



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

Michael Nacmias, Esq. - Nacmias Law Firm 592 Pacific Street 1st Floor Brooklyn, NY 11217	Summons No: 039098529L et al. (1 Summons) DEPT OF BUILDINGS, -against- TAWIL, JOAN Hearing Date: 11/06/2025 Hearing Location: Remote Type of Hearing: By Telephone
---	---

Total Penalty Amount: \$2,500.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039098529L	Sustained	11/01/2023	1517 EAST 14 STREET Brooklyn

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	B101	28-105.1	Sustained	\$2,500.00

Findings of Fact & Conclusions of Law

The hearing was conducted via telephone conference call on November 6, 2025.

Frank Tamberino, attorney for Respondent, appeared at the hearing. Anuj Vaidya appeared on behalf of petitioner DOB.

The summons charges code section 28-105.1 for work without a permit. Petitioner's representative relied on the sworn statement in the summons and submitted documents in support. See Petitioner's Exhibit. Petitioner's evidence included photos at the time of inspection, Zillow photos prior to transfer and ACRIS cover page showing the dates and parties of the purchase. Respondent's representative motioned to dismiss on the pre-existing defense and submitted affidavits and a deed in

support. See Respondent's Exhibit. Respondent's representative argued that minor work such as adding glass and brick resurfacing were the only work done. In the alternative, Respondent's representative challenged class and argued that any of the work done did not amount to an immediate hazardous condition. Petitioner's representative argued that the photos did not show a pre-existing porch and that the addition of the porch is an inherent dangerous condition that warrants class 1. Finally, Respondent's representative argued that a tree was in the Zillow photos obstructing the view.

Code § 28-105.1 provides: It shall be unlawful to construct, enlarge, alter, repair, move, demolish, remove or change the use or occupancy of any building or structure in the city, to change the use or occupancy of an open lot or portion thereof, or to erect, install, alter, repair, or use or operate any sign or service equipment in or in connection therewith, or to erect, install, alter, repair, remove, convert or replace any gas, mechanical, plumbing, fire suppression or fire protection system in or in connection therewith or to cause any such work to be done unless and until a written permit therefor shall have been issued by the commissioner in accordance with the requirements of this code, subject to such exceptions and exemptions as may be provided in section 28-105.4.

I credit the summons details and I find that the petitioner has established a valid charge against the respondent. There was no dispute that the photos submitted by Petitioner's representative are the conditions prior and after the purchase of the property, on their interpretations. After careful review of the evidence, I find that there has been considerable work done to the same property. The Zillow photos clearly did not show any existing porch nor a staircase in the front. Instead, the Zillow photo showed the staircase and entrance on the side of the property. The new photos showed a porch with staircase and entrance in the front of the property. I find the photos clearly showed that substantial work had been done on the property after the purchase by Respondent.

To prevail on a pre-existing condition defense to a Code § 28-105.1 charge, a respondent must affirmatively establish by a preponderance of the credible evidence that all unpermitted work cited in the summons occurred prior to its ownership of the premises. See § 6-12(a) of Title 48 of the Rules of the City of New York; *DOB v. Amarjit Singh*, Appeal No. 2001199 (February 11, 2021). Evidence may include real estate appraisals commensurate with the respondent's purchase of the property, photographs, and affidavits from friends, neighbors, and long-term residents, wherein the affiants describe when and why they made their observations, and their observations are sufficiently detailed to establish that all conditions pre-existed a respondent's purchase. See *NYC v. Shangyu Chen*, Appeal No. 1100378 (September 22, 2011). Here, Respondent failed to establish a pre-existing defense. Respondent argued that no new porch was installed on the property, only glass work and brick resurfacing. However, both affidavits stated that the "brick porch was installed at the house before the Tawils moved in." The affidavit also stated that the Tawils "moved into their property...in 2022" but failed to state when the new porch was installed. For these reasons, and that they both have almost the exact same wordings, I do not find these affidavits credible nor sufficient to establish a pre-existing defense.

Code § 105.4.2 provides that "[a] permit shall not be required for minor alterations and ordinary repairs." Code § 28-105.4.2.1, in pertinent part, defines minor alterations and work not constituting minor alteration or ordinary repairs as follows: MINOR ALTERATIONS. Minor changes or modifications in a building or any part thereof, excluding additions thereto, that do not in any way affect health or the fire or structural safety of the building or the safe use and operation of the service equipment therein. Minor alterations shall not include any of the work described as "work not constituting minor alterations or ordinary repairs." Appeal No. 2300805 *DOB v. Monadnock Construction Inc.* p. 3 of 4 WORK NOT CONSTITUTING MINOR ALTERATIONS OR ORDINARY REPAIRS. Minor alterations or ordinary repairs shall not include: 1. The cutting away of any load-bearing or required fire-rated wall, floor, or roof construction, or any portion thereof. 2. The removal, cutting, or modification of any beams or structural supports; 3. The removal, change, or closing of any required exit; 4. The addition, rearrangement, relocation, removal or replacement of any parts of the building affecting loading or exit requirements, or light, heat, ventilation, or elevator requirements or accessibility requirements, or any fire suppression or fire protection system; 5. Additions to, alterations of, or rearrangement, relocation, replacement, repair or removal of any portion of a standpipe or sprinkler system, water distribution system, house sewer, private sewer, or drainage system, including leaders, or any soil, waste or vent pipe, or any gas distribution system; 6. Any plumbing work other than the repair or replacement of plumbing fixtures, piping or faucets from the exposed stop valve to the inlet side of a trap; 7. The alteration or repair of a sign for which a permit is required; or 8. Any other work affecting health or the fire or structural safety of the building or the safe use and operation of the service equipment therein.

Code 28-105.2 provides: For the purposes of this code, work permits shall be classified as follows: 1. New building permits: for the construction of new buildings, including as provided for in section 28-101.4.5. 2. Alteration permits: for the alteration of buildings or structures, including new and existing sign structures and partial demolition in conjunction with such building or structure. 3. Foundation and earthwork permits: for the construction or alteration of foundations, including earthwork, excavation, fill, and foundation insulation. 4. Earthwork permits: for work solely involving earthwork, excavation, or fill operations. 5. Full demolition permits: for the full demolition and removal of buildings or structures. 6. Plumbing permits: for the installation or alteration of plumbing and plumbing systems, including gas piping. Such permits shall include permits for

limited plumbing alterations. 7. Sign permits: for the erection, installation, display or alteration of signs. 8. Service equipment permits: for the installation or alteration of service equipment, including but not limited to air conditioning and ventilating systems, boilers, elevators, escalators, moving walkways, dumbwaiters, mobile boilers and mobile oil tanks. Such permits shall include permits for limited oil-burning appliance alterations. 9. Temporary construction installation permits: for the erection, installation and use of temporary construction installations to facilitate construction and/or safety during construction, including but not limited to temporary fences, railings, catch platforms, over-the-sidewalk chutes, footbridges, sidewalk sheds, and scaffolds. 10. Fire protection and suppression system permits: for the installation and alteration of fire protection and suppression systems, including sprinkler systems and standpipe systems. Such permits shall include permits for limited sprinkler alterations and limited standpipe alterations. 11. Crane and derrick permits: for the use of power-operated cranes and derricks during construction. 12. Temporary structure permits and temporary use authorizations: for temporary structures and uses, see article 111.

Here, I find the work done by Respondent are not minor alterations or ordinary repairs and pose an immediate hazardous condition to those inside and outside the property.

Therefore, by a preponderance of the evidence, I find Respondent in violation with no valid defense and impose the stated penalty of \$2,500.



11/10/2025

11/10/2025

Alex Chung, Judicial Hearing Officer

Date