



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# : 039537098K et al. (6 summonses) DEPT OF BUILDINGS, -against- J&J DESIGNS INC Hearing Date : 5/18/2026 Hearing Location : Remote Type of Hearing : By Telephone
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Total Penalty Amount : 12,500.00	Community Service(Hr): Not Applicable
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SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039537098K	Sustained	02/19/2025	155-17 134 AVENUE, Queens

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B1P7	Misc. BC—Chapter 33	Sustained	5,000.00

Total Penalty for Summons: 5,000.00

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039537099M	Sustained	02/19/2025	155-17 134 AVENUE, Queens

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B181	BC 3303.4 & 27-1018	Sustained	2,500.00

Total Penalty for Summons: 2,500.00

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039537100K	Dismissed	02/19/2025	155-17 134 AVENUE, Queens

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B1F2	BC 3301.7 (2014 code)	Dismissed	0.00

Total Penalty for Summons: 0.00

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039537102Y	Dismissed	02/19/2025	155-17 134 AVENUE, Queens

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B2P7	Misc. BC—Chapter 33	Dismissed	0.00

Total Penalty for Summons: 0.00

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039537105J	Dismissed	02/19/2025	155-15 134 AVENUE, Queens

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B181	BC 3303.4 & 27-1018	Dismissed	0.00

Total Penalty for Summons: 0.00

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039537106L	Sustained	02/19/2025	155-15 134 AVENUE, Queens

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B115	BC 3301.2 & 27-1009(a)	Sustained	5,000.00

Total Penalty for Summons: 5,000.00

Findings of Facts & Conclusions of Law

Phoebe Dosset appeared as the authorized representative of the named respondent, along with Navin Sookram and Anuj Vaidya appeared for the Petitioner, along with Inspector Gambrell.

Summons 039537098K cites a violation of 3314.1, summons 039537099m and 039537105J cite violations of BC 3303.4, summons and 039537100K cites a violation of 3301.7, summons 039537102Y cites a violation of BC 3307.7.1, and summons and 0395371006L cites a violation of BC 3301.2.

The Petitioner submitted photos.

The respondent submitted the complaint history, a photo of the fence, the fence permit, documents from the AEU 2 and AEU20 forms, the zoning lot subdivision forms, and the stop work order rescind,

As to 98k the inspector testified that that photos at exposure 2 show the supported scaffold. The workers have one foot on various planks, but there are no planks in between. There are two workers on the scaffold. The scaffold was not fully planked and the workers can fall through. There are no guardrails and one can fall through under the cross brace. There were missing mudsills. There were no screw jacks on top of the mudsills which prevents subdivision on a wide base for the scaffold. The scaffold was not maintained in code compliant condition.

Mr. Sookram testified that he is the president of the corporation and was on site on the date of issuance. He was the one who spoke to the inspector. They were setting up a scaffold that was not previously in use..

The inspector testified that there was installation from the ground up, so they would first have to clear the location. Here, she observed a lot of materials on the ground, The screw jacks and mudsills which would provide stability were missing, which would not be the issue if they just started the installation. Also, there were buckets and debris around the work that was being done.. There was stucco that was already in place which was consistent with work having been done which would have required the scaffold.

The respondent contended that nothing that the inspector stated was an issue is required by code. The scaffold was incomplete because it had been dismantled and had not yet been put up safely in place.

The petitioner contended that the scaffold was up and was working. The issuing officer pointed out work being done., There is a worker working on the façade with a tool in his hand applying stucco. This is inconsistent with a scaffold installation. Pails of materials are not needed if one is erecting a scaffold. The pails would contain mud and stucco. There was also brick work in place. The planks were already above the workers and that is why the wall had stucco. The supported scaffold was in place and workers were on it. They were reaching higher to do work.

The respondent then challenged the class.

The inspector testified that there was current work on an unstable scaffold and there was inadequate protection. The frame was not planked and one can fall through the openings. There were no guardrails so one could fall through. There were no harnesses and toeboards so there is a risk of falling tools which can impact workers. There is no stable base that can be worked on, or frames that are longer on the bottom that can provide structural stability. There are materials on the ground that further compound a trip and fall hazard

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 credible legal defense. The inspector's testimony, corroborated by photos, establishes a scaffold that is clearly in use, rather than one undergoing installation. As to the class, as a preliminary matter, the Board has previously found that a scaffold defect poses a severe risk to safety, warranting a Class 1 designation. See *DOB v. Blackroad Development Inc.*, Appeal No. 1901227 (December 19, 2019) (Class 1 designation warranted where failure to tie down scaffold planks could result in injury). Here, the inspector enumerated many hazardous conditions. Accordingly, the summons is sustained.

As to 99m, the inspector testified that photo JPEG 985 shows a lot of wood and debris and metal where work is going on. JPEG 986 shows the scaffold without guardrails and plastic and Styrofoam, which are all fall hazards for anyone who might come to inspect, such as FDNY., EMS, etc. The debris would need to be maintained throughout the day. If there is a lot of debris there can also be rodents, raccoons and vermin.

Mr Sookram testified that when the violation was issued, work had been going on and the site was being cleaned daily. They had started work around 8:00 in the morning. They clean daily, and sometimes twice a day or three times a day.

The Petitioner contended that regardless of the claim of twice daily cleaning, the workers still need to prevent an accumulation of debris so even if crews come in twice a day, there should still not be any areas with a large accumulation of debris. The debris impedes the walkway and spaces and creates a trip and fall hazard.

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 testimony of the inspector, the narrative, and the photos show many potentially hazardous types of debris throughout the site. While the respondent claims that there are daily cleanings, I find the accumulation is far too great to be consistent with such a claim, nor do I find that such extensive debris would have accumulated just since the time of the site opening. If it had, then whatever cleaning that was going on would be inadequate. There were no documents documenting the times or the nature of the purported cleanings. Most of the materials were dangerous, and should have not been left scattered throughout the site. This would cause a danger to the inspector herself. Furthermore, the hazardous nature of the materials that are spread out throughout the site enhances the danger of an accident to workers, which would result in bringing in first responders who could themselves be injured. Finally, accumulations of debris which create harborage for pests can further contribute to unsafe conditions for anyone entering the site. The summons is sustained.

As to 100k, the respondent contended that there was insufficient notice of the charge, and also made a class challenge.

The inspector testified that she was not given any design drawings. Design drawings are needed for the building that is to be erected. There were none. In photo JPEG 9995,, there is a balcony overhead. One cannot tell if they were built according to plans. It is unknown if it is structurally unsound. Each balcony is different and has different types of requirements.

The respondent contended that the complaint shows that the stop work order was rescinded. The plans had been provided and they did not indicate any safety issue.

The Petitioner contended that was an open and active jobsite.

I find the Petitioner has failed to establish the "class 1" designation. While the inspector did testify as to the need to see the plans in order to assure the structural stability, this in and of itself does not justify the "class 1." Here, the inspector did not testify as to any potentially dangerous observations or omissions related to the structure itself (see Appeal No. 2401181 DOB v. Rite Way Construction Corp September 26, 2024 "Compare DOB v. Jonico Construction LLC, Appeal No. 2000921 (October 8, 2020) (finding Class 1 not established where petitioner produced no evidence that failure to produce required documentation resulted in immediately hazardous condition); Rinaldi Builders, Inc. 1700541 (same); with DOB v. Forest Hills Builders LLC, Appeal No. 2100671 (July 22, 2021) (finding Class 1 warranted where design drawings were not produced and IO observed a scaffold supported by makeshift structure); DOB v. Roland Munich, Appeal No. 2000391 (May 21, 2020) (finding Class 1 warranted where JHO did not credit that log books not produced on request were nonetheless maintained)).

In the Jonico case, this issue was directly addressed, where the Board held that "On this record, the Board finds that Petitioner failed to establish the Class 1 designation of the charge. While Petitioner argues on appeal that a site safety plan may help a DOB inspector spot immediately hazardous conditions at a site, the Board is not persuaded that the failure to produce the site safety plan, by itself, must necessarily be a Class 1 violation. Unlike the cases cited by petitioner on appeal, here Petitioner offered no evidence that Respondent's failure to produce the site safety plan resulted in any immediately hazardous condition or had the potential to result in an immediately hazardous condition. Consequently, the Board concludes that Petitioner failed to establish the Class 1 designation of the BC § 3301.7 charge, warranting its dismissal.."

Accordingly, the summons is dismissed.

As to 02Y, the inspector testified that there were two family houses with two separate addresses. While there is work going on in one house, there is no work going on at the second property. Therefore, there had to be two different design drawings.

The respondent referenced the certification pursuant to zoning lot certification subdivision C and the stop work rescind.

Mr Sookram testified that these were two adjacent job sites. The work that was occurring was being finished. The two addresses have the same owner, and there was no access by the public. The stop work order was rescinded and there was no access from the outside. This had been one tax lot that had been separated into two. The certificate of correction was accepted after a showing that both sites had the same owner, and there was no access by the public.

The Petitioner contended that there could be two possible separate incidents from one site to the other.,

The inspector added that there was only activity on one site and not the other. 155-15 134 AVENUE and 155-17 134 AVENUE had separate permits at the time, which implies a full enclosure. There were two separate applications and a full enclosure was needed.

The respondent relied on the decision in Appeal No. 2400307 DOB v. N Tech Design of America April 25, 2024, which also involved two separate addresses and applications surrounded by one fence.

I find that the Petitioner has failed to establish all the elements of the charge. There does not appear to be anything in the cited law that specifically prohibits two separate adjoining addresses with two applications and two fence permits from being enclosed by the same construction fence, thereby creating one large site. Therefore, I do not read the rule as specifically stating that two separate jobs and addresses cannot be enclosed as one site. Rather, the rule addresses how a site itself (whatever it may be enclosing) needs to be properly fenced to protect the public. The inspector did not appear to have requested design drawings for the fence that might have established whether or not the two sites needed to be partitioned. The Petitioner did not present anything that supports a proposition that one fence cannot enclose two different addresses, either in general, or on the specific facts of the instant case. Here, even though no work was taking place at, 155-15 134 AVENUE the work there was clearly unfinished and did not appear to be signed off, and it was still part of the same large job site, as 155-17 134 AVENUE. As such, it was subject to the overall protections of the same site safety rules, . There was one large fence surrounding both addresses, adequately excluding access by the general public at all four exposures, which appears to be the intent of the rule. I note that rule 3307.7 describes closing off a site, not a specific address, and here, this appeared to all be one site. As such, I do not believe that the two properties needed to be partitioned.

Accordingly, the summons is dismissed.

As to 05y, the respondent continued that it was duplicative of 039537099M. This had been one tax lot but had since been subdivided into two separate properties.

The same debris was in in the two properties and it was all in one site. There was one construction fence.

The inspector did not appear to dispute that there was the same debris.

The Petitioner contended that there were different addresses and different sites, and relied on the decision in Appeal Nos. 2301901 & 2301908 DOB v. Broadway Builders LLC February 29, 2024.

The respondent relied on the decision in 2400307 DOB v. N Tech Design of America April 25, 2024.

I find the summonses are duplicative. The narratives are identical and it also appears that the inspector in 039537099M was referencing the debris throughout the totality of the enclosed site, not just at 155-17 134 AVENUE. I note that the inspector, when testifying about the housekeeping conditions in 039537099M, referenced photos of debris piles in JPEG 986, the only building that has the supported scaffold, which would be 155-17 134 AVENUE. She also referenced the debris pile in Jpeg 985, which on can see is near the building with the unenclosed perimeter, which as she testified, in 39537106L, is 155-17 134 AVENUE.

As such all the housekeeping issues throughout the site were already addressed. This case is in fact factually similar to the N Tech case, where it was held that "On this record, the Board finds that the instant summons and summons 03N are duplicative. Generally, a summons is duplicative of another summons when both cite the same respondent at the same

place of occurrence on the same date of violation on the same factual basis under either the same provision of law or different provisions of law with the same elements of proof. See NYC v. 187 Pinehurst Owners Corp., Appeal No. 1300221 (July 25, 2013). Here, Respondent was charged on the same date with the same provision of law for an accumulation of debris at summonses are not duplicative because separate applications were filed to demolish different buildings at the two addresses, it was undisputed that the properties were surrounded by one construction fence and the lots merged two months after the date of inspection into one lot with a range address that encompassed 1349A and 1351 Flatbush Avenue. Nor did Petitioner's attorney dispute that the IO's photographs showed one large pile of debris, including combustible debris. Per BC § 3303.4, "[h]ousekeeping at a site shall be in accordance with Sections 3303.4.1 through 3303.4.9," and per BC § 3303.5.1, referenced in BC § 3303.4.4, combustible debris "shall be removed from the site at reasonable intervals in accordance with the requirements of the New York City Fire Code." [Emphases added.] Because the instant summons and summons 03N describe the same accumulation of debris at one site comprised of 1349A and 1351 Flatbush Avenue, the Board finds that they were issued for the same place of occurrence on the same factual basis. See DOB v. Rock Builders Inc, Appeal No. 2000385 (May 21, 2020) (summonses describing a lack of guardrails at the same edge of an excavation and failure to notify DOB prior to commencement of the same excavation found duplicative notwithstanding they were issued to two adjacent properties with two different job applications); DOB v. Aquino General Construction Inc., Appeal No. 1901720 (January 9, 2020) (summonses charging the same respondent with violating BC § 3301.2 on same date for the same unclosed fence gate found duplicative, notwithstanding that they cited different places of occurrence, different tax lots, and different job applications)."

This case may be distinguished from the Broadway Builders case cited by the Petitioner insofar as in that case each summons alleged excavation work specifically at a 13 story new building, while the other addressed excavation work specifically at a 16 story building, thereby making it clear that the inspector was referencing two different types of excavation work at two separate and distinct buildings.

Here, the same debris enclosed within the same site would establish the same violating condition. Accordingly, this summons is dismissed as duplicative.

As to 06L, the inspector referenced JPEG 985 which showed wood, planks and metal near an open area where stairs were to be put in place. There were no guardrails and an accumulation of debris. There was a lack of housekeeping and a trip hazard for anyone walking near the perimeter.

The respondent contended that the cited area was not an unenclosed perimeter pursuant to 3308.7. and that the risk of danger to the public, pursuant to the decision in Appeal No. 2401773 DOB v. Monadnock Construction Inc. January 30, 2025, was remote.

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. Pursuant to 3308.7, and unenclosed perimeter must have guard rails. An unenclosed perimeter is defined as "Any exterior portion of a building that is not solidly enclosed with the permanent facade, including the windows; or any exterior edge of a roof that is not enclosed with its permanent parapet or guardrail." Here, the exterior stairwell is an opening annexed to the building providing access, and is not enclosed within the permanent façade. As such there is a violation of 3308.7 and 3301.2.

In the alternative, this is an open and operational site. There was a tripping hazard presented to the inspector herself due to all the debris in the proximity of the unprotected opening. Furthermore, the overall unsafe condition of this site due to the debris and the scaffold issues made it likely that there would be accidents, which would necessitate the arrival of first responders, who could themselves be injured if they were too close to the unenclosed perimeter. While, in the Monadnock case, this likelihood was found to be remote, in that matter, the inspector testified that he could climb the stairwell safely,, that the site was otherwise closed to the public, and that the removal of the handrail was temporary due to an emergency condition, but was replaced the next day. Here, the circumstances as just described establish an ongoing safety hazard to the public such as to first responders, and the inspector herself.. Accordingly, the summons is sustained.



06/05/2026

06/05/2026

Amy Jill Baranoff, Hearing Officer

Date