



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: 0219500060 et al. (1 Summons) DEPT OF TRANSPORTATION, -against- AY KEBAB Hearing Date: 04/24/2025 Hearing Location: Remote Type of Hearing: By Telephone
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Total Penalty Amount: \$0.00
Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
0219500060	Dismissed	01/15/2025	8602 4th Avenue Brooklyn

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	ADS3	34RCNY 5-02(A)	Dismissed	\$0.00

Findings of Fact & Conclusions of Law

The summons is dismissed and Ay Kebab ("respondent") does not have to pay a fine.

Caroline Kane, Esq. appeared and said that she is the attorney for respondent. Insp. Michelle Heard appeared for the Department of Transportation ("DOT"). All parties appeared telephonically. The summons said that respondent operated a sidewalk/roadway café without a license and revocable consent and that there was no application on file with DOT as of the final registration date of August 3, 2024. The summons said that this constituted a violation of 34 RCNY section 5-02(a). The hearing was held on the first scheduled hearing date of April 24, 2025.

Insp. Heard said that DOT would rely on the statements of the officer in the summons. Ms. Kane submitted a printout from ACRIS and a photograph from Google Maps dated July, 2019. She said that the summons was improperly issued to respondent and should have been issued to the property owner, who, according to ACRIS, is Gramercy Arms West LLC. She said that respondent here is actually a tenant at the property. Ms. Kane continued that the sidewalk cafe existed before respondent leased the space and said that the photograph from Google Maps shows that Mocha Coffee was present there with the sidewalk café in 2019. She added that by 2021, respondent had taken over the space.

Insp. Heard said that a November 2024 Google Map shows that respondent was present at that time. Ms. Kane said that there was no dispute on this issue as respondent had moved there in 2021. Insp. Heard said that the outside of the space looks different and she submitted a photograph taken in 2024 and said that the exterior looked different in 2024. Ms. Kane said that it was difficult to tell from this photograph because of the scaffolding in front of the building. She said it was possible that respondent did minor work but even in such case, the structure preexisted their tenancy.

I credit the foregoing testimony and evidence. It is undisputed that respondent's tenancy commenced in 2021 and that the sidewalk shed was present before that time. It is difficult to determine from the photograph but it did not appear that the exterior of the building looked different in 2024 from the way it appeared in 2019 and there was no evidence to show that alterations were done. I therefore find that the sidewalk shed preexisted the tenancy of respondent at the property and the summons is dismissed.



05/06/2025

05/06/2025

Joseph J. Handlin, Hearing Officer

Date