



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

Andre Autz, Esq. - Nacmias Law 592 Pacific Street Brooklyn, NY 11217	Summons No: 039116548N et al. (1 Summons) DEPT OF BUILDINGS, -against- KHAKSHOOR, KOUROSH Hearing Date: 02/11/2025 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: \$5,000.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039116548N	Sustained	06/11/2024	118 OSGOOD AVENUE Staten Island

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	B112	AC 28-207.2.2	Sustained	\$5,000.00

Findings of Fact & Conclusions of Law

Laura Slavin, Esq. appeared as counsel for the New York City Department of Buildings. She made a motion to withdraw the Aggravated I charge and recommended the minimum class 1 penalty. She submits a DOB complaint overview and a series of photographs showing the condition of the property at the time of issuance of the stop work order, and his subsequent inspection where this summons was issued, which are marked collectively a petitioner's exhibit "1".

Andre Autz, Esq. appeared as counsel for the respondent. He made a motion to dismiss in that his testimony did not make a reasonable attempt to serve the summons, and that the respondent did not do any additional work, but was making the stairs safe because they were in disrepair, and making the site safe. He also questioned the IO on his service methods,

how long he waited and if he yelled into the building to find a person to serve.

Respondent is charged with unlawfully continuing work while on notice of a stop work order, by removing the front porch, under Code 28-207.2.2, as an Aggravated I, class 1 charge.

I grant Ms. Slavin's motion to withdraw the Aggravated I charge.

Inspector D. Brandefine appeared under oath and testified that he inspected the site, based upon a complaint. He testified that he issued the stop work order and the front steps were removed after his issued the stop work order, and any work on the stairs should have been completed with a permit. He further testified that after his inspection he looked all around and called out, and there was no one at site to serve the summons so he then posted the summons on the right front door.

Charter § 1049-a(d)(2) permits service of a summons by affixing it to a conspicuous place in the cited premises after making a reasonable attempt to deliver it to a person in the premises upon whom service may be made as provided in Article 3 of the CPLR or Article 3 of the NYS Business Corporation Law (BCL). CPLR § 308 provides, in pertinent part, that service on a natural person may be made by delivering the summons within the state to: (1) the person to be served; or (2) a person of suitable age and discretion at the actual place of business, dwelling place, or usual place of abode of the person to be served and by either mailing the summons to the person to be served at his or her last known residence or by mailing the summons by first class mail to the person to be served at his or her actual place of business. CPLR § 306 (d) provides in relevant part that "Proof of service shall be in the form of a certificate if the service is made by a sheriff or other authorized public officer, in the form of an affidavit if made by any other person"

I find that the IO's efforts were sufficient to deem service of the summonses by affix-and-mail to be proper. See *DOB v. Velda Lee*, Appeal No. 1901005 (October 10, 2019); *DOB v. 5712 Realty LLC*, Appeal No. 2201611 (March 23, 2023).

I deny Mr. Autz's motion to dismiss on service, and on the facts. I find that the inspector's testimony and evidence established that service was properly effectuated upon the respondent, and that the respondent did work, while on notice of a stop work order.

I find that this is properly classified as a class 1 charge. A class 1 charge is a major violations are those specified as such by the New York City Construction Codes or those where the violating condition affects life, health, safety, property, or the public interest but does not require immediate corrective action, or, with respect to outdoor advertising, those where the violation and penalty are appropriate as an economic disincentive to the continuation or the repetition of the violating condition.

Based upon the above, I sustain this summons as a class 1 charge, and I impose the statutory approved class 1 minimum penalty.



02/13/2025

02/13/2025

Keith J. Ludwiczak, Hearing Officer

Date