



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Hearings Division

DECISION

Phoebe Dossett, Esq. - Nacmias Law Firm, PLLC 592 Pacific Street 1st Floor Brooklyn, NY 11217	Summons No: 039168283L et al. (1 Summons) DEPT OF BUILDINGS, -against- CHOW, JAMES Hearing Date: 01/29/2026 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
039168283L	Dismissed	11/25/2025	314 WEST 138 STREET Manhattan

LINE ITEM	OATH CODE	CODE SECTION/RULE	RESULT	PENALTY
1	B103	28-118.3.2	Dismissed	\$0.00

Findings of Fact & Conclusions of Law

The summons alleges a class violation of NYC Administrative Code 28-118.3.2 in that occupancy of the premises was contrary to that allowed by the certificate of occupancy or building department records.

Joseph Casciano, Esq. appeared for the petitioner, New York City Department of Buildings.

Phoebe Dossett, Esq. appeared for the respondent, James Chow, and denied the violation.

The parties held a pre-hearing conference.

Petitioner relied on the sworn statement in the summons.

Respondent moved to dismiss the violation stating there was a certificate of occupancy and contending that a bathroom does not equate to occupancy. Respondent stated that a bathroom does not change the use or occupancy of a premises and is not included on the certificate of occupancy. Respondent stated that the use was not contrary to the certificate of occupancy. Respondent submitted supporting documentation.

Petitioner acknowledged that the violation was improperly written. Petitioner offered no rebuttal to respondent's motion and made no recommendation as to penalty.

NYC Administrative Code 28-118.3.2 provides that "No change shall be made to a building, open lot or portion thereof inconsistent with the last issued certificate of occupancy or, where applicable, inconsistent with the last issued certificate of completion for such building or open lot or which would bring it under some special provision of this code or other applicable laws or rules, unless and until the commissioner has issued a new or amended certificate of occupancy."

Class 1 violations are those deemed to be immediately hazardous. Immediately hazardous violations are those specified as such by the New York City Construction Codes, or those where the violating condition poses a threat that severely affects life, health, safety, property, the public interest, or a significant number of persons so as to warrant immediate corrective action.

I credit the respondent's evidence and find they refuted the factual allegations in the summons. Accordingly, respondent's motion is granted and the summons is dismissed.

Hlene Sussman

02/02/2026

02/02/2026

Hlene Sussman, Judicial Hearing Officer

Date