



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: 035651962H et al. (1 Summons) DEPT OF BUILDINGS, -against- VITAL DEVELOPMENT GROUP 1 Hearing Date: 07/24/2025 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: \$10,000.00

Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
035651962H	Sustained	03/10/2024	26-18 Fourth Street Queens

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	B131	27-102 1BC3307.3 3307.6.2	Sustained	\$10,000.00

Findings of Fact & Conclusions of Law

Petitioner New York City Department of Buildings (DOB) was represented by DOB attorney RAFEENA KHAIRULLAH, ESQ. Issuing Officer PAIVA, shield #2941, appeared as complaining witness.

Respondent VITAL DEVELOPMENT GROUP 1 was represented by attorney PHOEBE DOSSETT, Esq., of the Nacmias Law Firm.

Respondent was charged with a Class 1 violation of f § 3307.6.2 of the Building Code (BC), found in Title 28 of Administrative Code of the City of New York (Code), for failure to provide a sidewalk shed as required. (Alternatively, Code § 27-1021(a) and

BC 3307.3.1 are the predecessor provisions of BC § 3307.6.2. which were also charged.)

In the summons, the Issuing Officer (IO) affirmed observing on March 10, 2024, at 26-18 4th Street in Queens, "where required, observed sidewalk shed installed on roof at adjacent building at exposure #4 and observed that sidewalk shed at the street at exposure #1 doesn't extend 5 feet as required from protection as required per 3307.6.3. sidewalk shed on the street must pass/extend for protection from projections provided from a possible dislodgement, assemble or disassemble. remedy: extend sidewalk shed on the street as required per 3307.6.3."

In support, petitioner submitted into evidence (1-9) 9 photographs taken contemporaneously by the IO detailing the violating conditions; (10) a NYC DOB Overview for Complaint #4952858; (11) the Certificate of Occupancy, #4620927-0000001, showing the cited building as 70 feet high; (12) a DOB NOW Job Filing Highlights showing the sidewalk shed approved for 50 linear feet.

The issuing officer testified that the sidewalk shed must extend five feet beyond the rooftop protection. The IO pointed out in photograph #8, which shows sidewalk shed and the rooftop protective shed, that the rooftop protective shed extends at least five feet out past the respondent's construction site in order to protect the adjacent building, and that therefore the sidewalk shed which already needs to extend five feet past the property line needs to extend an additional five feet past the rooftop shed, but did not.

Respondent's attorney argued that the cited section of law carves out an exception, "an additional 5 feet beyond such length, or to within 18 inches of the curb line, whichever is less," and moved for dismissal. Respondent's attorney argued that the IO failed to measure how far the curb line was, and therefore the sidewalk shed may very well have been within 18 inches of the curb which would have been less than the five feet the IO cited.

3307.6.3 AREA TO BE PROTECTED. The decking of the sidewalk shed shall extend: (1) The full length of the area that falls within the zone specified in Section 3307.6.2, plus an additional 5 feet (1524 mm) beyond such length, or to within 18 inches (457 mm) of the curb line, whichever is less; or where the sidewalk shed is installed to protect against an unenclosed facade, work, or equipment that is greater than 100 feet (30 480 mm) above the ground, the decking of the sidewalk shed shall extend the full length of the area that falls within in the zone specified in Section 3307.6.2, plus an additional 20 feet (6096 mm) on both ends beyond such length, or to within 18 inches (457 mm) of the curb line, whichever is less. (2) The full width of the sidewalk, walkway, or pathway that falls within the zone specified in Section 3307.6.2, except for a clearance to avoid existing obstructions, not to exceed 18 inches (457 mm) along the curb.

EXCEPTIONS: (1) Where it is not possible to bring the deck tightly against the face of an abutting building, structure, or fence, the deck shall be brought to within 1 inch (25 mm) of the face of such building, structure, or fence, with the resulting gap sealed or covered by material of sufficient manner and strength capable of trapping falling debris. (2) Openings in the deck to avoid tree trunks and branches, provided such opening is brought as close to the tree as practical without damaging the tree.

I find that the IO photographs #2, #4 and #5 all show long views of the sidewalk, and find that photograph #4 shows six sidewalk "flags" located to the right of the premises. Sidewalk flags are flat, rectangular sections of concrete that make up sidewalks, and are typically 5 feet by 5 feet in size and are separated by expansion joints. Therefore 6 sidewalk flags on the right side of the premises would be approximately 30 linear feet. The left side is similarly configured.

(Petitioner argued that the rooftop protective shed was 40 feet tall, and submitted the Certificate of Occupancy showing the building to be 70 feet tall, with a combined height of 110 feet tall, and that therefore the building would fall under another provision of the cited section of law, "to protect against an unenclosed facade, work, or equipment that is greater than 100 feet above the ground, the decking of the sidewalk shed shall extend the full length of the area that falls within in the zone specified in Section 3307.6.2, plus an additional 20 feet on both ends beyond such length, or to within 18 inches of the curb line, whichever is less." However, no evidence whatsoever was submitted documenting the height of the rooftop protective shed. The evidence submitted by the petitioner's attorney only described the rooftop protective shed's width, not height. The submitted IO photographs show the rooftop protective shed as being similar to the dimensions of the sidewalk shed. The IO testified that sidewalk sheds are typically 15 to 18 feet high. I do not find the petitioner's attorney's unsupported claim that the rooftop protective shed was 40 feet high to be credible or persuasive. Further, I find the notion that the rooftop protective shed was 40 feet high to be grossly out of proportion to the photographic evidence submitted by the petitioner. I find that a 40-foot-tall rooftop protective shed (4 stories tall!) would rival the height of the subject building, which the photographic evidence does not bear out.)

Respondent's motion to dismiss is therefore DENIED.

I find the Issuing Officer's sworn-to summons narrative, the submitted documentary evidence and the Issuing Officer's testimony to be credible and persuasive.

Respondent's attorney denied the violation, without further rebuttal.

Petitioner's attorney recommended noted no correction on file, and recommended the standard penalty.

The credible evidence, here the sworn-to summons narrative of the Issuing Officer, is sufficient to establish, and I find, that respondent was in violation on the date of the offense. The violation is SUSTAINED, and I impose the standard penalty of \$10,000.



08/01/2025

08/01/2025

Mark Goichman, Hearing Officer

Date