# OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS

*Hearings Division*

## Decision

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|---|---|
| NORA BROWN - NACMIAS LAW FIRM PPLC<br>592 PACIFIC STREET<br>Brooklyn,NY 11217 | Summons# : 0881338765 et al. (4 summonses)<br><br>DEPARTMENT OF HEALTH & MENTAL HYGIENE,<br><br>-against-<br><br>EQR-MANTENA LLC EQUITY RESIDENTIAL<br><br>Hearing Date : 10/9/2026<br><br>Hearing Location : Remote<br><br>Type of Hearing : By Telephone |

| | |
|---|---|
| **Total Penalty Amount :** 0.00 | **Community Service(Hr):** Not Applicable |

| SUMMONS # | SUMMARY DISPOSITION | DATE OF OCCURRENCE | PLACE OF OCCURRENCE |
|---|---|---|---|
| 0881338765 | Dismissed | 05/28/2026 | 431 WEST 37 STREET, Manhattan |

| LINE ITEM | OATH CODE | CODE SECTION / RULE | RESULT | PENALTY |
|---|---|---|---|---|
| 1 | AHK0 | ADMIN CODE 17-194.1(F) | Dismissed | 0.00 |

**Total Penalty for Summons:** 0.00

| SUMMONS # | SUMMARY DISPOSITION | DATE OF OCC IRRENCE | PLACE OF OCCURRENCE |
|---|---|---|---|
| 0881338774 | Dismissed | 05/28/2( 26 | 431 WEST 37 STREET, Manhattan |

| LINE ITEM | OATH CODE | CODE SECTION / RUL E | RESULT | PENALTY |
|---|---|---|---|---|
| 1 | AHK2 | ADMIN CODE 17-194.1(F) | Dismissed | 0.00 |

**Total Penalty for Summons:** **0.00**

| SUMMONS # | SUMMARY DISPOSITION | DATE OF OCCURRENCE | PLACE OF OCCURRENCE |
|---|---|---|---|
| 0881338810 | Dismissed | 05/28/2026 | 431 WEST 37 STREET, Manhattan |

| LINE ITEM | OATH CODE | CODE SECTION / RULE | RESULT | PENALTY |
|---|---|---|---|---|
| 1 | AHK0 | ADMIN CODE 17-194.1(F) | Dismissed | 0.00 |

**Total Penalty for Summons:** **0.00**

| SUMMONS # | SUMMARY DISPOSITION | DATE OF OCCURRENCE | PLACE OF OCCURRENCE |
|---|---|---|---|
| 0881338820 | Dismissed | 05/28/2026 | 431 WEST 37 STREET, Manhattan |

| LINE ITEM | OATH CODE | CODE SECTION / RULE | RESULT | PENALTY |
|---|---|---|---|---|
| 1 | AHK2 | ADMIN CODE 17-194.1(F) | Dismissed | 0.00 |

**Total Penalty for Summons:** **0.00**

**Findings of Facts & Conclusions of Law**

Respondent appeared by their representative Nora Brown at a telephone hearing. Petitioner DOHMH appeared by Zeneta Romney-Thomas.

**Summons 765:**

The summons alleged respondent failed to report Legionella sample test date within 5 days. This violation carries a $500.00 penalty. The summons alleged the failures occurred on 1/6/25 and 12/29/25.

**Summons 774:**

The summons alleged respondent failed to report Legionella sample test date within 5 days. This violation carries a $500.00 penalty. The summons alleged the failures occurred on 4/14/25, 7/3/25, and 9/30/25.

**Summons 810**

The summons alleged respondent failed to report Legionella sample test date within 5 days. This violation carries a $500.00 penalty. The summons alleged the failures occurred on 4/23/26.

**Summons 820**

The summons alleged respondent failed to report Legionella sample test date. This violation carries a $ 1,000.00 penalty. The summons alleged the failures occurred on 4/22/25, 7/21/25, and 9/30/25.

Code § 17-194.1(f) requires the owner of a building with a cooling tower to report to DOHMH, within five days, the date on which required testing occurred.

Respondent moved to dismiss the summons as an impermissible retroactive application of a subsequently adopted penalty provision. In support, Respondent submitted two OATH decisions and the NY Court of Appeals decision of Matter of Regina Metropolitan Co., LLC v. New York State Division of Housing & Community Renewal, 35 N.Y.3d 332 (2020).

Respondent does not dispute that the required reports were not timely filed. Rather, respondent contends that no monetary penalty provision applicable to such failures existed on the dates of the alleged failures and the adopted penalty provision may not be applied retroactively.

I agree. The monetary penalty provision applicable to the charged conduct did not add monetary penalties for failing to report the date of a Legionella sample test within five days until 5/8/2026.

Although the reporting obligation contained in Code § 17-194.1(f) existed at the time of the alleged conduct, the subsequently adopted penalty provision cannot be applied retroactively to impose a monetary penalty for conduct occurring before that provision became effective. See Matter of Regina Metro. Co., LLC v. N.Y.S. Div. of Hous. & Community Renewal, 35 N.Y.3d 332 (2020) (declining to retroactively apply statutory amendments that would create or substantially enlarge financial liability for past conduct).

Accordingly, because each of the four alleged violations predated the effective date of the applicable penalty provision, the summons is dismissed.



10/13/2026

10/13/2026

Howard Weisinger, Hearing Officer

Date