



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: 0219506742 et al. (1 Summons) DEPT OF TRANSPORTATION, -against- PAHWAH Hearing Date: 06/26/2025 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
0219506742	Dismissed	03/22/2025	8602 4th Avenue Brooklyn

LINE ITEM	OATH CODE	CODE SECTION/RULE	RES	PENALTY
1	ADS4	34RCNY 5-02(A)	Dismissed	\$0.00

Findings of Fact & Conclusions of Law

The hearing was conducted via telephone hearing on June 26, 2025. Frank Tamberino, counsel for the Respondent, Pahwah appeared, and Inspector Michelle Heard appeared on behalf of Petitioner, DOT.

The Summons charges 34 RCNY 5-02(a) operation of a sidewalk café without a license, first offense. Inspector Heard rested on the summons and submitted an evidence packet which contained photos. The Respondent testified that they began occupying the space in 2019 and the sidewalk already existed in the property. The photos Respondent submitted clearly show an outdoor café with seating and a restaurant operating under a different name. Respondent made a motion to dismiss and argued that the DOT did not name the correct party and therefore did not make out a prima facie case to support a violation of

34 RCNY 5-02(a). They argued the owner of the building is the correct party. They submitted the ACRIS history showing the owners as Gramercy Arms, LLC.

I credit the Respondent's evidence and grant the motion. I find that the Petitioner did not name the proper party.

Summons dismissed.



07/11/2025

07/11/2025

Melissa Petrozza, Hearing Officer

Date