



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS

Hearings Division

Decision

Michael Nacmias, Esq. - Nacmias Law Firm
592 Pacific Street 1st Floor
Brooklyn, NY 11217

Summons# : 039527314R et al. (1 summonses)

DEPT OF BUILDINGS,

-against-

EMPIRE PROP PARTNERS LLC

Hearing Date : 12/2/2024

Hearing Location : Remote

Type of Hearing : By Telephone

Total Penalty Amount : 0.00

Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039527314R	Dismissed	04/09/2024	310 FENIMORE STREET, Brooklyn

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B1P7	Misc. BC-Chapter 33	Dismissed	0.00

Total Penalty for Summons: 0.00

Findings of Facts & Conclusions of Law

I dismiss the summons.

Mathew Whitening (Representative) appeared at the teleconference hearing for respondent EMPIRE PROP PARTNERS LLC (Respondent) and waived his rights to translation services and the presence of the issuing officer. Cassie Renee appeared telephonically for petitioner New York City Department of Buildings (DOB).

Respondent was cited for a Class 1 violation of Section 3301.7.1 of the New York City Building Code (BC), of the City of New York, for failing to protect pedestrians.

BC Section 3307.1 provides that:

"Pedestrians shall be protected during construction or demolition activities as required by this section and by the Department of Transportation."

"Whenever design is required by the provisions of this chapter, such design shall be executed by, and or under, the supervision of a registered design professional who shall cause his or her seal and signature to be affixed to any drawings or specifications that may be required for the work All such documents shall be kept at the site for inspection by the commissioner for the duration of the job.

In addition to the summons, Petitioner submitted 15 photos of the conditions observed by the I/O. Representative testified that Respondent had a permit for the boom truck but it expired and Respondent forgot to renew the permit. Representative moved to dismiss the summons on the grounds that summons did not state a prima facie violation. Representative also challenged the Class. I find that the mere allegation that the permit for the boom truck expired, without any factual allegations as to how this created a dangerous condition or a failure to protection pedestrians, fails to state a prima facie violation of BC Section 3301.7. Accordingly, I dismiss the summons.



12/05/2024

12/05/2024

Thomas Finn, Hearing Officer

Date

