



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: 000861725J et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- C NORTHEAST SERVICE INTERIORS LL Hearing Date: 08/05/2025 Hearing Location: Remote Type of Hearing: By Telephone
---	---

Total Penalty Amount: \$0.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000861725J	Dismissed	03/28/2024	ON ALBEE SQUARE W BTWN FULTON ST. & WILLOUGHBY 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

The hearing was conducted on August 5, 2025, by Court Call. Petitioner appeared through Senior Inspector Monica Dorson. Respondent, Northeast Service Interiors LLC, appeared through counsel, Michael Nacmias, Esq. of Nacmias Law.

The summons charges a violation of 24-163(f) of the Administrative Code in that Respondent caused or permitted the idling of a motor vehicle while parked, standing, or stopped for more than one minute while adjacent to Design Works High School and BASIS Independent Brooklyn. The issuing officer states that, as per DEP records, a citizen observed a Truck with NY license plate no. 61213MD idling for longer than one minute from 3/28/2024 11:11:14 AM to 3/28/2024 11:12:47 AM On Albee Square West between Fulton Street and Willoughby Street, in Brooklyn.

Petitioner submits a redacted idling complaint form, an image of the instant summons, images of the ECB Status Pages for the cited prior summonses, two images of the cited vehicle, an image of signage on the door of the cited school, and a video, in support of the summons, which have been marked as Exhibits 1 through 8. Petitioner states that the cited vehicle was audibly idling, continuously, for at least one minute during the submitted video. Petitioner states that, based upon the summons and the evidence submitted, the violation should be sustained.

Respondent argues that the cited priors are for a different offense than the instant summons and that the school cited in the summons is not clearly identified as being adjacent to the location where the cited vehicle was located.

I credit the evidence submitted by the Petitioner. Petitioner is not required to submit the citizen complainant's video at the hearing to establish a prima facie case. Where a video has been presented, it is not fatal to the summons that the video does not clearly show the vehicle vibrating, producing visible emissions, or making audible engine noise. See, *DEP v. Hub Truck Rental Corp.*, Appeal No. 2001344 (February 11, 2021). As such, Petitioner has established a prima facie case through the evidence presented. Nor has Respondent presented any affirmative evidence to rebut this case.

Petitioner has established that two prior summonses were issued to the vehicle cited in the instant summons, and that each of those summonses were substantiated with penalties paid. Respondent does not deny these facts. However, both of those prior summonses were issued for a violation of 24-163 of the Administrative Code. This is a different provision, with different elements of proof, than that cited in the instant summons. I find, as such, that Petitioner has not established that the instant violation would constitute a third offense, if sustained.

Based upon a review of all the evidence presented and arguments made, I find that the cited vehicle was parked adjacent to a school as it was parked on the same block as Desig Works High School and BASIS Independent Brooklyn. The statute prohibits idling for longer than one minute while "adjacent" to a school, and "adjacent" is defined in 15 RCNY 39-02 as "each and every street on which the school is located and has entrances and/or exits to such street." However, as can be seen in Exhibit 7, the signage identifying the school is merely an 8.5 x 11 sheet of white paper with the school's name and logo printed upon it. This signage would not be visible from any location on the cited street except, perhaps directly in front of the doors of the school. As can be seen in the submitted video, the cited vehicle was not directly in front of the school and the signage in question was not visible from the location of the vehicle. As such, Respondent has established an affirmative defense to this charge, even though I credit the statement of the citizen complainant.

Accordingly, the summons is dismissed.



08/22/2025

08/22/2025

Antonio Cavallaro, Hearing Officer

Date