



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# : 039120825Y et al. (1 summonses) DEPT OF BUILDINGS, -against- OAC ADELPHI, LLC C/O: OKADA & COMPANY LLC Hearing Date : 6/26/2025 Hearing Location : Remote Type of Hearing : By Telephone
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Total Penalty Amount :	0.00	Community Service(Hr):	Not Applicable
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SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039120825Y	Dismissed	08/05/2024	109 WEST 24 STREET, Manhattan

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B112	28-207.2.2	Dismissed	0.00

Total Penalty for Summons: 0.00

Findings of Facts & Conclusions of Law

The summons was issued on August 5, 2024, with a return date of October 10, 2024. Hearing was adjourned to March 3, 2025 for the Issuing Officer (IO).

Attorney Cassie Rene appeared for Petitioner, Department of Buildings and Attorney Caroline Kane appeared for Respondent OAC ADELPHI, LLC C/O: OKADA & COMPANY LLC, on June 30, 2025. IO Guitterez appeared for the Petitioner.

Respondent is charged with NYC Administrative Code Section 28-207.2.2. The allegation is designated as a Class 1 immediate hazardous. This is an alleged aggravated I charge.

Summons alleges that ...observed several workers performing plumbing flooring framing & electrical which was under a partial stop work order (SWO)...

Petitioner submitted the property profile, see Petitioner Exhibit 1, stop work order, see Petitioner Exhibit 2, the overview complaint, see Petitioner Exhibit 3, and photos, see Petitioner Exhibit4.

Petitioner submitted photos, see Petitioner Exhibit 1, and the affidavit of service, see Petitioner Exhibit 2.

Petitioner examined the IO. IO testified that they were there on a complaint. IO testified that there was a full SWO but work was occurring. IO testified that they observed sheetrock and flooring throughout the building. IO testified that the building was occupied when the work was ongoing and the firestopping was removed. IO testified that the firestopping is important so fire does not spread to the other floors and it protects tenants on other floors. IO testified that they were told to post the summons.

Respondent argued that the service of the summons was improper. Respondent argued that the IO was required to ask if the work was authorized to accept service or anyone lese is authorized to accept service. Respondent argued that the IO stated if anyone is available to accept service.

Petitioner argued that the affidavit uses authorize therefore service is sufficient based on the affidavit.

Respondent argued that this was charged as an aggravated I.

Petitioner argued that Respondent was previously charged with the same violation on July 8, 2024, see Petitioner Exhibit 3.

Respondent argued that the summons to substantiate the aggravated I have yet to be heard and will be heard at this present hearing.

Petitioner argued that the code does not require the violation be found in violation to substantiate an aggravated I.

New York City Administrative Code Section 28-207.2.2 provides.... "No person shall with knowledge or notice of a stop work order allow, authorize, promote, continue or cause to be continued any work covered by the stop work order, except such work that may be required by order of the commissioner."

I credit the Respondent's argument on service. I find that neither the affidavit of service nor the IO's supplementary testimony indicates an inquiry was made for an authorized person to accept service on behalf of the Respondent when the IO spoke to the worker. See NYC v. 1262 Broadway LLC, Appeal No. 1700647 (August 17, 2017). Although the affidavit does indicate there was "no authorized person to accept service", I find that there is no indication from the affidavit or the IO's supplementary testimony that the required questions were asked to the worker who informed the IO to post the summons. I find that in the IO's supplementary he stated he asked the worker if anyone was available to accept service.

Accordingly, the Summons is dismissed.

Iyayi Uwa

07/07/2025

07/07/2025

Iyayi Uwa, Hearing Officer

Date