



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS

Hearings Division

Decision

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

Summons# : 039119971Y et al. (2 summonses)

DEPT OF BUILDINGS,

-against-

11 PULASKI 2018 HOLDINGS 517 L

Hearing Date : 3/24/2025

Hearing Location : Remote

Type of Hearing : By Telephone

Total Penalty Amount : 3,125.00

Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039119971Y	Sustained	07/26/2024	1783 BEDFORD AVENUE, Brooklyn

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B282	28-105.12.2	Sustained	625.00

Total Penalty for Summons: 625.00

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039119977P	Sustained	07/26/2024	1785 BEDFORD AVENUE, Brooklyn

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

Total Penalty for Summons: 2,500.00

Findings of Facts & Conclusions of Law

Phoebe Dossett appeared as the authorized representative of the named respondent, and Dallas Mahan appeared for the Petitioner, along with Inspector Mirazga,

Summons 039119971Y cites a violation of 28-105.12.2 and summons 039119977p cites a violation of 28-105.1.

The Petitioner submitted photos and plans.

As to 71y, the inspector testified that he reviewed plans showing the layout of the apartment. It had offices and rooms. He saw, at the inspection that there was an open space layout, and that the work was 60% complete with framing finishing the walls. The work was still in progress. The plans called for offices and rooms, and 90% of the partitions had been removed. The plans did not call for the replacement for the removal of partitions.

The respondent submitted amended plans and a work permit.

The respondent also made a motion to dismiss for improper party. She contended that there was a GC for the work and for the permit and that that was the party who should have been cited.

The Petitioner contended that a proper party was named.

He relied on the decision in Appeal No. 2100254 DOB v. 222 Bowery Owners Corp. June 24, 2021.

He also recommended mitigation insofar as there was timely correction.

As to this summons, I find the sworn account of the issuing officer to be credible, and that it establishes the charge. The respondent failed to set forth a valid legal defense, I find the respondent to be a proper party. In the 222 Bowery Owners Corp which also charged an owner with a violation of 28-105.12.2 when there was a contractor on the job, it was held that "On this record, the Board finds that Respondent was properly charged. Code § 28-105.12.2 provides that "all work shall conform to the approved construction documents, and any approved amendments thereto." Code § 28-105.12.1 requires owners and others to carry out any permitted work in accordance with the Code. Code § 28-301.1 provides that "an owner shall be responsible at all times to maintain the building and its facilities and other structures regulated by this code in a safe and code-compliant manner." Thus, Respondent, as owner, is responsible for any work done at the premises that does not conform to approved construction documents. The owner's responsibilities include statutory requirements applicable to the owner's contractor's work at the premises, unless the application of the statute is limited, by its own terms, to the contractor. See DOB v. 94 East Realty LLC, Appeal No. 1900305 (May 2, 2019). Code § 28-105.12.2 contains no such limitations. Accordingly, the Board reverses the hearing officer's decision, sustains a Class 2 violation of Code § 28-105.12.2 and imposes a civil penalty of \$1,250."

For all the foregoing reasons, the summons is sustained and the mitigated penalty imposed.

As to 77p, there was a class challenge.

The inspector testified that he observed ongoing work. There were electrical switches and panels hanging out. There was the same going on with plumbing, where the water lines were being removed. The companion case was a "class 2" because there were at least some plans which could be referenced. Here, with all the aforementioned electrical and plumbing work going on, no one had taken responsibility to assure that it was being done properly.

The Petitioner noted that in the instant summons there were more violating conditions noted than in the companion summons. There were electricity issues which could cause a fire and plumbing issues which could cause leaks and mold.

Upon questioning, the inspector testified that the two workers he mentioned in the companion summons were the same ones as are mentioned in the instant summons. He spoke with them about site safety training or licenses, and they did not have them. They were engaging in dangerous actions because they were doing spackling around the electrical boxes which had open wires which could be energized.

The respondent argued that the workers were working pursuant to an approved job so the condition would not be immediately hazardous.

The Petitioner contended that plans are not the same as permits, . and here, insofar as there were no permits, no one could take responsibility that the work was being done safely. They were doing spackling near exposed electrical work and there was unlicensed plumbing.

As to this summons, I find the sworn account of the issuing officer to be credible, and that it establishes the charge. The respondent failed to set forth a valid legal defense. The inspector credibly described a dangerous condition that he observed while the unpermitted electrical work was underway, and also described the other inherent risks associated with unlicensed plumbing. Accordingly, the summons is sustained as a "class 1."

03/24/2025

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Amy Jill Baranoff, Hearing Officer

Date