



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

Caroline Kane, Esq. - Nacmias Law Firm, PLLC 592 Pacific Street, 1st Floor Brooklyn, NY 11217	Summons No: 035667928K et al. (1 Summons) DEPT OF BUILDINGS, -against- YOMTOV 26 LLC Hearing Date: 08/01/2025 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: \$6,250.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
035667928K	Sustained	06/19/2024	14 E 44 St Manhattan

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	B102	AC 28-301.1	Sustained	\$6,250.00

Findings of Fact & Conclusions of Law

Attorney Ms. Kane appeared for Respondent. Ms. Clouden appeared for Petitioner, along with Inspector Murphy, badge number 437.

Respondent is charged with a violation of NYCAC 28-301.1 for failure to maintain a building in a code-compliant manner.

The inspector testified that he arrived at the noted building at approximately 2:20pm it was vacant. The inspector and took photographs of the bricks. There was a concern that the bricks could fall and injure someone, therefore this was written as an aggravated 2. Petitioner submitted photographs, the violation details, the complaint overview, ERT logs and the vacate order

[Exhibit 1-7]. With respect to service. The inspector asked the superintendent if he could accept service. The superintendent stated that he could not, so the summons was posted on the door.

Respondent argued that the summons should not have been issued as an aggravated 2, since the loose bricks were located in a vacant alleyway that was not accessible to the public, therefore falling bricks would not have hurt anyone. Additionally, the summons should be dismissed for improper service as this is an LLC.

Petitioner argued that service was proper since the superintendent informed the inspector that the owner was not present, and he could not accept service. The summons was therefore posted on the door. Petitioner further argued that class was appropriate since someone from the adjoining business could have been injured by falling bricks as this is a shared space. This is especially true since it was the adjoining business that called 311 with the instant complaint.

I credit the inspector's testimony, evidence and observations and find that the Agg. II penalty is warranted. Per 1 RCNY § 102-01(f)(2)(i), an Agg. II penalty may be imposed when the respondent is found in violation and where the violation is "accompanied by or results in an accident, or poses a substantial risk thereof; is accompanied by, or results in a fatality or serious injury, or poses a substantial risk thereof; or where the violating condition affects a significant number of people. Here, the alleyway where the loose bricks were located is a shared alleyway. Anyone from the adjoining building, or even workers at this building could have been injured by falling bricks. The potential injury is not limited to the just the general public.

Charter § 1049-a(d)(2) permits service of a summons by affixing it to a conspicuous place in the cited premises after making a "reasonable attempt" to deliver it to a person in such premises upon whom service may be made as provided for by Article 3 of the New York State (NYS) Civil Practice Law and Rules or Article 3 of the NYS Business Corporation Law. Here, I find that the inspector made a reasonable attempt at service given the testimony that the building was vacant. The inspector spoke to the superintendent who informed him that the owner was not present and that he could not accept service. There was no one else for the inspector to speak to with respect to service.

I credit the inspector's observations and find that Respondent failed to maintain the noted building in a code compliant manner.

Accordingly, this summons is sustained.

Christine Delince

08/21/2025

08/21/2025

Christine Delince, Hearing Officer

Date