



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: 039142761L et al. (1 Summons) DEPT OF BUILDINGS, -against- 116 AVENUE C INVESTORS LLC SLATE PROPERTY GROUP Hearing Date: 01/15/2026 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: **\$1,250.00**

Community Service(Hr): **Not Applicable**

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039142761L	Sustained	03/25/2025	116 AVENUE C Manhattan

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	B201	28-105.1	Sustained	\$1,250.00

Findings of Fact & Conclusions of Law

This remote hearing was conducted on January 15, 2026. Respondent (116 Avenue C Investors LLC Slate Property Group) appeared by attorney, Phoebe Dossett. Henry Pita appeared for Petitioner (DOB). Inspector Brianne McGuirk, Badge #3675, joined the hearing.

Respondent was charged with a class-2 violation of 28-105.1. Work without a permit. "Two (2) fabric exterior structures 6'D x 23' L and 6' D x 26' L attached to the building two (2) restaurants, Kafana and Ding-a-Ling, at exposure 1 for dining enclosures and additional seating capacity. No permits issued or filed with DOB." This summons was issued on 3/25/2025.

Ms. Dossett challenged service. She contended that the I/O failed to make a reasonable attempt to serve the summons prior to resorting to affix and mail service. In the Affidavit of Service, the issuing officer writes: "No access front restaurant doors locked. Spoke to building cleaning staff. No super or management on site...Affixed NOV to door."

Inspector McGuirk testified that the restaurants were both locked. No one was inside or working. She then went to the main building to find the super and/or for information to find the management. The only person there was the cleaning lady, and she could not help. Because she could not find anyone, she posted the summons at the front.

Ms. Dossett asked if the person to whom the I/O spoke was able to communicate (i.e., Was there a language barrier). The I/O replied that she did not recall.

To support her improper service challenge, Ms. Dossett submitted Appeal No. 18003358 DOB v. LSB Associates. In that case, the I/O testified at the hearing that he rang the doorbell of the premises, but received no response before posting the summons. The Affidavit of Service only stated that no responsible person was present at the premises. On appeal, in LSB, the Board determined that, "Because the statement on the affirmation of service (that) should have described the I/O's attempt to deliver the summons provides no means by which to determine that the attempt was in fact reasonable...it is insufficient to establish that resort to 'affix and mail' service was reasonable."

For the service issue: I find that service of this summons was proper. This case is distinguished from the LSB case. Here, in the Affidavit of Service, the I/O states, "No access front restaurant doors locked. Spoke to building cleaning staff. No super or management on site." The I/O's sworn statement in the Affidavit of Service is supported by her credible testimony that she went beyond just stating that there was "no responsible person present." In the Affidavit, she states that the restaurant doors were locked. She "spoke to cleaning staff, and no super or management were on site." During this hearing, the I/O testified that she further investigated. She went to the main building where she encountered a cleaning lady who "could not help". The I/O further explored in the attempt to find the super (or management) so that she could be directed to a person willing to (and authorized to) accept service prior to posting the summons in a conspicuous place.

Mr. Pita noted that there was no one present at all.

Based on the foregoing, I find that service of the summons in this case was proper.

On the merits: Mr. Pita submitted Petitioner's evidence package (12 pages) including the Affidavit of Service and the I/O's multiple photographs of the cited restaurants. He also submitted a Google Map image of the cited restaurants (2014) and a Google Map image of the restaurants (2007). See: Pet. Ex. #1-#3.

Ms. Dossett initially challenged the class-2 designation, and then she withdrew the challenge, after Mr. Pita contended that the class-2 charge was warranted.

Ms. Dossett then asserted a pre-existing condition defense. She submitted Respondent's evidence package including a Google Map image of the cited restaurants (2013); Respondent's deed (Document Date: 9/10/2015); and the aforementioned Appeal No. 1800358 (LSB).

Mr. Pita noted that, by comparing the earlier Google Maps images (specifically the 2014 image) to the issuing officer's photographs, it can be seen that the exterior structures and seating areas had been altered after 2015 (date of Respondent's deed). Mr. Pita also noted that Respondent had also been issued a summons for an electrical violation (related to the two restaurants' enclosures).

On the merits: Based on the records before me, I sustain this violation. I find that Respondent fails to present any credible evidence to refute the factual allegations, nor does Respondent present credible evidence to establish the pre-existing condition defense. I find that Petitioner's progressive change images (Google Maps) are persuasive. I further find that, after Respondent acquired ownership of the cited premises in 2015, work was performed on the dining enclosures of the cited two (2) restaurants without the required permits. Accordingly, I sustain this summons.

J. Beck-Wall

01/25/2026

01/25/2026

Joan B Beck-Wall, Judicial Hearing Officer

Date