



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

Michael Nacmias, Esq. - Nacmias Law Firm 592 Pacific Street 1st Floor Brooklyn, NY 11217	Summons No: 039543039L et al. (1 Summons) DEPT OF BUILDINGS, -against- BILLY BUILDERS INC Hearing Date: 03/19/2026 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: \$0.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039543039L	Dismissed	07/30/2025	551 LAFAYETTE AVENUE Brooklyn

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	B115	BC 3301.2 & 27-1009(a)	Dismissed	\$0.00

Findings of Fact & Conclusions of Law

039543039L alleges a Class 1 violation of § 3301.2 of the Building Code of New York City (BC) and § 27-1009(a) of the Administrative Code of New York City (Code), for failure to institute and maintain safety measures.

Petitioner, Department of Buildings, appeared by Daniel Brickman, Esq.

This matter was previously adjourned for the presence of the IO. Petitioner's attorney stated that, since the IO no longer worked for DOB, he would be relying on the IO's affirmed statements.

In the affirmation of service, the IO affirmed that he served the summons using the alternative affix-and-mail method of service authorized by New York City Charter (Charter) § 1049-a(d)(2). Following pre-printed language, "I made the following reasonable but unsuccessful attempt to effectuate service upon respondent or upon any other person whom service may be made as follows:" the IO wrote "knocked on all doors and asked if anyone is authorized to accept violations, all answered no." Thereafter, he posted the summons to the "construction information board."

Respondent, BILLY BUILDERS INC., appeared by FRANK TAMBERINO, ESQ., who did not dispute the IO's observations but, citing *DOB v. Daniel Matovinovic*, Appeal No. 2101811 (February 24, 2022) and *DOB v. 4729 White Plain Road Inc.*, Appeal No. 2401588 (December 19, 2024), moved to dismiss for improper service. He contended Petitioner failed to establish the IO made a reasonable attempt at service, where the IO's statements on his affirmation of service did not state whether he asked those individuals he spoke with whether anyone else present at the location was authorized to accept service.

Charter § 1049-a(d)(2) permits service of a summons by affixing it to "a conspicuous place in the premises where the violation occurred," after making a "reasonable attempt" to deliver the summons to a person at such premises upon whom service may be made as provided for by Article 3 of the Civil Practice Law and Rules (CPLR) or Article 3 of the BCL, followed by specified mailings.

CPLR § 311(a)(1) provides that "service upon a corporation . . . shall be made by delivering the summons . . . to an officer, director, managing or general agent, or cashier or assistant cashier or any other agent authorized by appointment or by law to receive service."

I credit the IO's statements on the summons. However, on this record, I find that the IO's affirmation of service failed to establish a reasonable attempt to effectuate personal service on Respondent before utilizing the alternative "affix and mail" method. Here, while the IO stated he knocked on all doors and asked individuals whether they were authorized, but all answered no, the IO's narrative failed to indicate whether he asked those individuals he spoke with whether anyone else present was authorized to accept service. A reasonable attempt to effectuate personal service on Respondent required the IO to make that inquiry before posting the summons. See *DOB v. 209 M Corp.*, Appeal No. 2000018 (February 6, 2019); *DOB v. 1360 Ocean Avenue Owners*, Appeal No. 2000494 (June 18, 2020).

Accordingly, the violation is dismissed for improper service.

K. Lawner

03/20/2026

03/20/2026

Kevin Lawner, Judicial Hearing Officer

Date