



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

ILMA BABU - NACMIAS LAW FIRM PLLC 592 PACIFIC STREET Brooklyn, NY 11217	Summons No: 000603677M et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- YANG CUI Hearing Date: 02/10/2026 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
000603677M	Dismissed	07/08/2024	Vicinity of Kissena Blvd and Kalmia Ave Queens

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	BA24	24 -141	Dismissed	\$0.00

Findings of Fact & Conclusions of Law

Ilma Babu, Authorized representative appeared for respondent.

DEP representative, Inspector Leah Smith appeared for petitioner.

This summons was issued for an alleged violation of 24-141; emissions of odorous containment mushroom exhaust unit from mobile food vendor.

Inspector Smith submitted evidence in support of the summons including, photos of the food truck/cart, food handler license,

mushroom exhaust, photo of location, BEC air inspection report listing description of violation, and proof of service, Inspector Smith noted that the cart is in the vicinity where there are strong odors of chicken and shrimp. The equipment referred to is a mushroom exhaust which are intended for odor mitigation from public, here the food could be smelled and specifically what was being cooked.

Respondent's representative argued that in the photo evidence submitted by petitioner there is a cloud but it does not appear large enough to cause discomfort and notably there are people standing nearby who are obviously not bothered by the smell and it should be dismissed.

Inspector Smith responded that this was a follow-up for a complaint.

I find respondent credibly rebutted the summons.

Pursuant to the code, *No person shall cause or permit the emission of an odorous air contaminant or steam or water vapor, if the air contaminant or steam or water vapor causes or may cause detriment to the health, safety, welfare or comfort of any person, or injury to plant and animal life, or causes or may cause damage to property or business, or if it reacts or is likely to react with any other air contaminant or natural air, or is induced to react by solar energy to produce a solid, liquid or gas or any combination thereof which causes or may cause detriment to the health, safety, welfare or comfort of any person, or injury to plant and animal life, or which causes or may cause damage to property or business.*

As pointed out by respondent's representative, petitioner's own photos show multiple people standing in close proximity to the food cart which do not appear to be suffering from any emitted odor in terms of health, safety, welfare or comfort. Nor do any pedestrians appear annoyed or in a state of discomfort as alleged in the summons. Notably respondent was using an exhaust system as also mentioned in the summons, a mushroom exhaust unit.

As respondent established a credible rebuttal based on petitioner's photos evidence, the summons is dismissed.

02/24/2026



02/24/2026

Christine Polychroniades, Judicial Hearing Officer

Date