



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

Michael Nacmias, Esq. - Nacmias Law Firm 592 Pacific Street Brooklyn, NY 11217	Summons No: 0803185680 et al. (1 Summons) DEPARTMENT OF HEALTH & MENTAL HYGIENE, -against- YANG QIN Hearing Date: 12/19/2024 Hearing Location: Remote Type of Hearing: By Telephone
---	--

Total Penalty Amount: \$1,200.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
0803185680	Sustained	09/09/2024	13-23 146 Street Queens

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	AH4K	NYCHC 151.03(A)	Sustained	\$1,200.00

Findings of Fact & Conclusions of Law

The hearing was conducted by telephone on Court Call on December 19, 2024. Petitioner did not appear. Authorized representative Alfred Lin appeared for Respondent.

The summons charged a violation of Section 151.03 of the Health Code of the City of New York (HC) for failure to eliminate standing water. Specifically, the issuing officer (IO) alleges that the building was "not kept free of conditions conducive to the breeding of mosquitoes in that green standing water with organic material (algae) was observed collected in "Swimming pool" in the "Back yard" of premise, extensive violations. (Extensive violations consist of standing water and decomposing matter accumulations covering 10 or more square feet or more than 20 tires.)"

Respondent stated that there is a swimming pool at the subject premises, not standing water. Mr. Lin also asserted that decomposing matter is not the same as organic matter and that there is decomposing matter at the premises, not organic matter.

HC § 151.03(a) provides as follows: "Persons in control of premises other than a wetland regulated by federal, state or local law shall keep such premises free of accumulations of standing water." The presence of standing water alone is sufficient to support a charge brought under this section where, as here, the IO observed the conditions for mosquitoes to breed. Sufficient evidence of regular efforts to maintain a pool may establish a defense to a HC § 151.03(a) charge. See *DOHMH v. Hussain, Abdulkareem*, Appeal No. 2301647 (January 25, 2024).

Respondent did not provide any evidence to refute the charge and instead acknowledged that decomposing matter is present on the property. Respondent also did not submit any evidence regarding efforts to maintain the pool and thus did not establish a defense to the charge.

I credit the IO's observations. The summons is sustained.

	12/23/2024
Melissa Koven, Hearing Officer	Date