



**OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS**  
Hearings Division

**DECISION**

|                                                                                   |                                                                                                                                                                                                                                                                        |
|-----------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Andre Autz, Esq. - Nacmias Law</b><br>592 Pacific Street<br>Brooklyn, NY 11217 | <b>Summons No: 039093376R et al. (1 Summons)</b><br><br><b>DEPT OF BUILDINGS,</b><br><br><b>-against-</b><br><br><b>2246 FOREST AVE, LLC</b><br><br><b>Hearing Date: 12/10/2024</b><br><br><b>Hearing Location: Remote</b><br><br><b>Type of Hearing: By Telephone</b> |
|-----------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

Total Penalty Amount: **\$2,500.00**

Community Service(Hr): **Not Applicable**

| SUMMONS #  | SUMMARY DISPOSITION | DATE OF OCCURRENCE | PLACE OF OCCURRENCE              |
|------------|---------------------|--------------------|----------------------------------|
| 039093376R | Sustained           | 08/23/2023         | 2246 FOREST AVENUE Staten Island |

| LINE ITEM | OATH CODE | CODE SECTION/RULE | RESULT    | PENALTY    |
|-----------|-----------|-------------------|-----------|------------|
| 1         | B103      | 28-118.3.2        | Sustained | \$2,500.00 |

**Findings of Fact & Conclusions of Law**

Andre Autz, Esq., appeared on behalf of the named Respondent. Kimberly Manas, representative, appeared for Petitioner. Respondent is charged with a violation of §28-118.3.2 of the Administrative Code, occupancy contrary to DOB records. Petitioner entered evidence into the record with no objection.

Respondent does not dispute the presence of the metal structure but questions whether a change in the C of O would be necessary for it. Respondent does not dispute the 3 stories of containers for storage but challenges the class 1 designation. Respondent states that the containers seem to be orderly with no allegation that they are rusting or shifting and does not believe it makes out a prima facie case for an immediately hazardous condition.

Petitioner maintains the class 1 and argues that it is an immediately hazardous condition. The stacked containers are stacked immediately adjacent to a roadway and across that roadway is a residential neighborhood. It is unclear how the containers are secured and pose an immediate hazard to the roadway and residences if they fall. Petitioner states that the neighbors continue to complain about the stacked containers and that the view of the containers would be included as a category 1 as it impacts the public interest and quality of life.

Respondent asserts that the neighbors view of the containers is not an element for an immediately hazardous condition, nor is the potential that they might fall.

Under 1 RCNY §102-01 an immediately hazardous condition is defined as " 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, or, with respect to outdoor advertising, those where the violation and penalty are necessary as an economic disincentive to the continuation or the repetition of the violating condition. Immediately hazardous violations shall be denominated as Class 1 violations."

I find that in the instant case the stacked containers squarely fit the class 1 designation. Respondent does not dispute that there are 3 stories of stacked containers and offers only that they are not rusting and there is no allegation that they are shifting. I concur with Petitioner that it is unclear how they are secured and pose an immediate hazard to pedestrians and motorists if they should fall, as well as to the homeowners across the street.

Respondent has failed to establish a valid defense. While Respondent does not dispute the metal structure, he offers nothing to rebut the prima facie case and Respondent does not dispute the stacked shipping containers. I credit the observations of the inspector and that the charge supports a finding of a violation of the section cited.



12/19/2024

12/19/2024

Jeanne Keefe, Hearing Officer

Date