



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

Michael Nacmias, Esq. - Nacmias Law Firm 592 Pacific Street 1st Floor Brooklyn, NY 11217	Summons No: 035482552K et al. (1 Summons) DEPT OF BUILDINGS, -against- 2331 GLEASON AVE. L.L.C. Hearing Date: 12/12/2024 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
035482552K	Sustained	02/28/2023	2331 GLEASON AVENUE Bronx

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	B203	AC 28-118.3.2	Sustained	\$1,250.00

Findings of Fact & Conclusions of Law

Summons: 035482552K

Hearing date: 12/12/24

Appearing for petitioner: A. Engel,

Witness(es):

Appearing for respondent: Matthew Whitening as authorized representative

Witness(es):

The charge dated 2/28/2023, was occupancy contrary to that allowed by the certificate of occupancy. The issuing officer wrote of a class A apartment created on the 2nd floor.

Petitioner stated the issuing officer is no longer In Department of Housing Preservation and Development's employ.

Respondent challenged the class 2 designation, arguing there was no immediate hazard.

Petitioner declined to amend the class because an additional living space can be dangerous in an emergency.

I find the class 2 designation appropriate.

Petitioner augmented the summons with a Department of Housing Preservation and Development inspection record, and evidence that Department of Buildings records show this as a one family residence.

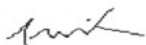
Respondent testified there was an impossibility defense. Respondent needed a Housing Court Order to evict the occupants of the cited apartment, and did obtain one dated 4/15/2024. However, I informed respondent that such defense would only apply to a charge of failing to comply with a Commissioner's Order.

Findings of Fact and Conclusions of Law:

I credit the statement of facts in the summons and supporting evidence.

Respondent did not challenge the facts. Respondent did not offer testimony as to any certificate of correction.

Accordingly, I sustain the charge.



12/12/2024

12/12/2024

Clive Morrick, Hearing Officer

Date