



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 No: 039529241Y et al. (1 Summons) DEPT OF BUILDINGS, -against- TJAR GROUP CORP Hearing Date: 01/27/2026 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: \$0.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039529241Y	Dismissed	06/04/2024	312 FENIMORE STREET Brooklyn

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	B263	28-204.4	Dismissed	\$0.00

Findings of Fact & Conclusions of Law

This Hearing was held via Court Call on January 27, 2026.

Respondent TJar Group Corp. was represented by Phoebe Dossett, Esq.

Petitioner NYC DOB appeared by Mr. Gurtej Sahni.

Summons #039529241Y was issued for an alleged occurrence on 6/4/24 at 8:30 AM for a Class 2 violation of NYC AC 28-204.4 at 312 Fenmore St., Brooklyn, NY. The IO stated: Failure to comply with the Commissioner's Order to file a

certificate of correction with the DOB. Respondent failed to correct the violating condition and file a certificate pursuant to 28-204.2 for violation #39527320N issued 4/9/24. Observed inactive closed jobsite with no activities. Unable to gain access to verify compliance. Remedy: file a certificate of correction.

Mr. Sahni initially stated that although the Issuing Officer was scheduled for appearance at today's hearing, he was not available and the hearing was conducted without him. Mr. Sahni rested on the summons and did not submit any evidence. However, he stated that he observed in the DOB system that a certificate from Respondent was accepted as of 7/9/24, which was before the first hearing date of 8/14/24, so he recommended a mitigated penalty if the violation is sustained.

Ms. Dossett confirmed that corrections were made but was challenging service. She argued that the IO's affidavit did not establish reasonable attempts were made-even though the IO stated no person was found, it was a conclusory statement and the affidavit did not articulate reasonable attempts were made before using charter service. Also, the IO did not appear at the hearing to supplement his statements in the affidavit-it was not known whether he spoke with anyone or the site was closed or any other details.

Mr. Sahni argue that there was nothing to supplement and as the summons indicated the site was closed, the Affidavit of service lines up with that narrative because it was closed.

Ms. Dossett further argued that the violation details on the summons are separate from the affidavit-the summons was posted about 40 minutes after the occurrence time and you cannot draw conclusions that the IO made reasonable attempts to locate someone to serve-the affidavit is a separate document and should show the IO's attempts there.

Charter § 1049-a(d)(2) authorizes alternative service provided that the IO first makes a reasonable attempt to personally serve the respondent. Alternative service requires: (1) affixation of the summons in a conspicuous place on the premises where the violation occurred; and (2) mailing a copy of the summons to the respondent at the place of occurrence. If the named respondent is the owner of the cited premises and an alternative address is contained in specified files of the DOF, HPD, or Petitioner's own files maintained for the purpose of enforcement, Petitioner must mail a second copy of the summons to one of the alternative addresses. See DOB v. Carmen Quinones, Appeal No. 1800189 (June 6, 2018). To establish a reasonable attempt at personal service on an LLC or corporation, a petitioner must describe its efforts to locate a person authorized to accept service. See DOB v. 648 Myrtle Ave LLC, Appeal No. 2000853 (October 8, 2020). See also Appeal No. 2400054 DOB v. 117 East 95 Estates, LLC (March 28, 2024).

In the current matter, according to the IO's affidavit of service, he served the summons using the alternative "affix and mail" method of service under §1049-a(d)(2) of the NYC Charter. The pre-printed language of such section reads, "I made the following reasonable but unsuccessful attempt to effectuate service upon respondent or upon any other person whom service may be made as follows:" *The IO then wrote "no any person found connected to the respondent. A true copy of the notice of violation was posted at the following conspicuous place on the premises where the violation occurred-posted at fence exposure 1."*

Following review, I find that the IO's affidavit of service is insufficient to establish that a reasonable attempt was made to serve an individual authorized to accept service on behalf of Respondent before the IO resorted to affix-and-mail service under the Charter. Despite stating the jobsite was closed on the summons, nothing was stated on the affidavit regarding same. When service is challenged by the respondent, the IO must describe the efforts at personal service, either in the affirmation of service or at the hearing, in order to establish a reasonable attempt. *See DOB v. 182-255 Park Hill Corp., Appeal No. 1801499 (January 24, 2019).* However, even assuming that the site was closed and posting the summons to a fence for affix and mail service, as there was no description of the site nor photos submitted, nor testimony of the IO at the hearing, it is unclear whether the "fence at exposure 1" was a conspicuous place on the premises.

Furthermore, even if the affidavit was held to be sufficient to establish reasonable attempts were made to locate someone to serve prior to utilizing charter alternate service (*See Mestecky v. City of New York, 30 N.Y.3d 239 (2017)*)-IO's *single unsuccessful attempt to personally serve the summons satisfied the Charter's requirement of a "reasonable attempt"*, no evidence was submitted by Petitioner either before or during the hearing to indicate that the required mailing(s) pursuant to Section 1049-a (d)(2) were sent to Respondent thereafter. Also, even if the site was closed, it was not referred to specifically on the affidavit so as to consider charter service to be proper by leaving it on a fence (*See e.g. DOB v. Daniel Odigie, Appeal No. 1801667 (February 7, 2019) (affirmation of service stating, "job site closed- IO permitted under the Charter to affix the summons to the construction wall next to the entry door")*).

Petitioner has not met its burden to establish proper alternate service requirements were met in total as required by the Charter service.

The summons is dismissed.

Caryn S. Gartenberg

01/29/2026

01/29/2026

Caryn Gartenberg, Judicial Hearing Officer

Date