



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

Michael Nacmias, Esq. - Nacmias Law Firm 592 Pacific Street, 1st fl Attn: Frank Tamberino, Esq Brooklyn, NY 11217	Summons No: 039097751H et al. (1 Summons) DEPT OF BUILDINGS, -against- ILAN PELEG Hearing Date: 08/19/2025 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: \$5,000.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039097751H	Sustained	10/24/2023	3509 FARRAGUT ROAD Brooklyn

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	B2G5	BC 3301.13.7 through BC 3301.13.13	Sustained	\$5,000.00

Findings of Fact & Conclusions of Law

The summons alleges a class 2 violation of NYC Building Code in that the Construction Superintendent failed to perform duties as per the code.

Cassie Rene, Esq appeared for the petitioner, NYC Department of Buildings. Inspector Aghayev, Badge#2723, testified for the petitioner.

Frank Tamberino, Esq. appeared for the respondent, Ilan Peleg.

Petitioner submitted photographs taken by the inspector at the time the violation was issued. The inspector stated he was at the cite to investigate as to why a notification was not made to the department when a worker was injured. The inspector stated he spoke to the foreman or competent person and reviewed their log. The inspector stated he checked with his office which had no indication that a notice was made.

Respondent requested an amendment to the provision of law or infraction code which carried a lesser penalty. Respondent did not refute the inspector's testimony or allegations in the summons.

Petitioner declined to amend the summons and contended that the infraction code was correct and covered the conditions noted in the summons.

NY Building Code 3301.13.7-3301.13.13 sets forth the duties and responsibilities of a Construction Superintendent.

A class 2 violation is considered a Major violation. Major violations are those specified as such by the New York City Construction Codes or those where the violating condition affects life, health, safety, property, or the public interest but does not require immediate corrective action.

The violation is not eligible for mitigation so correction, even if timely, does not alter the penalty.

The Board has no authority to rule on DOB's issuance, enforcement, or certification policies or procedures. DOB v. Fresh Meadows Childrens Farm L, Appeal No. 2200483(June 30, 2022)

The Board has no discretion to reduce or waive the penalties established by the provisions of law it applies. See DOB v. Long Jian You, Appeal No. 1900155 (May 2, 2019); NYC v. Evergreen Recycling of Corona, Appeal Nos 39271-39272 (April 21, 2005).

I credit the petitioner's evidence, the inspector's testimony and factual allegations in the summons which support a violation of the cited code section. Accordingly, the summons is sustained, and a mandatory penalty is imposed.

Ilene Sussman

08/20/2025

08/20/2025

Ilene Sussman, Hearing Officer

Date