



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: 039114490K et al. (1 Summons) DEPT OF BUILDINGS, -against- VERIZON NEW YORK INC. Hearing Date: 12/16/2024 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
039114490K	Dismissed	05/15/2024	133 Morgan Ave Brooklyn

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	B159	BC 3307.1.1 (2008 code) , BC 3307.4.6 (2014 code), & BC 3301.9 (2022 code)	Dismissed	\$0.00

Findings of Fact & Conclusions of Law

Summons 03911490K charges a Class 1 violation of Building Code § 3301.9. The hearing occurred on December 16, 2024. Petitioner appeared through Deanna Burbridge. Respondent appeared through attorney Phoebe Dossett.

The issuing officer attested that a construction fence had over 50 posters attached. Respondent was ordered to remove the illegal signs. In support of the summons, Petitioner provided photos. See Exhibit A. On the summons, the officer

Respondent argued that this summons should be dismissed because it does not apply to Respondent. Counsel argues that this infraction code is associated with illegal outdoor advertising; that prohibited outdoor advertisements are specifically defined by the administrative code; that outdoor advertisers are those who make space available for the advertisements of others for pay; that Respondent is not an outdoor advertiser for the purposes of this violation; that the posters shown on the fence were posted by third-parties for their own advertising, but that Respondent did not approve of, take payment for, or consent to their posting.

Respondent's counsel also argued that this summons should be dismissed because it names the wrong party. Respondent asserted this was an active construction worksite when the summons issued. As this was a construction fence, the proper Respondent should be the General Contractor identified by the permit number for this fence. Respondent provided Exhibit A, the DOB-approved permit for the fence, and refers to *NYC v. CS Construction Group LLC*, Appeal No. 1600218 (April 28, 2016).

Building Code § 3301.9 states, "Signs shall be posted at a construction or demolition site in accordance with Sections 3301.9.1 through 3301.9.8. It is the responsibility of the permit holder for the underlying construction or demolition work, or where there are no active permits, the building owner, to ensure such signs are posted and maintained at the site in accordance with Sections 3301.9.1 through 3301.9.8, and to ensure that such signs are updated in a timely fashion to reflect any revised information."

Respondent has provided evidence that this was an active construction site under a General Contractor who held a permit for the construction. I credit this evidence. The owner of a property is only liable under 3301.9 when there are no active permits, or when there is a permit for the existence of the structure, but no underlying construction or demolition work. See *DOB v. Parkash 2691 LLC*, Appeal No. 2300172 (May 25, 2023).

I find that the summons was issued to the wrong party. Accordingly, the summons is dismissed.



12/17/2024

12/17/2024

Theresa Leary, Hearing Officer

Date