



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: 039532799K et al. (1 Summons) DEPT OF BUILDINGS, -against- 174 EAGLE ST LLC Hearing Date: 05/06/2025 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: \$1,000.00

Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039532799K	Sustained	09/26/2024	174 EAGLE STREET Brooklyn

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	B211	BC 3307.7	Sustained	\$1,000.00

Findings of Fact & Conclusions of Law

Respondent, 174 EAGLE ST LLC, appeared by its authorized representative, Michael Sargo. Petitioner, NYC Dept. of Buildings, appeared by its authorized representative, Deanna Burbridge.

The SUMMONS alleged a class 1 violation of Section 3307.7 of the NYC Building Code for job site fence for no viewing panels.

Respondent's representative moved to dismiss as the holder of the fence permit, the general contractor (GC) should have been cited and submitted the ACRIS record of the deed to Respondent dated 5/15/24 (Exh. A), the work permit to build a 4-family dwelling at the place of occurrence issued to Greenwood Monitoring with the GC license dated 10/21/24, (Exh. B) and the

permit dated 8/22/24 to the GC to install the 8' high temporary construction fence dated 8/22/24 (Exh. C) and Appeal No. 2401840, DOB v. L & H Realty Yehada Levi, dated 2/27/25 (Exh. D) and noted that the Board held:

"BC § 3307.6.5.3, in a descending hierarchy, makes the general contractor, or the contractor causing the work to be performed where there is no general contractor, or the building owner where there is no active work, responsible for the maintenance of the sidewalk shed once it is erected. See DOB v. Michael O Farrell, Appeal No. 2300094 (April 27, 2023). Here, the only proof of an active permit that Respondent submitted was for the installation of a suspended scaffold issued to NY Wonder Construction Co. However, in response, Petitioner submitted a printout from its DOB Now system showing that the scaffolding permit was not issued in connection with any other job at the premises. Therefore, the Board finds that NY Wonder Construction Co. was not responsible for maintaining the sidewalk shed. As Respondent submitted no other evidence that there was active work in connection with the sidewalk shed occurring at the site on the date of violation, the JHO erred in finding that Respondent's evidence showed the summons should have been issued to NY Wonder".

Petitioner's representative stated the Respondent, the owner was property named on the date of offense, 9/26/24 as there could be no active work on the place of occurrence until 10/21/24, the date the GC obtained the new building permit, and that the owner could be cited when there was no work.

I find Respondent's representative submitted no evidence to establish an active work site existed on the date of offense. I credit the allegations and find they support a violation of Section 3307.7. I further find the allegations support a designation of a class 2 because the violating condition affects life, health, safety, property, or the public interest but does not require immediate corrective action. I find there was no dispute in fact and no valid defense presented.

Accordingly, I find respondent in violation impose the mandatory penalty.

Linda Agoston

05/07/2025

05/07/2025

Linda Agoston, Hearing Officer

Date