



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# : 039111558Y et al. (1 summonses)

DEPT OF BUILDINGS,

-against-

MOKEN HOME IMPROVEMENT

Hearing Date : 3/17/2025

Hearing Location : Remote

Type of Hearing : By Telephone

Total Penalty Amount : 0.00

Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039111558Y	Dismissed	04/12/2024	71 SOUTH 4 STREET, Brooklyn

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B179	1 RCNY-Misc., RS-Misc.	Dismissed	0.00

Total Penalty for Summons: 0.00

Findings of Facts & Conclusions of Law

The summons alleges that on 4/12/24, the Respondent, Moken Home Improvement, was in violation of 1 RCNY 16-04, Class 1, in that Respondent had no record of controlled inspections of the stability and integrity of the existing structure during construction operations by special inspection agency license #000932 at 71 South 4th Street, Brooklyn, NY. Inspector under license #000932 was on the "hot list" and requires OTCR review.

Phoebe Dossett, Esq. appeared for Respondent. Rafeena Khairullah, Esq. appeared for Petitioner DOB with IO Gutierrez #2868. Petitioner rested on the summons and provided DOB documents indicating that "Wu Chen" was the special inspector as of 11/17/23 (See Pet. Ex.).

IO testified that after research he determined the special inspector was allowing Respondent to use his license without ever having visited the site and checking the work. No technical reports were filed with DOB.

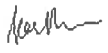
Ms. Dossett moved to dismiss in that the summons does not identify a specific provision of law as required under 48 RCNY 6-08(c), relying on appeal #2400150. The section of law referenced in the violation details narrative, 1 RCNY 16-04, does not exist. Petitioner moved to amend to a miscellaneous violation referencing BC section 1704.20/1705.25.1, arguing that while 16-01 was repealed, Chapter 16 previously encompassed laws regarding controlled inspections of the stability and integrity of existing structures during construction operations and when searching for that section you are directed to BC section 1704.20.1 (1705.25.1 under the 2022 BC code) (See Pet. Ex. -section 16.01 repealed).

The motion to amend is denied. 48 RCNY 6-13(e) allows an amendment to the summons if: (1) the subject of the amendment is reasonably within the scope of the original summons; (2) such amendment does not allege any additional violations based on an act not specified in the original summons; (3) such amendment does not allege an act that occurred after the original summons was served; and (4) such amendment does not affect the Respondent's right to have adequate notice of the allegations made against him or her.

Here, the amendment does affect the Respondent's right to have adequate notice of the allegations made against him or her.

1 RCNY 16-04 does not exist. 1 RCNY 16-01 was repealed. While BC section 1704.20.1 does reference alteration to existing structures being subject to special inspections, the road to get there is tenuous and the section vague.

Accordingly, the summons is dismissed.



03/21/2025

03/21/2025

Lara Bianchi, 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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