



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

Michael Nacmias, Esq. - Nacmias Law Firm 592 Pacific Street 1st Floor Brooklyn, NY 11217	Summons No: 035194914M et al. (1 Summons) DEPT OF BUILDINGS, -against- ALL STATE FUNDING EAGLES LLC Hearing Date: 10/21/2025 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: **\$1,600.00**

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

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
035194914M	Sustained	05/16/2016	103-24 123 Street Queens

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	B101	28-105 .1	Sustained	\$1,600.00

Findings of Fact & Conclusions of Law

The hearing was conducted by telephone on Court Call on October 21, 2025. Rafeena Khairullah, Esq. appeared for Petitioner, along with Inspector Niger Sampson (Badge 1987). Frank Tamberino, Esq. appeared as counsel for Respondent.

At the outset, Mr. Tamberino requested an adjournment for further evidence. Ms. Khairullah objected to the request, noting that the inspector was present and prepared to testify. I denied Respondent's adjournment request, noting that there were several previous adjournments and the most recent adjournment was granted at Respondent's request to gather additional evidence.

The summons charged a Class 1 violation of Section 28-105.1 of the Administrative Code of the City of New York (Code) for work without a permit. Specifically, the summons states the issuing officer (IO) observed the following: "Installed water and waste lines for 3 pcs bathroom (toilet, sink, shower) and residential sink. Installed gas line for stove at kitchen. Installed electrical service box and also installed BX wire through floors to box. All at attic level."

Ms. Khairullah submitted into evidence a complaint overview (Exhibit A). She noted that there was a 311 call in which the caller stated there was a couple and children living in the attic.

Mr. Tamberino challenged the class 1 designation and requested a reduction to a class 2. He noted there was no vacate order issued with the summons. He explained that the conditions existed before his client purchased the property. He contended that the cited conditions were not immediately hazardous and had not caused any safety issues.

Ms. Khairullah declined to amend the class designation and contended that the summons was sufficient to establish the violation. Mr. Sampson testified that anything involving gas poses a potential hazard. He noted that the gas line ran from the cellar up to the attic and if there was a fire, there would be limited egress from the attic. He maintained that the class 1 designation was appropriate because there was illegal gas and electrical work and people were living there. Ms. Khairullah added that the plumbing and electrical work required permits and licensed professionals. She explained that gas work can lead to a fire or explosion and electrical work can lead to a fire or shock hazard. She contended that the conditions posed an immediate hazard and put tenants and first responders at risk. She noted that there did not need to be a vacate order in order to allege a class 1 violation.

Mr. Tamberino explained that he did not contend there was no potential hazard, but that there was no immediate hazard.

Ms. Khairullah maintained that the threat was imminent and real and there could be an explosion at any point. She submitted case law that upheld class 1 designations for electrical and plumbing work without permits (Exhibit B).

Mr. Tamberino responded that the case law referenced by Petitioner was not relevant to Respondent's class challenge. He noted that unlike the case law, which explained why the conditions were immediately hazardous, Petitioner had not submitted any argument or cited any specific conditions to support a class 1 designation. He maintained that the conditions were not immediately hazardous and there were no safety issues with the work that was performed.

Code § 28-105.1 makes it unlawful to construct, enlarge, alter, or repair any building or structure in the city, or to cause such work to be done without a written permit issued by DOB. A respondent may raise an affirmative defense to a work without a permit charge by providing credible evidence that the cited conditions pre-existed respondent's purchase of the premises. See *NYC v. Henry Brown Jr.*, Appeal No. 1101278 (April 26, 2012)

I credit the summons. Respondent did not rebut the allegations in the summons but contended that the conditions existed prior to Respondent's purchase of the property. I do not credit Respondent's testimony and find it insufficient to establish an affirmative defense. Mr. Tamberino did not state when the electrical or plumbing work was performed or when Respondent purchased the property, nor did he provide any documentary evidence, such as documents regarding Respondent's purchase of the property or an affidavit from Respondent. With regard to Respondent's class challenge, I find that Petitioner established its designation of the charge as a Class 1, immediately hazardous condition. Section 102-01(b) of Title 1 of the Rules of the City of New York (RCNY) provides, in pertinent part, that an immediately hazardous violation are those that pose "a threat that severely affects life, health, safety, property, the public interest, or a significant number of persons so as to warrant immediate corrective action . . ." The electrical and gas work performed without a permit warranted a Class 1 violation given the danger associated with the work, including the risk of explosion or fire. See, e.g. *DOB v. 4GK LLC*, Appeal No. 2500483 (June 26, 2025); *DOB v. Luz Maria Lambert*, Appeal No. 1901231 (September 26, 2019). The summons is sustained, and the penalty for a class 1 violation is imposed.



10/27/2025

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Melissa Koven, Judicial Hearing Officer

Date