



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# : 039525504Z et al. (2 summonses)

DEPT OF BUILDINGS,

-against-

SAL BRUSCA INC

Hearing Date : 2/4/2025

Hearing Location : Remote

Type of Hearing : By Telephone

Total Penalty Amount : 1,000.00

Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039525504Z	Dismissed	02/09/2024	34-38 98 STREET, Queens

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B207	105.8.2 (2014 code) & BC 106.8.2 (2022 c	Dismissed	0.00

Total Penalty for Summons: 0.00

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039525505K	Sustained	02/09/2024	34-38 98 STREET, Queens

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B211	BC 3307.7	Sustained	1,000.00

Total Penalty for Summons: 1,000.00

Findings of Facts & Conclusions of Law

Phoebe Dossett, Esq. for Respondent

Malka Amar, Esq. for DOB

Summons 04Z alleges a temp construction permit expired and it carries a \$1,250 fine. Summons 505K alleges that a job fences was not properly constructed or maintained and it carries a \$1,000 fine. Respondent did not dispute the facts. Instead, Respondent moved to dismiss both summonses because the wrong party was named. Specifically, the named general contractor's permit expired before both summonses were issued. IO Etwarro credibly testified that he issued the summonses to the named general contractor because he was the last permit holder at the time of the violation.

The Appeals Board has held that with respect to work without a permit violations, the owner is responsible to keep the permit valid. The prior permit holder is an improper party for this violation. See, DOB v. Ramachandani, Appeal No. 2001150 (Dec. 10, 2020)(premise owner liable for expired permit for failure to keep permit in effect as he has an obligation to retain a qualified contractor even if the original contractor was unable to do so). Accordingly, this summons is dismissed.

Summons 505K is sustained as the general contractor remains responsible until the job is signed off or the contractor notifies the DOB of its withdrawal. See, DOB v. Stellar, Appeal No. 2400941 (Aug. 29, 2024)(General contractor proper party even though no longer performing work. The Board has consistently held that once a work permit is issued, the permittee is deemed to be prosecuting work at the premises until its permit is signed off or revoked or it notifies DOB of its withdrawal. That the permit is expired is not a defense. The Board has found an exception only where a subsequent holder of a permit for the same work has superseded the respondent). DOB v. 1398 Realty, 2400437 (May 30, 2024), cited by Respondent is not applicable because that decision dealt with sidewalk sheds and the statute in that case, BC 3307.6.5.3 contains a hierarchy of responsibility. Ramachandani, cited above is not applicable as that case concerned work without a permit and the duty to maintain an active permit. Therefore, Respondent is found in violation and a \$1,000 fine is imposed.

 02/04/2025 02/04/2025	
Mitchell Rubinstein, Hearing Officer	Date

