



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: 000788653L et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- THE MGF GROUP INC Hearing Date: 08/05/2025 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: \$350.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000788653L	Sustained	06/06/2023	ON WILLOUGHBY ST BETWEEN GOLD ST Brooklyn

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	BA51	24 -163	Sustained	\$350.00

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, The MFG Group Inc, appeared through counsel, Michael Nacmias, Esq. of Nacmias Law.

The summons charges a violation of 24-163 of the Administrative Code in that Respondent caused or permitted the idling of a motor vehicle while parked, standing, or stopped for more than three minutes. The issuing officer states that, as per DEP records, a citizen observed a Tuck with NY license plate no. 75496ND idling for longer than three minutes from 6/6/2023 7:24:01 AM to 6/6/2023 7:27:46 AM On Willoughby Street between Gold Street and Flatbush Avenue Extension in Brooklyn.

Petitioner submits a redacted idling complaint form, an image of the instant summons , two images of the cited vehicle, an image of Respondent's Web Site, and a video, in support of the summons, which have been marked as Exhibits 1 through 6. Petitioner states that the cited vehicle was audibly idling, continuously, for at least three minutes during the submitted video . Petitioner states that, based upon the summons and the evidence submitted, the violation should be sustained.

Respondent argues that there is so much ambient noise and the citizen complainant is so far away from the cited vehicle that it is unclear if any idling can be heard coming from the cited vehicle in the provided video.

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. Respondent has failed to present any affirmative evidence to rebut this case.

Accordingly, the summons is sustained.



08/06/2025

08/06/2025

Antonio Cavallaro, Hearing Officer

Date