



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

ILMA BABU - NACMIAS LAW FIRM PLLC 592 PACIFIC STREET BROOKLYN, NY 11217	Summons No: 000866031H et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- MILLER KITCHEN & BATH INC Hearing Date: 12/23/2025 Hearing Location: Remote Type of Hearing: By Telephone
--	--

Total Penalty Amount: \$350.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000866031H	Sustained	04/15/2024	INTERSECTION OF 49TH PLACE AND GRAND AVENUE Queens

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	BA51	24 -163	Sustained	\$350.00

Findings of Fact & Conclusions of Law

The hearing on summons number 000866031H was conducted via telephone conference call on December 23, 2025.

Respondent MILLER KITCHEN & BATH INC appeared at the hearing through attorney Ilma Babu. Petitioner Department of Environmental Protection, by Michael Grosso, waived its appearance via email due to a lack of available representatives.

The Issuing Officer alleges in the summons that Respondent violated New York City Administrative Code 24-163 for idling a motor vehicle engine for more than three minutes. It is indicated as a first offense.

Respondent argues that the incident took place inside of a garage where items were being unloaded from a truck. In support, Respondent submits the video footage of the incident and points out that the vehicle is partially inside of a warehouse and not on the street.

Code § 24-16 provides that no person shall cause or permit the engine of a motor vehicle to idle for longer than three minutes while parking. . . , standing. . . , or stopping. . . , unless the engine is used to operate a loading, unloading or processing device.

I credit the statements contained in the summons and find a violation of 24-163 as alleged. I do not credit Respondent's claims that loading or unloading was taking place. Although the back of the vehicle is parked within what appears to be a garage/warehouse, there is no evidence presented to suggest that there is ongoing loading or unloading occurring, or a processing device in use at the time of the violation.

In addition, it is not a defense that the idling took place inside of a garage. The Board has found that there is nothing in the language of Code § 24-163 or in the sections of the Vehicle and Traffic Law which it references that can be read to limit the idling prohibition to public property. *DEP v. Coastal Supply Group LLC*, Appeal No. 2200770 (September 29, 2022).

Here, I find that Respondent has not alleged a recognized defense. The fact that the vehicle is partially backed into a warehouse in and of itself is not a defense, as the Board has found that 24-163 is not limited to public property. Accordingly, the summons is sustained, and the standard penalty imposed.



12/23/2025

12/23/2025

Alexandra Saker, Judicial Hearing Officer

Date