



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 No: 035680710Y et al. (1 Summons) DEPT OF BUILDINGS, -against- HUANG, WEI HUA Hearing Date: 12/03/2024 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: \$2,500.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
035680710Y	Sustained	03/06/2024	101 BAY 40 STREET Brooklyn

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	B101	28-105 .1	Sustained	\$2,500.00

Findings of Fact & Conclusions of Law

Respondent WEI HUA HUANG appeared at a remote telephonic hearing on 12/3/2024 by Phoebe Dossett, Esq. of the Nacmias Law Firm.

Petitioner NYC Dept. of Buildings appeared by Deanna Burbridge, Esq. and the issuing officer, Insp. N. Curcio, Badge #: 3454.

Respondent is charged with a Class 1 violation of NYC Adm. Code 28-105.1 for installing new gas lines between basement & first floor for additional gas service. Hot water heater relocated and connected to gas and water lines. Permit B 00955125

allows for relocation of kitchen sink and stove. No gas work indicated." Remedy: "Obtain Permit/Amend plans."

Ms. Burbridge submitted the following into evidence: Approved plans dated 11/06/2023 (See pages 14 and 15) and 18 photos. (Petitioner's Exhibits pages 1-25)

Insp. Curcio testified that he remembers this inspection and that he was there to do a compliance inspection. He testified that compliance inspections are done after a Permit is issued to check on the work. He testified that the cited Permit was for general contracting work for an interior basement apartment renovation. Insp. Curcio testified that during his inspection he saw newly installed gas lines; that the Permit allowed for the relocation of the stove; but the Plan on site did not allow for gas lines or gas meters to be moved or replaced.

Ms. Dossett argued that the amended plans were filed and approved to include gas work but that the Permit has not yet been issued due to civil penalties owed as a result of this Work Without a Permit violation.

Ms. Dossett moved to dismiss the Summons on the following grounds:

1) The section of law charged is incorrect. The section of law charged should have been NYC Adm. Code 28-105.12.2 for work that did not conform to the Permit.

Ms. Burbridge argued in opposition to Respondent's motion to dismiss that the gas work was done without a Permit. She argued that there must be a separate Permit for gas work.

Respondent's motion to dismiss for citing an incorrect section of law is denied. I find that the Summons was issued for not having a Permit for gas work. Petitioner could have charged Respondent under either section of law. It is within Petitioner's discretion as to which section of applicable law to charge.

2) Ms. Dossett argued that Respondent was not the correct party to be named as the cited Permit was issued to the general contractor.

Ms. Burbridge argued in opposition to Respondent's motion to dismiss that since there is no Permit for gas work, the Summons was properly issued to the owner as there is no way to know who did the gas work.

Ms. Dossett's motion to dismiss for citing an incorrect party is denied for the reason stated by Ms. Burbridge.

3) Ms. Dossett also moved to dismiss the Summons arguing that the violation did not rise to the level of a Class 1 immediately hazardous violation. She argued that the plans were amended and approved and the only reason a Permit has not been issued to date is that Respondent has not paid the civil penalty.

Insp. Curcio stated that any gas work done in an occupied building without a Permit is an immediately hazardous Class 1 violation. Ms. Burbridge argued that there was no Permit for the gas work and, therefore, Petitioner had no way of knowing who did the work.

I find the violation was properly charged as Class 1 as performing gas work without a Permit in an occupied building is hazardous and requires immediate corrective action.

I credit the allegations in the Summons and find Respondent in violation.

Accordingly, the Summons is sustained, and the approved Class 1 penalty is imposed.



12/11/2024

12/11/2024

Jerilyn F. Rubin, Hearing Officer

Date