



# OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS

Hearings Division

## Decision

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| <b>Phoebe Dossett, Esq. - Nacmias Law Firm, PLLC</b><br>592 Pacific Street 1st Floor<br>Brooklyn, NY 11217 | <b>Summons# : 039115757P et al. (1 summonses)</b><br><br><b>DEPT OF BUILDINGS,</b><br><br><b>-against-</b><br><br><b>Benjamin lam</b><br><br><b>Hearing Date : 1/9/2025</b><br><br><b>Hearing Location : Remote</b><br><br><b>Type of Hearing : By Telephone</b> |
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|-------------------------------|-------------|-------------------------------|-----------------------|
| <b>Total Penalty Amount :</b> | <b>0.00</b> | <b>Community Service(Hr):</b> | <b>Not Applicable</b> |
|-------------------------------|-------------|-------------------------------|-----------------------|

| SUMMONS #  | SUMMARY DISPOSITION | DATE OF OCCURRENCE | PLACE OF OCCURRENCE              |
|------------|---------------------|--------------------|----------------------------------|
| 039115757P | Dismissed           | 05/31/2024         | 159 EAST 33 STREET,<br>Manhattan |

| LINE ITEM | OATH CODE | CODE SECTION / RULE | RESULT    | PENALTY |
|-----------|-----------|---------------------|-----------|---------|
| 1         | B153      | 28-211.1            | Dismissed | 0.00    |

**Total Penalty for Summons: 0.00**

### Findings of Facts & Conclusions of Law

Rafeena Khairullah, Esq. appeared as counsel for the Petitioner the New York City Department of Buildings. She stated that on the DOB NOW Application User Guide p.7, it details what is work, Work – of Assembly occupancy classifications are for gatherings of people for purposes like civic, social or religious functions, recreation, food or drink consumption, awaiting transportation, or similar group activities, when occupied by 75 people or more. A Place of Assembly Certificate of Operation is required. Following the approval of plans/alternate plans in accordance with BC 1028.1.3, and successful completion of DOB inspection, an initial Place of Assembly Certificate of Operation (PACO) is issued, effective for one year. Afterwards, an annual FDNY inspection for a PACO renewal is required (FC 105.6). For temporary public or private events, held indoors or outdoors, such as trade shows, concerts or private gatherings held for a limited duration, a temporary place of assembly permit is required. A Temporary Place of Assembly Certificate of Operation (TPACO) is issued to ensure the health, safety and welfare of large crowds attending these events.

She submits a DOB ow User Guide, a DOB printout, and a series of photographs marked collectively as exhibit "1", and relied on the issuing inspectors class 1 designation and recommended the minimum penalty.

Phoebe Dossett, Esq. appeared as counsel for the respondent. She questioned Inspector Dupree on the cited Permit # M00810579, which is classified as a no work permit classification. She made a motion to dismiss and stated that no false statement were made on the PW-1 because on the PW-1 application the respondent indicated that there was no structural work because any work to the fire escape was not new work, and it was indicated on the PW-1 that the permit was to legalize work charged in a prior Summons. She referenced p. 17 in the User Guide which holds that : If Legalization is selected and there is no OATH summons on the BIN for work without permit (WWP), then a \$600 or \$6000 fee, depending on the building type, is added to the filing fees as a legalization fee. If legalization is selected and an OATH summons number for WWP is on the BIN, select Yes to the question Are there any OATH/ECB summonses related to this work? and enter the DOB violation or OATH/ECB Summons number(s). When a WWP violation is entered, there is no legalization fee and only a civil penalty for work without permit calculated as an L2 fee. An L2 is a request for override, reduction or waiver of civil penalties for work without a permit violations. When the L2 request is created, the civil penalty fee has to be paid before the permit is issued. Once legalization is selected on a filing, it results in a no work permit and Post Approval Amendments are not allowed. See 1 RCNY 102-04 (b) (7) for more information about legalization and civil penalties."

The issuing inspector B. Dupree appeared under oath at the hearing and testified that observed an extended fire escape under Permit # M00810579, where it was being extended from the building. But no active work. He further testified that the modification to the fire escape, work was not included on the PW-1 as structural work, and since there was prior structural work, and the PW-1 indicated that no structural work was completed. He further stated that the PW-1 must include what structural work to the fire escape was completed.

Respondent is charged with filing a false statement in the PW-1 by failing to indicate structural work, fire escape renovations, under Code 28-211.1, as a class 1 charge.

I grant Ms. Dorset's motion to dismiss, and find her claim credible that there was no false statement made because the PW-1 indicated that the work was for legalization of prior work to the fire escape, and that there was no current structural work to the fire escape.

Based upon the above I dismiss this summons.

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| 01/14/2025                                                                          | 01/14/2025 |
| Keith J. Ludwiczak, Hearing Officer                                                 | Date       |

