



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: 039522933N et al. (1 Summons) DEPT OF BUILDINGS, -against- SAL BRUSCA INC. GC#025244 Hearing Date: 03/17/2025 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
039522933N	Sustained	10/27/2023	75-36 65 DRIVE Queens

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	B106	BC 3309	Sustained	\$2,500.00

Findings of Fact & Conclusions of Law

The summons alleges that on 10/27/23, the Respondent, Sal Brusca Inc, was in violation of BC section 3309, Class 1, in that the IO observed a two-story building under a vertical and horizontal extension alteration with no protection for adjacent rear yard at 75-36 65th Drive, Queens, NY.

Phoebe Dossett, Esq. appeared for Respondent. Rafeena Khairullah, Esq. appeared for Petitioner DOB with IO Gambrell #3083. Petitioner rested on the summons and provided photographs taken by the IO on the date of inspection (See Pet. Ex.).

IO testified that construction debris could drop into the adjacent yard/driveway causing damage or injury to residents.

First, Ms. Dossett argued that BC section 3309 is not a charging section, it only encompasses the heading, "Protection of Adjoining Property." The charging sections begin with 3309.1. Petitioner argued that all of 3309 refers to protection of adjoining property, including 3309.13 which specifically requires the GC to protect all publicly accessible spaces on the adjoining property from damage.

I find that the section as charged was appropriate. 48 RCNY 6-08(c) requires that the summons must contain a clear and concise statement sufficient to inform the Respondent with reasonable certainty and clarity of the essential facts alleged to constitute the violation or the violations charged, including information adequate to provide specific notification of the section or sections of the law, rule or regulation alleged to have been violated. Here the section as identified gave the Respondent adequate notice. 3309.1 requires that adjoining public and private property, including persons thereon, be protected from damage and injury during construction or demolition work.

Second Ms. Dossett challenged class. She argued that there was no ongoing work at the time of inspection, a construction fence surrounded the property, the IO did not enter/view the rear yard of the adjacent property to properly assess the risks if any, and that there does not appear to be any immediate hazard.

The IO testified that there was no overhead protection in place at the time of his inspection. The driveway was active, and the rear yard was setup for occupation. Even if there was no ongoing activity, debris can fall. For these reasons he deemed the condition an immediately hazardous one and Petitioner maintained the class.

I credit the IO's testimony. Respondent has not rebutted the charge. Accordingly, the summons is sustained as a Class 1.

	
03/21/2025	03/21/2025
Lara Bianchi, Hearing Officer	Date