



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS

Hearings Division

Decision

Frank Tamberino, Esq. - Nacmias Law Firm
592 Pacific Street 1st Floor
Brooklyn, NY 11217

Summons# : 039145260R et al. (1 summonses)

DEPT OF BUILDINGS,

-against-

ALBERT SMITH

Hearing Date : 3/17/2026

Hearing Location : Remote

Type of Hearing : By Telephone

Total Penalty Amount : 2,500.00

Community Service(Hr): Not Applicable

SUMMONS #	SUMMARY DISPOSITION	DATE OF OCCURRENCE	PLACE OF OCCURRENCE
039145260R	Sustained	04/17/2025	139-15 254 STREET, Queens

LINE ITEM	OATH CODE	CODE SECTION / RULE	RESULT	PENALTY
1	B103	28-118.3.2	Sustained	2,500.00

Total Penalty for Summons: 2,500.00

Findings of Facts & Conclusions of Law

Petitioner appeared by DOB representative, Henry Pita Esq. Respondent, ALBERT SMITH, appeared by its attorney, Frank Tamberino Esq., to answer a charge of occupying premises contrary to that allowed by the Certificate of Occupancy. The first hearing date was June 24, 2025.

Mr. Pita relied on the allegations in the summons, as well as pictures in support of the allegations in the summons (see Pet. Exh. A).

Mr. Tamberino challenged the violation being charged as a class 1 stating that since the cited cellar/basement has 2 means of egress, such violation is not immediately hazardous and should be charged a class 2 and not a class 1 charge. In support of his argument Mr. Tamberino presented pictures depicting the two (2) means of egress (see Resp. Exh. A).

Mr. Pita stated that even if the cellar/basement has 2 means of egress the charge still warrants a class 1 as so many other factors such as ventilation and natural light will have to be taken into account, to which DOB presented pictures that a number of the rooms in the cellar/basement had no window/natural light and or ventilation (see Pet. Exh. A). Mr. Pita stated that as such the violation is immediately hazardous and properly charged as a class 1. I agree.

Mr. Tamberino presented nothing on the merits.

I credit the allegation in the summons as well as the evidence and testimony presented by Mr. Pita. I find that Respondent has neither rebutted the charge nor established a valid defense to the violation. I find that the violation is properly charged as a class 1 because the violation is immediately hazardous, as the issue here is not limited to means of egress, but from the allegation, the cited premises is a full apartment and has other issues outside means of egress are at stake such as natural lighting, ventilation, which are absent in the cited cellar/basement and could potentially result in grave injury. Accordingly, the summons is SUSTAINED and the standard class 1 penalty is imposed.



03/22/2026

03/22/2026

Akinwale Akinrefon, Judicial Hearing Officer

Date