



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# : 039525847K et al. (2 summonses)

DEPT OF BUILDINGS,

-against-

FRONT WAVE CONSTRUCTION*

Hearing Date : 3/25/2025

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
039525847K	Sustained	02/23/2024	144-45 NORTHERN BOULEVARD, Queens

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B2P7	Misc. BC—Chapter 33	Sustained	2,500.00

Total Penalty for Summons: 2,500.00

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039525848M	Dismissed	02/23/2024	144-45 NORTHERN BOULEVARD, Queens

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B212	BC 3303.4 & 27-1018	Dismissed	0.00

Total Penalty for Summons: 0.00

Findings of Facts & Conclusions of Law

Phoebe Dossett Esq. appeared on behalf of the Respondent waiving the appearance of the IO and translation. Maria Dollas, Esq. appeared on behalf of the DOB.

The summons ending in 48M alleges a violation of BC 3303.4 in that construction debris were scattered throughout the interior of the building. The DOB presented an evidence package, namely 6 pictures of "debris" in the hallway at the construction site. I don't see it as being terribly untidy. The summons was issued in the middle of the day, at 2 p.m. and they were likely working when the inspector came in.

The Respondent states this was issued as a Class 2 and is not immediately hazardous to the public. There is no area that is accessible to the public here, it's all the work site which the public cannot access. The Respondent argues that 3303.4.4.1 states that the site needs to be cleaned at least daily. She argues that the debris are all part of the construction activity--not trash and certainly not an accumulation of debris over more than a day. She argues that construction materials are not blocking egress. There is room to get by and that this is not a public area. I agree and dismiss this violation. The DOB states that they didn't present a daily log to show that they cleaned daily. But I do see that it is clear that they are cleaning daily because the work site is not that messy. I can infer that it's not cluttered sufficiently to be in violation of the code section. It appears to be a result of the day's work. DOB presented NYC v. Bovis Land Lease Appeal No. 090067 as proof the area need not be public and that that Respondent's failure to present a daily log was an error. I see that case as distinguishable as Bovis Respondent had a significant amount of debris cited and in this case the debris cited are de minimus as per the photos. As such, a daily log is unnecessary as the fact finder can use my judgment and observations to determine that the amount of debris cited is not an accumulation over days--therefore a log is not required.

In review of the evidence and the testimony, it does not appear that there is a housekeeping issue or that egress is blocked. As such, I dismiss this violation. Evidence of correction was presented but not relevant as this matter is dismissed.

The summons ending in 47K alleges a violation of Misc Provisions in that forklift "REMOVING DEBRIS" that was blocking traffic and there was no flagperson. The Respondent denies and offers proof of mitigation although it is not mitigatable. This summons is sustained and the penalty of \$2500 is imposed.

Of note, is that the summons ending in 47K is proof positive that the Respondent was cleaning the work site, a claim with DOB fights on 48M.

S. Balile

03/25/2025

03/25/2025

Sofia Balile, Hearing Officer

Date

**IF YOU ARE FOUND IN VIOLATION, AND ARE NOT ELIGIBLE OR DO NOT CHOOSE
COMMUNITY SERVICE, YOU MUST PAY THE PENALTY WITHIN 30 DAYS OF THE DECISION
DATE OR 35 DAYS IF MAILED.**

- To pay by mail, send a check or money order to the Dept. of Finance Commissioner, P.O. Box 2307, Peck Slip Station, New York, NY 10272. The check or money order should be made out to "Finance Commissioner, City of New York." Write the summons number on the check or money order.
- To pay in person, bring a check, money order or credit card and this decision to any OATH Hearings Division location between 8:30 a.m. to 4:30 p.m.
- To pay online using a credit or debit card, go to www.nyc.gov/citypay/oath

If you do not pay the penalty, the City may: (1) file papers with the Civil Court ("docket a judgment"), (2) charge you a late fee, and (3) continue attempts to collect the debt.

**CAN I DO
COMMUNITY
SERVICE?**

If your summons is for the type of offense that gives you a Community Service option you can choose to complete Community Service instead of paying a penalty. Your decision will give you that option. You have to complete your Community Service by the deadline in the decision or else you will end up owing the penalty. You can even do your Community Service on the day you receive your decision.

**COMPLETION OF
COMMUNITY
SERVICE**

The Help Center will arrange for you to complete your Community Service. The Help Center is run by the Ombudsperson/*Pro Se* Clerk at OATH and is located at each Hearing Division in all five boroughs. To schedule your Community Service, call, email or visit a Help Center location.

How to Contact the Help Center to Schedule Community Service:

Manhattan: (212) 436-0845 CSmanhattan@oath.nyc.gov
 Brooklyn: (718) 923-6216 CSbrooklyn@oath.nyc.gov
 Queens: (718) 393-6044 CSqueens@oath.nyc.gov
 Bronx: (718) 503-5565 CSbronx@oath.nyc.gov
 Staten Island: (718) 876-2314 CSstateniland@oath.nyc.gov

If you complete your Community Service by the deadline in the decision, you will receive a Certificate of Completion and will not have to pay a penalty. If you need an extension to complete your Community Service, please contact the Help Center.

If you do not complete your Community Service by the deadline, you will have to pay the penalty.

**NON-DISCLOSURE
FOR SUMMONSES
ELIGIBLE FOR
COMMUNITY
SERVICE**

If you either completed the Community Service or paid the penalty, OATH will remove your identifying information from public records related to your case.

If you do not complete the Community Service or pay the penalty, your identifying information may remain on public records related to your case.

**IF YOU DISAGREE
WITH THE DECISION,
YOU MAY APPEAL IT**

To submit your appeal, you **MUST** use OATH's online or mail-in appeal forms available on OATH's website at www.nyc.gov/oath/appeal. Instructions for filing an appeal may be found on the form and OATH's website.

Your appeal **MUST** be received by the OATH Hearings Division **within 30 days** of the decision date, or 35 days if the decision was mailed to you.

To appeal you may need to pay the full penalty stated in this decision.

- If you cannot pay because of financial hardship, you may ask to not pre-pay by submitting with your appeal a Financial Hardship Application, available on OATH's website.
- If you are eligible and choose to perform Community Service instead of paying the penalty, you do not have to pay the penalty or complete the Community Service to appeal.

**APPEAL BY
ENFORCEMENT
AGENCY**

If you wish to answer an appeal filed by an enforcement agency, you **MUST** use OATH's Response To Appeal form. Instructions for filing an answer may be found on the form and OATH's website.

Your answer must be received **within 30 days** of the date of the enforcement agency's appeal, or 35 days if it was mailed to you.

If the enforcement agency wins the appeal, you may have to pay a penalty or, if eligible, complete Community Service even if your case was originally dismissed after the hearing.

For more information,
visit OATH's website www.nyc.gov/oath
or call 1-844-OATH-NYC

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