



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS

Hearings Division

Decision

ILMA BABU - NACMIAS LAW FIRM PLLC
592 PACIFIC STREET
Brooklyn, NY 11217

Summons# : 000982652Z et al. (1 summonses)

DEPT OF ENVIRONMENTAL PROTECTION,

-against-

BROTHERS FIX INC

Hearing Date : 6/1/2026

Hearing Location : Remote

Type of Hearing : By Telephone

Total Penalty Amount : 0.00

Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000982652Z	Dismissed	01/22/2025	1998 BROADWAY, Manhattan

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	BA1I	24-163 (F)	Dismissed	0.00

Total Penalty for Summons: 0.00

Findings of Facts & Conclusions of Law

Petitioner appeared through Michael Grosso. Respondent appeared through Ilma Babu.

Summons 000982652Z charged a violation of Administrative Code §24-163(f), prohibiting the idling of a motor vehicle engine adjacent to a school or park for longer than 1 minute. A citizen observed a truck with NJ license plate # XNDX71 idling for longer than one minute next to Broadway Malls on 1/22/2025 from 1:02:37 pm to 1:04:17 pm. This was charged as a first offense.

In support of the summons, Petitioner played a video that was viewed during the hearing, and submitted the citizen complaint (Exhibit 1), photo stills from the video (Exhibit 2), and ownership data (Exhibit 3). Petitioner argued that the lift gate is not moving, so no processing device was in use.

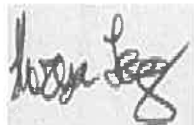
Respondent argued that they were in the middle of work, as evidenced by the lift gate being up. She also argued that the park signage is not clear.

Petitioner said that the video shows park signage on a garbage can, but there are other signs not shown in the video.

I find that Petitioner established the charge. A liftgate in the extended "up" position, not moving, is not actively engaged in loading or unloading. DEP v. RBA Trucking LLC, Appeal No. 2501036 (October 30, 2025).

24-163(f) states, "It shall be an affirmative defense that any such school or park was not easily identifiable as a school or park by signage or otherwise at the time a violation of this subdivision occurred." Here, the only signage indicating this was a park was a small sign, less than 12 inches on each side, in the vegetation of the median, pointed in the other direction. The garbage can's park logo is also pointed away from the truck.

I find that the park was not easily identifiable as such. The summons is dismissed.



06/01/2026

06/01/2026

Theresa Leary, Hearing Officer

Date