



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

LANCE CHEBIN - NACMIAS LAW FIRM 592 PACIFIC STREET Brooklyn, NY 11217	Summons No: 000786622J et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- NORTHEAST SERVICE INTERIORS LLC Hearing Date: 12/30/2024 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
000786622J	Dismissed	06/27/2023	LIVINGSTON ST BETWEEN CLINTON & COURT ST. Brooklyn

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	BA1K	24-163 (F)	Dismissed	\$0.00

Findings of Fact & Conclusions of Law

This telephone hearing was held on December 30, 2024. Petitioner, NYCDEP, appeared by Representative Leah Smith. Respondent, Northeast Service Interiors LLC, appeared by Lance Chebin, Authorized Representative. He waived translation services, counsel and the appearance of the Issuing Officer (IO).

This summons alleges a third violation of NYC Administrative Code §24-163(f) (Idling of motor vehicle). The prior violations were for Summonses Nos. 00425567Mand 000750163P. In the Summons, the Issuing Officer (IO) affirmed, as verified by a review of DEP records, that on June 27, 2023, at Livingston Street between Clinton St. and Court St., while adjacent to Packer Collegiate Institute school, a citizen-complainant observed a truck with NY License Plate #97195MN idling for longer than

one minute from 1:47:11 pm to 1:49:00 pm.

Ms. Smith relied on the affirmed statements of the IO in the summons. She submitted a copy of the redacted-citizen complaint (P-1), screenshots of the prior violations (P-2 & 3), and three photos depicting the truck, its name, DOT number, and license plate taken by the citizen-complainant (P-4, 5 & 6). She also submitted a video in excess of one minutes which could not be uploaded as evidence due to the size of the file. The video was taken by the citizen-complainant at the time of the alleged violation, and it depicts audible engine noise emanating from Respondent's truck for more than one minute. It also depicted men loading garbage onto the back of the truck during the video.

Mr. Chebin reviewed Petitioner's evidence and stated that he had no objection to said evidence. He did not contest the prior violations. He argued that the Respondent was using a loading device when the violation was issued and that there was no evidence of a school in the video.

Ms. Smith confirmed that the video depicted men loading garbage on to the truck. She stated that Petitioner did not have any recommendation.

§ 24-163 (f) states that "No person shall cause or permit the engine of a motor vehicle, other than a legally authorized emergency motor vehicle, to idle for longer than one minute if such motor vehicle is adjacent, as determined by rule, to any public school under the jurisdiction of the New York city department of education or to any non-public school that provides educational instruction to students in any grade from pre-kindergarten to the twelfth grade level, while parking as defined in section one hundred twenty-nine of the vehicle and traffic law, standing as defined in section one hundred forty-five of the vehicle and traffic law, or stopping as defined in section one hundred forty-seven of the vehicle and traffic law, unless the engine is used to operate a loading, unloading or processing device, and provided that idling of an engine of a school bus may be permitted to the extent necessary: (1) for mechanical work; (2) to maintain an appropriate temperature for passenger comfort; or (3) in emergency evacuations where necessary to operate wheelchair lifts. It shall be an affirmative defense that any such school was not easily identifiable as a school by signage or otherwise at the time a violation of this subdivision occurred."

I credit Respondent's argument that a loading device was in use when this violation was issued. I do not credit the Petitioner's evidence and I find that Petitioner failed to show that Respondent was in violation of NYC Administrative Code § 24-163(f). I further find that the Respondent established a valid defense to this violation. This violation is dismissed.

Barbara Halper

12/30/2024

12/30/2024

Barbara Halper, Hearing Officer

Date