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: 039541908P et al. (1 Summons)** **DEPT OF BUILDINGS,** **-against-** **L2 CONSTRUCTION INC** **Hearing Date: 10/16/2026** **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
039541908P	Dismissed	07/01/2025	45-11 193 STREET Queens

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	B182	28-105.12.2	Dismissed	$0.00

Findings of Fact & Conclusions of Law

The hearing was conducted via telephone conference call on October 16, 2026.

Phoebe Dossett, attorney for Respondent L2 Construction Inc., appeared at the hearing. Jennifer Clouden appeared for the Petitioner, Department of Buildings. The Issuing Officer, (IO) S. Whyte (Badge No. 3630) also testified.

Summons No. 039541908P alleges Class 1 violation of § 28-105.12.2 found in Title 28 of the Code. The summons details note, "work does not conform to approved construction documents and/or approved amendments." A stop work order was also issued.

The Petitioner generally rested on the summons. The IO testified as follows: The work observed was not as per the approved construction plans. This is a Class 1 violation because you do not know what is happening. When you do not build according to approved plans, you do not know what dangerous things can happen. The building can collapse. See Petitioner's Exhibit, photographs of the site.

Respondent's representative made a class challenge and stated that amended plans were filed, approved and the partial stop work order was rescinded. (See Respondent's Exhibit). The fact that the amended plans were accepted means that the condition was not immediately hazardous.

The IO clarified that the amended plans that conformed to the work, that was later approved, done does not necessarily mean other changes were not made to the plans to make sure the structure was no longer immediately hazardous. Other changes may have been required to be made for the plans to be approved.

When asked what was immediately hazardous about the site that warranted the Class 1 designation, the IO could not specify beyond the fact that the work did not conform to plans which he believed, in of itself, warranted a Class 1 designation.

Class 1 violations are conditions that pose a threat that severely affects life, health, safety, property, the public interest, or a significant number of persons so as to warrant immediate corrective action. See 1 RCNY § 102-01(b). Class is an element of the charge which Petitioner has the burden to prove when challenged at the hearing. See NYC v. Beit Ohr, Appeal No. 0900009 (July 14, 2009).

In a similar case, DOB v. B Contractors Group LLC, Appeal No. 2600805 (September 24, 2026), the Board found that Petitioner failed to establish that the Class 1 designation of the Code § 28-105.12.2 when the Respondent's attorney submitted evidence showing that after the issuance of the summons the plans were amended to conform with the site condition, the DOB approved the amended plans and rescinded the stop work order. The Board found that "Respondent's evidence showed that the non-conforming work observed by the IO was not an immediately hazardous condition and that, therefore, the Class 1 designation of the violation was unwarranted. See DOB v. Sunshine Constr USA Inc, Appeal No. 2200810(September 29, 2022) (finding Code § 28-105.12.2 violation was not immediately hazardous where DOB approved plans that were amended to reflect actual site conditions and rescinded SWO)."

Here, under similar facts, based on the sworn statements of the IO and evidence submitted, I find that that the Petitioner failed to establish a Class 1 violation. I credit the testimony and evidence of the Respondent which included copies of the amended plans accepted by the DOB and information regarding the recission of the stop work order (See Respondent's Evidence). I find that the IO was unable to articulate what was immediately hazardous warranting the Class 1 designation. Accordingly, the summons is dismissed because the Class 1 violation was not established and is an element of the charge.



10/26/2026

10/26/2026

Nadia Pervez, Judicial Hearing Officer

Date