



# OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS

Hearings Division

## Decision

Michael Nacmias, Esq. - Nacmias Law Firm  
592 Pacific Street 1st Floor  
Brooklyn, NY 11217

Summons# : 0802393727 et al. (2 summonses)

DEPARTMENT OF HEALTH & MENTAL HYGIENE,

-against-

PRIME BROOKLYN HOMES C/O MGMT

Hearing Date : 12/5/2024

Hearing Location : Remote

Type of Hearing : By Telephone

Total Penalty Amount : 0.00

Community Service(Hr): Not Applicable

| SUMMONS #  | SUMMARY<br>DISPOSITION | DATE OF OCCURRENCE | PLACE OF OCCURRENCE      |
|------------|------------------------|--------------------|--------------------------|
| 0802393727 | Dismissed              | 08/25/2022         | 131 Linden St., Brooklyn |

| LINE ITEM | OATH CODE | CODE SECTION / RULE | RESULT    | PENALTY |
|-----------|-----------|---------------------|-----------|---------|
| 1         | AH4C      | NYCHC 151.02(A)     | Dismissed | 0.00    |

Total Penalty for Summons: 0.00

| SUMMONS #  | SUMMARY DISPOSITION | DATE OF OCCURRENCE | PLACE OF OCCURRENCE       |
|------------|---------------------|--------------------|---------------------------|
| 0802393736 | Dismissed           | 08/25/2022         | 131 Linden St. , Brooklyn |

| LINE ITEM | OATH CODE | CODE SECTION / RULE | RESULT    | PENALTY |
|-----------|-----------|---------------------|-----------|---------|
| 1         | AH3W      | NYCHC 151.02(A)     | Dismissed | 0.00    |

**Total Penalty for Summons: 0.00**

### **Findings of Facts & Conclusions of Law**

Respondent, PRIME BROOKLYN HOMES C/O MGMT appeared by its authorized representative, Michael Sargo, Esq., who waived the issuing officer. The petitioner, NYC Dept. of Health did not appear.

Respondent was issued 2 SUMMONSES: 0802393727 AND 0802393736 issued on the same date and place of occurrence as SUMMONS 0802201410.

The SUMMONS alleged a violation of Section 151.02(a) of the NYC Health Code for failure to maintain the property free of pests and conditions conducive to pests.

Respondent's representative moved to dismiss as the allegations of holes and burrows were duplicative of SUMMONS 0802201410, since both SUMMONSES were issued to the same respondent on the same date, time and place of occurrence and for the same charge.

I find in Appeal No. 1301150 NYC v. Garden Estates LLC dated January 30, 2014, under similar facts there the Appeals Board held that a SUMMONS is duplicate of another SUMMONS "when each cites the same respondent for the same place of occurrence on the same date of violation on the same factual basis under the same provision of law or a different provision of law with the same elements of proof." I find do not cred credit the allegations and find that SUMMONSES: 0802393727 AND 0802393736 were duplicative of SUMMONS # 0802201410 that was heard and was sustained. I find the allegations of "shade" did not give Respondent notice of the location of the violation and per Section 6-08(c)(2) the SUMMONSES failed to contain "[a] clear and concise statement sufficient to inform the Respondent with reasonable certainty and clarity of the essential facts alleged to constitute the violation or the violations charged, including the . . . place . . . where such facts were observed . . . ."

Accordingly, I dismiss.

|                                                                                                                                                                                                                   |      |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|
| <div style="font-family: cursive; font-size: 1.2em; margin-bottom: 10px;">Linda Agoston</div> <div style="display: flex; justify-content: space-between;"> <span>12/06/2024</span> <span>12/06/2024</span> </div> |      |
| Linda Agoston, Hearing Officer                                                                                                                                                                                    | Date |

