



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: 035668005R et al. (1 Summons)

DEPT OF BUILDINGS,

-against-

ADIR STUCCO INC

Hearing Date: 05/08/2025

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
035668005R	Dismissed	09/28/2024	19 Whitman Drive Brooklyn

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	B1C6	28-105 .1	Dismissed	\$0.00

Findings of Fact & Conclusions of Law

Respondent appeared by Phoebe Dossett, attorney, hereinafter "respondent." Respondent produced Mr. Zeno, owner of the home. Petitioner appeared by Deanna Burbridge of DOB. IO Munoz also appeared. Respondent is charged with work being done in the cellar without a weekend permit.

Petitioner submitted photos taken by the IO. IO testified that he responded to a complaint of no weekend permit posted. IO is part of the emergency response team. The person there denied access; they heard a child and saw 2 dogs; the man there said that he did not have a key to the cellar but he was able to put the dogs and the little girl in the cellar; the man is in the photos; he would not identify himself;

Petitioner elicited from the IO that he waited for the owner to let him in. No one is supposed to be at the cite, although the IO states that there is no law that prohibits the owner of a property from being at the property; the owner's personal truck looks like a work truck; the truck was there the whole time;

Respondent questioned the IO; the inspector saw a pick up truck out front and he did not know if he was doing work and the cite should be closed if there is no after hours permit. At no time did IO see the person engaged in any active work. The IO received the plans from the person at the site. The man said he did not have the key to the cellar. IO saw him open the cellar door to put the dogs away; he did not observe any deliveries taking place; he did not see any signs of active work; he did not see the owner engaging in any active work.

Respondent produced the homeowner Mr. Dossett. He was at the house; he was renting a house a few days away; he went to the house to make sure that everything was ok; he wanted to check on the roof in the rain; he walked over with his 2 dogs in the backyard; when he came out front he saw the inspector walking around; he let the IO in, and he said he wanted to go into the basement; he put the dogs inside the basement with a special small door that he uses for the dogs only and he operates it with a remote; he didn't want the dogs to bite the IO. He did not have the key to the cellar through the regular door. He owns the white pick up truck that was parked outside. He did not have a child with him. It could have been from a neighbor house. The pick up truck is his truck; he drives it daily; it advertises his complany. Elite NY Best Management; he was not engaging in any work.

Respondent submitted a deed confirming that he is the owner of the site, as well as a photo that shows the regular door of the cellar and the small door on the left side of the regular door for the dogs. Respondent argued that the IO was given access to the property. He specifically offered the IO to go his house and get the key, but the IO refused to wait and said he did not have time to wait; There is both the black Escalade parked in front of the house as well as his pick up truck; the escalade is his wife's car; he does not remember which car he drove to the house that day. I note that there is a photo submitted by IO that included both the white pick up truck and the black escalade parked on the street. The owner sees that it is a sunny day in the photos that include the owner; he recalls that the evening before it was raining which can be observed in the photos that show the foundation.

The petitioner argued that the IO saw the large door being opened. I am not persuaded by petitioner's argument or IO's testimony about the cellar door.

Respondent also challenged the Class and argued that there is nothing alleged to show imminent danger. The stop work order was lifted before the first hearing date; and respondent requests mitigation if sustained. The IO explained that he considered it a hazardous violation because there were dogs on site., which is immediately dangerous to the inspector; the presence of the cars is irrelevant. There is a general contractor on the job.

Petitioner agreed to mitigation if sustained.

I am persuaded by respondent owner's testimony and respondent's argument that no work was being done after hours. I find no violation of the section cited and I am dismissing this violation.

Janet Winter

05/13/2025

05/13/2025

Janet Winter, Hearing Officer

Date