



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS

Hearings Division

Decision

Andre Autz, Esq. - Nacmias Law
592 Pacific Street
Brooklyn, NY 11217

Summons# : 039116996R et al. (2 summonses)

DEPT OF BUILDINGS,

-against-

ROSENBERG, NETHANIEL

Hearing Date : 1/24/2025

Hearing Location : Remote

Type of Hearing : By Telephone

Total Penalty Amount : 0.00

Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039116996R	Dismissed	06/14/2024	3815 KINGS HIGHWAY, Brooklyn

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B201	28-105.1	Dismissed	0.00

Total Penalty for Summons: 0.00

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039116997Z	Dismissed	06/14/2024	3815 KINGS HIGHWAY, Brooklyn

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B203	28-118.3.2	Dismissed	0.00

Total Penalty for Summons: 0.00

Findings of Facts & Conclusions of Law

Andre Autz appeared for Respondent by phone. Henrietta Asiedu Baidoo, DOB, appeared by phone. The issuing inspector Andre Blunt also appeared by phone.

039116996R

The summons charges a violation of NYC Administrative Code 28-105.1, work without a permit.

The summons alleges that on 6/T/24 at 3815 Kings Highway, the inspector observed inside and out of ground floor space an enclosed garage door removed/replace with brick wall plus window, further inspection there were lights, partition, etc. No work permits were filed.

039116997Z

This summons charges a violation of NYC Administrative Code 28-118.3.2, Occupancy contrary to that allowed by the Certificate of Occupancy or Buildings Department records.

The summons alleges that inspector saw an enclosed garage converted to a livable space with full kitchen, 3-piece bathroom, and 4 rooms for sleeping. According to HPD records ID #320115 only 3 Class A apartments were allowed, Basement 0. No new C of O for additional apartment.

Inspector Blunt testified that the DOB received a complaint that the garage was converted into an apartment. He went to the location and knocked on the ground floor door. When the door was opened, he saw a full apartment inside.

The DOB submitted the following into evidence:

P1 – The I card for the property for 3815 Kings Highway the house was converted in 1953. It shows there are 3 apartments, one in the basement, one on first and second floors. There is also a garage in the basement. The building is 2 stories with the basement.

P2 – Affidavit of service

P3 – 2 photos of a google search to show that the location looked like in July 2022. The inspector when asked to identify what house is the right one, he said he was not sure which one it was and then said it was the house with the brown van in the garage with an orange door. However, that cannot be correct because there is a photo of the exterior (P5) that shows that same vehicle and garage door and is clear that it is not 3815 Kings Highway. Thus, the google search shows that in July 2022 there was a wall and window there.

P4 8 photos of the interior

Mr. Autz denied the charges. He argued that this was a pre-existing condition, and that no work was done that needed a permit. He submitted into evidence the following:

R1 An affidavit from Moshe Toiv dated 8/17/24 who is the construction manager for the Respondent who owns several properties. He works with the Respondent's managing agent, David Simon. He states that he went there prior to Respondent buying the property and there was no garage door at the property, unlike other properties in the area. There was a wall and window. The interior space on the ground floor had lights, with switches, walls, and plumbing pieces. Once purchased, Respondent decided not to do any renovation work. No work has been done to it. He went back before writing this affidavit and nothing has changed.

R2 An affidavit notarized 8/2/24 from Eliyahu Rosenberg, friend of David Simon who went with David to see the property before Respondent purchased it. Before purchasing it in the Spring of 2020, there was no garage door but a brick wall with a window. The inside was fully finished including the ground floor level with lights, partition, walls, plumbing etc. She went back before writing this affidavit and nothing has changed.

R3 An affidavit from the broker for the sale in 2020, he saw the property numerous times. There was no garage door, just a wall with a window. The inside was finished with walls, lights, etc. He went to visit the site again before writing the affidavit

and nothing has changed, even the inside.

R4 The deed showing that 3815 Kings Hwy LLC bought the property in May 2020. The deed says property type dwelling only – 3 family.

R5 The deed showing it was sold to Nethaniel Rosenberg on 2/12/21. Property type dwelling only – 3 family

039116996R

Here, I find the affidavits credible to show that before the property was sold to Respondent on 2/12/21, the basement was already an apartment. The affidavits are detailed and are credible that no work was done in that apartment. I find that Respondent did not need a work permit. Summons dismissed.

039116997Z

I find that the affidavits are credible to show that before the Respondent bought the property in 2021, there was no garage door but a wall and a window. This was a pre-existing condition. Further, the I card (P1) allows three apartments, one in the basement. Summons dismissed.

	
01/24/2025	01/24/2025
Elizabeth Barrett, Hearing Officer	Date

