



**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



720488812A66168086

Method of Appearance  
Live Hearing

**DECISION AND ORDER**  
Violation #: 0161274410 (1 NOV)  
Hearing Date: August 9, 2010

To: COHEN & HOCHMAN  
80 MAIDEN LANE #507  
NEW YORK, NY 10038

City of New York v. CHARLES CORTES  
COMPANY INC

**Total Civil Penalty: \$0.00**

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1 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.

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NOV: 0161274410  
PLACE OF OCCURRENCE: 236-6 EAST 84 STREET MANHATTAN  
DATE OF OCCURRENCE: 07/29/2007  
ISSUING OFFICER/AGENCY: MALACHI MCCALLA 000000 841  
ECB CODE: AD17  
CHARGE: A.C. 19-123 NO STREET PROTECTION UNDER COMMERCIAL REFUSE CONTAINER  
DISPOSITION: DISMISSED CIVIL PENALTY IMPOSED: \$0.00

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**FURTHER FINDINGS OF FACT/CONCLUSIONS OF LAW:**

NOV: 0161274410 CHARGE: A.C. 19-123 NO STREET PROTECTION UNDER COMMERCIAL REFUSE CONTAINER

Petitioner appeared by Mr. Jenkins, Department of Transportation.

Respondent, Charles Cortes Company Inc., appeared by Paul Volodarsky, Esq., who moved to dismiss the violation on the ground that an incorrect section of law is cited. It is Respondent's position that the correct section of law is § 19-121(b)(6).

Petitioner opposed the motion stating that §. 19-123 requires:

§ 19-123 Commercial refuse containers.

It shall be unlawful for any person using a commercial refuse container or the owner or lessee thereof to place or to permit the placement of such container on any street unless the owner of such container has obtained a permit therefor from the commissioner and unless such container is in compliance with the provisions of this section and the rules of the department in relation thereto. Commercial refuse container may be placed temporarily on the street for such purposes and in such manner as the commissioner shall prescribe. Such containers shall not be used for the deposit of putrescible waste. The name and address of the owner of the container and the permit number shall be posted on the container in the manner provided in the rules of the department. The container shall be painted with a phosphorescent substance, in a manner to be set forth in the rules of the department, so that the dimensions thereof shall be clearly discernible at night. The street under such container shall be shielded by wooden planking, skids or other protective covering approved by the commissioner. The provisions of this section which require the owner of a container to obtain a permit prior to the placement of such container on the street shall not apply to containers which are specifically authorized to be placed on the street under a permit issued pursuant to section 19-121 of this subchapter.

Section 19-121(b)(6) states: § 19-121 Construction and excavation sites; storage of materials and

6. The street under such construction material or equipment shall be shielded by wooden planking, skids or other protective covering approved by the commissioner.

The issuing inspector did not state what kind of container was on the street.

The violation is dismissed.

TOTAL CIVIL PENALTY: \$0.00

*J. Theil*

Thu Aug 2010 08/12/10 07:37:33

Control 5

AUG 16 2010

08/12/2010

Joanne F Theil, Administrative Law Judge

Date

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