



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# : 039124070N 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

Total Penalty Amount : 0.00

Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039124070N	Dismissed	09/05/2024	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 September 5, 2024, with a return date of November 14, 2024. Hearing was adjourned to June 30, 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 II charge.

Summons alleges that ...observed several workers performing work framing, duct work which was under a partial stop work order (SWO)...

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

Petitioner examined the IO. IO testified that they compared the work observed during the inspection to the one done in March. IO testified that this was a hazard to the tenants. IO testified that they were told to post the summons because the worker needed to leave so the IO posted the summons.

Respondent cross-examined the IO. IO testified that they have a history of non-compliance.

Respondent argued that the service of the summons was improper. Respondent argued that the IO never made the proper inquiry and did not ask if the person was authorized or anyone else was authorized to accept service. Respondent argued that the contractor should be the one cited not the owner since there is a valid work permit.

Petitioner argued that the affidavit uses the proper language "authorize" therefore service was proper. Petitioner argued that the violation can be issued to anyone, including owner.

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.

Accordingly, the Summons is dismissed.



07/07/2025

07/07/2025

Iyayi Uwa, Hearing Officer

Date

IF YOU ARE FOUND IN VIOLATION, AND ARE NOT ELIGIBLE OR DO NOT CHOOSE COMMUNITY SERVICE, YOU MUST PAY THE PENALTY WITHIN 30 DAYS OF THE DECISION DATE OR 35 DAYS IF MAILED.

- To pay by mail, send a check or money order to the Dept. of Finance Commissioner, P.O. Box 2307, Peck Slip Station, New York, NY 10272. The check or money order should be made out to "Finance Commissioner, City of New York." Write the summons number on the check or money order.
- To pay in person, bring a check, money order or credit card and this decision to any OATH Hearings Division location between 8:30 a.m. to 4:30 p.m.
- To pay online using a credit or debit card, go to www.nyc.gov/citypay/oath

If you do not pay the penalty, the City may: (1) file papers with the Civil Court ("docket a judgment"), (2) charge you a late fee, and (3) continue attempts to collect the debt.

CAN I DO COMMUNITY SERVICE?

If your summons is for the type of offense that gives you a Community Service option you can choose to complete Community Service instead of paying a penalty. Your decision will give you that option. You have to complete your Community Service by the deadline in the decision or else you will end up owing the penalty. You can even do your Community Service on the day you receive your decision.

COMPLETION OF COMMUNITY SERVICE

The Help Center will arrange for you to complete your Community Service. The Help Center is run by the Ombudsperson/*Pro Se* Clerk at OATH and is located at each Hearing Division in all five boroughs. To schedule your Community Service, call, email or visit a Help Center location.

How to Contact the Help Center to Schedule Community Service:

Manhattan: (212) 436-0845 CSmanhattan@oath.nyc.gov
Brooklyn: (718) 923-6216 CSbrooklyn@oath.nyc.gov
Queens: (718) 393-6044 CSqueens@oath.nyc.gov
Bronx: (718) 503-5565 CSbronx@oath.nyc.gov
Staten Island: (718) 876-2314 CSstatenisland@oath.nyc.gov

If you complete your Community Service by the deadline in the decision, you will receive a Certificate of Completion and will not have to pay a penalty. If you need an extension to complete your Community Service, please contact the Help Center.

If you do not complete your Community Service by the deadline, you will have to pay the penalty.

NON-DISCLOSURE FOR SUMMONSES ELIGIBLE FOR COMMUNITY SERVICE

If you either completed the Community Service or paid the penalty, OATH will remove your identifying information from public records related to your case.

If you do not complete the Community Service or pay the penalty, your identifying information may remain on public records related to your case.

IF YOU DISAGREE WITH THE DECISION, YOU MAY APPEAL IT

To submit your appeal, you **MUST** use OATH's online or mail-in appeal forms available on OATH's website at www.nyc.gov/oath/appeal. Instructions for filing an appeal may be found on the form and OATH's website.

Your appeal **MUST** be received by the OATH Hearings Division **within 30 days** of the decision date, or 35 days if the decision was mailed to you.

To appeal you **may need** to pay the full penalty stated in this decision.

- If you cannot pay because of financial hardship, you may ask to not pre-pay by submitting with your appeal a Financial Hardship Application, available on OATH's website.
- If you are eligible and choose to perform Community Service instead of paying the penalty, you do not have to pay the penalty or complete the Community Service to appeal.

APPEAL BY ENFORCEMENT AGENCY

If you wish to answer an appeal filed by an enforcement agency, you **MUST** use OATH's Response To Appeal form. Instructions for filing an answer may be found on the form and OATH's website.

Your answer must be received **within 30 days** of the date of the enforcement agency's appeal, or 35 days if it was mailed to you.

If the enforcement agency wins the appeal, you may have to pay a penalty or, if eligible, complete Community Service even if your case was originally dismissed after the hearing.

For more information,
visit OATH's website www.nyc.gov/oath
or call 1-844-OATH-NYC

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