

Frank Tamborino appeared as the authorized representative of the named respondent, and Henry Pita appeared for the Petitioner. The inspector was not available.

Summons 039136659Y cites a violation of 28-301.1 for prohibited hardware, summons 039136655R cites a violation of 28-301.1 for obstructed hallways and landings, and summons 039136658N cites a violation of 28-210.1 for the addition of a "class A" unit to the cellar of the two family home.

The Petitioner submitted an evidence packet which included Supreme Court Documents, DOB and OATH records, and photos.

As to 039136659Y, the respondent contended that the narrative failed to establish a prima facie case, insofar as this kind of hardware is not required for exits in two family homes. He relied on the general language of 27-371, which states that Exit doors and doors providing access to exits shall comply with the following," and then provides several subsections.

The Petitioner contended that subsection a, which followed this sentence, was inapplicable since it dealt with fire rating requirements which are not relevant there. Insofar as the inspector designated this as a security door, then the requirements of 27-371(j)(2)(b) apply. This is a two family unit that was converted to a three family unit, so it is subject to the requirements of a J2 occupancy group.

As to this summons, I find the sworn account of the issuing officer to be credible, and that it establishes the charge. The respondent failed to set forth a valid legal defense. Here, the inspector alleged that the cellar rear security door had a double key security lock, meaning that a key was needed to both enter and exit through the door, in violation of 27-371(j).

Section 27-371(j)(2)(b) provides as follows:

Security requirements. The following provisions shall apply to all buildings erected or altered after December sixth, nineteen hundred sixty-eight that may be classified in residential occupancy group J-2. Existing buildings in such group shall comply with the requirements of article eleven of subchapter two.

Doors to dwelling units shall be equipped with a heavy duty latch set and a heavy duty dead bolt operable by a key from the outside and a thumb-turn from the inside. Those doors shall also be equipped with a chain guard so as to permit partial opening of the door. Dwelling unit entrance doors shall also be equipped with a viewing device located so as to enable a person on the inside of the entrance door to view a person immediately outside.

Here, the door leads to the cellar apartment, which was a dwelling unit. The building was in fact functioning as a three family unit due to the illegal conversion in the cellar, which created a separate "class A" apartment with its own door to the street. The door required a key to exit from the inside.

In the alternative, I also believe the narrative supports a violation of 27-371J(1)(a), which provides that

(j) Door and window hardware. Doors and windows shall be equipped with hardware as follows:

(1) Fire protection requirements.

a. Exit doors and corridors shall be readily openable at all times from the side from which egress is to be made and shall not require a key to operate from that side

Here, the door provides access to an exit, and it did require a key to exit.

For all the foregoing reasons, the, the summons is sustained.

As to 55r, the Petitioner moved to amend to a "class 2," which was granted, and nothing further was offered.

As to 58M, the respondent denied, but offered no evidence to rebut, the charges.

As to these summonses, I find the sworn account of the issuing officer to be credible, and that it establishes the charge.