



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# : 039533221Z et al. (2 summonses)

DEPT OF BUILDINGS,

-against-

DEVELOPMENT JC BROTHERS

Hearing Date : 6/5/2025

Hearing Location : Remote

Type of Hearing : By Telephone

Total Penalty Amount : 2,500.00

Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039533221Z	Sustained	10/08/2024	28-08 21 STREET, Queens

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B2P4	BC 3309.10	Sustained	2,500.00

Total Penalty for Summons: 2,500.00

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039533222K	Dismissed	10/08/2024	28-08 21 STREET, Queens

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B101	28-105.1	Dismissed	0.00

Total Penalty for Summons: 0.00

Findings of Facts & Conclusions of Law

Cassie Rene appeared for Petitioner. Phoebe Dossett appeared for Respondent.

Summons -21Z charged a Class 2 violation of Building Code § 3309.10 for failure to provide protection of adjoining property during construction or demolition as required, with no roof protection. Active site observed inadequate roof protection at adjacent property, exposure # 2, and no protection on balcony at Corner of Exposure 3 and 4. Stop all work 10 feet back corner of Exposure 2 and 3 provide adequate roof protection and corner of exposure 3 and 4 provide protection on balcony. In support of the summons, Petitioner provided Exhibit 1, the summons with service and photos.

The issuing officer S. Downes, badge 3637, appeared and testified that there was work happening when she visited the site; that the adjacent buildings needed protection from the work site; that exposure 3 and 4 there was no roof protection at all, and for exposure 2, the protection needed to go further. The parapet needed more of that wood.

The issuing officer's affirmed statement established a prima facie case of the violation. See 48 RCNY § 6-12(b). Respondent cross examined Inspector Downes, but did not elicit any testimony that refuted Petitioner's case or established a defense to the charge.

Accordingly, the summons is sustained.

Summons 22K charged a Class 1 violation of Building Code § 28-105.1 for work without a permit. Specifically, the inspector observed work under Q01003169-S3-ST permit is valid; however, there's a disclaimer in the bottom of permit states that permit not valid until the related NB permit is permitted.

In support of the summons, Petitioner provided Exhibit 2, the summons with service and photos. Petitioner also acknowledged timely correction and recommended that the mitigated penalty be imposed.

The issuing officer S. Downes, badge 3637, appeared and testified that there was work happening when she visited the site; that a structural permit had been issued, but the structure cannot go up until a "new build" permit issued.

Respondent did not deny that the "new build" permit had not yet issued when the inspection occurred. Respondent challenged the Class 1 designation, arguing that the condition was not inherently dangerous; that the structural permit had issued, under the same job number, so the job itself had been approved; that this was basically a paperwork violation.

Petitioner argued that no work should happen until the new build permit issued. Ms. Downes also stated that when she instructed the workers to stop working, they said they could not because the cite was not secure. Ms. Downes did not have any additional information on why or how the cite was not secure.

However, no testimony established what was inherently hazardous about this cite before the new build permit issued. I find that Petitioner did not establish this as a Class 1 violation and thus did not plead a prima facie case of a Class 1 violation of § 28-105.1. Accordingly, this summons is dismissed.