



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

Andre Autz, Esq. - Nacmias Law 592 Pacific Street Brooklyn, NY 11217	Summons No: 035685230H et al. (1 Summons) DEPT OF BUILDINGS, -against- 3064 CONEY ISLAND CONDOMINIUM Hearing Date: 01/27/2025 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: \$0.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
035685230H	Dismissed	05/17/2024	3064 Coney Island Avenue Brooklyn

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	B187	28- 201.1	Dismissed	\$0.00

Findings of Fact & Conclusions of Law

The summons alleges a class 1 violation of NYC Administrative Code 28-201.1 in that respondent failed to comply with the commissioner's order to repair unsafe conditions.

Malkar Amar, Esq. appeared for the petitioner, NYC Department of Buildings.

Andre Autz, Esq. appeared for the respondent, 3064 Coney Island Condominium, and denied the violation.

The hearing had been adjourned for the petitioner to submit evidence. The issuing officer was unable to appear as he was no

longer with the department.

Petitioner relied on the sworn statement in the summons and submitted supporting documentation.

Respondent Cited NYC Administrative Code 28-209.1 which describes a commissioner's order and requires that it have a signature affixed thereon. Respondent stated there was no evidence to show the order contained a signature and also no evidence the order was served on the respondent.

Petitioner was given some additional time during the hearing to procure additional evidence but was unable to obtain a copy of the DOB violation alleged in the summons.

Respondent contended that petitioner did not prove their case as they did not provide proof of service or the order itself.

NYC Administrative Code 28-201.1 provides "It shall be unlawful to erect, construct, alter, extend, repair, fail to maintain, move, remove, demolish, occupy, use or operate any building, structure, premises, or equipment, or to conduct any subject matter regulated by this code or by the zoning resolution, or to cause same to be done, in conflict with or in violation of any of the provisions of this code, the zoning resolution, or the rules of the department or, with regard to existing buildings, any applicable provision of the 1968 building code or any other law or rule enforced by the department. It shall be unlawful to fail to comply with an order of the commissioner or to violate any order of the commissioner issued pursuant to this code, the 1968 building code, the zoning resolution or any law or rule enforced by the department."

Class 1 violations are those deemed to be immediately hazardous. Immediately hazardous violations are those specified as such by the New York City Construction Codes, or those where the violating condition poses a threat that severely affects life, health, safety, property, the public interest, or a significant number of persons so as to warrant immediate corrective action.

The violation issued here is not eligible for mitigation so correction, even if timely, does not alter the penalty.

I find that the petitioner failed to establish its case by a preponderance of the evidence. Accordingly, the summons is dismissed.

*It should be noted that after the hearing was concluded and the record closed petitioner made a request to submit additional evidence as the issuing officer's supervisor provided a copy of the order. The parties were still on the line as there were additional cases in the group. The respondent was not amenable to reopening the record. The petitioner's request was denied as the hearing was previously adjourned for that purpose, they were given some time during the hearing to obtain the evidence, the record had been closed, and we had already started a hearing on a different matter.



02/03/2025

02/03/2025

Ilene Sussman, Hearing Officer

Date