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THE CITY OF NEW YORK ENVIRONMENTAL CONTROL BOARD

HEARING LOCATION:
Environmental Control Board
66 John Street
10th Floor
New York, NY 10038
(212) 361-1400



Method of Appearance
Live Hearing

DECISION AND ORDER
Violation #: 011135363Y (1 NOV)
Hearing Date: September 22, 2010

To: Cohen & Hochman
80 Maiden lane
New York, NY 10038

City of New York v. HERSHA HOSPITALITY
MGMT LP

Total Civil Penalty: \$0.00

I Notice(s) of Violation (NOV(s)) was/were issued to the Respondent. On the record before me, and upon the Further Findings of Fact/Conclusions of Law stated below, I find as follows and, where applicable, order payment and compliance.

NOV: 011135363Y
PLACE OF OCCURRENCE: 337 WEST 39 STREET MANHATTAN
DATE OF OCCURRENCE: 01/20/2010
ISSUING OFFICER/AGENCY: 0595186 FIR

ECB CODE: BF05 CHARGE: VIOLATION CATEGORY 5 DISPOSITION: DISMISSED	CIVIL PENALTY IMPOSED:	\$0.00
ECB CODE: BF06 CHARGE: VIOLATION CATEGORY 6 DISPOSITION: DISMISSED	CIVIL PENALTY IMPOSED:	\$0.00
ECB CODE: BF12 CHARGE: VIOLATION CATEGORY 12 DISPOSITION: DISMISSED	CIVIL PENALTY IMPOSED:	\$0.00
ECB CODE: BF19 CHARGE: VIOLATION CATEGORY 19 DISPOSITION: DISMISSED	CIVIL PENALTY IMPOSED:	\$0.00
ECB CODE: BF20 CHARGE: VIOLATION CATEGORY 20 DISPOSITION: DISMISSED	CIVIL PENALTY IMPOSED:	\$0.00
ECB CODE: BF30 CHARGE: VIOLATION CATEGORY 30 DISPOSITION: DISMISSED	CIVIL PENALTY IMPOSED:	\$0.00

TOTAL CIVIL PENALTY FOR NOV 011135363Y: \$0.00

FURTHER FINDINGS OF FACT/CONCLUSIONS OF LAW:

NOV: 011135363Y VIOLATION CATEGORY 5, VIOLATION CATEGORY 6, VIOLATION CATEGORY 12, VIOLATION CATEGORY 19, VIOLATION CATEGORY 20, VIOLATION CATEGORY 30

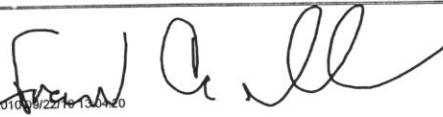
Respondent, Hershahospitality Management, LP., by Cohen & Hochman by Robert Hochman, Esq. Petitioner appeared by Inspector H. Sehgal and the issuing officer, Shaun Featherstone.

Inspector Featherstone testified that he conducted an inspection on 1/20/2010 at which time he observed and issued a Notice of Violation citing violations of Violation Categories 5, 6, 12, 19, 20 and 30.

Respondent did not offer proof of compliance but moved to dismiss on the grounds that the Inspector failed to properly affix the Notice of Violation in a conspicuous place. Counsel argues that merely placing the Notice of Violation on a desk does not satisfy the requirements of section 1404(d) of the City Charter.

Petitioner opposed the motion on the grounds that the engineer was present and was aware that the Notice of Violation was being served.

Based on the record before me, the motion to dismiss is granted. The fact that the engineer may have been present is not sufficient to satisfy the statutory requirements for alternate methods of service. There is no claim that the inspector attempted to serve the engineer or that the Notice of Violation was properly affixed to anything. Accordingly, the Notice of Violation is dismissed.

TOTAL CIVIL PENALTY: \$0.00	
	SEP 24 2010
<small>Wed Sep 22 10:09:22 AM 2010</small>	<small>Control 5</small>
<small>09/22/2010</small>	
Fran Carroll, Administrative Law Judge	Date

**PAYMENT DUE WITHIN TEN (10) DAYS
READ BACK OF THIS ORDER – PROTECT YOUR RIGHTS**

SEP 24 2010