



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

Phoebe Dossett, Esq. - Nacmias Law Firm, PLLC 592 Pacific Street 1st Floor Brooklyn, NY 11217	Summons No: 039165327K et al. (1 Summons) DEPT OF BUILDINGS, -against- Z & Y LLC Hearing Date: 07/20/2026 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: \$2,500.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039165327K	Sustained	10/29/2025	506 51 STREET Brooklyn

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	B102	28-301.1	Sustained	\$2,500.00

Findings of Fact & Conclusions of Law

A telephone hearing was held on 7-20-26. Respondent's attorney Pheobe Dossett appeared. The petitioner was represented by Ralph Mondello. Respondent was charged with failing to maintain the building facade under 28-301.1 after the inspector observed major cracks in described portions of the cited premises.

Respondent challenged service at a prior hearing. Respondent challenged service and made a class challenge. This matter was previously on for hearing. The matter was adjourned at petitioner's request for the issuing officer's testimony in order to address the issues. On today's date the petitioner noted that the inspector had been called 5 times but had not responded thus the petitioner made a request to adjourn for the testimony of the inspector. Petitioner objected to the request as the

matter was adjourned specifically for the testimony of the officer and the officer had not responded or appeared.

I find good causes has not been established to adjourn this hearing as the matter was already adjourned to today's date for the inspector's testimony and no valid reason was provided for the witnesses failure to appear.

Petitioner then relied on the summons and the affidavit of service to establish their case. Respondent argued that the affidavit merely indicated partial vacate order as the basis for concluding that personal service could be completed. Respondent argues this is insufficient to establish what the inspector did to determine there was no one suitable at the location to accept service. Petitioner argues that the natural inference from the partial vacate order is that the property was vacant and that the attempt was reasonable given respondent had notice of the vacate order. Respondent contends there was no notice and that notice or a partial vacate order is irrelevant to the service issue and does not relieve petitioner of burden to reasonably attempt personal service.

Respondent also challenges class arguing that there was no imminent or immediate hazard as the property had a permitted sidewalk shed and safety measures in place including temporary shoring at the cellar level where the damage originated.

Respondent submitted documentary evidence in a package marked Ex. 1 to support their position. The evidence included permits and a sworn statement detailing the safety measures and the condition of the property.

Petitioner argues that the charge is a failure to maintain the façade based on the major cracks observed in the wall as described in the summons thus the permits are not relevant. Petitioner argues that the description of major cracks in summons by its nature and definition establishes that they are significant cracks to the foundation of the cited premises thus on the day they were observed they posed an inherent immediate hazard as the damage related to the foundation of the structure. Further petitioner argues that the use of the word major means or defines the severity of the damage and indicates that the damage is to the foundation.

The allegations in the summons describe major cracks in the building façade at exposure 1 at 51 street cracks in the wall between 2 and 3 floor. The description of major cracks in the wall between 2 and 3 floor at 51 street exposure establishes the class as the major cracks relate to the severity of the damage observed and indicate damage to the foundation of the structure which if not maintained could clearly pose an immediate risk to the public or persons inside or near the structure.

I credit the affidavit of service and find that the inspector could not effectuate personal service due to the partial vacate order the inference from which to be drawn is that there was no suitable person present to accept service.

Accordingly the motions to dismiss on service and on the failure to establish Class are denied. I credit the allegation in the summons and find the petitioner has established this charge as a class 1 violation. The violation is sustained.



07/20/2026

07/20/2026

Janet Albertson, Judicial Hearing Officer

Date