



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: 035686948L et al. (1 Summons) DEPT OF BUILDINGS, -against- JC BROTHERS DEVELOPMENT Hearing Date: 08/19/2025 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: \$2,500.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
035686948L	Sustained	12/11/2024	28-08 21st Street Queens

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	B2P7	MISC .BC-CHAPTER 33	Sustained	\$2,500.00

Findings of Fact & Conclusions of Law

The summons alleges a class 2 violation of NYC Building Code 3309.14 in that the respondent failed to protect the windows of the adjoining property.

Cassie Rene, Esq. appeared for the petitioner, NYC Department of Buildings.

Frank Tamberino, Esq. appeared for the respondent, JC Brothers Development.

Petitioner relied on the sworn statement of the issuing officer.

Respondent did not deny the factual allegations in the summons but requested mitigation as the condition was corrected prior to the initial hearing date.

Petitioner recommended a standard penalty as it was a non-mitigatable charge.

NYC Building Code 3309.14 provides, in pertinent part, " Whenever exterior construction or demolition work occurs, and such work results in an unenclosed perimeter, it shall be the duty of the person causing such work to protect from damage, at all times during the course of such work and at his or her own expense, all windows on adjoining private property that face such work and are 20 feet (508 mm) or less from an unenclosed perimeter, provided such person causing such work is afforded a license in accordance with the requirements of Section 3309.2 to enter and inspect the adjoining property and perform such work thereon as may be necessary for such purpose; otherwise, the duty of protecting the adjoining windows shall devolve upon the owner of such adjoining building..."

A class 2 violation is considered a Major violation. Major violations are those specified as such by the New York City Construction Codes or those where the violating condition affects life, health, safety, property, or the public interest but does not require immediate corrective action.

The violation issued here is not eligible for mitigation so correction, even if timely, does not alter the penalty.

Respondent's subsequent correction of the violating condition is not a defense to the charge. See *NYC v. AHRC Inc.*, Appeal No. 19489 (December 14, 1994) (Department of Buildings); see also *NYC v. Paul A. Richard*, Appeal No. 36024 (February 25, 2003)(Department of Environmental Protections); *NYC v. Bridget Ruder*, Appeal No. 30425 (February 24, 1999) (Department of Sanitation); *NYC v. Uncle Joe's General Contracting LLC*, Appeal No. 1400083 (March 27, 2014) (Department of Transportation); *DCA v. 251 Cleaners, Inc.*, Appeal No. 05402273 (October 19, 2017); *DOHMH v. Bedford Corners Café LLC*, Appeal No. 07051-16E0 (November 15, 2016).

I credit the factual allegations in the summons which support a violation of the cited code section. Accordingly, the summons is sustained, and the mandatory penalty is imposed.

Ilene Sussman

08/19/2025

08/19/2025

Ilene Sussman, Hearing Officer

Date