



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

Michael Nacmias, Esq. - Nacmias Law Firm 592 Pacific Street 1st Floor Brooklyn, NY 11217	Summons No: 0221268008 et al. (1 Summons) NEW YORK CITY POLICE DEPT, -against- CITYWIDE CONTAINER SERVICE COR Hearing Date: 07/22/2026 Hearing Location: Remote Type of Hearing: By Telephone
---	--

Total Penalty Amount: \$750.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
0221268008	Sustained	05/21/2026	79-20 68 Ave Queens

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	AD09	AC 19-121(A)	Sustained	\$750.00

Findings of Fact & Conclusions of Law

Frank Tamberino appeared as the authorized representative of the named respondent, and Francico Zayas appeared for the Petitioner.

The summons cites a violation of 19-121a.

The Petitioner submitted photos and a permit.

The Petitioner contended that the permit was for a commercial refuse container, while the refuse inside is construction.

In addition, the permit was taken out on 5/21/26 at 16:21 pm, while the time of the incident was 4:10 pm.

The respondent contended that the difference in time was only eleven minutes. Furthermore, he contended that the company only rents out containers, and that the lessee of the container may have misused it.

However, he did not have any evidence as to the individual the container was rented to.

I find the sworn account of the issuing officer and the Petitioner's other evidence to be credible, and that establishes the charge.. The respondent failed to set forth a valid legal defense. First, the permit still issued after the inspection, albeit a short amount of time later. Second, the respondent is a proper party to this violation. In Appeal No. 2400810 NYPD v. Citywide Container Service September 26, 2024 , it was held that "Code § 19-121(a) provides that "[i]t shall be unlawful for any person to obstruct, or cause to be obstructed, any portion of a street with construction materials or equipment, unless authorized by a permit issued by the commissioner." (Emphasis added.) The Board agrees with the JHO that the responsibility for causing a street obstruction is not limited to a general contractor or construction supervisor, though those parties are solely authorized, under § 2-05 of Title 34 of the Rules of the City of New York, to obtain a DOT permit for placing construction material and construction equipment on the street. See NYPD v. Citywide Container Service Corp., Appeal No. 2202203 (November 17, 2022). The Board has held a container company who delivered the container to the cited location may also be charged as causing the obstruction by failing to confirm that the requisite permit had been obtained before leaving the container on the street. See NYPD v. Dave & Kev Construction, Inc., Appeal No. 1800397 (June 21, 2018). Respondent does not dispute that it owns the cited container and was responsible for the container's delivery to the cited address. It thereby caused the obstruction to occur without a DOT permit and was correctly charged and found in violation. "

Accordingly, the summons is sustained.

Amy Jill Baranoff

07/22/2026

07/22/2026

Amy Jill Baranoff, Judicial Hearing Officer

Date