



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: 039125203M et al. (1 Summons) DEPT OF BUILDINGS, -against- PUCILLO RLTY CORP Hearing Date: 09/26/2025 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
039125203M	Sustained	09/18/2024	4821 2 AVENUE Brooklyn

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	B139	28-301.1	Sustained	\$2,500.00

Findings of Fact & Conclusions of Law

Respondent, Pucillo Rlty Corp., appeared by Phoebe Dossett Esq., as attorney, and Henrietta Asiedu Baidoo Esq., appeared as attorney for the petitioner, DOB.

The respondent is charged with a class 1 violation of section 28-301.1 of the NYC Administrative Code for failure to maintain building in a code compliant manner, in that the issuing officer observed exposed wood joists, combustible materials and excessive tires stored in cellar without adequate firestopping.

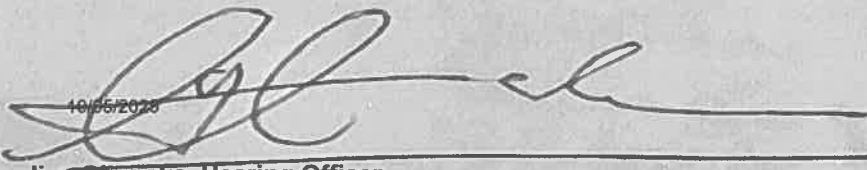
The petitioner's attorney reaffirmed the violation and submitted in evidence photographs taken by the issuing officer at the time of the violation showing the cited violating conditions.

The respondent's attorney moves to dismiss the violation asserting that it fails to give the respondent adequate notice of the charge as required by 48 RCNY 6-08 (c) (3), in that the summons details does not state how the firestopping was inadequate and does not show where the alleged inadequate firestopping exists. She also states that the violation should be dismissed for failure to state a prima facie case, in that it does not provide any explanation as to why firestopping is required in the cellar citing in support Appeals Board decision no. 1900356, and section 27-345 and asserts that as per building Code section 712.3 firestopping is required to prevent fire penetrations into or through fire walls and or barriers, and as BC section 27-345 it is required in concealed spaces, and the summons does not mention any fire walls, and the ceiling is not a concealed space. She also challenged the class 1 designation of the charge stating that the cited place of occurrence is approved as a tire shop and as such the alleged storage of excessive tires in the cellar does not rise to the severity of a class 1 violation.

In her response, petitioner's attorney counter argues that the summons states a prima facie case, and that the cited ceiling is a concealed space as per BC section 27-345; and that the cited cellar's ceiling with exposed wood joists, and without adequate fire stopping would permit flame, smoke, fumes, etc. from the cellar to another floor, citing in support, Appeals board decision # 2500493.

Respondent's motion to dismiss the violation is denied. I do not credit the claim of inadequate notice of the charge to the respondent. I find that the notice of violation, containing, among others, the issuing officer's statement that he observed combustible materials, and excessive tires stored in the cellar with exposed wood joists and without adequate firestopping, constitutes a sufficient notice of the failure to maintain building in a code compliant manner charged. I also find that the summons states a prima facie case as the facts, including the inadequate fire stopping in the cellar alleged constitute a failure to maintain building in a code compliant manner in violation of the cited section 28-301.1 which encompasses the firestopping requirements of the code provided by section 27-345 of the code. As the summons gave adequate notice of the charge, and the violation stated a prima facie case, respondent's motion to dismiss the violation is denied.

I do not credit the claim that the violation condition does not rise to the level of a class one violation. The fact that the cited cellar is approved for tire shop does not mitigate the cited immediately hazardous condition posed by the storage of combustible materials, including tires in the cellar without adequate firestopping. Therefore, I credit the issuing officer's statement and find that the severity of the cited condition rises to the level of a class 1 violation as charged. As the petitioner has proved its case, and the respondent has not established a sufficient legal defense to the violation, I credit the facts alleged in the charge. Therefore, the violation is sustained, and a board approved penalty is hereby imposed.

 10/05/2025	10/05/2025
Cornelius Ojinnaka, Hearing Officer	Date