



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS

Hearings Division

Decision

Caroline Kane, Esq. - Nacmias Law Firm, PLLC
592 Pacific Street, 1st Floor
Brooklyn, NY 11217

Summons# : 039523011L et al. (2 summonses)

DEPT OF BUILDINGS,

-against-

BRUKLYN BUILDERS INC

Hearing Date : 3/21/2025

Hearing Location : Remote

Type of Hearing : By Telephone

Total Penalty Amount : 7,500.00

Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039523011L	Sustained	10/31/2023	155 SMITH STREET, Brooklyn

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B192	BC 3301.8	Sustained	5,000.00

Total Penalty for Summons: 5,000.00

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039523013P	Sustained	10/31/2023	155 SMITH STREET, Brooklyn

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B1F1	BC 3301.1.3 (2014 code)	Sustained	2,500.00

Total Penalty for Summons: 2,500.00

Findings of Facts & Conclusions of Law

Respondent BRUKLYN BUILDERS INC LLC appeared by Carolyn Kane Esq. Petitioner NYC DOB appeared by Daniel Brickman Esq. Inspector Cleveland Sampson appeared as a witness.

039523011L: At the time, date and place of occurrence, petitioner charged that respondent violated NYC Building Code Section 3301.8(Class 1), While responding to an incident that took place on 10/30/23 at approximately 11:30am where a worker sustained injuries after falling off a ladder on the 3rd floor; upon reviewing the time of the incident the contractor failed to promptly notify the department off an accident, which has been later reported on 10/31/23, at 9:30am".

Mr. Brickman stated that he relied on the contents of the summons. However, he produced the overview of the complaint as proof that the injured worker was taken to the hospital. Ms. Kane argued that "prompt" notice meant within 24 hours, which respondent did.

BC § 3301.8 provides, in pertinent part, that "[t]he department shall be notified immediately by the permit holder, or a duly authorized representative, of any incident at a construction or demolition site, or of any damage to adjoining property caused by construction or demolition activity at the site."

The incident that injured the worker took place in the morning of the 30th. Respondent does not dispute that the notification to the DOB did not occur until the following morning of the 31st. OATH appeals have held that "this is a time period that cannot be considered immediate by any method of notification. See DOB v. Riverside Developers USA, & Aron Goldberger, Appeal No. 2101435 (December 16, 2021) (notification the next day was not "immediate"). Therefore, I find that respondent violated Code Section 3301.8, as alleged, and sustain the charge. Standard Class 1 penalty applicable to this charge is imposed.

039523013P: At the time, date and place of occurrence, petitioner charged that respondent violated NYC Building Code Section 3301.1.3(Class 1): Failure to comply with manufacturer's specifications: while responding to an incident that took place on 10/30/23 where a worker fell off a ladder while installing instillation around pipe located in the walls, I was told he was using an A-frame ladder, which he observed is not suitable as per manufacturer specification for the scope of work.

Petitioner produced the ODHA specs and the manufacturer's specs. Inspector Sampson testified that the A-frame ladder was not appropriate for the work the worker was doing. He should have been using a platform ladder, something he could stand on to do overhead work using both hands. Respondent moved to amend to Class 2 as the condition was not immediately hazardous. Mr. Brickman declined to amend the charge.

I credit the inspector's testimony, supplemented by the specs, and find that respondent's worker was using a ladder contrary to its specs that resulted in an injury. Therefore, find that respondent violated Code Section 3301.1.3, as alleged as an immediately hazardous condition, and sustain the charge. Standard Class 1 penalty designated for this charge is imposed.



03/25/2025

03/25/2025

Laura Fieber, Hearing Officer

Date

**IF YOU ARE FOUND IN VIOLATION, AND ARE NOT ELIGIBLE OR DO NOT CHOOSE
COMMUNITY SERVICE, YOU MUST PAY THE PENALTY WITHIN 30 DAYS OF THE DECISION
DATE OR 35 DAYS IF MAILED.**

- To pay by mail, send a check or money order to the Dept. of Finance Commissioner, P.O. Box 2307, Peck Slip Station, New York, NY 10272. The check or money order should be made out to "Finance Commissioner, City of New York." Write the summons number on the check or money order.
- To pay in person, bring a check, money order or credit card and this decision to any OATH Hearings Division location between 8:30 a.m. to 4:30 p.m.
- To pay online using a credit or debit card, go to www.nyc.gov/citypay/oath

If you do not pay the penalty, the City may: (1) file papers with the Civil Court ("docket a judgment"), (2) charge you a late fee, and (3) continue attempts to collect the debt.

**CAN I DO
COMMUNITY
SERVICE?**

If your summons is for the type of offense that gives you a Community Service option you can choose to complete Community Service instead of paying a penalty. Your decision will give you that option. You have to complete your Community Service by the deadline in the decision or else you will end up owing the penalty. You can even do your Community Service on the day you receive your decision.

**COMPLETION OF
COMMUNITY
SERVICE**

The Help Center will arrange for you to complete your Community Service. The Help Center is run by the Ombudsperson/*Pro Se* Clerk at OATH and is located at each Hearing Division in all five boroughs. To schedule your Community Service, call, email or visit a Help Center location.

How to Contact the Help Center to Schedule Community Service:

Manhattan: (212) 436-0845 CSmanhattan@oath.nyc.gov
Brooklyn: (718) 923-6216 CSbrooklyn@oath.nyc.gov
Queens: (718) 393-6044 CSqueens@oath.nyc.gov
Bronx: (718) 503-5565 CSbronx@oath.nyc.gov
Staten Island: (718) 876-2314 CSstateniland@oath.nyc.gov

If you complete your Community Service by the deadline in the decision, you will receive a Certificate of Completion and will not have to pay a penalty. If you need an extension to complete your Community Service, please contact the Help Center.

If you do not complete your Community Service by the deadline, you will have to pay the penalty.

**NON-DISCLOSURE
FOR SUMMONSES
ELIGIBLE FOR
COMMUNITY
SERVICE**

If you either completed the Community Service or paid the penalty, OATH will remove your identifying information from public records related to your case.

If you do not complete the Community Service or pay the penalty, your identifying information may remain on public records related to your case.

**IF YOU DISAGREE
WITH THE DECISION,
YOU MAY APPEAL IT**

To submit your appeal, you **MUST** use OATH's online or mail-in appeal forms available on OATH's website at www.nyc.gov/oath/appeal. Instructions for filing an appeal may be found on the form and OATH's website.

Your appeal **MUST** be received by the OATH Hearings Division **within 30 days** of the decision date, or 35 days if the decision was mailed to you.

To appeal you **may need to** pay the full penalty stated in this decision.

- If you cannot pay because of financial hardship, you may ask to not pre-pay by submitting with your appeal a Financial Hardship Application, available on OATH's website.
- If you are eligible and choose to perform Community Service instead of paying the penalty, you do not have to pay the penalty or complete the Community Service to appeal.

**APPEAL BY
ENFORCEMENT
AGENCY**

If you wish to answer an appeal filed by an enforcement agency, you **MUST** use OATH's Response To Appeal form. Instructions for filing an answer may be found on the form and OATH's website.

Your answer must be received **within 30 days** of the date of the enforcement agency's appeal, or 35 days if it was mailed to you.

If the enforcement agency wins the appeal, you may have to pay a penalty or, if eligible, complete Community Service even if your case was originally dismissed after the hearing.

For more information,
 visit OATH's website www.nyc.gov/oath
 or call 1-844-OATH-NYC

112018