



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

ILMA BABU - NACMIAS LAW FIRM PLLC 592PACIFIC STREET Brooklyn, NY 11217	Summons No: 000936531P et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- SOUTHERN GLAZER'S WINE AND SPIRITS LLC Hearing Date: 01/06/2026 Hearing Location: Remote Type of Hearing: By Telephone
---	---

Total Penalty Amount: \$350.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
000936531P	Sustained	03/04/2025	ON HORACE HARDING EXPRESSWAY S BTWN 219 & 220 STREETS Queens

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	BA1I	24-163 (F)	Sustained	\$350.00

Findings of Fact & Conclusions of Law

The hearing was conducted on January 6, 2026, by Court Call. Petitioner appeared through Leah Smith. Respondent, Southern Glazer's Wine and Spirits LLC, appeared through their authorized representative, Ilma Babu.

The summons charges a violation of 24-163(f) of the Administrative Code in that Respondent caused or permitted the idling of a motor vehicle parked, standing, or stopped while adjacent to Metrokids Pre-School. The issuing officer states that, as per DEP records, a citizen observed a Truck with IN license plate no. 3617613 idling for longer than one minute from 3/4/2025 5:52:01 PM to 3/4/2025 5:53:52 PM on Horace Harding Expressway S SR between 219th St and 220th St, in Queens, in Manhattan. This is cited as a second offense with summons no. 000814018Z cited on the face of the summons as a prior

violation.

Petitioner submits a redacted idling complaint form, a screenshot of the DOT Information Page for the cited vehicle, a screenshot of the web page of Metrokids Pre-School, two images of the cited vehicle, an image of the summons and affidavit of service, and a video in support of the summons, which have been marked as Exhibits 1 through 7. Petitioner states that the cited vehicle was audibly idling, continuously, for at least one minute during the submitted video. Petitioner states that, per the citizen's statement, as set forth in the idling complaint form, the vehicle was adjacent to the Metrokids Pre-School. Petitioner states that, as such, Respondent is in violation of 24-163(f) of the Administrative Code.

I credit the evidence submitted by the Petitioner. Petitioner is not required to submit the citizen complainant's video, images, or complaint at the hearing to establish a prima facie case. Where a video has been presented, it is not fatal to the summons that the video does not clearly show the vehicle vibrating, producing visible emissions, or making audible engine noise. See, *DEP v. Hub Truck Rental Corp.*, Appeal No. 2001344 (February 11, 2021). Petitioner does acknowledge, however, that for summonses issued after January 27, 2025, such as the instant summons, it is required that the cited school appear in the video provided by the citizen complainant.

Ms. Babu argues that the video submitted by Petitioner fails to meet the requirement that the cited school be visible and that the Summons must, therefore, be dismissed.

Ms. Smith argues that signage for Metrokids Pre-School is clearly visible on the side of a building to the front right of the cited vehicle at the 1:55 mark of Exhibit 7.

Ms. Babu argues that this signage is not sufficiently visible to place the driver of the cited vehicle on notice that they were adjacent to a school.

Respondent received specific, detailed, notice of the time and place of the violation on the face of the summons. The citizen complaint in the redacted idling complaint form received by Respondent at the hearing clearly states that Respondent's vehicle was seen idling for one minute while adjacent to a school. The notice requirements of 48 RCNY 6-08(c)(2) have been met.

Based upon a review of all the evidence presented I credit that the cited vehicle was adjacent to a school at the time of the cited violation. As can be seen in at the 1:55 mark of Exhibit 7, the idling vehicle was in fact adjacent to and facing the side of the building containing the Metrokids Pre-school. Section 24-163(f) states that it shall be an affirmative defense that any cited school was not easily identifiable as a school by signage or otherwise at the time a violation of this subdivision occurred. However, the Metrokids Pre-School signage on the side of the building, which is easily visible from the front of the cited vehicle, is large and distinctive. As such, the building, which is very close to the area where the cited vehicle was idling, is easily identifiable as containing a school.

Accordingly, the summons is sustained.



01/15/2026

01/15/2026

Antonio Cavallaro, Judicial Hearing Officer

Date