



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

Frank Tamerino, Esq. - Nacmias Law Firm 592 Pacific Street 1st Floor Brooklyn, NY 11217	Summons No: 035667228J et al. (1 Summons) DEPT OF BUILDINGS, -against- MKSSKR CONSULTING SERVICE Hearing Date: 11/17/2025 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: \$625.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
035667228J	Sustained	10/16/2023	421 East 80th Street Manhattan

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	B206	AC 27MISCAC28MISCBCMI	Sustained	\$625.00

Findings of Fact & Conclusions of Law

The summons was issued on October 16, 2023 with a return date of December 21, 2023. Hearing was adjourned for the Issuing Officer (IO).

Attorney Kimberly Manas appeared for Petitioner, Department of Buildings and Attorney Frank Tamberino appeared for Respondent, MKSSKR CONSULTING SERVICE, on November 17, 2025. IO Guitterez appeared on behalf of Petitioner.

Respondent is charged with NYC Building Code 3303.10.1. The allegation is designated as a Class 1 immediate hazardous condition.

Summons issued alleges, in relevant parts, that ...tenants and workers were using the same walkway and entrance, dust residue was also observed in walkway and entrance and there were no drop cloths or other protective means to safeguard occupants from construction operations as required for occupants protection...

Petitioner submitted photos, see Petitioner Exhibit 1, to establish condition observed.

Petitioner examined the IO. IO testified that the tenants should not be using the pathway during work. IO testified that there was no plastic in place to cover the pathway.

Respondent moved to dismiss since there is no mention of tenant protection plan (TPP). Respondent argued that details were vague and they challenged the class 1. Respondent argued that the presence of dust does not rise to a class 1.

Petitioner moved to amend the class from a 1 to a 2. Petitioner argued that details are clear and a prima facie case was established. Petitioner recommended mitigation since their records indicates timely correction.

NYC Building Code 3303.10.1 provides that "[w]hen construction or demolition activity occurs in an occupied building, barricades, signs, drop cloths, and other protective means shall be installed and maintained as necessary to provide reasonable protection for the occupants against hazard and nuisance. Such protective means shall be indicated on ...a tenant protection plan."

I credit the sworn statement of the Issuing Officer. I will grant the amendment to the class from a 1 to 2 since Respondent did not object. I find that Respondent did not provide a valid defense to the charge and the details were clear to establish a prima facie case. I find that correction was timely. I find the details alleged in the summons establish a class 2 major violation because the violating condition affects life, health, safety, property, or the public interest but does not require immediate corrective action.

Accordingly, the summons is sustained and a mitigated penalty of \$625 is imposed.

Iyayi Uwa

12/04/2025

12/04/2025

Iyayi Uwa, Judicial Hearing Officer

Date