



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# : 035415237K et al. (4 summonses) DEPT OF BUILDINGS, -against- Richmond Hill 123 Corp Hearing Date : 10/30/2025 Hearing Location : Remote Type of Hearing : By Telephone
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Total Penalty Amount :	2,500.00	Community Service(Hr):	Not Applicable
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SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
035415236Z	Sustained	04/06/2019	103-24 123 STREET, Queens

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B102	AC 28-301.1	Sustained	1,250.00

Total Penalty for Summons: 1,250.00

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
035415237K	Dismissed	04/06/2019	103-24 123 STREET, Queens

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B212	BC 3303.4 27-1018	Dismissed	0.00

Total Penalty for Summons: 0.00

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
035415238M	Sustained	04/06/2019	103-28 123 STREET, Queens

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B102	AC 28-301.1	Sustained	1,250.00

Total Penalty for Summons: 1,250.00

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
035415239Y	Dismissed	04/06/2019	103-28 123 STREET, Queens

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B202	AC 28-301.1	Dismissed	0.00

Total Penalty for Summons: 0.00

Findings of Facts & Conclusions of Law

Phoebe Dosset appeared as the authorized representative of the named respondent and Kimberly Manas appeared for the Petitioner.

The inspector was not available.

Summons 035415237K cites a violation of 3303.4, summons 035415239y cites a violation of 28-301.1., and summonses 035415236z and 035415238m cite violations of BC1020.2, 1023.2, 1024.4

The Petitioner submitted a Google photo, rested on the sworn to narratives, and moved to amend 36z and 38M to violations of 28-301.1. The motion is granted.

She also moved to amend 37k and 39y to "class 2." The motion is granted.

The respondent then made several arguments: First that none of the summonses set forth a prima facie case, second, that 37K is cited a violation of Chapter 33 for inadequate housekeeping; however, there was no proof that there was any construction activity was going on, that 37K and 36m were duplicative since they were citing the same condition, and that 39y and 38m were also duplicative, insofar as, as amended, they were citing the same conditions under the same provision of law.

She also challenged the class on the summonses 36z and 38m. contending that, as to these summonses that there was no evidence of a complete obstruction.

The Petitioner maintained the class on 36z and 38m because there is a risk of injury should one need to escape quickly through the fire escapes should there be an emergency.

First, I am dismissing summons 035415237K for citing an improper rule insofar as I could not see any evidence of construction activity. The Petitioner did not offer any evidence or argument in support of this fact. In Appeal No. 1901492 DOB v. Monowara Akter November 21, 2019, it was held that "BC § 3303 pertains to safeguards and maintenance at construction and demolition sites, and § 3303.4 sets forth housekeeping measures required at such a site. Absent any evidence in the record that Respondent's property was a construction or demolition site at the time of inspection, the Board concludes that BC § 3303.4 is inapplicable. See NYC v. P.O. Y. Realty Corp., Appeal No. 1700708 (August 17, 2017). Accordingly, the Board reverses the hearing officer's decision sustaining a Class 1 violation of BC § 3303.4 and dismisses the charge." Accordingly, the summons is dismissed.

As to the remaining duplicative argument for summonses 39y and 38M, I do find 39y to be to be duplicative of 38m. They are issued to the same respondent on the same date to the same premises, and as amended, both now cite the same provision of law.

While I believe both summonses could stand if it were clear that the inspector were addressing different and distinct conditions, here, the record is somewhat vague. Both summonses appear to be citing a hazardous non code compliant condition in the rear yard. 39y is describing an observation of construction materials and combustible materials containing windows, doors and ladders, and 38m is describing how there is a failure to provide an unobstructed passageway near the fire escape due to combustible and construction materials. On this limited record, it is difficult to tell if the inspector is describing different sets of combustible construction materials, or if he is describing the same ones. Absent more, I find it is reasonable to conclude that these are likely the same ones insofar as they are observed at the same location at the premises. If so, having combustible construction materials that are also obstructing access from a fire escape would subsume merely having the combustible construction materials being kept in the yard. The same remedy, i.e., a removal or a replacement of the materials, would apply to both.

Accordingly, summons 39y is dismissed.

As to 38m and 36z, I find the sworn account of the issuing officer to be credible, and that it establishes the charge. The respondent failed to set forth a valid legal defense. I find there is adequate notice, and that a prima facie case has been established pursuant to OATH rules, insofar as both the summonses are describing an obstructed passageway from the fire escape due to the presence of various construction and combustible materials being kept in the rear yard. This establishes the basic elements of a violation of 28-301.1.

As to the class challenges in 36Z and 38m, I find the class 1 designation is proper, for the reasons stated by the Petitioner. Furthermore, it has been held that "obstructions to fire escapes constitute immediately hazardous conditions, warranting a Class 1 designation. See Regent Realty Co., Appeal No. 2400373. Appeal No. 2401278 DOB v. W47 Realty LLC September 26, 2024.

Accordingly, the summonses are sustained as class 1 violations.



10/30/2025

10/30/2025

Amy Jill Baranoff, Judicial Hearing Officer

Date

IF YOU ARE FOUND IN VIOLATION, AND ARE NOT ELIGIBLE OR DO NOT CHOOSE COMMUNITY SERVICE, YOU MUST PAY THE PENALTY WITHIN 30 DAYS OF THE DECISION DATE OR 35 DAYS IF MAILED.

- To pay by mail, send a check or money order to the Dept. of Finance Commissioner, P.O. Box 2307, Peck Slip Station, New York, NY 10272. The check or money order should be made out to "Finance Commissioner, City of New York." Write the summons number on the check or money order.
- To pay in person, bring a check, money order or credit card and this decision to any OATH Hearings Division location between 8:30 a.m. to 4:30 p.m.
- To pay online using a credit or debit card, go to www.nyc.gov/citypay/oath

If you do not pay the penalty, the City may: (1) file papers with the Civil Court ("docket a judgment"), (2) charge you a late fee, and (3) continue attempts to collect the debt.

CAN I DO COMMUNITY SERVICE?

If your summons is for the type of offense that gives you a Community Service option you can choose to complete Community Service instead of paying a penalty. Your decision will give you that option. You have to complete your Community Service by the deadline in the decision or else you will end up owing the penalty. You can even do your Community Service on the day you receive your decision.

COMPLETION OF COMMUNITY SERVICE

The Help Center will arrange for you to complete your Community Service. The Help Center is run by the Ombudsperson/*Pro Se* Clerk at OATH and is located at each Hearing Division in all five boroughs. To schedule your Community Service, call, email or visit a Help Center location.

How to Contact the Help Center to Schedule Community Service:

Manhattan: (212) 436-0845 CSmanhattan@oath.nyc.gov
Brooklyn: (718) 923-6216 CSbrooklyn@oath.nyc.gov
Queens: (718) 393-6044 CSqueens@oath.nyc.gov
Bronx: (718) 503-5565 CSbronx@oath.nyc.gov
Staten Island: (718) 876-2314 CSstatenisland@oath.nyc.gov

If you complete your Community Service by the deadline in the decision, you will receive a Certificate of Completion and will not have to pay a penalty. If you need an extension to complete your Community Service, please contact the Help Center.

If you do not complete your Community Service by the deadline, you will have to pay the penalty.

NON-DISCLOSURE FOR SUMMONSES ELIGIBLE FOR COMMUNITY SERVICE

If you either completed the Community Service or paid the penalty, OATH will remove your identifying information from public records related to your case.

If you do not complete the Community Service or pay the penalty, your identifying information may remain on public records related to your case.

IF YOU DISAGREE WITH THE DECISION, YOU MAY APPEAL IT

To submit your appeal, you **MUST** use OATH's online or mail-in appeal forms available on OATH's website at www.nyc.gov/oath/appeal. Instructions for filing an appeal may be found on the form and OATH's website.

Your appeal **MUST** be received by the OATH Hearings Division **within 30 days** of the decision date, or 35 days if the decision was mailed to you.

To appeal you **may need to pay** the full penalty stated in this decision.

- If you cannot pay because of financial hardship, you may ask to not pre-pay by submitting with your appeal a Financial Hardship Application, available on OATH's website.
- If you are eligible and choose to perform Community Service instead of paying the penalty, you do not have to pay the penalty or complete the Community Service to appeal.

APPEAL BY ENFORCEMENT AGENCY

If you wish to answer an appeal filed by an enforcement agency, you **MUST** use OATH's Response To Appeal form. Instructions for filing an answer may be found on the form and OATH's website.

Your answer must be received **within 30 days** of the date of the enforcement agency's appeal, or 35 days if it was mailed to you.

If the enforcement agency wins the appeal, you may have to pay a penalty or, if eligible, complete Community Service even if your case was originally dismissed after the hearing.

For more information,
visit OATH's website www.nyc.gov/oath
or call 1-844-OATH-NYC

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