OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS

Hearings Division

DECISION

TIFFANY IRIZARRY - NACMIAS LAW FIRM, PLLC 592 PACIFIC STREET BROOKLYN,NY 11217	**Summons No:** 000961214X et al. (1 Summons) **DEPT OF ENVIRONMENTAL PROTECTION,** **-against-** **ON PENSKE TRUCK LEASING CORPORATI** **Hearing Date:** 09/29/2026 **Hearing Location:** Remote **Type of Hearing:** By Telephone

Total Penalty Amount:**$0.00**

Community Service(Hr): **Not Applicable**

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000961214X	Dismissed	09/05/2024	ON EAST BROADWAY BETWEEN PIKE ST Manhattan

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	BA1I	24-163 (F)	Dismissed	$0.00

Findings of Fact & Conclusions of Law

This remote hearing was held on September 29,2026. Leah Smith appeared for DEP. Tiffany Izzary , authorized Representative appeared f in response to this summons alleging a violation of NYCAC 24-163(f) on .9/05/2024 on East Broadway between Pike and Rutgers Street, Manhattan. The first scheduled hearing date was April 1, 2026. The summons alleges that a truck with llicense plate IN3305021 was ilding over 1 minute in front of a school.

Petitioner relied on the Summons and suibmitted an evidence packet. that included P 1 : Photos of the sign on the side of the door of the building in question, photos of hte side of the truck and the license plate. P-2 Proff of service and a redacted citizen's complaint and . Petitioner also submitted a vidoe of 2minutes and 42 seconds.

Respondent stated that the signage is not sufficient to identify that this is a school. Resppndent stated that It is easy to think that this building is not a school . The only signage does not clearly show that this is a school .and it is easly to think that this building is not used as a school . There is no easily identifiable sign showing it is a school. There are no other indicators that this is a school building. .

In Appeal No. 2200023 DEP v. Atlas Van Lines, Inc., March 24,2022, p. 2 of 2 The Board stated:" APPLICABLE LAW Code § 24-163(f) provides that: No person shall cause or permit the engine of a motor vehicle, other than a legally authorized emergency motor vehicle, to idle for longer than one minute if such motor vehicle is adjacent, as determined by rule, to any public school under the jurisdiction of the New York city department of education or to any non-public school that provides educational instruction to students in any grade from pre-kindergarten to the twelfth grade level, while parking . . . standing . . . or stopping . . . . *It shall be an affirmative defense that any such school was not easily identifiable as a school by signage or otherwise at the time a violation of this subdivision occurred. [Emphasis added*.] Section 6-12(a) of Title 48 of the Rules of the City of New York (RCNY) states that the petitioner bears the burden of proving the factual allegations contained in the summons by a preponderance of the evidence. The respondent bears the burden of proving an affirmative defense, if any, by a preponderance of the evidence

The videoishows only an inconspicuous sign on a recessed door of the same color at the building, which, bears no resemblance to a school of any kind. While the sign at the location indisputably identifies the building as Manhattan Star Academy, it is not readily visible so as to make the building adjacent to Respondent's idling vehicle easily identifiable as a school. Nor are other elements present that would allow someone unfamiliar with the building to identify as housing a school. No students are present in the video nor would be likely to have been present at the time the video depicts, mid-August. Nor is the building such as would be easily identifiable as a school even without clearly discernable signage"

In. Appeal No. 2301217 DEP v. Safetech Electric Contracting November 30, 2023 Corp. , "The Respondent did more than point out that the citizen complainant's video did not show a school or a sign; rather, Respondent showed that the video depicted a sign that did not easily identify an ordinary office building as a school.."

In the instant case, the only signage on this building is shown in Petitioner's evidence packet P-1 photo. The same sign on the video at 1:11 and the building entrance at 1:12 minutes.. This sign states " Mesivtha Tiereth Jerusalem: in English letters on a small sign to the left of the entrance doors which are wide open. There is also a sign on the right side of the building entrance all in Hebrew letters. The few seconds of the video that show the building show a tan brick building with no other indicia shown or claimed by Petitioner to indicate this is a school building. The sign in English does not state clearly that this is a school The only word used is " Mesivtha". This is not a commonly used word in general . It is not found in the Merriam Webster Dictonary. In contra distinction ot the word Yeshiva which is listed in the same dictionary. .

"According to AI, this word is not commonly used:

"Mesivta" is a niche, domain-specific term — it is not common in general English, but it is well-known within Orthodox Jewish educational contexts, especially in the U.S. and Israel.

Frequency in general English: There is no evidence in major English corpora that "mesivta" appears in the top thousand most common words, and it is not listed among high-frequency terms in general usage. Its occurrence is extremely low in everyday English text, meaning it is rare outside specialized Jewish educational discourse "

The only sign in English does not contain a word that easily identifies the purpose of this building as a school There are no other signs or indicators shown in photos or on the video and no additional signs or indicators of this building as a school was claimed by Petitioner.

Petitioner presented a Prima Facie case. The burdent then falls to Respondent to present an Affirmative defense. In this case, Respondent stated that there was no way to identify this as a school by the sign or in any other way. The sign does not state in an easily identifiable manner that this is building houses a school. The signs on each side of the double doors which were wide open in the video do not easily show that this is a school. The word MESIVTHA on the sign is not commonly used so it is not easy to know that this building contained a school as there was no other indicia to show that this building contained a school.

This summons is dismissed because the building was not easily idenified as a school by the sign, nor was there any other indication shown on the building or claimed by Petitioner,

09/29/2026

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Ilene Fish, Judicial Hearing Officer	Date