



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS

Hearings Division

Decision

Phoebe Dossett, Esq. - Nacmias Law Firm, PLLC 592 Pacific Street 1st Floor Brooklyn, NY 11217	Summons# : 035474715X et al. (2 summonses) DEPT OF BUILDINGS, -against- 41-15 76TH STREET LLC Hearing Date : 9/9/2025 Hearing Location : Remote Type of Hearing : By Telephone
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Total Penalty Amount :	5,000.00	Community Service(Hr):	Not Applicable
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SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
035474714Y	Sustained	09/15/2024	41-15 76th St, Queens

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B103	AC 28-118.3.2	Sustained	2,500.00

Total Penalty for Summons: 2,500.00

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
035474715X	Sustained	09/15/2024	41-15 76th St, Queens

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B101	28-105 .1	Sustained	2,500.00

Total Penalty for Summons: 2,500.00

Findings of Facts & Conclusions of Law

Phoebe Dossett, Esq. appeared for the Respondent. The Petitioner was represented by Deanna Burbridge, Esq, and John Murphy, #437.

The Respondent was charged with two violations related to the alleged illegal use of 41-15 76th Street in Queens on September 9, 2024:

i) 35474714Y; a class 1 violation of AC §28-118.3.2 for occupancy contrary to DOB records

ii) 35474715X; a class 1 violation of AC §28-105.1 for work without a permit

Service Challenge:

The Respondent's Counsel asserted that the IO failed to properly effectuate charter service of the summons prior to resorting to "affix and mail" service. The Respondent's Counsel further argued that the IO was required to inquire whether the persons they encountered were authorized to accept service and inquire re. the whereabouts of a person authorized to accept service on the Respondent's behalf. The Respondent's Counsel additionally argued that the Certificate of Service failed to establish whether the IO made the required inquiries before posting the either summons.

After direct and cross examinations, the Petitioner's Counsel argued that the IO made a reasonable attempt to effectuate service by seeking to determine the identity/status of the individuals present at the time of issuance. Counsel further noted that the IO affixed the summonses only after determining that the referenced individuals were unwilling reply to any questions and that no authorized party was available to accept service.

I find that the IO made a reasonable attempt to effect charter service of the summonses. The Board has previously determined "that where identification is refused or withheld, service cannot be effectuated" (see PET EXH 1; DOB vs. Fordham University, Appeal 1400556 (August 28, 2014)). I also find that the IO's testimony illustrated a valid attempt to determine whether any person at the premise could accept the summons, prior to affixing it to the door.

The Respondent's motion to dismiss based on improper service is denied.

Merits:

On direct examination from the Petitioner's Counsel the IO reiterated their findings contained in each summons and declared that the supporting evidence (PET EXHS 1; images and icard) accurately depicted the cited conditions.

The Respondent's Counsel argued that each summons failed to properly establish the alleged charges and class 1 conditions. The Respondent's Counsel declared that summons 35474714Y was not supported by any compelling proof that the premise contained SROs. The Respondent's Counsel further declared that "key lock devices" were not decisive evidence of an SRO without separate indicia of rooms created to exist "separate and apart" from the entire property.

The Petitioners stated that the summons referred to several items besides the key lock and that the stated observations created a rebuttable presumption that the property contained SROs.

The Respondent's Counsel declared that summons 35474715X was improperly issued because the Code did not require permits for key lock devices, which are considered "minor alterations". The Petitioners argued that the installation of the key lock devices effectively created additional rooms in the building that were previously not accounted for by City records.

The Petitioner argued that each summons described an immediate hazard for emergency responders.

I credit the issuing officer's observations in each violation and find that each summons establishes an immediate hazard. The submitted evidence indicates that key locki devices were likely used to create conditions that violated the refernced code sections. Each summons is hereby sustained, and the standard penalties will be applied accordingly.

C. Charles

09/09/2025

09/09/2025

Claude Charles, Hearing Officer

Date

