



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# : 039540716X et al. (1 summonses) DEPT OF BUILDINGS, -against- BILLY BUILDERS INC Hearing Date : 3/26/2026 Hearing Location : Remote Type of Hearing : By Telephone
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Total Penalty Amount : 0.00	Community Service(Hr): Not Applicable
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SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039540716X	Dismissed	05/28/2025	551 LAFAYETTE AVENUE, Brooklyn

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B1P3	BC 3309.1	Dismissed	0.00

Total Penalty for Summons: 0.00

Findings of Facts & Conclusions of Law

Petitioner NEW YORK CITY DEPARTMENT of BUILDINGS (DOB) was represented by DOB supervising attorney DANIEL BRICKMAN, ESQ.

Respondent BILLY BUILDERS INC was represented by attorney PHOEBE DOSSETT, ESQ. of the Nacmias Law Firm, PLLC.

Respondent was charged with a Class 1 violation of § 3309.1 of the New York City Building Code (BC), found in Title 28 of the Administrative Code of the City of New York (Code) for failing to protect adjoining property during construction or demolition as required.

In the summons, the Issuing Officer affirmed observing on May 28, 2025, at 551 LaFayette Avenue, "Failure to institute/maintain safety equipment measures or temporary construction - No guard rails. At the time of my inspection of a 4-story new building 2nd floor level, I observed that there was no overhead protection for adjacent property at 547 Lafayette Avenue front and rear yard. Failure to provide and maintain overhead protection creates a hazard for public and property. Remedy: Provide adequate protection for adjoining properties Stop all work on decking at exposure #2 10 feet back from the leading edge. Provide and maintain overhead protection. Request CSE for reinspection."

I find the Issuing Officer's sworn-to summons narrative, to be credible as to their observations.

Respondent's attorney denied the violation and moved for dismissal, arguing that the guardrails had to be removed because the workers were in the process of installing wire mesh in preparation to pour a concrete slab. Respondent's attorney argued that a controlled access zone (CAZ) was created while the guardrails were removed, obviating the need for the guardrails while the mesh was installed.

In support, respondent submitted into evidence an affidavit from the competent person on the jobsite, MUHAMMAD MUDASSAR, stating that he was the designated competent person for approved Department of Buildings ("DOB") job #B08005181 for the project located at 551 Lafayette Avenue, Brooklyn, New York 11205; that he was on site as the competent person on May 28, 2025, when the DOB issued summonses 039540714M, 039540715Y, 039540716x, 03954717H, 039540718J, and 039540728N; that these summonses were issued after an inspection occurred at the active job site; that summons #039540715Y was issued for guardrails missing from the decking at the site; that as the violation details note and pre-shift logs confirm, workers were on site actively installing wire mesh to prepare the platforms for pouring concrete; that this work required temporarily removing guardrails from the platform edges to fully extend wire meshing to the perimeter for pouring foundation; that summons 039540716X was issued for failing to install overhead protection for the adjacent property at 549 Lafayette Street; that the site safety plan specifically called for roof protection to be installed at the adjacent property when we entered Phase 4 of construction as required by BC 3309.10; that they were not yet in Phase 4 working above the adjoining property so the roof protection was not in place for the adjoining property.

I find the respondent's documentary evidence to be credible and persuasive.

Respondent's attorney also argued that since the cited new building was only four stories it was not a major building, and that therefore overhead protection wasn't required, citing DOB v. MCM Developers Inc, Appeal No. 2201066 [December 15, 2022].

Respondent's motion to dismiss is GRANTED.

I find that the workers were on site actively installing wire mesh to prepare the platforms for pouring concrete and that this work required temporarily removing guardrails from the platform edges to fully extend wire meshing to the perimeter for pouring foundation, and that they were not yet in Phase 4 working above the adjoining property so the roof protection was not in place for the adjoining property.

The summons is DISMISSED.

Mark Goichman

04/05/2026

04/05/2026

Mark Goichman, Hearing Officer

Date