



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 No: 039524029Y et al. (1 Summons) DEPT OF BUILDINGS, -against- HP BUILDING MANAGEMENT IN Hearing Date: 03/11/2025 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: \$5,000.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039524029Y	Sustained	12/12/2023	53-81 62 STREET Queens

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	B112	28-207.2.2	Sustained	\$5,000.00

Findings of Fact & Conclusions of Law

Respondent, HP Building Management Inc., appeared by Caroline Kane Esq., as attorney, and Deanna Lamberti Esq., appeared for the petitioner, DOB.

The respondent is charged with a violation of section 28-207.2.2 of the NYC Administrative Code for unlawfully continued work while on notice of a Stop Work Order (SWO).

Ms. Lamberti reaffirmed the violation and submits in support evidence package, including a copy of the underlying violation no. 39516336Y for which the SWO was issued, photographs showing the before condition/stage of work when the SWO was issued, and the after condition showing the extent of work done in violation of the SWO as observed on the date of the violation.

Ms. Kane moves to dismiss the violation on the grounds that the respondent did not have proper notice of the SWO. She submits in support, Appeals Board (AB) decision no. 2401755.

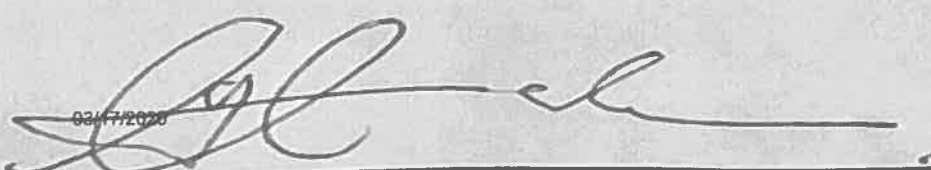
Ms. Lamberti opposed the motion and submits in evidence, an image of the violation no. 39516336Y for which the SWO was issued showing that the box for the SWO was properly checked properly notifying the respondent of the SWO. She submits in support AB decisions nos. 1500593 and 2001028.

After reviewing the AB decisions nos. 1500593 and 2001028, Ms. Kane asserts that the AB decision no. 2401755 is more recent and should control the decision in this case.

Respondent's motion to dismiss is denied. I do not credit the claim that the respondent did not have proper notice of the SWO. The underlying violation no. 39516336Y for which the SWO was issued clearly included notice of the SWO as the box on the first page of the summons was clearly checked showing that a partial SWO was issued for the violation. Also, the details of the violation states the remedy for the violation as: "Provide access and/or exposure to ongoing construction or work stop all work on site only provide access". The AB decision no. 2401755 cited by the respondent is distinguishable. In that case, unlike the instant case, the SWO was issued not to the respondent but to another party that never apprised that respondent of the SWO. In addition, the Petitioner did not offer a copy of the SWO or evidence of its service on the respondent there. Based on the foregoing, respondent's motion to dismiss on the grounds of improper notice of the SWO is denied.

The respondent raised no defense on the merits of the violation.

As the petitioner has proved its case, and the respondent has not established a sufficient legal defense to the violation, I credit the facts alleged in the charge. Therefore, the violation is sustained, and an approved penalty is hereby imposed.

 03/17/2025 Cornelius Ojinnaka, Hearing Officer	03/17/2025 Date
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