IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

LYDELL SWINSON a/k/a LINDELL SWINSON, JR.	:	CIVIL ACTION
v.	:	
CITY OF PHILADELPHIA, et al.	:	NO. 13-6870

MEMORANDUM

Bartle, J. April 7, 2016

This action involves the demolition by the defendant City of Philadelphia ("City") of a house plaintiff Lindell Swinson, Jr. ("Swinson") co-owned with his father. Before the court are the motion of Swinson for summary judgment on liability and the motion of the City for summary judgment.

Swinson, acting pro se, filed this lawsuit. The court subsequently appointed him counsel. His amended complaint contained claims under 42 U.S.C. § 1983 against the City and City Inspector Michael Curran as well as a claim against the City alone under Pennsylvania law for negligent demolition.

The court previously granted the motion of the City and Inspector Curran for summary judgment on Swinson's claims under § 1983. See Swinson v. City of Philadelphia, 2015 WL 4975077, at *7 (E.D. Pa. Aug. 19, 2015). The court also denied the City's motion to dismiss Swinson's state law claim. See Swinson v. City of Philadelphia, 2015 WL 7887855, at *5

(E.D. Pa. Dec. 3, 2015). The pending summary judgment motions concern Swinson's state law claim.

I.

The following facts are not in dispute. In March 1999, Swinson and his father, Lindell Swinson, Sr., purchased a house located at 236 East Mayfield Street in Philadelphia. The deed contained the following language, handwritten in part: "[t]he address of the above Grantee is 3643 N. 13th St., Phila. PA 19140." The deed did not say which "Grantee" was being referenced. Swinson lived at the Mayfield Street address with his wife and three children until August 2004, when he was arrested.

Swinson was subsequently convicted of several crimes and sentenced to life in prison in February 2006. He was confined at the Pennsylvania State Correctional Institution at Graterford ("Graterford") in Montgomery County between 2008 and 2013.

In late 2008, Swinson mailed a handwritten letter from Graterford to the City's Department of Revenue concerning the Mayfield Street property.[1] The City received the letter on

1. During the discovery period and in its pretrial memorandum, the City stated that it had no correspondence with Swinson about the Mayfield Street property while he was incarcerated at Graterford. However, two days before trial was scheduled to begin, the City produced records demonstrating that it had in

January 9, 2009. In the letter, Swinson informed the City that he was incarcerated and requested a payment plan for back real estate taxes that were owed on the property.

Swinson sent another letter from Graterford to the City's Department of Revenue in February 2009. The City received it on March 13, 2009. Swinson apprised the City that he was "doing a life sentence" and again requested a payment plan to resolve the back taxes. He also asked for a copy of the property deed. Swinson wrote his return address at Graterford on the envelope.

On March 31, 2009, the City's Department of Revenue mailed a letter to Swinson's Graterford address in response to Swinson's first letter.[2] The City told him that a private collection agency had assumed responsibility for collecting back taxes owed on his property. In its computer system, it noted that it "REC'D CORRES FROM T/P WHO IS INCARCERATED" and sent him a letter in response.[3] Then, on April 22, 2009, the City

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fact corresponded with Swinson at Graterford concerning the property at a time before the demolition.

2. The envelope from Swinson's first letter is not in the record.

3. Presumably, "T/P" means taxpayer.

indicated in its computer system: "REFER TO NOTE 3/31/09 T/P IS MAKING THE SAME REQUEST FOR AN AGREEMENT WHILE INCARCERATED."[4]

On May 27, 2009, the City's Department of Revenue sent a second letter to Swinson at his Graterford address. This was in reply to his February 2009 letter and enclosed a copy of the deed for the Mayfield Street property. The City again made note of its communication with Swinson in its computer system.

Just five days later, on June 1, 2009, the City's Department of Licenses and Inspections ("L&I") sent a single "violation notice" concerning 236 East Mayfield Street to Swinson and his father at 3643 North 13th Street. L&I had obtained this address not from its own departmental records but from the City's Board of Revision of Taxes ("BRT"), an agency which at that time had responsibility for real estate assessments in Philadelphia.[5] The violation notice stated that the City "Department of Licenses and Inspections has inspected the subject premises [at 236 East Mayfield Street] and declared it IMMINENTLY DANGEROUS." It specified the ways in which the property was in violation of the Philadelphia Property Maintenance Code. It instructed Swinson and his father either

4. The communication corresponding with this entry is not in the record.

5. The Office of Property Assessment is now responsible for property assessments. The BRT presently serves as an appeals board. See Bd. of Revision of Taxes v. City of Philadelphia, 4 A.3d 610, 615, 628 (Pa. 2010).

to comply with the notice by repairing the structure or to appeal "within 5 days of the date of this notice." It warned that "[i]f you fail to comply with this order forthwith, the City may demolish the structure" and "[y]ou, the owner, will be billed for all costs incurred."

Swinson's father received the notice at 3643 North 13th Street and signed a certified mail receipt for it. Swinson, however, did not receive word about the letter because he was incarcerated at Graterford. Although the City had five days earlier sent mail concerning the Mayfield Street property to Swinson at his Graterford address, it did not send a violation notice to Swinson at that location.

The City demolished the house on June 24, 2009. It was not until July 2011 that Swinson first learned that his home had been razed when he asked his grandmother for assistance in selling the property.

II.

Under Rule 56 of the Federal Rules of Civil Procedure, summary judgment is appropriate "if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a); see also Celotex Corp. v. Catrett, 477 U.S. 317, 323 (1986). A dispute is genuine if the evidence is such that a reasonable factfinder could return a verdict for the nonmoving party. See

Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 254 (1986). Summary judgment is granted where there is insufficient record evidence for a reasonable factfinder to find for the nonmovant. See id. at 252. "The mere existence of a scintilla of evidence in support of the [nonmoving party]'s position will be insufficient; there must be evidence on which the jury could reasonably find for [that party]." Id.

When ruling on a motion for summary judgment, we may only rely on admissible evidence. See, e.g., Blackburn v. United Parcel Serv., Inc., 179 F.3d 81, 94-95 (3d Cir. 1999). We view the facts and draw all inferences in favor of the nonmoving party. See In re Flat Glass Antitrust Litig., 385 F.3d 350, 357 (3d Cir. 2004). However, "an inference based upon a speculation or conjecture does not create a material factual dispute sufficient to defeat entry of summary judgment." Robertson v. Allied Signal, Inc., 914 F.2d 360, 382 n.12 (3d Cir. 1990).

As noted above, both sides have moved for summary judgment. When confronted with cross-motions for summary judgment, our task remains the same, as such motions:

> are no more than a claim by each side that it alone is entitled to summary judgment, and the making of such inherently contradictory claims does not constitute an agreement that if one is rejected the other is necessarily justified or that the losing party waives judicial consideration and determination whether genuine issues of material fact exist.

Transportes Ferreos de Venezuela II CA v. NKK Corp., 239 F.3d 555, 560 (3d Cir. 2001) (quoting Rains v. Cascade Indus., Inc., 402 F.2d 241, 245 (3d Cir. 1968)).

III.

The Pennsylvania Supreme Court has held that where a property owner's identity and whereabouts are "readily accessible" to a municipality, the property owner has a claim for damages against the municipality if it fails to provide notice of an impending demolition. See Pivirotto v. City of Pittsburgh, 528 A.2d 125, 129 (Pa. 1987); Swinson v. City of Philadelphia, 2015 WL 7887855, at *5 (E.D. Pa. Dec. 3, 2015). In Pivirotto, an individual had purchased a building in the City of Pittsburgh at a tax sale. The law provided a one-year period for the delinquent prior owner to redeem the property. During the redemption period, the City of Pittsburgh notified the delinquent prior owner but not the purchaser that the building was to be razed. It then demolished the building, and the purchaser brought an action against the City of Pittsburgh for negligent demolition. Because the City had the purchaser's name and address readily available in its property tax records, the Court upheld a verdict against the City for negligent demolition.

The Pennsylvania Supreme Court considered whether, preceding demolition, "the city followed procedures adequate to

afford all those having an interest in the property an opportunity to protect that interest." See Pivirotto, 528 A.2d at 127. The Court cited a Pennsylvania statute requiring the City of Pittsburgh to provide the property owner with advance notice of demolition. See id. (citing 53 P.S. § 25094). The Court then spoke more broadly about the need for proper notice before the government tears down a building. It explained that where the government fails to take the reasonable step of consulting a department likely to be knowledgeable about the identity and whereabouts of the property owners before destroying their property, the government is liable for negligent demolition. See id. at 129. The Court further stated that the municipality should have checked the tax records for the property owner's name and address when sending a notice of demolition because properties with housing code violations are likely to be subject to tax delinquencies and sales for unpaid taxes. See id.

Although there were no state or federal constitutional claims in Pivirotto, the Court was concerned with the constitutional implications of failing to provide notice. It described demolition as "a severe exercise of power." See id. It strongly cautioned governments in Pennsylvania against abusing this power: "To divest ownership, without personal notice, and without direct compensation, is the instance in

which a constitutional government approaches most near to an unrestrained tyranny." Id. (quoting Gault's Appeal, 33 Pa. 94, 97-98 (1859)). The Court applied the "safeguards" provided to property owners facing a tax sale to property owners facing condemnation and demolition as set forth in Tracy v. County of Chester Tax Claim Bureau, 489 A.2d 1334 (Pa. 1985). See Pivirotto, 528 A.2d at 129; see also In re Tax Claim Bureau, 600 A.2d 650, 654 n.4 (Pa. Commw. Ct. 1991).

In Tracy, the Pennsylvania Supreme Court overturned a tax sale when the Chester County Tax Claim Bureau failed to give notice to the property owners. See Tracy, 489 A.2d at 1338-39. While the government is not required to use "extraordinary efforts," it must "expend reasonable efforts to ascertain the identity of the purchaser of the [demolished] property" even if this requires it to go beyond applicable statutory law. See Pivirotto, 528 A.2d at 129 (citing Tracy, 489 A.2d at 1338). The Chester County Tax Claim Bureau had sent two tax delinquency notices to the address of the partnership listed in the Tax Claim Bureau's records. Although the partner who had resided at that address had withdrawn from the partnership and moved to a new location, the first notice was forwarded to his new address. He informed the remaining members of the partnership about the notice but they believed that the notice had been sent in error and took no action. The second notice was not forwarded but was

instead returned to the Tax Claim Bureau as undelivered. The Tax Claim Bureau then sold the property owned by the partnership at a tax sale.

The Pennsylvania Supreme Court held that even if the "Tax Claim Bureau complied with all of the requirements of" the applicable Pennsylvania statute on notice, "[r]easonable efforts to effect actual notice were not carried out in this case, and the tax sale of this property must be set aside." See Tracy, 489 A.2d at 1337, 1339. "[C]onstitutional due process principles require a tax claim bureau in certain circumstances to make additional efforts to determine the correct names and addresses of property owners even though the notices given complied with the [statutory] . . . requirements." See Husak v. Fayette Cty. Tax Claim Bureau, 61 A.3d 302, 306 (Pa. Commw. Ct. 2013) (citing Geier v. Tax Claim Bureau, 588 A.2d 480, 483 (Pa. 1991); Tracy, 489 A.2d at 1338).

The Tracy Court stated that "where the mailed notice has not been delivered because of an inaccurate address, the authority must make a reasonable effort to ascertain the identity and whereabouts of the owner(s)."[6] See Tracy, 489 A.2d

6. The U.S. Supreme Court in Jones v. Flowers, 547 U.S. 220 (2006), explained that the Pennsylvania Supreme Court "decided that when the government learns its attempt at notice has failed, due process requires the government to do something more before real property may be sold in a tax sale." See id. at 227 (citing Tracy, 489 A.2d at 1338-39).

at 1338-39 (emphasis omitted). In this case, "a reasonable effort would have been to make inquiry of the records maintained by the office of the Secretary of the Commonwealth in Harrisburg to determine the identity and addresses of the partners." See id. at 1339.

The Court more recently declared that "[r]equiring the tax bureau in Tracy to check the records of sister government agencies before permitting the forfeiture of real property did not constitute 'extraordinary efforts.'" See Sklar v. Harleysville Ins. Co., 587 A.2d 1386, 1388 (Pa. 1991) (citing Tracy, 489 A.2d at 1339). Pennsylvania "courts have consistently held that the 'reasonable effort' requirement of Tracy must be met." See In re Tax Claim Bureau, 600 A.2d at 654.

Likewise, in addressing a tax sale, the Commonwealth Court held in In re Tax Claim Bureau that a County Tax Claim Bureau had to go beyond the official registered address in its database in providing notice to the property owner after its notice was returned as undelivered. It explained that "due process requires the tax claim bureau to do more than merely check telephone directories and the records maintained by the offices of the recorder of deeds and prothonotary and the county assessment office." See id. Rather, "[i]n the course of making additional inquiries after the certified mailing was returned,

the Bureau should have found [the property owner's] address in the Domestic Relations records when it was checking the dockets and indices in the prothonotary's office." Id. Furthermore, "the Bureau had copies of [the owner's] 1988 and 1989 petitions for special relief in its own file on the subject property by virtue of the trial court orders staying the tax sale of [her] property." Id. It was thus inappropriate for the Bureau to continue to use the address it had on file because the owner's updated address was readily accessible. We see no reason why this analysis should not also apply to a claim for negligent demolition. See Pivirotto, 528 A.2d at 129.

IV.

Swinson argues that the City is liable as a matter of law for the negligent demolition of his house on Mayfield Street based on the undisputed facts that the City failed to provide him with prior notice of that demolition when it knew that he was incarcerated at Graterford.

The City counters that Swinson's action for negligent demolition fails as a matter of law because the Pennsylvania Constitution and 53 P.S. § 14611,[7] the state statute requiring

7. This statute provides:

> [w]henever in any city of the first class [Philadelphia] any building or premises is being maintained in a condition which is found to be hazardous, structurally unsound,

the City to provide notice of demolition, do not allow for damages. The City again argues, as it had in its earlier motion to dismiss, that it is immune from Swinson's claim under the Political Subdivision Tort Claims Act ("PSTCA"), 42 Pa. Cons. Stat. §§ 8541 et seq. See Swinson, 2015 WL 7887855, at *2. To the extent it was obligated to provide Swinson with notice, the City maintains that it has satisfied any notice requirements. It asserts that it was lawful for L&I, the department responsible for condemnation and demolition, to consult only the BRT for Swinson's contact information. We first turn to the arguments of the City.

> dangerous or unfit for human habitation and in violation of any law or ordinance, such building or premises may be declared to be a nuisance by the Department of Licenses and Inspections, and a notice of such finding and declaration shall be served upon the registered owner of the building or premises directing the abatement of the nuisance. The notice shall reasonably specify such repairs or such other measures, including demolition, as may be necessary to abate the nuisance and shall require their completion within a reasonable time not less than thirty days from the date of service of the notice.

53 P.S. § 14611. Philadelphia is the only city of the first class in the Commonwealth of Pennsylvania. See 53 P.S. § 101.

Section 14612 further provides: "[i]f the owner does not have a residence . . . where he may be served within [Philadelphia], the notice shall be sent by registered or certified mail to the last known address of such owner." 53 P.S. § 14612.

In his summary judgment briefs, Swinson has limited his negligent demolition claim to one arising under the common law. Thus, even if the City is correct that no damages are available under the Pennsylvania Constitution, Swinson has made no state constitutional claim.

While Swinson clearly brings a claim for damages under the common law, that common law claim is integrally related to the notice statute, § 14611. Under § 14611, when the City determines that:

> any building or premises is being maintained in a condition which is found to be hazardous, structurally unsound, dangerous or unfit for human habitation and in violation of any law or ordinance . . . a notice of such finding and declaration shall be served upon the registered owner of the building or premises directing the abatement of the nuisance.

§ 14611. The notice must "reasonably specify such repairs or other measures, including demolition, as may be necessary to abate the nuisance." Id. The City must require the completion of those repairs or other measures "within a reasonable time not less than thirty days from the date of service of the notice." See id. Section 14612 further provides: "[i]f the owner does not have a residence . . . where he may be served within [Philadelphia], the notice shall be sent by registered or certified mail to the last known address of such owner." See § 14612. It is undisputed that Graterford, where Swinson was

imprisoned, is in Montgomery County. Furthermore, it is undisputed that the demolition occurred less than thirty days after the date of the violation notice.

Pivirotto upheld an award of damages pursuant to a common law cause of action for negligent demolition where notice was not provided under a state statute, similar to § 14611, applicable to the City of Pittsburgh. See Pivirotto, 528 A.2d at 127, 129. Swinson's claim for relief is indistinguishable from that case.

The City, as noted above, again argues that it is immune from the present lawsuit under the PSTCA, a statute originally taking effect in January 1979. We acknowledge that the PSTCA broadly immunizes municipalities from tort liability for damages with certain enumerated exceptions. See 42 Pa. Cons. Stat. §§ 8541, 8542. Nonetheless, we rejected the City's position in our December 3, 2015 Memorandum and Order that it was immune from liability under the present circumstances. See Swinson, 2015 WL 7887855, at *5-6. Applying principles of statutory interpretation, we held that § 14611 is in pari materia with the PSTCA. In our analysis, we emphasized the constitutional dimension of § 14611 and the related cause of action for negligent demolition. See, e.g., Pivirotto, 528 A.2d at 129; In re Tax Claim Bureau, 600 A.2d at 653. We explained that "we do not read the PSTCA as having eliminated a cause of

action against the City when an existing state statute with constitutional ramifications requires it to serve homeowners with a notice of demolition of their property." Swinson, 2015 WL 7887855, at *5. We concluded that, in spite of the immunity granted under the PSTCA, Swinson's claim against the City for negligent demolition remained viable where it was alleged that the City did not provide him with proper notice. See id.

If we accepted the City's argument that it has immunity here, the City could demolish a person's home without any notice whatsoever, and there would be no remedy against it for damages. Nor, of course, could there be an equitable remedy if a house is destroyed by the City without notice. In light of the strong public policy of the Commonwealth, indeed the underlying constitutional mandate, the City's position is without merit.

The claim in Pivirotto arose before the PSTCA became effective, although the case was not decided by the Pennsylvania Supreme Court until almost ten years later. The Pivirotto Court considered the PSTCA with regard to delay damages but did not discuss it when ruling on the merits. See Pivirotto, 528 A.2d at 130. Nonetheless, since Pivirotto, a number of negligent demolition cases have proceeded where the cause of action arose after the effective date of the PSTCA. See, e.g., Oliver-Smith v. City of Philadelphia, 962 A.2d 728, 730-31 (Pa. Commw. Ct.

2008); Frederick v. City of Pittsburgh, 572 A.2d 850, 852 (Pa. Commw. Ct. 1990); Kenney v. City of Philadelphia, 21 Phila. Cty. Rptr. 254, 261-62 (Pa. Comm. Pl. Ct. Sept. 12, 1990). In those cases, Pennsylvania courts permitted property owners to litigate claims for damages against municipalities where the municipalities had demolished their property without notice.[8]

In Oliver-Smith, for example, the Commonwealth Court held that the City of Philadelphia was liable for damages equal to "the market value of the property immediately before the injury." See Oliver-Smith, 962 A.2d at 730. There the City had demolished a building after telling the property owner that a previously scheduled demolition would not occur. See id. at 730-31; Brief for Appellant City of Philadelphia at 5, Oliver-Smith v. City of Philadelphia, 962 A.2d 728 (Pa. Commw. Ct. 2008) (No. 198 C.D. 2008). Likewise, in Frederick, the Commonwealth Court affirmed the trial court's award of damages to a property owner and against the City of Pittsburgh where it had razed a building without first notifying the property owner.

8. The City argues that it cannot be held liable for negligent demolition because the violation notice that it sent to the North 13th Street address was not returned to it as undelivered. This argument lacks merit. In all of these cases, as in Pivirotto, Pennsylvania courts held that the municipalities were liable without discussing whether notices were returned to the municipalities as undelivered. Notice requirements are not satisfied simply because an attempt to serve notice has not been returned to the municipality as undelivered. See, e.g., Jones, 547 U.S. at 223.

See Frederick, 572 A.2d at 851-52. The City of Pittsburgh had sent notices of condemnation to the prior owner of the property but not to the owner at the time of demolition. Further, in Kenney, the Court of Common Pleas of Philadelphia County upheld a trial court's verdict in favor of the owners of a demolished property. See Kenney, 21 Phila. Cty. Rptr. at 261-62. Although no damages were awarded to the prevailing plaintiffs because the value of their property increased post-demolition, the court held that "the City of Philadelphia's action pursuant to the Pennsylvania Code . . . was improper since it failed to give proper notice to the building owners prior to its demolition." See id.

These cases are all consistent with the language of the Pennsylvania Supreme Court in Pivirotto: "To divest ownership, without personal notice, and without direct compensation, is the instance in which a constitutional government approaches most near to an unrestrained tyranny." Pivirotto, 528 A.2d at 129 (quoting Gault's Appeal, 33 Pa. 94, 97-98 (1859)). We reiterate that a common law claim for negligent demolition survives the PSTCA where § 14611 and the failure to give notice are elements of the claim.

The only issue remaining is whether, as a matter of law, Swinson's identity and whereabouts at Graterford were readily accessible to the City in June 2009. The relevant facts

are admitted. The parties agree that the City knew Swinson's identity as co-owner of the Mayfield Street property. The City also concedes that "[r]ecent depositions have revealed that Plaintiff did correspond with a person from the Revenue Department regarding negotiating his tax liability." The City has produced copies of letters from Swinson that it received in early 2009. In those letters, Swinson requested a payment plan for back taxes owed on the Mayfield Street property and a copy of the deed. He informed the City that he was "doing a life sentence" and was imprisoned at Graterford.

The City acknowledges that it mailed at least two letters to Swinson in 2009 at his address at Graterford. On March 31, 2009 and again on May 27, 2009, the City's Department of Revenue communicated in writing with Swinson at Graterford concerning the Mayfield Street property. Yet, on June 1, 2009, a mere five days after the City sent Swinson a letter at Graterford for the second time, L&I mailed a single violation notice addressed to both Swinson and his father at the home address of Swinson's father at 3643 North 13th Street in Philadelphia. The City then razed the Mayfield Street house on June 24, 2009.

At the time of the demolition, L&I was responsible for condemning and demolishing properties that presented imminent danger of collapse. However, L&I did not maintain its own

address and ownership database. Rather, it simply reached out to another City agency, the BRT, for owner contact information. The BRT, as noted above, was the department responsible for assessment of real estate in Philadelphia for tax purposes.

The City, however, did not make inquiry of the City's Department of Revenue,[9] the department responsible for "collect[ing] all real estate . . . taxes, penalties and interest due the City." See Philadelphia Home Rule Charter § 6.6-201(a). It was unreasonable as a matter of law for L&I to confine its search for contact information about the Mayfield Street property to the BRT. As Pivirotto provides, a municipal department responsible for property taxes is likely to have relevant information about the owners of property subject to condemnation or demolition because owners of properties in a state of extreme disrepair are likely delinquent with respect to property taxes. See Pivirotto, 528 A.2d at 129. It is the Department of Revenue which prepared tax bills "in accordance with the assessments certified to the Department by the Board of Revision of Taxes." See Philadelphia Home Rule Charter § 6.6-201(a). It is the Department of Revenue which needed to know the identity and contact information for each property owner in order to collect property taxes. The BRT played no

9. The Department of Revenue was previously known as the Department of Collections.

role in this collection process. As the U.S. Supreme Court has said:

> [t]here is no reason to suppose that the State will ever be less than fully zealous in its efforts to secure the tax revenue needs. The same cannot be said for the State's efforts to ensure that its citizens receive proper notice before the State takes action against them.

See Jones v. Flowers, 547 U.S. 220, 239 (2006). Thus, the City should have consulted the Department of Revenue in advance of demolition for the identity and whereabouts of the property owners and not relied solely on the BRT.

The City argues that it would be overly burdensome to require L&I to search the Department of Revenue for contact information. We are not persuaded. If it could easily consult the BRT, it could just as easily contact the Department of Revenue, which is more likely than the BRT to have relevant contact information. The additional effort is minimal. Further, the Pennsylvania Supreme Court has previously held that "check[ing] the records of sister government agencies before permitting the forfeiture of real property did not constitute 'extraordinary efforts.'" Sklar, 587 A.2d at 1388. We note that the Court used the plural, "government agencies." Moreover, in Tracy, the Pennsylvania Supreme Court emphasized that, under the circumstances of that case, the Chester County Tax Claim Bureau should have gone so far as to check the records

of the Secretary of the Commonwealth in Harrisburg, the state capital, to obtain the identity and address of the partners in the partnership which owned the property. See Tracy, 489 A.2d at 1339. Consulting only one City agency, particularly one more tangential than the Department of Revenue, is not sufficient.

If the City had reached out to the Department of Revenue, it would have quickly learned that Swinson had recently been in communication with the City concerning taxes owed on the Mayfield Street property and that his current address was at Graterford where he was incarcerated. It is irrelevant that Swinson never specifically requested that the Department of Revenue update his contact information to the Graterford address. The plaintiff's obligation to update his or her address does not "relieve[ ] the [government] of its constitutional obligation to provide adequate notice." See Jones, 547 U.S. at 232. Further, although the City argues in the abstract that prisoners may from time to time be relocated to different prisons, the City knew Swinson was confined at Graterford when it sent the demolition notice less than a week after writing to him about that very same property. It also knew that he was "doing a life sentence" in the Pennsylvania prison system. When the City instead mailed a violation notice to Swinson and his father at the North 13th street address, the

City violated Swinson's right to notice despite its ready access to his whereabouts.

We also reject the City's argument that it was reasonable under the circumstances to send notice only to the North 13th street address, which happened to be the home address of Swinson's father, because "by making the father aware, the son would also be aware."[10] Significantly, 3643 North 13th Street, the address handwritten on the deed for the Mayfield Street property, was simply identified as "[t]he address of the above Grantee." Here, the deed unambiguously identified two grantees, Swinson and his father. The City should have noticed this discrepancy. It was unreasonable under the circumstances for the City to rely on this address for Swinson without further effort. Each co-owner is entitled to notice when the address of each is "reasonably ascertainable." See Pivirotto, 528 A.2d at 129. In Geier, the Pennsylvania Supreme Court held that where "the record shows that the Bureau had the names of both owners in its records, but sent only one notice; we conclude that the Bureau did not make a reasonable effort to notify all of the

10. The City makes this argument with the benefit of hindsight. On June 1, 2009, when L&I sent the violation notice to the North 13th Street address, the City did not know who resided at that address.

owners."[11] See Geier, 588 A.2d at 483 (citing Tracy, 489 A.2d at 1338-39). A single letter addressed to two owners is less likely to be received by each owner than two separate letters addressed to each owner individually.

Finally, the City had ready access to Swinson's address regardless of whether the Department of Revenue updated the official address "on file" for Swinson. Communications received and sent by the Department of Revenue are logged in its computer system. Had L&I connected with that system, it would have easily learned that the City had recently sent and received letters from Swinson, the incarcerated property owner, just a few days earlier. The notes in the computer system read: "REC'D CORRES FROM T/P WHO IS INCARCERATED" and "REFER TO NOTE 3/31/09 T/P IS MAKING THE SAME REQUEST FOR AN AGREEMENT WHILE INCARCERATED." Swinson's letters were readily accessible without extraordinary efforts in the Department of Revenue's file on the Mayfield Street property. Again, the burden on the City to spend a few minutes searching its own files for Swinson's address would have been slight, particularly when it was making plans to demolish his house. The notice involved here did not concern some trivial matter.

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11. In Geier, although there were two property owners of record, the Tax Claim Bureau sent only one notice addressed to one property owner. It made no attempt to notify the other property owner. See Geier, 588 A.2d at 481-82.

All relevant material facts are undisputed. Swinson has established that his identity and whereabouts at Graterford were not only readily accessible to but actually known by the City. Thus, the City was obligated to send a demolition notice to Swinson at his Graterford address. The City's failure to do so was unreasonable as a matter of law, and the City is liable for damages for negligently demolishing Swinson's property at 236 East Mayfield Street in Philadelphia.

Accordingly, we will grant the motion of plaintiff Lindell Swinson, Jr., for summary judgment on the issue of liability and deny the motion of the defendant City of Philadelphia for summary judgment.