



Office of Administrative Trials and Hearings

Hearings Division

Decision

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

Summons# : 039532960H et al. (3 summonses)

DEPT OF BUILDINGS,

-against-

BRUKLYN BUILDERS INC.

Hearing Date : 12/4/2025

Hearing Location : Remote

Type of Hearing : By Telephone

Total Penalty Amount : 2,500.00

Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039532960H	Sustained	10/01/2024	340 MYRTLE AVENUE, Brooklyn

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B2P7	MISC .BC-CHAPTER 33	Sustained	2,500.00

Total Penalty for Summons: 2,500.00

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039532961J	Dismissed	10/01/2024	340 MYRTLE AVENUE, Brooklyn

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B1C3	BC 3303.8	Dismissed	0.00

Total Penalty for Summons: 0.00

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039532962L	Dismissed	10/01/2024	340 MYRTLE AVENUE, Brooklyn

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B1P7	Misc. BC—Chapter 33	Dismissed	0.00

Total Penalty for Summons: 0.00

Findings of Facts & Conclusions of Law

Frank Tamberino, Esq. appeared for Respondent. Deanna Lamberti, Esq. appeared for Petitioner DOB. IO E. Cantos appeared to testify.

Respondent was issued 3 summonses.

Summons 039532960H was issued for violating BC 3308.6.1.4.1 for missing or having inadequate horizontal netting. Also, missing supported scaffold at 6th floor.

Ms. Lamberti submitted photos (Exhibit 1).

Mr. Tamberino challenged the Class 1 Designation.

IO Cantos agreed to amend to Class 2 noting the uncovered parts were not public facing. Ms. Lamberti moved to amend the Class to 2.

I grant Petitioner's motion to amend the Class. The summons is sustained. The standard penalty for a Class 2 is imposed.

Summons 039532962L was issued for violating BC 3303.12 for not having elevators during construction. The summons alleges construction of 8 stories new building at 8 floor decking level 85 feet height. No hoist in place.

BC 3303.12 states in relevant part: Once the topmost working deck exceeds 75 feet in height above the lowest level of the ground, all floors that are closed to the public and within 40 feet above the lowest level of the ground shall be served by an elevator or hoist meeting the requirements of this section.

IO Cantos testified that the workers were at the 8th floor level deck. He reviewed the plans and determined that the height of the building was at 85 feet based on the drawing. Ms. Lamberti submitted photos, the permit for an 8 story building, Google search of a story in feet, the plan, and the plan sketch (Exhibit 1-5). The plan sketch was too large to upload into the record.

Mr. Tamberino submitted the plan (Exhibit A, B, C) and argued that the building was at 7 story at the time of inspection. He also submitted photos (Exhibit D). He challenged the Class 1 designation.

IO Cantos testified that the violation is immediately hazardous because first responders cannot get to the 8th floor level without a hoist in an emergency.

I find that Petitioner did not establish the charge. The plans reflect that the 8th floor deck is 74 feet and 33 inches from the ground. The roof is 85 feet from the ground. The IO had testified and the summons also alleges that the workers were at the 8th floor level deck. The 8th floor level deck is not over 75 feet requiring the need of an elevator or hoist. The summons is dismissed.

Summons 039532961J was issued for violating BC 3303.8 for failure to provide standpipe during construction operation.

BC 3303.8 states in relevant part: When, during the course of the construction of a new building, the topmost working deck reaches a height of 75 feet or greater above the ground in a building for which a standpipe system will be required, a permanent or temporary standpipe system meeting the requirements of Section 905 shall be kept in a state of readiness at all times for use by fire-fighting personnel.

IO Cantos testified that the workers were at the 8th floor level deck. He reviewed the plans and determined that the height of the building was at 85 feet based on the drawing. Ms. Lamberti submitted photos, the permit for an 8 story building, Google search of a story in feet, the plan, and the plan sketch (Exhibit 1-5). The plan sketch was too large to upload into the record.

Mr. Tamberino submitted the plan (Exhibit A, B, C) and argued that the building was at 7 story at the time of inspection. He also submitted photos (Exhibit D). He challenged the Class 1 designation.

IO Cantos testified that the violation is immediately hazardous because it is a fire hazard. He also noted that people are living in the adjacent building.

I find that Petitioner did not establish the charge. The plans reflect that the 8th floor deck is 74 feet and 33 inches from the ground. The roof is 85 feet from the ground. The IO had testified and the summons also alleges that the workers were at the 8th floor level deck. The 8th floor level deck is not over 75 feet requiring standpipe in place. The summons is dismissed.



12/04/2025

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Viven Chiu, Judicial Hearing Officer

Date