



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

Caroline Kane, Esq. - Nacmias Law Firm, PLLC 592 Pacific Street, 1st Floor Brooklyn, NY 11217	Summons No: 039531471M et al. (1 Summons) DEPT OF BUILDINGS, -against- J&J DESIGNS INC Hearing Date: 03/11/2025 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: \$2,500.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039531471M	Sustained	08/16/2024	259-09 81 AVENUE Queens

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	B2P7	Misc. BC—Chapter 33	Sustained	\$2,500.00

Findings of Fact & Conclusions of Law

Respondent, J & J Designs Inc., appeared by Caroline Kane Esq., as attorney, and Deanna Lamberti Esq., appeared for the petitioner, DOB. 2025-03-11 PM 03:04

The respondent is charged with a miscellaneous violation of BC section 3301.2 in that the issuing officer observed a large 3X2 foot hole outside the doorway of the cellar at the exposure #1 which hole should have been secured or covered to prevent injury to anyone from stepping down into it.

Ms. Lamberti reaffirmed the violation and submits the evidence package, including photographs showing the cited open hole. She states that the cited uncovered hole posed an immediate danger to the inspectors or first responders, and that there was no controlled access zone such as barricades around the hole.

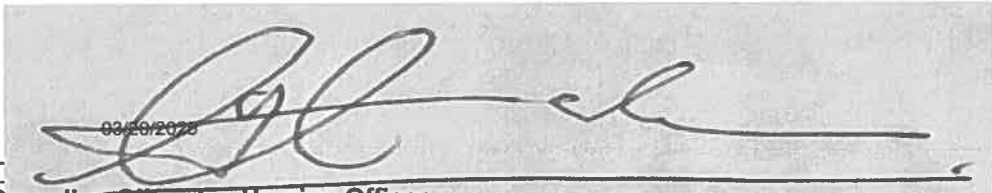
Ms. Kane denies the violation stating that the hole was made for the cited building's sewer system. She moves to dismiss the violation on the grounds that it does not state a prima facie case because it does not state the specific provision of law violated as there is construction fence around the construction site and the cited hole does not pose any danger to the public.

Ms. Lamberti opposed the motion and states that the cited uncovered and hole poses a danger to the public, including inspectors who may fall into the hole during inspections, and first responders during an emergency. She cites in support Appeals Board decisions nos. 2201105 and 2300646.

Respondent's motion to dismiss is denied. BC § 3301.2 makes a general contractor responsible for instituting and maintaining all safety measures necessary to safeguard the public, including inspectors and first responders. I find that the facts alleged establish a violation of the cited law. Therefore, respondent's motion is dismissed.

Ms. Lamberti reaffirmed the violation and recommends the statutory penalty.

I find the respondent in violation. The claim that the cited uncovered hole was made for the building's sewer system is not a legal defense to the violation. The cited law makes no exception for the cited violating condition. As the petitioner has proved its case, and the respondent has not established a sufficient legal defense to the violation, I credit the facts alleged in the charge. Therefore, the violation is sustained, and an approved penalty is hereby imposed.

 03/20/2025	03/20/2025
Cornelius Ojinnaka, Hearing Officer	Date