



Office of Administrative Trials and Hearings

Hearings Division

Decision

Michael Nacmias, Esq. - Nacmias Law Firm
592 Pacific Street 1st Floor
Brooklyn, NY 11217

Summons# : 000792179P et al. (1 summonses)

DEPT OF ENVIRONMENTAL PROTECTION,

-against-

KABASHI SOKOL

Hearing Date : 7/7/2025

Hearing Location : Remote

Type of Hearing : By Telephone

Total Penalty Amount : 800.00

Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000792179P	Sustained	03/19/2025	25-45 BORDEN AVENUE, Queens

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	BNZ6	24-236 (E)	Sustained	800.00

Total Penalty for Summons: 800.00

Findings of Facts & Conclusions of Law

The summons allege that the respondent violated NYC Administrative Code 24-236(e), by causing/permitting sound from a motor vehicle on public Right of Way in excess of the VTL limit at 25-45 Borden Avenue Queens on March 19, 2025. Michael Nacmias, Esq., appeared for the respondent Sokol Kabashi. Senior Inspector Dantney Parks appeared for the petitioner DEP.

The issuing officer stated that respondent caused or permitted the total sound from a motor vehicle with a maximum gross weight of 10,000 lbs or less operating on a public right of way to exceed sound levels in section 386 of the VTL. Vehicle 2017 AUDI R8 NY license plate LTT9222 was observed by a noise camera on 3/19/2025 at 6:14PM. Sound levels registered at 106.3db(a), in excess of 76 db(a) measured at 50 ft or more from the center of the lane. The petitioner provided photos of the license plate, a graph demonstrating noise levels, and short videos taken by the noise camera (Pet. Exh).

The respondent denied the charge. The respondent said that vehicle could not have been 50 feet from the noise camera, as required. The respondent provided a scale map of Borden Avenue and 27th Street Queens (Resp Exh). The respondent pointed out that the map indicates Borden Avenue is 100 feet wide, with 20 feet of sidewalk on either side. The roadway therefore is 60 feet in total, and 30 feet in each direction. The vehicle is seen in the videos on 1 side of the roadway, and therefore less than 40 feet from the monitoring device. The law requires the monitoring device to be 50 feet from the vehicle.

In response, the petitioner said that the noise camera must be 50 feet from the center of the lane, and not 50 feet from the vehicle according to the VTL. The respondent also did not consider the height at which the noise camera is situated above ground; a lateral measurement is not sufficient to determine the distance.

VTL 386(3)(c) provides in relevant part that it shall be unlawful for any person to operate on a public highway any motor vehicle with a maximum gross weight of ten thousand pounds or less, at any time, in such a manner as to exceed the applicable A-weighted sound level set forth in table II. The maximum allowable sound levels in table II are based on a sound level measured at, or adjusted to, a distance of fifty feet from the center of the lane in which the motor vehicle is traveling: TABLE II MAXIMUM ALLOWABLE A-WEIGHTED SOUND LEVELS MAXIMUM SPEED LIMIT 35 miles per hour over 35 OR LESS MILES PER HOUR 76 DB(A) 82 DB(A) d.

I credit the issuing officer's sworn statement in the summons. I credit the petitioner's documentary and photographic evidence. I find that the noise camera was at a proper distance to measure sound levels. I find the respondent's vehicle exceeded legal sound levels. The respondent did not deny ownership of the vehicle, or that the noise camera found respondent's vehicle exceeded legal sound levels. I do not credit the respondent's claim that the noise camera was at an improper distance. I find respondent's measurements did not consider angular distances from the camera based on its height. I find further that according to the VTL sound levels can be measured at or adjusted to a distance of fifty feet from the center of the lane in which the vehicle traveled (emphasis added). Accordingly, I find the petitioner proved its charge by a preponderance of the evidence. I find the respondent is in violation. I impose the standard penalty.



07/08/2025

07/08/2025

Anthony Feldmesser, 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 CSstatenisland@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

11/2018