



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

frank tamberino 592 Pacific Street first floor BROOKLYN,NY 11217	Summons No: 048919001P et al. (1 Summons) THE NEW YORK CITY DEPARTMENT OF SANITATION, -against- 312 EVERGREEN AVE LLC Hearing Date: 04/24/2025 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: \$100.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
048919001P	Sustained	01/24/2025	312 Evergreen Avenue Brooklyn

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	AS21	A.C. 16-123	Sustained	\$100.00

Findings of Fact & Conclusions of Law

The Summons alleges the Issuing Officer (IO) observed did observe an ice condition on sidewalk on the sidewalk premise with no attempt made to sand, salt or shovel path for pedestrians. Snow storm officially ended 1/20/25 2:30 AM

Attorney Frank Tamberino appeared on behalf of Respondent. There was not appearance by the petitioner.

Respondent argues that the summons was issued four days after the storm ended and that the term "no attempt" was purely an inference as the inspector does not know what Respondent did or did not attempt. Respondent also states that given the storm ended four days prior it is possible that the ice formed as a result of a leak or another source other than the storm and if Respondent had spread sawdust or other suitable material it would be hard to see. Respondent does not state any specific actions that were taken by Respondent to address the ice condition.

Code § 16-123 requires a property owner to remove snow and ice from the sidewalk abutting the property within four hours after snow ceases to fall. However, if the snow ceases between 5pm and 9pm Respondent has 14 hours from the time the snow ceased. Additionally, if the snow ceases between 9:00 p.m. and 6:59 a.m. sidewalks must be cleared by 11:00 a.m. The IO's affirmed statement established a prima facie case of Code § 16-123 violation. See § 6-12(b) of Title 48 of the Rules of the City of New York (a summons affirmed under penalty of perjury is prima facie evidence of the facts stated therein). The burden then shifted to the Respondent to establish a defense.

I credit the summons details that the storm ended on 1/20/25 at 2:30 a.m. and that the inspector observed an ice condition on 1/24/25 at 10:40 a.m. and I find that Petitioner has established a valid charge against Respondent. Respondent has not presented a legally valid defense. Therefore, the Summons is upheld.



04/24/2025

04/24/2025

Elyse Post, Hearing Officer

Date