



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

Frank Tamberino, Esq. - Nacmias Law Firm 592 Pacific Street 1st Floor Brooklyn, NY 11217	Summons No: 039529076J et al. (1 Summons) DEPT OF BUILDINGS, -against- NY PROCONSTRUCITON INC Hearing Date: 10/14/2025 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: \$1,000.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039529076J	Sustained	05/29/2024	175 HURON STREET Brooklyn

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

Findings of Fact & Conclusions of Law

Frank Tamberino, Esq., appeared as the attorney for the respondent, NY Proconstruction Inc., general contractor for the property at 175 Huron Street, Brooklyn, and waived the appearance of the issuing officer. Henrietta Asiedu Baidoo, Esq., appeared as the attorney for the petitioner, the Department of Buildings.

The summons alleges job site fence not constructed or maintained pursuant to subsection. During inspection of 4-story new building, closed site, observed construction fence at exposure 1. Upon further inspection, observed fence was leaning towards sidewalk and fence has graffiti, protruded nails, seems use 2/4 wood to hold the fence from inside. Failure to maintain job site fence, creating a hazardous condition for public. Maintain fence.

The respondent is charged with Building Code 3307.7, which states in pertinent part that fences enclosing a work site shall be built solid for their entire length and returned at the ends to the extent necessary to effectively close off the site. BC 3307.7.7 provides, "All fences and related windscreens or netting shall be installed, adjusted, repaired, and maintained in a sound condition, free of protruding or loose nails, wood, or metal, and with posts in an upright position restrained to prevent the fence from leaning or overturning."

Petitioner's attorney relied on the summons and provided nothing further.

Respondent's attorney made a denial with no rebuttal.

Respondent's attorney's denial does not provide a meritorious defense. I credit the inspector's factual allegations and find that as of the date of occurrence, respondent had failed to maintain the fence enclosing the job site fence by ensuring that it was plumb and free of protruding nails. I also find that this is a class 2 violation. While it is credited that correction was timely made, mitigation of the fine is not available under this infraction code. Accordingly, the summons is sustained and the statutory penalty of \$1,000 is due.

	
11/03/2025	11/03/2025
Grace Chen, Judicial Hearing Officer	Date