



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

Frank Tamberino - Nacmias Law Firm 592 Pacific Street 1st Floor Brooklyn, NY 11217	Summons No: 039102364L et al. (1 Summons) DEPT OF BUILDINGS, -against- 3052 FULTON ST BROOKLYN LLC Hearing Date: 07/14/2025 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
039102364L	Sustained	12/27/2023	3052 FULTON STREET Brooklyn

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	B102	28-301.1	Sustained	\$1,250.00

Findings of Fact & Conclusions of Law

This hearing was conducted by Court Call on July 14, 2025. Respondent, 3052 FULTON ST BROOKLYN LLC appeared at the hearing by Attorney Frank Tamberino. Attorney Maria Dollas appeared on behalf of DOB. The issuing Officer alleges a violation of NYC AC Section 28-301.1. Specifically, the summons alleges, "FAILURE TO MAINTAIN BUILDING IN CODE COMPLAINT MANNER AT TIME OF INSPECTION OBSERVED BUILDING OUT OF PLUMB LEANING TO THE LEFT AT EXPO #3 ALSO AT EXPO #3 OBSERVED A LARGE AMOUNT OF DEBRIS LEVEL . AND BACKYARD FIRE ESCAPE LOOKS UNSAFE. AT EXPO. #1 OBSERVED NO NEW ON GOING CONSTRUCTION AT BARBER SHOP AT STREET LEVEL"

Mr. Tamberino challenged service and the Class 1 designation. I note that Respondent did not challenge service at the outset

of the hearing. Petitioner was afforded the opportunity to recall Inspector Horton to testify regarding service. While during his initial testimony, Inspector Horton indicated he did not recall what he did after he wrote the summons his attention was not drawn to the issue of service and therefore, I credit his testimony describing the efforts he made to personally serve the summons supplementing the affidavit of service.

Ms. Dollas provided a 13-page PDF which contained 11 photographs from the time of inspection. Ms. Dollas also called inspector Tyler Horton Badge 3621 who made specific reference to photographs showing the unsafe fire escape and the leaning building. Ms. Dollas also provided Appeal No. 2001181 DOB v. 625 Jackson Realty Co January 14, 2021; Appeal No. 1800643 DOB v. 500 East 134th Owners LLC August 9, 2018; and Appeal No. 2000536 DOB v. Avo Construction, LLC August 13, 2020

Mr. Tamberino argued that service is defective in that the affidavit does not establish a reasonable attempt at personal service. the affidavit of service states, "no one there to take summons" and provided Appeal No. 2401585 DOB v. Gilbane Building Company December 19, 2024, which sets forth the standard of "reasonable attempt" to deliver the summons prior to posting the summons.

On the issue of service, I credit IO Horton's testimony when he Looked at Barber shop it was empty the lights were off, and then knocked on the door leading to upstairs nobody. I find respondent made a reasonable attempt at personal service prior to conspicuously affixing the summons. Accordingly, I find service to have been proper.

On the merits, I credit the facts in the summons along with the IO's testimony and photographs provided and find a prima facie violation of the charged section of law establishes prima facie case as a class 1 violation based on the testimony of the inspector and evidence which establish the building is out of plumb and leaning to the left. The evidence is sufficient to shift the burden to the respondent to rebut the charge. Respondent did not rebut the charge or establish a defense.

Accordingly, the summons is sustained.



08/01/2025

08/01/2025

William Ross, Hearing Officer

Date