



**OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS**  
*Hearings Division*

**DECISION**

|                                                                                   |                                                                                                                                                                                                                                                                                 |
|-----------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Andre Autz, Esq. - Nacmias Law</b><br>592 Pacific Street<br>Brooklyn, NY 11217 | <b>Summons No: 039110051K et al. (1 Summons)</b><br><br><b>DEPT OF BUILDINGS,</b><br><br><b>-against-</b><br><br><b>HI-TECH PLUMBING &amp; HEATIN</b><br><br><b>Hearing Date: 12/10/2024</b><br><br><b>Hearing Location: Remote</b><br><br><b>Type of Hearing: By Telephone</b> |
|-----------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Total Penalty Amount: **\$2,500.00**

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

| SUMMONS #  | SUMMARY DISPOSITION | DATE OF OCCURRENCE | PLACE OF OCCURRENCE          |
|------------|---------------------|--------------------|------------------------------|
| 039110051K | Sustained           | 03/27/2024         | 109 WEST 24 STREET Manhattan |

| LINE ITEM | OATH CODE | CODE SECTION/RULE | RESULT    | PENALTY    |
|-----------|-----------|-------------------|-----------|------------|
| 1         | B139      | 28-301.1          | Sustained | \$2,500.00 |

**Findings of Fact & Conclusions of Law**

Andre Autz, Esq., appeared on behalf of the named Respondent. Kimberly Manas, representative, and Inspector Gutierrez appeared for Petitioner. Respondent is charged with a violation of §28-301.1 of the Administrative Code, Failure to maintain building in a code compliant manner. Petitioner enters evidence into the record with no objection.

Inspector Gutierrez testified that he had inspected the building numerous times (7 or 8 inspections) and that fire stopping had been removed from the common areas and stairways. The Inspector stated that the condition of removal of the firestopping had been much worse during past inspections and Respondent had tried to remediate it but at the time of the instant inspection it was still an issue. The Inspector testifies that while remodeling the occupied building the Respondent was not

supposed to remove the firestopping, which stops a fire from going from one apartment or common area to another. The Inspector stated that he issued the summons as a class 1 because the firestopping was observed removed on multiple floors and it is very dangerous in the event of a fire. The Inspector stated that workers left the building while he was doing the inspection, that there was HVAC work being done with equipment for pipe cutting on the second and sixth floors as well as equipment for grinding. The Inspector stated that there were multiple areas with a risk of fire.

Respondent does not dispute the condition set forth in the details of the summons but disputes the designation as a class 1 violation. Respondent states that when the contractor comes across damaged firestopping they must remove and replace it. Respondent does not believe the lack of firestopping placed the occupants at risk of an immediately hazardous condition.

Petitioner stands by the class 1 designation noting that the removal of the firestopping causes an immediately hazardous condition. Furthermore, there is no evidence that Respondent was removing and replacing damaged firestopping.

I find that the violation is properly designated as a class 1 violation. I credit the testimony and evidence of the Inspector and that the charge supports a finding of a violation of the section cited.



12/19/2024

12/19/2024

Jeanne Keefe, Hearing Officer

Date