



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS

Hearings Division

Decision

Michael Nacmias, Esq. - Nacmias Law Firm
592 Pacific Street 1st Floor
Brooklyn, NY 11217

Summons# : 039534048Z et al. (2 summonses)

DEPT OF BUILDINGS,

-against-

DELTAMER, INC

Hearing Date : 8/14/2025

Hearing Location : Remote

Type of Hearing : By Telephone

Total Penalty Amount : 12,500.00

Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039534048Z	Sustained	10/31/2024	196 BAY 13 STREET, Brooklyn

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B1P7	Misc. BC—Chapter 33	Sustained	10,000.00

Total Penalty for Summons: 10,000.00

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039534049K	Sustained	10/31/2024	196 BAY 13 STREET, Brooklyn

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B120	BC 3301.2 & 27-1009(a)	Sustained	2,500.00

Total Penalty for Summons: 2,500.00

Findings of Facts & Conclusions of Law

Frank Tamberino, Esq. appeared at the hearing by phone for Respondent. Allison Reddy, Esq. appeared by phone for Petitioner.

As to 39534048Z: Respondent was charged with a Class 1, Agg I Misc. BC Chap. 33 violation for failure to maintain supported pipe scaffold as per 3314.4 and 3314.4.4.12. Petitioner submitted summons 39529859X in support of the Agg I charge. Petitioner submitted photos in support. Mr. Tamberino challenged the class, noting that the conditions amounted to a housekeeping violation and were not immediately hazardous. He stated that Respondent had corrected the conditions before the first hearing date, submitting proof of correction in support. Ms. Reddy stood by the class due to the numerous safety issues. She noted that among other conditions, there were missing base plates, planking not tied down and electrical wire 1 foot above the scaffold which presented an electrocution risk. She recommended the minimum penalty as the charge is not mitigable.

I credit the summons as written. I find this to be a valid Class 1 violation as the cited conditions, such as missing base plates, planking not tied down and electrical wire 1 foot above the scaffold, are immediately hazardous.

Accordingly, I find Respondent in violation and impose the minimum Class 1, Agg I penalty of \$10,000.00.

As to 39534049K: Respondent was charged with violation of BC 3301.2 and 27-1009(a) for failure to institute/maintain safety equipment or temporary construction for no handrails. Petitioner submitted photos in support. Mr. Tamberino stated that Respondent had corrected the cited conditions. He made a motion to dismiss, arguing that interior stairs are not an unenclosed perimeter under the cited section of law. He submitted evidence of correction and Appeal 2000555 in support. Ms. Reddy stated that while stairs were not considered an unenclosed perimeter, a code change under 3303.11 for jobs filed after 11/7/22 added the requirement for interior stairs as well, rendering the appeal inapplicable. Mr. Tamberino challenged the class. Ms. Reddy noted that the cited section of law is per se Class 1 and recommended the minimum penalty.

I credit the summons as written. I find that handrails were required at the interior stairs as per the updated cited section of law.

As there is no dispute in fact and Respondent has not established a defense, I find Respondent in violation and impose the minimum Class 1 penalty of \$2500.00.



09/04/2025

09/04/2025

Daniella Caputo, Hearing Officer

Date

IF YOU ARE FOUND IN VIOLATION, AND ARE NOT ELIGIBLE OR DO NOT CHOOSE COMMUNITY SERVICE, YOU MUST PAY THE PENALTY WITHIN 30 DAYS OF THE DECISION DATE OR 35 DAYS IF MAILED.

- To pay by mail, send a check or money order to the Dept. of Finance Commissioner, P.O. Box 2307, Peck Slip Station, New York, NY 10272. The check or money order should be made out to "Finance Commissioner, City of New York." Write the summons number on the check or money order.
- To pay in person, bring a check, money order or credit card and this decision to any OATH Hearings Division location between 8:30 a.m. to 4:30 p.m.
- To pay online using a credit or debit card, go to www.nyc.gov/citypay/oath

If you do not pay the penalty, the City may: (1) file papers with the Civil Court ("docket a judgment"), (2) charge you a late fee, and (3) continue attempts to collect the debt.

CAN I DO COMMUNITY SERVICE?

If your summons is for the type of offense that gives you a Community Service option you can choose to complete Community Service instead of paying a penalty. Your decision will give you that option. You have to complete your Community Service by the deadline in the decision or else you will end up owing the penalty. You can even do your Community Service on the day you receive your decision.

COMPLETION OF COMMUNITY SERVICE

The Help Center will arrange for you to complete your Community Service. The Help Center is run by the Ombudsperson/*Pro Se* Clerk at OATH and is located at each Hearing Division in all five boroughs. To schedule your Community Service, call, email or visit a Help Center location.

How to Contact the Help Center to Schedule Community Service:

Manhattan: (212) 436-0845 CSmanhattan@oath.nyc.gov
Brooklyn: (718) 923-6216 CSbrooklyn@oath.nyc.gov
Queens: (718) 393-6044 CSqueens@oath.nyc.gov
Bronx: (718) 503-5565 CSbronx@oath.nyc.gov
Staten Island: (718) 876-2314 CSstatenisland@oath.nyc.gov

If you complete your Community Service by the deadline in the decision, you will receive a Certificate of Completion and will not have to pay a penalty. If you need an extension to complete your Community Service, please contact the Help Center.

If you do not complete your Community Service by the deadline, you will have to pay the penalty.

NON-DISCLOSURE FOR SUMMONSES ELIGIBLE FOR COMMUNITY SERVICE

If you either completed the Community Service or paid the penalty, OATH will remove your identifying information from public records related to your case.

If you **do not** complete the Community Service or pay the penalty, your identifying information may remain on public records related to your case.

IF YOU DISAGREE WITH THE DECISION, YOU MAY APPEAL IT

To submit your appeal, you **MUST** use OATH's online or mail-in appeal forms available on OATH's website at www.nyc.gov/oath/appeal. Instructions for filing an appeal may be found on the form and OATH's website.

Your appeal **MUST** be received by the OATH Hearings Division **within 30 days** of the decision date, or 35 days if the decision was mailed to you.

To appeal you **may need** to pay the full penalty stated in this decision.

- If you cannot pay because of financial hardship, you may ask to not pre-pay by submitting with your appeal a Financial Hardship Application, available on OATH's website.
- If you are eligible and choose to perform Community Service instead of paying the penalty, you do not have to pay the penalty or complete the Community Service to appeal.

APPEAL BY ENFORCEMENT AGENCY

If you wish to answer an appeal filed by an enforcement agency, you **MUST** use OATH's Response To Appeal form. Instructions for filing an answer may be found on the form and OATH's website.

Your answer must be received **within 30 days** of the date of the enforcement agency's appeal, or 35 days if it was mailed to you.

If the enforcement agency wins the appeal, you may have to pay a penalty or, if eligible, complete Community Service even if your case was originally dismissed after the hearing.

For more information,
visit OATH's website www.nyc.gov/oath
or call 1-844-OATH-NYC

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