



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: 039534163Y et al. (1 Summons) DEPT OF BUILDINGS, -against- Wall Contractor Corp Hearing Date: 08/14/2025 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: \$0.00

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

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039534163Y	Dismissed	11/04/2024	3509 FARRAGUT ROAD Brooklyn

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	B207	BC 105.8.2 (2014 code) & BC 106.8.2 (2022 code)	Dismissed	\$0.00

Findings of Fact & Conclusions of Law

The Department of Buildings (DOB), the petitioner here, waived its appearance at this hearing. PHOEBE DOSSETT, ESQ., appeared for the respondent. The summons alleges that respondent violated section 105.8.2 of the 2014 Building Code and the 2022 iteration - section 106.8.2. The supporting allegations are that respondent's temporary construction equipment, particularly its construction fence, at the above referenced property were not in compliance with the Building Code in that the contractor responsible for the fence failed to renew the permit for the fence. Accordingly, the summons alleges the specified violation. The summons makes an initial showing of the violation.

Respondent's counsel denied liability for the summons based the argument that service of the summons was not in

compliance with the law. Counsel takes particular issue with the inspector's statement that he "knocked on fence, called out to workers, but [received] no answer." He further alleged that [the] site [was] closed [and had] expired GC license." Counsel found this process defective because the Affidavit of Service does not set forth a reasonable attempt to effectuate personal service in that he failed to make any inquiry as to whether workers could identify anyone to accept service.

Counsel further argued that the summons was issued to the wrong party because once the temporary fence permit expired it becomes the responsibility of the property owner to renew or obtain a new permit. Counsel explained that the respondent named here is not the General Contractor or the owner of the property; accordingly, the responsibility falls on the owner of the property to insure compliance of the temporary equipment with the rules and regulations of the Building Code. Notably, the fence permit expired on 21 March, 2024. Yet at the time of issuance, on 4 November 2024, more than 7 months later, the fence remained on site even though no one had renewed the permit. Based on foregoing, counsel argued that the owner of the property should be the responsible party for the summons. See DOB v. Raj Ramchandani, Appeal No. 2001150. Counsel's service argument is moot.

I find counsel's argument meritorious, particularly in light of Raj Ramchandani. I find that respondent has established a valid defense. I find that respondent is not in violation.

The summons is dismissed.



09/10/2025

09/10/2025

Velly Polycarpe, Hearing Officer

Date