



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

Caroline Kane, Esq. - Nacmias Law Firm, PLLC 592 Pacific Street, 1st Floor Brooklyn, NY 11217	Summons No: 0703680414 et al. (1 Summons) DEPT OF TRANSPORTATION, -against- EMPIRE PROPERTIES PARTNERS LLC Hearing Date: 12/04/2024 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: **\$1,200.00**

Community Service(Hr): **Not Applicable**

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
0703680414	Sustained	08/26/2024	38-16 25 St bet 38 Ave & 39 Ave Queens

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	AD30	A.C. 19-102(II)	Sustained	\$1,200.00

Findings of Fact & Conclusions of Law

Caroline Kane, attorney, appeared on behalf of the Respondent, Empire Properties Partners, LLC, and Perry Mitchell appeared on behalf of DOT at a remote hearing held on 12/4/2024.

Respondent is charged with failing to comply with terms and conditions of DOT permit in violation of AC 19-102(ii). The issuing officer observed Respondent failed to comply with stip 101 which required permittee to affix DOT issued 5-digit permittee ID# on the front and back of all their temporary construction signs with waterproof labels.

AC 19-102(ii) makes it unlawful to "remove, open, or otherwise disturb the pavement of, or excavate in, a public street, or use

any part of a public street so as to obstruct travel thereon" unless such action is carried out in accordance with the terms and conditions of a DOT permit.

Stipulation 101 states that : "Permittee is required to install, maintain, and remove all temporary parking/regulatory signs and pavement markings and restore to their original condition per DOT standards prior to expiration of the permit. Permittee must notify NYPD Traffic Mgmt Center 48 hours prior to changing any signs/markings. Approved plans must be on site. Per section 2-02(c)(4) of the Highway Rules permittees must affix their department issued five-digit identification number using a waterproof label or sticker on all temporary signs, including but not limited to temporary construction, raise plow, parking or regulatory signs...."

34 RCNY 2-02(c)(4) provides that:

(c) *Display of permits and signs at work site.*

(4) *Permittees' identification numbers on temporary signs.* Permittees must affix their Department issued five-digit identification number using a waterproof label or sticker on all temporary signs, including but not limited to temporary construction, raised plow, parking or regulatory signs. The lettering must be in Arial font black ink, 3/4 inch in height and width, placed at the lower right-hand corner of the front and the lower left and right-hand corner of the back of the sign as shown below. The labels/stickers must be visible/legible at all times. Permittees must replace any worn out or faded labels/stickers.

Mr. Mitchell relied on the case presented in the sworn statement and submitted an evidence packet consisting of a copy of the permit, date-time stamped photographs, and DOT summary of the violation. (Ex 1). The photographs show street signs at a construction site with no 5-digit identification label affixed.

Ms. Kane moved to amend to violation of 34 RCNY 2-02(c)(4) arguing that it was a more appropriate charge. Mr. Mitchell objected to the motion to amend. The motion was denied.

I credit the sworn statement and Petitioner's evidence. I find Petitioner established a violation of cited section of law. I find that Respondent failed to establish a defense or rebuttal to the violation.

Accordingly, I find Respondent in violation and impose the mandatory penalty.



12/13/2024

12/13/2024

Janet Gawthrop, Hearing Officer

Date