incurred to demolish the remaining structure. As further evidence of Petitioner's good faith intentions, he paid the amounts due after the TRB Master's hearing even though he was still appealing the assessed administrative costs added to the principal amounts for the work to be performed.

The TRB found Petitioner's testimony credible as to his conversation with L&I personnel on site at the time the work was being planned or readied for bid. Petitioner's testimony was that the agreement with L&I was that any administrative charge would be waived. L&I did not provide any testimony to rebut this.

In addition, there was no testimony by the City as to what work, if any, was attached to this administrative charge. A flat percentage cost was added to each bill without any connection to the amount of actual work that may have been provided to Petitioner's property.

Petitioner received adjusted bills from the city following the TRB Master's decision and paid them in full. However, the city continued to calculate accrued interest and penalties on the charges waived or abated by the TRB Master's decision even though those charges did not show on the bill Petitioner received. Petitioner paid all charges and amounts for which he was billed. Petitioner had no opportunity to pay in full the amount that would have eliminated further interest and penalty, and therefore should not be liable for those amounts accrued after he paid in full the bill he received. As required by The Philadelphia Code §19-1705, Petitioner "acted in good faith, without negligence and no intent to defraud" the city.

Therefore the decision of the TRB was to abate 100% of the administrative charges for both bills in question, and any lien charges, interest or other charges on each bill that remain or accrued after Petitioner's payments on 2/28/15.

Concurred:

Nancy Kammerdeiner, Chair

Joseph Ferla

Kaitlin McKenzie-Fiumara

George Mathew, CPA