



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS

Hearings Division

Decision

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

Summons# : 039527316K 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 : 5,000.00

Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039527316K	Sustained	04/09/2024	310 FENIMORE STREET, Brooklyn

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B1P7	Misc. BC—Chapter 33	Sustained	5,000.00

Total Penalty for Summons: 5,000.00

Findings of Facts & Conclusions of Law

I sustain the summons and impose the \$5,000.00 statutory penalty.

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 BC Section 3308.1 of the Building Code (BC), found in Title 28 of the Administrative Code of the City of New York, for failure to maintain safety netting.

BC Section 3308.1 provides, in relevant part, that:

"Safety Netting During Construction or Demolition Operations

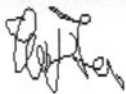
Horizontal and vertical safety netting shall be provided when required below. Safety netting is required in addition to the sidewalk sheds, fences, and other pedestrian protection required by Section 3307..."

BC Section 3308.1.1 provides, that:

"Vertical Netting

When in the course of construction the building reaches a height of four stories or 40 feet (12 192 mm), vertical safety netting shall be maintained at each story except at the story at grade, the story immediately above the sidewalk shed and the roof level where a parapet is installed."

In addition to the summons, Petitioner submitted 15 photos of the conditions observed by the I/O. Representative did not dispute the factual allegations in the summons but challenged Class arguing that it was not an immediately hazardous condition because there were guardrails in addition to the loose netting. I find that cited loose netting and other allegations in the summons constitutes a Class 1 violation and I find that Representative's Class challenged is meritless. I credit the summons and Petitioner's photographic evidence and find that Petitioner has established a Class 1 violation of BC Section 3308.1. Accordingly, I sustain the summons and impose the \$5,000.00 statutory penalty.



12/05/2024

12/05/2024

Thomas Finn, Hearing Officer

Date

