



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 No: 039531763Y et al. (1 Summons) DEPT OF BUILDINGS, -against- BRUKLYN BUILDERS INC Hearing Date: 03/27/2025 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
039531763Y	Sustained	08/24/2024	151 CARLTON AVENUE 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

CASSIE RENE appeared for the Department of Buildings (DOB), the petitioner here. PHOEBE DOSSETT, ESQ., appeared for the respondent. The summons alleges that respondent maintained an active construction site for a proposed 9-story new building, with approximately 65 workers on site, but no DOB issued permit for the new building construction. At the time of inspection construction was at the second floor level. Accordingly the inspector issued a class 1 violation of section 28-105.1 of the Building Code for work without a permit.

Petitioner submitted the testimony of the issuing inspector, V. KOVIK - 3071, in order to resolve any issue of service, upon which respondent's counsel had initially indicated that she would rely, but ultimately withdrew the issue from contention. With

service resolved, petitioner rested on the allegations contained within the four corners of the summons, the corroborating testimony of the issuing inspector, and the photographic and documentary evidence secured at the time of issuance. I find that petitioner makes a prima facie showing of the violation.

Respondent counsel denied liability for the summons as a class 1. She argued that the circumstances at issue do not warrant top classification because the conditions do not present the level of hazardousness that can justify the summons' class 1 status. More importantly, counsel explained that the actual Permit was merely a formality because the plans for the New Building had been approved by DOB. Respondent only needed to wait for the actual permit that can be posted onsite before actually commencing work in compliance with the plans that had been approved.

Petitioner refused to relegate the summons to lower classification, being fully aware that it would also need to make a prima facie showing regarding the top classification or face outright dismissal of the summons. Despite the foregoing, petitioner argued that the circumstances of the issuance, with 65 workers working on site without any DOB-Permit, merit top classification.

I concur with petitioner's argument. Contrary to respondent's position, having approved plans is not equivalent to having a DOB-issued permit. Counsels know that there are numerous times when the construction does not match the approved plans to the point where plans have to be amended, despite the fact that they had been previously approved. Approved plans are not equivalent to, or substitutes for, actual DOB-issued permits for the new building construction. Respondent should not have begun construction of the new building without securing a DOB- permit authorizing the work.

In light of the foregoing, I find that respondent has failed to establish a valid defense. I find respondent in violation and I impose the applicable penalty for a Class 1 violation of section 28-105.1.

The summons is sustained.



04/09/2025

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Velly Polycarpe, Hearing Officer

Date