



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: 039531767L 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: \$5,000.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039531767L	Sustained	08/24/2024	151 CARLTON AVENUE Brooklyn

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	B1P7	Misc. BC—Chapter 33	Sustained	\$5,000.00

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 inadequate storage of heavy equipment at exposures 1 and 2 of the construction. First the issuing inspector observed a heavy tractor/earth mover on the roadway. And the designated storage zone for the construction was accessible to the public, thereby creating a hazard. Furthermore, there was no competent person on site. Accordingly the inspector issued a class 1 violation of Chapter 33 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. Counsel argued, primarily, that the tractor was not in use at the time; therefore there was no real danger.

I do not find respondent's argument meritorious. The fact that the tractor was not being used accentuates the problem. If it were being used by workers it is unlikely that some third party would trespass upon it and cause problems for themselves or others. When the tractor is just parked on the roadway, anyone can get in and cause mischief and harm to themselves or others. When this situation is viewed in tandem with the fact that the storage zone was accessible to the public at large, it is clear that the level of hazardousness justifies top classification for the summons. Accordingly, 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. The fact that corrective measures may have been implemented prior to the first hearing date is immaterial because this species of summons is not subject to mitigation.

The summons is sustained.



04/11/2025

04/11/2025

Velly Polycarpe, Hearing Officer

Date