



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: 039529940N et al. (1 Summons) DEPT OF BUILDINGS, -against- 3530 WEBSTER AVENUE Hearing Date: 06/18/2025 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: \$625.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039529940N	Sustained	06/25/2024	3530 WEBSTER AVENUE Bronx

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	B206	AC 27MISCAC28MISCBCMI	Sustained	\$625.00

Findings of Fact & Conclusions of Law

Phoebe Dossett, Esq. appears for the Respondent. Malka Amar, Esq. and Issuing Officer (IO) W. Martinez, Badge #3181, appear for the Petitioner Department of Buildings (DOB). Respondent was charged with a B106, class 1 violation of (prior) Building Code Section 801.1.1.1 for miscellaneous violations relating to the responsibility of taller buildings. Petitioner's attorney amends the charge to a B206, class 2 violation for BC 2113.1 and offers mitigation in that compliance was performed before the first hearing date.

The sworn summons credibly states that on an active job site of an 8-story building, the IO observed at adjoining property 3536 Webster Avenue, Exp. 2/3 chimney/vents in place approximately 2-3 feet from taller building's edge not extended 4 feet

above taller building, creating an offset/backflow draft fire hazard to public/residents of adjoining property. The IO affirms the summons and submits photographs of the violating conditions.

Respondent's attorney submits a document purportedly from the owner stating that the chimney in question was not active. The statement is not sworn to, nor is there an identifiable person on the signature line. Instead, it lists the company name printed below the signature line, but the signature is indecipherable and no name is printed that would identify any person.

Building Code 2113.1 states that whenever a building is erected, enlarged, or increased in height so that any portion of such building, except chimneys or vents, extends higher than the top of any existing chimneys or vents within 100 feet (30 480 mm), the owner of such new or altered building shall have the responsibility of altering such chimneys or vents to make them conform with the requirements of this chapter. A chimney or vent that is no longer connected with a fireplace or combustion or other equipment for which a chimney or vent was required, shall be exempt from this requirement. Such alterations shall be accomplished by one of the following means or a combination thereof:

I find IO and his sworn summons clear, credible and specific. I also find that the photographs depict such violating conditions. As such, the DOB has established a prima facie case for this violation. Respondent's attorney does not show that her client is exempt from this provision, as her evidence is not credible that the chimney in question is inactive. I do not find her documentary evidence reliable or credible. As such, the summons is sustained. Mitigated penalty of \$625.

Janine Azriliant

06/18/2025

06/18/2025

Janine Azriliant, Hearing Officer

Date