



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: 039544441Y et al. (1 Summons) DEPT OF BUILDINGS, -against- GM 88 DEVELOPMENT CORP Hearing Date: 06/23/2026 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: \$10,000.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039544441Y	Sustained	09/04/2025	28-08 21 STREET Queens

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	B112	28-207.2.2	Sustained	\$10,000.00

Findings of Fact & Conclusions of Law

The summons alleges a class 1 violation of New York City Administrative Code 28-207.2.2 in that the respondent unlawfully continued work while on notice of a stop work order.

Anuj Vaidya, Esq appeared for the petitioner, NYC Department of Buildings.

Phoebe Dossett, Esq appeared for the respondent, GM 88 Development Corp.

The hearing had been adjourned for the testimony of the issuing officer but he did not appear as he is no longer with the

department.

Petitioner relied on the sworn statement in the summons and submitted supporting documentation including photographs taken by the Inspector.

Respondent acknowledged that there was a stop work order in effect but contended that any work done after its issuance was outside the scope of the stop work order. Respondent asserted that the concrete work on the floors had been done prior to the stop work order and that any additional work was done at the bulkhead which was not in exposure 1. Respondent submitted supporting documentation.

Petitioner contended that the inspector's sworn statement in the summons established a prima facie case which was not sufficiently rebutted by respondent's evidence. Petitioner stated the allegations were not limited to concrete pouring and that the inspector's allegations also specified form work removal. Petitioner contended that the bulkhead was very near, if not, at exposure 1 and the same risks would apply to work as at exposure 1.

Respondent stated that the bulkhead was set back at roof level and not a part of exposure 1. Respondent contended that the photographs taken by the inspector do not indicate other work other than the concrete work.

Petitioner maintained the violation and recommended the standard penalty.

NYC Administrative Code 28-2072.2 provides "No person shall with knowledge or notice of a stop work order allow, authorize, promote, continue or cause to be continued any work covered by the stop work order, except such work that may be required by order of the commissioner."

Class 1 violations are those deemed to be immediately hazardous. Immediately hazardous violations are those specified as such by the New York City Construction Codes, or those where the violating condition poses 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.

This violation is a per se class 1 and is not subject to mitigation so correction, even if timely, does not alter the penalty.

Code § 28-207.2.2 prohibits any person with knowledge or notice of a SWO from continuing work *except such work that may be required by order of the Commissioner*. Once Petitioner issues an SWO, even work intended to remedy an unsafe condition at a site requires authorization from the DOB Commissioner. See *NYC v. Gavartins*, Appeal No. 1000615 (November 18, 2010) (respondent's work to make the site safe violates SWO if respondent made no application to rescind the SWO or gain DOB's prior approval for the work).

Petitioner established its prima facie case by the IO's affirmed statement on the summons. See *NYC v. 217 Baitao Grocery Corp.*, Appeal No. 1500926 (November 19, 2015); see also Section 6-12(b) of Title 48 of the Rules of the City of New York (providing that a summons affirmed under penalty of perjury is prima facie evidence of the facts stated therein).

Here, the inspector alleges in addition to the concrete work that formwork was removed. Respondent's evidence establishes that the bulkhead was part of exposure 1 and therefore work occurring there would not be against the stop work order. It does not address the allegations that other work was done elsewhere. Regarding work at other floors or as to formwork removal no documentary evidence or sworn statements were submitted. Respondent merely denied same and/or contended that petitioner's evidence did not sufficiently prove same.

I credit the factual allegations in the summons and petitioner's evidence which support a violation of the cited code section. I find the respondent did not establish a defense to the violation. Accordingly, the summons is sustained, and the mandatory penalty is imposed.

Ilene Sussman

06/25/2026

06/25/2026

Ilene Sussman, Judicial Hearing Officer

Date