



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# : 035430836H et al. (4 summonses)

DEPT OF BUILDINGS,

-against-

FRITZ TAVAREZ

Hearing Date : 4/18/2025

Hearing Location : Remote

Type of Hearing : By Telephone

Total Penalty Amount : 0.00

Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
035399381H	Dismissed	06/05/2019	383 KOSCIUSZKO STREET, Brooklyn

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B263	AC 28-204.4	Dismissed	0.00

Total Penalty for Summons: 0.00

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
035430835X	Dismissed	10/17/2019	383 KOSCIUSZKO STREET, Brooklyn

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B263	AC 28-204.4	Dismissed	0.00

Total Penalty for Summons: 0.00

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
035430836H	Dismissed	10/17/2019	383 KOSCIUSZKO STREET, Brooklyn

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B187	28- 201.1	Dismissed	0.00

Total Penalty for Summons: 0.00

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
035517557R	Dismissed	03/13/2020	383 KOSCIUSZKO STREET, Brooklyn

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B187	28- 201.1	Dismissed	0.00

Total Penalty for Summons: 0.00

Findings of Facts & Conclusions of Law

Taylor Barje, DOB

Caroline Kane, Atty for Respondent

28-201.1/28-204.4: Failure to comply with a Commissioner's Order.

Petitioner stated that Respondent was found in violation on the underlying summonses and that summons 035430836H was the basis for the aggravated I penalty in summons 035517557R. In response, Respondent challenged only service for all 4 summonses.

The affidavit of service for summonses 035430835X, 035430836H and 035399381H states "Rang and searched property No one authorized to take violation." The affidavit does not state where they searched, how long they stayed on the premises, whether there were any signs posted with phone numbers to call, nor who, if anyone, they spoke to. Since the affidavit states "No one authorized to take violation" rather than "No one present" it may be that the I/O spoke to someone, although that is not clear. However, if they did, the proper question for service on an individual (which is who the Respondent is in these cases) is whether the person spoken to will accept service, not whether they are authorized. DOB v. Haim Achrak, Appeal No. 2000817 (10/8/20). Based on the bare bones narrative in the affidavit of service, I find that a reasonable attempt at service was not made and dismiss the summonses.

The affidavit of service for 035517557R has more detail but explicitly states that a person was encountered and they were asked if they were authorized to accept service. As just noted, the proper question for service upon an individual is whether the person spoken to will accept service, not whether they are authorized. DOB v. Haim Achrak, Appeal No. 2000817 (10/8/20). I find that a reasonable attempt at service was not made and dismiss this summons also dismissed for improper service.

David Pantaleoni

04/24/2025

04/24/2025

David Pantaleoni, Hearing Officer

Date

