



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

Michael Nacmias, Esq. - Nacmias Law Firm 592 Pacific Street 1st Floor Brooklyn, NY 11217	Summons No: 037028584H et al. (1 Summons) DEPT OF BUILDINGS, -against- 38TH STREET REALTY Hearing Date: 05/29/2025 Hearing Location: Remote Type of Hearing: By Telephone
---	--

Total Penalty Amount: \$625.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
037028584H	Sustained	06/07/2024	38 West 38th Street Manhattan

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	B265	AC 28-303.7	Sustained	\$625.00

Findings of Fact & Conclusions of Law

Respondent 38TH STREET REALTY appeared at a remote telephonic hearing on 5/29/2025 by Michael Anthony Sargo, Esq.

Petitioner NYC Dept. of Buildings appeared by Dallas Mahan, Esq.

Respondent is charged with a Class 2 violation of NYC Adm. Code 28-303.7 for not filing an annual boiler inspection report for the low-pressure boiler cited in the Summons for the last 3 years.

Mr. Sargo said the boiler was abandoned/not in use/void. The last report is in 2016. (Respondent's Exhibits A & B)

Mr. Mahan argued that a voided boiler does not mean it does not exist and it must be properly removed. He stated that an addition to the heating system or other boiler connections in addition to the heating system do not void the existence of the cited boiler.

Respondent obtained a Permit on 1/15/2025 to remove "long abandoned registered boiler unit # 35598". (Respondent's Exhibit B) The first scheduled hearing date was 8/27/2024.

Both Mr. Sargo and Mr. Mahan agreed that the violation was corrected after the first scheduled hearing date. A Certificate of Correction was accepted on 4/16/2025.

I credit the allegations in the Summons and find Respondent in violation. I also credit that the violation was corrected after the first scheduled hearing date.

Accordingly, the Summons is sustained, and the approved Class 2 penalty is imposed.



05/29/2025

05/29/2025

Jerilyn F. Rubin, Hearing Officer

Date