



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

Frank Tamberino, Esq. - Nacmias Law Firm 592 Pacific Street 1st Floor Brooklyn, NY 11217	Summons No: 0703828777 et al. (1 Summons) DEPT OF TRANSPORTATION, -against- BUILDERS JOSEPH AND SONS LLC Hearing Date: 05/29/2025 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: \$0.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
0703828777	Dismissed	02/22/2025	2022 5 St btw Avs S&T Brooklyn

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	AD09	AC 19-121(A)	Dismissed	\$0.00

Findings of Fact & Conclusions of Law

The Department of Transportation (DOT) issued this Summons to Builders Joseph and Sons LLC charging a violation on the date and at the location indicated above for storing Jersey barriers on the street although its permit to do so had expired. Inspector Brijnanand Persaud represented DOT at the remote hearing, and Frank Tamberino, Esq., represented the LLC.

In addition to relying on the Summons, Inspector Persaud submitted an evidence package including a number of photographs taken and annotated by the inspector who issued the Summons showing the barriers and a Department of Buildings (DOB) permit, along with a copy of the expired DOT permit on which that inspector had relied.

Mr. Tamberino said the Summons should be dismissed because the LLC was no longer working in the street and was improperly named in the Summons. He submitted a snapshot showing active DOB permits issued to MJM Associates and pointed out that the Jersey barriers in some of the DOT photographs were clearly labelled "MJM." I note that Mr. Tamberino also said his client had cleared away the barriers, and submitted photographs in support, but that these are not relevant (although included in the record) because no mitigation would be available if there were a violation.

After doing some research, Inspector Persaud conceded that MJM had a DOB permit for the neighboring property and said that DOT would not be offering any rebuttal.

I credit Mr. Tamberino's evidence and attorney representations, and also note, as I did at the hearing, that in particular page 6 of the DOT evidence clearly shows the barriers are marked "MJM." Accordingly, although I have no idea whether MJM had the appropriate permits, I find that the LLC was not responsible for the cited conditions and is not properly named in the Summons.

This Summons is dismissed.



05/29/2025

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Sara Piovio, Hearing Officer

Date