



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

Michael Nacmias, Esq. - Nacmias Law Firm 592 Pacific Street, 1st fl Attn: Frank Tamberino, Esq Brooklyn, NY 11217	Summons No: 014097762X et al. (1 Summons) NEW YORK CITY FIRE DEPARTMENT, -against- O DELI & GRILL CORP Hearing Date: 05/27/2025 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: \$1,750.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
014097762X	Sustained	12/28/2023	105 AVENUE O Brooklyn

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	BF05	VC5 .	Sustained	\$1,750.00

Findings of Fact & Conclusions of Law

The summons alleges a VC5 violation of the NYC Fire Code. The summons also alleged that this was a repeat violation as there had been a previously issued summons.

Khadija Hassan, appeared for the agency that issued the summons, New York City Fire Department.

Frank Tamberino, Esq. appeared for the respondent, O Deli & Grill Corp.

Petitioner relied on the sworn statements of the issuing officer and read the details of the prior violation into the record.

Respondent stated the condition was corrected and submitted proof of correction.

Petitioner recommended a standard penalties as correction occurred after the initial hearing date.

Respondent's subsequent correction of the violating condition is not a defense to the charge. See *NYC v. AHRC Inc.*, Appeal No. 19489 (December 14, 1994) (Department of Buildings); see also *NYC v. Paul A. Richard*, Appeal No. 36024 (February 25, 2003)(Department of Environmental Protections); *NYC v. Bridget Ruder*, Appeal No. 30425 (February 24, 1999) (Department of Sanitation); *NYC v. Uncle Joe's General Contracting LLC*, Appeal No. 1400083 (March 27, 2014) (Department of Transportation); *DCA v. 251 Cleaners, Inc.*, Appeal No. 05402273 (October 19, 2017); *DOHMH v. Bedford Corners Café LLC*, Appeal No. 07051-16E0 (November 15, 2016).

I credit the factual allegations in the summons which support a violation of the cited code sections and find that the respondent is not entitled to a mitigated penalty as the conditions were not corrected prior to the initial hearing date.

Accordingly, the summons is sustained, and the mandatory penalty is imposed.

	
05/28/2025	05/28/2025
Ilene Sussman, Hearing Officer	Date