



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# : 039148425J et al. (4 summonses) DEPT OF BUILDINGS, -against- CHEN, ZHIHONG Hearing Date : 2/3/2026 Hearing Location : Remote Type of Hearing : By Telephone
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Total Penalty Amount :	0.00	Community Service(Hr):	Not Applicable
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SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039148425J	Dismissed	05/20/2025	69-06 174 STREET, Queens

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B101	28-105.1	Dismissed	0.00

Total Penalty for Summons: 0.00

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039148426L	Dismissed	05/20/2025	69-06 174 STREET, Queens

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B2C4	27-3018(b)	Dismissed	0.00

Total Penalty for Summons: 0.00

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039148427N	Dismissed	05/20/2025	69-06 174 STREET, Queens

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B201	28-105.1	Dismissed	0.00

Total Penalty for Summons: 0.00

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039148434L	Dismissed	05/20/2025	69-06 174 STREET, Queens

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B201	28-105.1	Dismissed	0.00

Total Penalty for Summons: 0.00

Findings of Facts & Conclusions of Law

Summons: 039148425J

Hearing date: 2/3/26

Appearing for petitioner: T. Barje, Esq.

Witness(es):

Appearing for respondent: P. Dossett, Esq.

Witness(es):

The charge dated 5/20/2025, was work without a permit. The issuing officer alleged an extension with an entry door and two windows was added to the rear of the building.

Petitioner augmented the summons with photographs. (The issuing officer was not available.)

Respondent made the following preliminary argument as applying to all four summonses in this group:

The cited location is a single family house, and petitioner should have issued an RCA (Request for Corrective Action) rather than a summons.

The parties presenting contrasting appeals.

Petitioner presented Appeal 2401848, 2/27/2025, where the Appeals Tribunal held that such issuance is discretionary, citing Administrative Code of the City of New York, § 28-208.1.

Respondent presented Appeal 2501189, 12/18/2025, where the Appeals Tribunal held that where no RCA issued to respondent the summons should be dismissed.

Respondent argued that its appeal was the later and should take precedence.

Findings of Fact and Conclusions of Law (on respondent's motion):

First, it is undisputed that certain conditions must apply before any RCA can issue. The cited location must be a one or two family house; and there cannot have been a violation issued within the past five years.

These conditions are met here.

I find the answer lies in the statutory language.

Administrative Code of the City of New York, §28-208.1 and 2:

" § 28-208.1 Commissioner's request for corrective action.

As an alternative to the issuance of an order or notice of violation, the commissioner may issue a request for corrective action to any person responsible for any claimed unlawful use or condition in any premises. Each request for corrective action shall have the commissioner's signature affixed thereto; but the commissioner may authorize any subordinate to affix such signature, including an electronic signature."

I find this is a general provision that can apply in any case unless ruled out by a statutory exception.

"§ 28-208.2 Issuing requests for corrective action to one and two-family homes.

A request for corrective action, in lieu of a notice of violation, may be issued to the owners of one- and two-family homes where a notice of violation has not been issued at the property within the past five years. A waiver of department penalties, which may include department penalties for performing work without a permit or any other penalties that must be paid before a permit may be issued by the department, may be made available to owners of one- and two-family homes who seek to correct conditions identified in a request for corrective action issued by the department. Additional parameters regarding issuing requests for corrective action to the owners of one- and two-family homes may be established by the department by rule.

Exceptions: This section shall not apply to immediately hazardous violations for illegal conversions as described in section 28-210.1 and immediately hazardous violations that led to death or serious injury."

While the word "may" appears to support Petitioner's argument, I find that the statute relies on the rules to augment it and that the rules will take precedence if they differ from the statute. ("Additional parameters regarding issuing requests for corrective action to the owners of one- and two-family homes may be established by the department by rule.")

Now to the Rules:

" § 102-06 Homeowner Resolution Program.

Owners of one- and two-family homes who have not received any prior violations at the property will have an opportunity to correct certain violating conditions prior to receiving a notice of violation and associated penalties.

(a) **Applicability.** The homeowner resolution program applies to owners of existing one- and two-family homes, whether or not they occupy those homes, where prior Department notices of violations returnable to the Environmental Control Board / Office of Administrative Trials and Hearings (ECB / OATH) have not been issued at the property within the past five years, whether or not the current owner owned the property during those five years.

(b) **Eligible violations.** This program covers violations classified as Class 1, Class 2 or Class 3 in subdivision (k) of 1 RCNY § 102-01. Multiple violating conditions observed on the same date are considered as one request for corrective action. Any repeated instance of the same violating condition is ineligible for this program and will result in the issuance of a notice of violation.

Exceptions. This section does not apply to Class 1 violations for illegal conversions as described in § 28-210.1 of the Administrative Code, Class 1 violations that result in the issuance of a Stop Work Order or a Vacate Order and Class 1 violations that lead to death or serious injury.

(c) **Request for corrective action.** Where a violating condition is observed at a property that is part of this program, the commissioner will issue a request for corrective action, giving the owner 60 days to correct the condition. In order to resolve a request for corrective action, the owner must correct the condition and submit acceptable proof of correction to the Department within such 60 days. The Department may perform an inspection upon receiving such proof of correction in order to verify that such conditions have been corrected."

The essential word is "will" - the commissioner will issue a request for corrective action, giving the owner 60 days to correct the condition. In order to resolve a request for corrective action. . . .

I find it is the intention of the Department of Buildings as part of the **Homeowner Resolution Program**, to issue an RCA if the required conditions exist, and that they do exist in this case.

Accept respondent's argument. No RCA preceded the instant summons.

Accordingly, I dismiss all four charges.

This decision also applies to summonses:

039148426L

039148427N

039148434L



02/03/2026

02/03/2026

Clive Morrick, Judicial Hearing Officer

Date