



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# : 035688351H et al. (6 summonses) DEPT OF BUILDINGS, -against- 199 MALCOLM X AMS, LLC Hearing Date : 10/21/2025 Hearing Location : Remote Type of Hearing : By Telephone
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Total Penalty Amount : 10,000.00	Community Service(Hr): Not Applicable
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SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
035688350X	Dismissed	02/06/2025	199 Malcolm X Blvd, Brooklyn

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B2K6	28-210.1	Dismissed	0.00

Total Penalty for Summons: 0.00

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
035688351H	Sustained	02/06/2025	199 Malcolm X Blvd, Brooklyn

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B2K6	28-210.1	Sustained	2,500.00

Total Penalty for Summons: 2,500.00

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
035688352J	Sustained	02/06/2025	199 Malcolm X Blvd, Brooklyn

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B2K6	28-210.1	Sustained	2,500.00

Total Penalty for Summons: 2,500.00

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
035688353L	Dismissed	02/06/2025	199 Malcolm X Blvd, Brooklyn

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B2K6	28-210.1	Dismissed	0.00

Total Penalty for Summons: 0.00

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
035688354N	Sustained	02/06/2025	199 Malcolm X Blvd, Brooklyn

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B2K6	28-210.1	Sustained	2,500.00

Total Penalty for Summons: 2,500.00

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
035688355P	Sustained	02/06/2025	199 Malcolm X Blvd, Brooklyn

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B2K6	28-210.1	Sustained	2,500.00

Total Penalty for Summons: 2,500.00

Findings of Facts & Conclusions of Law

Respondent was issued 6 summonses, each alleging a class 1, Agg 1, violation of NYC Administrative Code 28-210.1 and 28-202.1 in that the dwelling was converted, maintained, or occupied for more than the legally occupied number of families.

Cassie Rene, Esq. appeared for the petitioner, NYC Department of Buildings. Inspector R. Quintana, Badge #3659, testified for the petitioner.

Phoebe Dossert, Esq. appeared for the respondent, 199 Malcolm X Alms, LLC.

Petitioner submitted photographs taken by the inspector in support of the sworn statement in the summons. The inspector described his observations and recounted that gained access to the apartments and spoke with the occupants that were present. The inspector stated he was told that the occupants booked the rooms through an agency and that they were there for a short period. The inspector noted that there were key locking devices on each of the bedroom doors and that the fire escape was located in the middle room. The inspector stated that each apartment was a class A apartment as per DOB records.

Upon inquiry the inspector testified that each occupant had access to the common areas and the bedrooms. The inspector stated each apartment had 3 bedrooms.

Respondent made 2 arguments. Respondent stated that if each occupant had access to the whole of the apartment that the bedrooms did not give rise to the charge as an SRO. Respondent contended that there was at least 1 legal unit in each apartment so at least 1 charge would have to be dropped from the summonses and two summonses dismissed as then there would only be a total of 4 other units. Respondent submitted an appeals case in support.

Petitioner noted there was a presumption that if key locking devices were on the doors they were separate apartments. After conferring with the inspector and based on respondent's argument and evidence Petitioner moved to amend the class of the violation to a class two since there were not 3 or more additional units. Petitioner acknowledged with the amendment the aggravated 1 charges would not stand and, thus, would not be pursued. Further, Petitioner acknowledged that daily penalties would no longer be applicable. Petitioner made no recommendation as to the summonses ending in 50X and 53L.

Respondent did not object to petitioner's motion to amend the summonses and did not offer further rebuttal.

NYC Administrative Code 28-210.1 provides that "It shall be unlawful, except in accordance with all requirements of this code, to convert any dwelling for occupancy by more than the legally authorized number of families or to assist, take part in, maintain or permit the maintenance of such conversion."

Class 2 violations are considered Major violations. Major violations are those specified as such by the New York City Construction Codes or those where the violating condition affects life, health, safety, property, or the public interest but does not require immediate corrective action.

The violations issued here are not eligible for mitigation so correction, even if timely, does not alter the penalty.

Petitioner's motion to amend the class of the violations is granted as there is no prejudice to objection from the respondent.

I credit the factual allegations in the summonses and petitioner's evidence which support a violation of the cited code sections as amended. Accordingly, the summonses are sustained, and the mandatory penalties are imposed except for the summonses ending in 50X and 53L which are dismissed.

**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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