



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

LANCE CHEBIN - NACMIAS LAW FIRM 592 PACIFIC STREET NEW YORK, NY 11217	Summons No: 000803802Z et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- ACKER MERRALL CONDIT Hearing Date: 03/25/2025 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: \$600.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000803802Z	Sustained	08/12/2023	158 W 72nd Street Manhattan

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	BA1F	24 -163	Sustained	\$600.00

Findings of Fact & Conclusions of Law

The summons alleges violation of Tile 24 Chapter 1 of the NYC Administrative Code in that respondent caused or permitted idling of a motor vehicle while parked standing or stopped for longer than 3 minutes. The summons also alleges this was a repeat violation.

Inspector Monica Dorson appeared for the petitioner, The Department of Environmental Protection.

Lance Chebin appeared for the respondent, Acker Merrall Condit, and denied the violation.

Petitioner relied on the sworn statement in the summons and submitted documentation in support of same.

Respondent did not deny that the vehicle was idling. However, respondent moved for dismissal of the summons stating that the wrong entity was named. Respondent stated that vehicle in the video had a different name. Respondent contended that it was more than a typographical error or misspelling.

Petitioner stated that agency and DMV records indicate that the named respondent is the owner of the vehicle. Upon inquiry, petitioner stated that although the name was different on one of the summons used to establish that this was a repeat violation it was issued for the same license plate. Petitioner submitted supporting documentation.

The name of a respondent need not be precisely written in a summons as long as it provides due process notice and makes clear what entity is being charged. See NYC v. Mr. T Carting Garbage, Appeal No. 1201007 (January 31, 2013).

Respondent was aware of the charges alleged, as evidenced by its representative's appearance at the hearing. See NYC v. Babbo Realty LLC, Appeal No. 1301193 (January 30, 2014).

"[T]he Board finds that Respondent, as owner of the cited vehicle, is a proper party to the summons charging a Code § 24-163 violation. Even if Respondent had leased the vehicle to a customer, Respondent is properly cited in that it permitted the alleged idling. See DEP v. U-Haul Co of Arizona Inc., Appeal No. 2001342 (January 14, 2021) (owner of vehicle in violation is a responsible party under Code § 24-163(a), even though vehicle was rented to third party)." DEP v. Ryder Truck Rental Inc, Appeal No. 2201052(January 26, 2023)

I credit the factual allegations in the summons and petitioner's evidence which supports a violation of the cited code section. I find respondent failed to establish a defense to the charge. Accordingly, the summons is sustained and the mandatory penalty as a 3rd violation is imposed.

Ilene Sussman

03/27/2025

03/27/2025

Ilene Sussman, Hearing Officer

Date