



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

Caroline Kane, Esq. - Nacmias Law Firm, PLLC 592 Pacific Street, 1st Floor Brooklyn, NY 11217	Summons No: 0703762391 et al. (1 Summons) DEPT OF TRANSPORTATION, -against- BAYSIDE BUILDERS INC Hearing Date: 03/13/2025 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: \$0.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
0703762391	Dismissed	12/02/2024	30 Conselyea Street Btwn Lorimer St and Union Ave. Brooklyn

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	ADG3	34RCNY 2-02(C)(4)	Dismissed	\$0.00

Findings of Fact & Conclusions of Law

Caroline Kane, attorney for Respondent BAYSIDE BUILDERS INC, appeared at the telephone hearing on February 13, 2025. Brij Persaud appeared on behalf of Petitioner, DOT.

The respondent is charged with code section 34 RCNY 2-02(c)(4) for failure to have the necessary ID markings on DOT required signs. Petitioner argued that the Respondent did not have a valid permit on the signage at the time of the summons issuance. See Petitioner evidence package. Respondent's attorney testified that they were in the process of getting a new

permit and that there was one day remaining on the permit on the day the violation issued. Respondent's attorney argued that the violation was issued on 12/2/24, however the permit expired on 12/3/24. Petitioner asserted that the renewal should have been sought prior to the permit's expiration because these permits are issued for one month.

I credit the summons details, Petitioner's evidence, and I find that Petitioner has established a valid charge against Respondent. Petitioner established its prima facie case through the IO's affirmed statement in the summons. See 48 RCNY § 6-12(b). Once Petitioner established its case, the burden shifted to Respondent to refute the charge or establish an affirmative defense. See 48 RCNY § 6-12(a). I find that Respondent has established an affirmative defense because there was one day remaining on the permit on the day the citation was issued. Thus, I dismiss the 34 RCNY 2-02(c)(4) charge.



03/18/2025

03/18/2025

Nanika Shaw, Hearing Officer

Date