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:** 037030571L et al. (1 Summons) **DEPT OF BUILDINGS,** **-against-** **ROYAL PLAZA LLC** **Hearing Date:** 03/18/2025 **Hearing Location:** Remote **Type of Hearing:** By Telephone

Total Penalty Amount:**$2,500.00**	
Community Service(Hr): **Not Applicable**	

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
037030571L	Sustained	10/01/2024	132-35 41 Road Queens

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	B179	AC 1RCNY-MISC,RS-MISC	Sustained	$2,500.00

Findings of Fact & Conclusions of Law

Caroline Kane appeared as the authorized representative of the named respondent and Henrietta Baidoo appeared for the Petitioner. The summons cites a violation of 1RCNY 103-16

The respondent contended that ROYAL PLAZA LLC was an improper party. She submitted evidence from DOS that the corporation was dissolved in 2005. She also submitted an HPD record that provided the name of "Royal Plaza Homeowners." Finally, she submitted an OATH decision 35675231K issued to this respondent which was dismissed based upon improper party.

She relied on the decision in Appeal No. 1801275 DOB v. Royal Plaza LLC (November 8, 2018).

The Petitioner submitted Finance Department records, Property Tax bills, and a payment history. She contended that the named respondent was still paying bills in that name up to the present. If the company was dissolved, it should be removed from City records, from which Petitioner gets their information. She relied on the decision in Appeal No. 2400789 FDNY v. 641 Realty Corp. June 27, 2024

The respondent contended that the mere fact that there are payments being made does not mean that the respondent still exists and has control, insofar as any person or entity can pay a bill,

I find the sworn account of the issuing officer to be credible and that it establishes the charge. The respondent failed to set forth a valid legal defense. Regardless of the dissolution, the respondent holds itself out as an entity with control of the property by listing itself as "owner" in Finance Department records. There is no explanation for why the name remains well after the dissolution, and, as pointed out by the Petitioner, it would be unfair for the respondent to leave one name in the records and then, once a violation was issued, argue that they are an improper party. The fact that in the HPD records, the name of the corporation is listed as Royal Plaza Homeowners,in and of itself,, does not negate this fact.

In the 641 Realty case, it was held that "The Board has held that dissolution may establish an affirmative defense absent evidence that Respondent was still conducting business or had control over the property on the day of offense. See Royal Plaza LLC, 1801275. It was Respondent's burden to establish that affirmative defense. Respondent submitted evidence that it was dissolved in 2009, before the date of violation. However, the evidence shows that Respondent maintained its FDNY account for the property, made payments to that account in both 2022 and 2023 more than a decade after dissolution, and cured the prior VC 9 violation in 2022. Such actions counter the evidence that Respondent was not operating after the entity was dissolved. See H & S. Auto Repair, 1900276; see also DOB v. XIA General Contracting, Appeal No. 1801163 (December 19, 2016); DOB v. 266 Keap Street Owners Corp, Appeal No. 2100591 (July 22, 2021); Wilkins v. Sirael Realty Corp., 21 N.Y.S.2d 1017 (N.Y. Sup. Ct. 1940) (defendant corporation estopped from raising an affirmative defense that it had been dissolved where it continued to do business following the dissolution). Therefore, the burden shifted back to Respondent to show it was not active and had no direct or indirect control over the property on the date of offense. Respondent failed to submit any such evidence or provide an explanation of why Respondent failed to cancel the account or why the new owner did not change the name on the account when it acquired the property. As its evidence was insufficient to prove that Respondent was not exerting any direct or indirect control over the property, it was a proper party." Here, I find the credible evidence establishes that the respondent was still exerting a form of direct or indirect control over the property, and the burden shifted back to the respondent to show that it was not. The respondent failed to do so. The summons is sustained.

A J Baranoff 03/18/2025	03/18/2025
Amy Baranoff, Hearing Officer	**Date**