



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

FRANK TAMBERINO, Esq. - Nacmias Law Firm 592 Pacific Street 1st Floor Brooklyn, NY 11217	Summons No: 048870818P et al. (1 Summons) THE NEW YORK CITY DEPARTMENT OF SANITATION, -against- T INC ST JOHN REAL ESTATE CONSULTAN Hearing Date: 04/23/2025 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: \$50.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
048870818P	Sustained	01/23/2025	38-75 11 Street Queens

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	AS06	A.C. 16-118(2)(A)	Sustained	\$50.00

Findings of Fact & Conclusions of Law

Summons 048870818P alleges a violation of § 16-118(2)(a) of the Administrative Code of the City of New York, for a dirty sidewalk. In the summons, the IO alleged that, at the time and place of occurrence, he observed a large accumulation of debris on the sidewalk during the established routing hour of 8:00AM-8:59AM.

Petitioner, Department of Sanitation, did not appear. Respondent, ST. JOHN REAL ESTATE CONSULTANT, INC., appeared by FRANK TAMBERINO, Esq.

Respondent's attorney did not dispute the IO's observations, but moved to dismiss the summons, contending dismissal was

warranted because the summons was issued at 8:58AM, during the established routing hour. He contended it would have been unreasonable for Respondent to act in response, where the summons was issued before normal business hours. He also contended the IO's description on summons lacked the necessary details of *where* the condition was observed to provide Respondent sufficient information to respond.

Respondent's motion to dismiss is denied. As a preliminary matter, I find the summons complied with the notice requirements of 48 RCNY § 6-08(c)(2), which requires a summons to contain a clear and concise statement sufficient to inform the respondent with reasonable certainty of the essential facts alleged to constitute the violation(s) charged. Here, the IO affirmed that, at the time and place of occurrence, he observed a large accumulation of debris *on the sidewalk* at the cited location. I find the IO's statements satisfied the notice requirements of 48 RCNY § 6-08(c)(2).

Code Section 16-118(2)(a) requires an owner of a premises to keep the sidewalk abutting the premises in a clean condition at all times, regardless of the source. As stated on the summons, the IO's inspection of the premises and observation of the cited debris occurred within the established residential routing hour for the premises. See Code 16-118.1(a) for the provision covering the Citywide routing system and the established residential routing hours.

A premise owner may establish a reasonable-efforts defense to a Code § 16-118(2)(a) charge by showing that sufficient efforts were made daily to keep the cited area clean by frequent, regular, and thorough inspections, and by cleaning the area upon observation of debris. See *DSNY v. Michael Mungalsingh*, Appeal No. 2300245 (May 25, 2023). The cleaning efforts required to meet the reasonable-efforts defense vary with each case depending on the type of premises involved, the nature of the surrounding neighborhood, and the amount of pedestrian and vehicular traffic. See *NYC v. Abraham Zanger*, Appeal No. 1200091 (June 28, 2012).

Respondent is obliged to make such cleaning efforts, regardless of when such dirty sidewalk condition occurred.

I credit the IO's statements on the summons.

Accordingly, the violation is sustained.

	
04/24/2025	04/24/2025
Kevin Lawner, Hearing Officer	Date