



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# : 039529498J et al. (1 summonses) DEPT OF BUILDINGS, -against- MEUD CORP YAFE Hearing Date : 1/9/2025 Hearing Location : Remote Type of Hearing : By Telephone
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Total Penalty Amount :	1,000.00	Community Service(Hr):	Not Applicable
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SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039529498J	Sustained	06/11/2024	378 HANCOCK STREET, Brooklyn

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B211	BC 3307.7	Sustained	1,000.00

Total Penalty for Summons: 1,000.00

Findings of Facts & Conclusions of Law

Rafeena Khairullah, Esq. appeared as counsel for the Petitioner the New York City Department of Buildings. She submits a series of photographs marked collectively as exhibit "1", and relied on the issuing inspectors class 2 designation and recommended the minimum penalty.

Phoebe Dossett, Esq. appeared as counsel for the respondent. She made a motion to dismiss and stated that a construction fence was not required because the cited work was at grade and not exterior work.

The issuing inspector C. Lazo appeared under oath at the hearing and testified that he gained access to the outside of the construction site and observed no fence and an unlocked sanitary facility potty.

Respondent is charged with having a job site fence which was not maintain according to code, by having it unlocked, under BC 3307.7, as a class 2 charge.

BC § 3307.7 provides that: All sites where a new building is being constructed, or a building is being demolished to grade, shall be enclosed with a fence. Fences shall also be installed to fully or partially enclosed sites, as necessary, where there exists an open excavation, an unenclosed portion of a building accessible at grade, or other hazard to the public. Such fences shall be at least 8 feet (2438 mm) high, built solid for their entire length, out of wood or other suitable material, and shall be returned at the ends to the extent necessary to effectively close off the site. BC § 3307.7.1 provides, in pertinent part: Where the fence is installed to fully enclose a site, the fence shall be constructed along the inside edge of the sidewalk or walkway and along the edges of the property line. Where a fence is installed to partially enclose a site, the fence shall be installed as necessary to prevent public access to any excavation or unenclosed portion of the building accessible at grade.

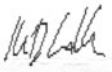
In the case at hand, the cited work was not a new construction, the permit and photographs established that extensive work was being done to the front stairs and exposed façade repairs at grade level, and accessible to the public.

I deny Ms. Dorsett's motion to dismiss and find her claim that no fence as required because the work was at grade level to not be credible.

I find that a construction fence was required to prevent access to the building under construction. Further, the photographs establish that the unenclosed portion of the front of building was accessible at grade level.

I find that this properly charged as a class 2 charge. A class 2 charge is a 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, or, with respect to outdoor advertising, those where the violation and penalty are appropriate as an economic disincentive to the continuation or the repetition of the violating condition.

I sustain this summons and based upon the above, I impose the statutory approved class 2 minimum penalty.

	
01/14/2025	01/14/2025
Keith J. Ludwiczak, Hearing Officer	Date

