



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

Michael Nacmias, Esq. - Nacmias Law Firm 592 Pacific Street, 1st fl Attn: Frank Tamberino, Esq Brooklyn, NY 11217	Summons No: 039141916M et al. (1 Summons) DEPT OF BUILDINGS, -against- KINGDOM FAMILY LLC Hearing Date: 10/27/2025 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: **\$1,250.00**

Community Service(Hr): **Not Applicable**

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039141916M	Sustained	03/18/2025	750 59 STREET Brooklyn

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	B263	28-204.4	Sustained	\$1,250.00

Findings of Fact & Conclusions of Law

The summons alleges violation of NYC Admin Code 28-204.4 in that respondent failed to certify correction for violation #39091029N.

Maria Dollas, Esq. appeared for the petitioner, New York City Department of Buildings. Inspector G. Citera, Badge #3281, testified for the petitioner.

Frank Tamberino, Esq. appeared for the respondent, Kingdom Family LLC.

Petitioner relied on the sworn statement of the issuing officer. The inspector testified as to service of the summons. The inspector stated that due to that the time lapse between the service of the summons and the hearing he did not remember the specifics involved in serving the summons but explained his usual routine when doing so. The inspector stated that he rings doorbells or buzzers intercoms, waits a few minutes to see if someone responds, then heads to car and waits a few minutes to see if someone approaches. The inspector stated if he sees someone enter or exit the building, he asks the required questions which he keeps taped to the back of his clipboard and submitted a photograph of the back of his clipboard into evidence.

Respondent did not refute the underlying factual allegations in the summons. Respondent requested a dismissal of the summons based on improper service. Respondent contended that the affidavit of service was vague and did not put respondent on notice as to how service was accomplished. Respondent contended that since the inspector's testimony was to his usual routine as opposed to the specific service of the instant summons his testimony did not serve supplement the affidavit by giving specific facts.

Petitioner contended that service was appropriate. Petitioner asserted that an affidavit of service may be supplemented by testimony at a hearing and that the inspector can testify as to his usual routine when he does not remember the specifics of the service due to a time lapse. Petitioner submitted appeals cases in support of her assertions.

NYC Administrative Code 28-204.4 provides, in pertinent part, "Failure to comply with an order of the commissioner issued pursuant to section 28-204.2 or pursuant to any provision of law or rule enforced by the department in effect at the time the order was issued to correct and to certify correction of a violation within the applicable time period shall be a violation of this code for which penalties may be imposed in addition to the penalties that may be or have been imposed for the violation referred to in such order."

A class 2 violation is considered a Major violation. Major violations are those specified as such by the New York City Construction Codes or those where the violating condition affects life, health, safety, property, or the public interest but does not require immediate corrective action. This violation is mitigatable if the respondent can show proof correction prior to the first hearing date.

When an affirmation of service fails to describe a sufficient reasonable attempt to effectuate service, the IO's testimony can supplement the affirmation. See NYC v. 1835 JRA LLC, Appeal No. 1300835 (November 21, 2013). Petitioner can establish a reasonable attempt at service through an IO's credible testimony about their usual practices. See DOB v. Appeal No. 2500455 DOB v. 1 Carlton Associates Inc. p. 5 of 6 Duane 131 LLC, Appeal No. 1800655 (August 23, 2018)

I credit the undisputed factual allegations in the summons which support a violation of the cited code section. Further, I credit the Inspector's testimony and I find that service was proper in this instance. Accordingly, the summons is sustained, and the mandatory penalty is imposed.

Ilene Sussman

10/29/2025

10/29/2025

Ilene Sussman, Judicial Hearing Officer

Date