



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

Andre Autz, Esq. - Nacmias Law 592 Pacific Street Brooklyn, NY 11217	Summons No: 035682303X et al. (1 Summons) DEPT OF BUILDINGS, -against- GREEN HOUSE TOWN CORP Hearing Date: 11/19/2024 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
035682303X	Sustained	03/06/2024	35-30 146 STREET Queens

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	B1F4	BC3305 .3.1.2.1(2014CODE)	Sustained	\$5,000.00

Findings of Fact & Conclusions of Law

CHARGES

Summons #035682303X charges Respondent with violating New York City Building Code §3305.3.1.2.1, Class 1, and alleges that on March 6, 2024, at 3:30pm, at 35-30 146 Street, Queens, NY: "Failure to obtain registered design profession a evaluation prior to using existing structure to support formwork loads...."

Attorney Andre Autz appeared at a remote hearing held on November 19, 2024 as an authorized representative of Respondent. Attorney Malka Amar appeared on behalf of Petitioner.

RELEVANT LAW

NYC Building Code §3305.3.1.2.1 states in pertinent part:

"Use of existing structures to support vertical or lateral loads. The use of existing structures to support vertical or lateral loads imposed by concrete construction operations shall require an evaluation of the existing structure for the loads imposed by a registered design professional. The registered design professional shall prepare design drawings documenting the findings of the evaluation, indicate the location of formwork elements, and the interface between the formwork and the existing structure."

TESTIMONY

Ms. Amar relied on the summons.

Mr. Autz moved to dismiss on the ground that the summons fails to make out a prima facie case for the violation. Mr. Autz argued that because the condition is a paperwork violation and thus not immediately hazardous, the summons fails to make out a prima facie case for a Class 1.

Ms. Amar argued that the charge is a per se Class 1 and submitted Appeals cases and a chart into evidence (Petitioner's 1 a-d) and contended that as such Respondent may not dispute the class nor is it reviewable. Ms. Amar noted that there is no other charge for this violation.

Mr. Autz represented that the violation had been timely corrected.

DECISION

The summons is sustained.

As a threshold matter, the motion to dismiss is denied. I find that the cited section of law is a per se Class 1, and that there is no corresponding Class 2 charge, and as such the class designation cannot be reviewed by the court. I further find that the summons makes out a prima facie case for the violation.

I credit the sworn allegations as set forth in the summons and find that the arguments presented by Respondent's Representative fail to rebut them or to establish a valid defense.

Therefore, I find that at the time of inspection, Respondent was in violation of New York City Building Code §3305.3.1.2.1, Class 1, the penalty for which is \$5,000. The penalty is not mitigable.

Accordingly, the summons is sustained.



11/21/2024

11/21/2024

Sharah Thomas, Hearing Officer

Date