



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

Michael Nacmias, Esq. - Nacmias Law Firm 592 Pacific Street 1st Floor Brooklyn, NY 11217	Summons No: 039137681P et al. (1 Summons) DEPT OF BUILDINGS, -against- MPAM DEVELOPMENT LLC Hearing Date: 10/17/2025 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: \$2,500.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039137681P	Sustained	02/06/2025	2518 SAINT RAYMOND AVENUE Bronx

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	B1F8	28-207.2.5	Sustained	\$2,500.00

Findings of Fact & Conclusions of Law

Frank Tamborino appeared on behalf of the Respondent, MPAM Development, LLC.

Gurtej Sahni appeared on behalf of the Petitioner the DOB.

The summons alleges a Class 1 violation of NYC Administrative Code 28-207.2.5, "at the time of my inspection the tampered with, removed or defaced a written posted stop work order. Was removed reposted back a next sticker, comply with code." [sic]

Inspector Dennis Moses, #2650, appeared as a witness for the Petitioner.

Inspector Moses stated that there was a complaint regarding the cited property assigned to the building marshal on January 25, 2025. The Inspector stated that he visited the property several times but was unable to gain access. On January 27, 2025, he was able to gain access to the property and issued summons 39136541Z for work without a permit to the then owner, Carrero Fulgencio, along with a stop work order. On February 6, 2025, upon viewing that no stop work order was posted, the Inspector issued the instant summons to the new owner, MPAM Development, Respondent.

Inspector Moses stated that he was unable to provide photographic evidence due to computer problems, however, the complaint history was provided.

Mr. Tamborino moved to dismiss the summons as facially insufficient on three grounds: the summons does not state the date of the original stop work order, the summons does not state who the original stop work order was issued to, and the summons does not include the number of the original stop work order. Mr. Tamborino argued that the stop work order was not posted and Petitioner has not provided sufficient evidence to show that the stop work order was ever posted. Mr. Tamborino stated that the Respondent had no notice of the stop work order and was unaware of it, and that the summons should be dismissed because of this lack of notice.

In support of his argument, Mr. Tamborino presented an ACRIS printout showing that the deed for the cited property was transferred on January 27, 2025, the date of issuance of the initial summons. Mr. Tamborino reiterated that the Respondent on the initial summons when the stop work order was issued was the previous owner, not MPAM Development, LLC. Mr. Tamborino cited *DOB v. 14022 LLC*, Appeal No. 2401755 (January 30, 2025), where the Board found that a summons alone was insufficient to provide Respondent with notice of a stop work order for a violation of NYC Administrative Code 28-207.2.2 where the Respondent was charged with unlawfully continuing work while on notice of a Stop Work Order. Mr. Tamborino did not, however, provide any evidence to refute the Inspector's statement that he posted a stop work order on January 27.

Mr. Sahni argued that there was only one stop work order issued to the property and thus that the information which Respondent states should have been included in the summons was unnecessary. The change of owners was irrelevant as the stop work order attaches to the property, not the owner.

I credit the Inspector's testimony that he posted the stop work order. I credit that the Respondent did not have notice of and was unaware of the stop work order at the time of issuance of the instant summons.

I find the Petitioner's argument that as there was only one stop work order on the property, the date, recipient, and number of the stop work order *did not need to be included on the summons to provide sufficient notice of the charge to the Respondent*, convincing and thus that the summons was not facially insufficient.

Section 28-207.2.5 Tampering, states: It shall be unlawful to tamper with, remove or deface a written posted stop work order from the location where it was affixed unless and until such stop work order has been rescinded by the commissioner. The owner or other person in control of the location shall ensure that the stop work order remains posted until rescinded by the commissioner.

While in the instant case the Respondent has credibly established that the Respondent was unaware of the existence of the stop work order, Section 29-207.2.5 does not require notice to the owner or other person in control of the location. In *DOB v. 226 East 10th Street LLC*, Appeal No. 2001175 (January 14, 2021), the Board held that knowledge of a stop work order is not an element of the charge.

As knowledge of the stop work order is not an element of Section 28-207.2.5, and it is undisputed that the stop work order was not posted at the time of the issuance of the instant summons, no valid defense or credible rebuttal has been provided by Respondent.

The summons is sustained.

Sean Gralton

10/22/2025

10/22/2025

Sean Gralton, Judicial Hearing Officer

Date