



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 No: 039533384N et al. (1 Summons) DEPT OF BUILDINGS, -against- MORELL BUILDERS INC Hearing Date: 07/22/2025 Hearing Location: Remote Type of Hearing: By Telephone
---	---

Total Penalty Amount: \$2,500.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039533384N	Sustained	10/15/2024	140-22 69 ROAD Queens

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	B2A7	28-116.1	Sustained	\$2,500.00

Findings of Fact & Conclusions of Law

The Department of Buildings (DOB) issued this Summons to Morrell Builders, Inc. The Summons charges a Class 2 or "major violation" on the date and at the location indicated above for failure to allow DOB access to an active construction site; it also requests an Aggravated Penalty of the 2nd Order (Agg. 2 penalty) and states that there was work in progress despite a stop work order (SWO). Andrew Berger, Esq., represented DOB at the remote hearing, and Nyasha Gambrell, the inspector who issued the Summons, testified. Phoebe Dossett, Esq., represented Morrell Builders.

Mr. Berger initially relied on the Summons and had Inspector Gambrell testify about her inspection, submitting photographs she had taken. But Ms. Dossett said that she was not challenging the violation itself, only the Agg. 2 penalty request, so the

hearing centered—and this decision centers—around that issue. In that regard, Inspector Gambrell that she and other DOB inspectors had been to the site “many” times. Mr. Berger said that the Agg. 2 request was based on the standards set forth in 1 RCNY 102-1(f)(2)(iii) and (iv) for a history of non-compliance with DOB-enforced laws and rules. And he submitted a complaint history in two parts, one running up to the complaint the inspector had responded to and another for afterwards, along with an inspection report from a few days before Inspector Gambrell’s.

Ms. Dossett responded that nothing in Mr. Berger’s evidence or the Inspector’s testimony reflected any actual violations or SWOs. She submitted additional DOB records: a violation history and a slightly different complaint history, again running from after the date of alleged violation here, although with a complaint history showing a patial SWO issued Jan. 22, 2025. And she observed that the complaints were all very similar, saying that they were all hearsay and that her understanding was that they all came from the same angry neighbor.

Mr. Berger conceded that there had been no SWO in effect, but said that the complaint history still justified the Agg. 2.

The provisions on which Mr. Berger relied for the Agg. 2 penalty state:

“(iii) Where the respondent or defendant has a history of non-compliance with laws or rules enforced by the Department at one or more locations, including but not limited to a pattern of unreasonable delays in correcting violations, a pattern of failing to obey Stop Work Orders, filing false documents, or multiple defaults.

“(iv) For purposes of this section, ‘in violation’ shall mean to be adjudged in violation of any law or rule enforced by the Department following a hearing, to admit the charge, or to sign a stipulation agreement either at or before a hearing before any administrative or judicial tribunal. Failure to appear at a hearing leading to entry of a default order or judgment shall also be deemed a finding ‘in violation.’”

Here my own review of the evidence confirms that, in addition to the fact that there was no SWO in effect on the date at issue and that, although there were five DOB violations issued before this on, all were issued to parties other than Morrell Builders and all dismissed. In light of this history shown on DOB’s own records, DOB had found few instances prior to the issuance of this Summons to justify issuing any violations and absolutely none to issue them to Morrell Builders. Therefore, there were no SWOs, much less non-compliance with them, or any other conduct justifying the Agg. 2 under 1 RCNY 102-1(f)(2)(iii) and there was no conduct justifying an Agg. 2 pursuant to 1 RCNY 102-1(f)(2)(iv).

Accordingly, I credit the sworn statement of fact, Inspector Gambrell’s testimony, and all of the evidence as supporting the Class 2 violation charged but not the Agg. 2 penalty request. I also note that Ms. Dossett a BIS summary of the instant Summons, showing that correction has now been certified, but not until after the first scheduled hearing date of Dec. 24, 2024; therefore no mitigated or reduced penalty is justified.

This violation is sustained, and the standard penalty of \$2,500 is imposed.

Sara Piov

07/25/2025

07/25/2025

Sara Piov, Hearing Officer

Date