



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division
Decision

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

Summons# : 039526596J et al. (1 summonses)

DEPT OF BUILDINGS,

-against-

FACADE IMPROVEMENT INC

Hearing Date : 1/13/2025

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
039526596J	Dismissed	03/18/2024	126 WINTHROP STREET, Brooklyn

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B115	BC 3301.2 & 27-1009(a)	Dismissed	0.00

Total Penalty for Summons: 0.00

Findings of Facts & Conclusions of Law

The summons is dismissed.

Phoebe Dossett, Esq. appeared at the teleconference hearing as counsel for respondent FACADE IMPROVEMENT INC (Respondent) and waived her rights to translation services and the presence of the issuing officer. Laura Slavin, Esq. appeared telephonically for petitioner New York City Department of Buildings (DOB). The issuing officer, Inspector Henry Romero (Badge# 3336) (the "I/O"), appeared telephonically as a witness for Petitioner.

Respondent was cited for a Class 1 violation of Section 3301.2 of the New York City Building Code (BC), found in Title 28 of the Code, for failure to institute or maintain safety measures during construction operations.

BC Section 3301.2 provides as follows:

Contractors, construction managers, and subcontractors engaged in construction or demolition operation shall institute and maintain all safety measures required by this chapter and provide all equipment or temporary construction necessary to safeguard the public and property affected by such contractor's operations.

In addition to the summons, Petitioner submitted 25 photos of the conditions observed by the issuing officer. The I/O testified, in relevant part, that: he did not know why the affidavit of service did not contain any details about service of the summons on the Respondent; he had a vague recollection of the inspection but he did not recall who he spoke with when he served the summons; his custom and practice is to ask the construction superintendent or the competent person if they will accept service and if they refuse he posts it at the property; he did not recall when he posted the summons but his custom and practice is that when the inspection is at the end of the day; he will serve the summons the next day sometime between 7:00 a.m. and 10:00 a.m.; he doesn't know why the affidavit of service states that the summons was served on March 19, 2024 at 12:00 a.m. but he is sure that he would have served it sometime during the day on March 19, 2024.

Respondent moved to dismiss the summons for defective service. The Affidavit of Service does not contain any details of any reasonable attempt to personally serve the summons on Respondent before resorting to Charter service. I also find that I/O's testimony regarding service is vague (and even contradicts the stated time of time) and is insufficient to establish a reasonable attempt to personally serve the summons on the Respondent. Accordingly, I find that service is defective and dismiss the summons.



01/21/2025

01/21/2025

Thomas Finn, Hearing Officer

Date