



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: 039132211H et al. (1 Summons) DEPT OF BUILDINGS, -against- PAREKH KIRIT J Hearing Date: 03/19/2026 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
039132211H	Dismissed	12/06/2024	138-35 HOOVER AVENUE Queens

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	B204	28-302.1	Dismissed	\$0.00

Findings of Fact & Conclusions of Law

039132211H alleges a Class 2 violation of § 28-302.1 of the Administrative Code of New York City (Code), for failure to maintain building walls or appurtenances.

Petitioner, Department of Buildings, appeared by Daniel Brickman, Esq., who relied on the IO's statements on the summons.

Respondent, Kirit Parekh, appeared by FRANK TAMBERINO, ESQ.

Respondent's attorney denied the charge, contending the cited retaining wall was not on Respondent's property and therefore

Respondent was not responsible for its maintenance. He argued that the cited retaining wall was located two feet onto the adjacent property. In support, he submitted a letter from Rizwan Abdus Salam, P.E. Consulting Engineer, dated January 6, 2025, stating, in pertinent part, that the retaining wall is "about 2' away" from the cited property it is the owner of Block: 9671, Lot: 252(139-12 Coolidge Ave) to repair and/or demolish and replace the retaining wall which is located within the property lines of that lot; and the only obligation of the owner of the property known as 138-35 Hoover Ave (Block: 9671, Lot: 187) is to retain a NYS Registered Architect (R.A.) or Professional Engineer (P.E.) to file plans for the erection of a temporary construction fence at the rear of Lot: 187 and make the site safe during the proposed repair work @ Block: 9671, Lot: 252; which, included a survey and photographs of the retaining wall.

Upon review of Respondent's evidence, Petitioner had nothing further to add.

Code § 28-302.1 is the general section of law requiring a property owner to maintain its "building's walls" in a safe condition. Code § 28-101.5 provides that the term "building" is to "be construed as if followed by the phrase 'structure, premises, lot or part thereof' unless otherwise indicated by the text." A premises owner's responsibilities under Code Section 28-302.1 include maintenance of retaining walls. See, e.g., *NYC v. Windsor Terrace Owners Corp.*, Appeal No. 1400449 (July 31, 2014). Code § 28-105.1 defines "retaining wall" as "[a] wall designed to prevent the lateral displacement of soil or other materials." The maintenance requirements for retaining walls are set forth under Code § 28-305.1. Code § 28-305.1.1 provides, in pertinent part, that "[t]he owners of adjacent properties shall be responsible jointly for the proper maintenance and repair of retaining walls, partition fences and other site structures, or portions thereof, that are located along the common lot line and on both their properties" Notably, however, under § 28-305.1.2, a premises owner is not responsible for maintaining a retaining wall located entirely on someone else's property. See *NYC v. J&Z Bronx, Realty Corp.* (ECB Appeal No. 1100889, January 26, 2012).

On this record, I credit Respondent's unrefuted evidence, including the conclusions of its engineer, dated January 6, 2025, finding that the retaining wall observed by the IO is "2 feet away" from the cited property. Petitioner presented no evidence show establish otherwise.

As I find the retaining wall is entirely on the adjacent property (and not Respondent's property), Respondent is not responsible for its maintenance.

Accordingly, the violation is dismissed.

K. Lawner

03/20/2026

03/20/2026

Kevin Lawner, Judicial Hearing Officer

Date