



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: 039527173M et al. (1 Summons) DEPT OF BUILDINGS, -against- A+ CHOICE CONSTRUCTION IN Hearing Date: 12/02/2024 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: \$2,500.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039527173M	Sustained	04/05/2024	3100 OCEAN PARKWAY Brooklyn

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	B1F2	BC 3301.7 (2014 code)	Sustained	\$2,500.00

Findings of Fact & Conclusions of Law

I sustain the summons and impose the \$2,500.00 statutory penalty.

Mathew Whitening (Representative) appeared at the teleconference hearing for respondent A+ CHOICE CONSTRUCTION INC (Respondent) and waived his rights to translation services and the presence of the issuing officer. Cassie Renee appeared telephonically for petitioner New York City Department of Buildings (DOB).

Respondent was cited for a Class 2 violation of Section 3301.7 of the New York City Building Code (BC), for failure to maintain/display on site documents required by BC Chapter 33.

BC Section 3301.7 provides, in pertinent part, that "[w]here this chapter requires construction documents, drawings, inspection reports, logs, checklists, site safety plans, fire safety and evacuation plans, tenant protection plans, occupant protection plans, or monitoring plans, copies of such shall be maintained at the site for the duration of the job and made available to the commissioner upon request."

In addition to the summons, Petitioner submitted 17 photos of the conditions observed by the I/O. Representative did not dispute the factual allegations but moved to dismiss the summons on the grounds that Respondent is not required to keep the hoist design drawings on site. Representative also challenged Class. Representative submitted a letter from a Professional Engineer stating that it had reviewed the Means and Methods for the hoist and certifies that the building can sustain the loads imposed by the hoist. I find that Respondent is required to keep the design drawings for the hoist on site and the absence of such documents makes it impossible for an inspector to determine when the hoist has been constructed in accordance with those plans. I also find that Representative's Class challenge is meritless. I find that Representative's testimony and documentary evidence is not credible and fails to rebut the summons or establish a meritorious defense to the alleged violation. I credit the summons and Petitioner's photographic evidence and find that Petitioner has established a Class 2 violation of BC Section 3301.7. Accordingly, I sustain the summons and impose the \$2,500.00 statutory penalty.



12/06/2024

12/06/2024

Thomas Finn, Hearing Officer

Date