



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

Phoebe Dossett, Esq. - Nacmias Law Firm, PLLC 592 Pacific Street 1st Floor Brooklyn, NY 11217	Summons No: 039524458M et al. (1 Summons) DEPT OF BUILDINGS, -against- IOCOVELLO & SONS BUILDERS Hearing Date: 12/18/2025 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: \$6,250.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039524458M	Sustained	01/03/2024	308 E 106th St Manhattan

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	B106	AC 27MISCAC28MISCBMI	Sustained	\$6,250.00

Findings of Fact & Conclusions of Law

Summons: 039524458M

Hearing date: 12/18/25

Appearing for petitioner: Andrew Berger, Esq.

Witness(es):

Appearing for respondent: Phoebe Dossett, Esq.

Witness(es):

The charge dated 1/3/2024, was failing to have a pressurized standpipe, on an inactive new building, building code §3303.8. (Aggravated 1.)

Petitioner augmented the summons with photographs, and respondent's permit, expiring 6/27/2023.

Petitioner submitted a previous summons for the same charge, that was admitted to.

Respondent presented a renewal permit issued on 5/28/2025, to AB Plus Construction.

Respondent raised two defenses:

1. the cited section of law was inapplicable to an inactive building;
2. the summons should have been issued to the owner because the respondent general contractor was off the job and its permit had expired.

Petitioner cited appeal 1202239 in support of its argument that the respondent was correctly cited. Respondent argued that appeal did not apply to an inactive site.

Findings of Fact and Conclusions of Law:

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

Respondent defense # 1:

The cited section of law, building code §3303.8, provides:

"3303.8 Standpipe systems during construction, alteration or demolition. During construction, alteration or demolition operations, standpipe systems shall comply with the following: 1. When, during the course of the construction of a new building, the topmost working deck reaches a height of 75 feet (22 860 mm) or greater above the ground in a building for which a standpipe system will be required, a permanent or temporary standpipe system meeting the requirements of Section 905 shall be kept in a state of readiness at all times for use by firefighting personnel. The standpipe system shall serve all floors that are at least 4 stories or 40 feet (12 192 mm) below the topmost working deck, whichever is less. No standpipe shall be considered to be in a state of readiness unless it is painted red in accordance with the provisions of Section 905.11. When freezing conditions may be encountered, the system in whole, or the part of the system subject to freezing conditions, shall be maintained as a dry system."

Respondent emphasized the words "construction, alteration or demolition" and argued that an inactive site is none of those.

The building was being constructed. Thus, it was in the course of construction.

It was over 75 feet. That no work was ongoing is immaterial. An inactive site has as much risk of fire as an active one.

I deny respondent's motion to dismiss on this ground.

Respondent's defense # 2:

Petitioner's case is that the general contractor had not obtained a Department of Buildings sign off and was the appropriate party to cite.

In Appeal 1202239, the Appeals Tribunal held that:

"A permit holder's responsibility continues until DOB signs off on the project, the permit is revoked, or the contractor formally withdraws from the job. See NYC v. American Environmental Assessment Corp. (ECB Appeal No. 0900591, February 25,

2010) and NYC v. B & A Demolition & Removal (ECB Appeal No. 48053, September 24, 2009). Since the job was not signed off or revoked and Respondent did not formally withdraw, it is responsible for the expired fence permit."

Respondent argued that this appeal did not concern an inactive site. I do not find that to be relevant.

It is entirely within the general contractor's control to obtain a sign off, or permit revocation, or formally withdraw. There is no evidence that it did any of these things.

I apply the reasoning in the cited appeal to the instant charge.

I deny respondent's motion to dismiss on this ground.

Accordingly, I sustain the charge as an aggravated 1 charge.



12/19/2025

12/19/2025

Clive Morrick, Judicial Hearing Officer

Date