



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

ILMA BABU - NACMIAS LAW FIRM PLLC 592 PACIFIC STREET Brooklyn, NY 11217	Summons No: 000937169X et al. (1 Summons) DEPT OF ENVIRONMENTAL PROTECTION, -against- DHL EXPRESS USA INC Hearing Date: 01/08/2026 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
000937169X	Dismissed	12/09/2024	41 BRIDGE STREET Brooklyn

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	BA1K	24-163 (F)	Dismissed	\$0.00

Findings of Fact & Conclusions of Law

Ilma Babu appeared for Respondent by phone. Antwan Gibbs appeared for the DEP by phone.

The summons charges a violation of idling for more than one minute while adjacent to a school. Third offense.

The summons alleges that on 12/9/2024 at 41 Bridge Street the citizen observed a truck with NY Plate 12943ML idling while adjacent to The Art of Words Community School from 12:14:10 pm to 12:15:25 pm.

The DEP submitted the following:

E. Barrett

01/13/2026

01/13/2026

Elizabeth Barrett, Judicial Hearing Officer

Date

P1 Video approximately 2:09 in length

P2 Stills from the video and a photo of the school sign on a door.

P3 Redacted complaint

Ms. Babu argued that the school is not visible because of the small sign and construction.

Here, it is an affirmative defense that the school was not easily identifiable as a school by signage or otherwise. In this case, down the street there is a sign on the door that says "TAWCS" and then the words The Art of Words Community School. There is construction going in front of the building. Other than that, there is no other indication that this is a school.

For instance, there were no school flags, the building exterior was not easily distinguished from that of an office; there were no other elements present that would allow someone unfamiliar with the building to identify it as housing a school. For instance, there were no buses or school members present.

See DEP v. Atlas Van Lines, Inc., Appeal No. 2200023 (March 24, 2022) ("Nor are other elements present that would allow someone unfamiliar with the building to identify [it] as housing a school."); Safetech Electric Contracting Corp., 2301217 (no school flags present); DEP v. Total Structure Materials & Supply Inc., Appeal No. 2301186 (November 30, 2023) (no street-facing windows indicative of a school); DEP v. A & G Building Supplies Inc, Appeal No. 2300880 (September 28, 2023) (no school members present);

I find that Respondent has established and proven an affirmative defense that when the cited truck was idling, the community school was not easily identifiable as a school. Summons dismissed.