

Webster



**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



9012787129C785D057

Method of Appearance
Live Hearing

DECISION AND ORDER
Violation #: 0176500134 (1 NOV)
Hearing Date: July 12, 2010

To: Cohen Hochman & Allen
80 Maiden lane
Suite 507
New York, NY 10038

City of New York v. ANJAC ENTERPRISES
INC

Total Civil Penalty: \$0.00

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.

NOV: 0176500134
PLACE OF OCCURRENCE: HARRISON ST BTW JOE DIMAGGIO HWY MANHATTAN
DATE OF OCCURRENCE: 12/02/2009
ISSUING OFFICER/AGENCY: ALMASI DOWLING 000520 841
ECB CODE: AD09
CHARGE: A.C. 19-121(A) CONSTRUCTION MATERIALS/EQUIPMENT STORED ON STREET W/O PERMIT
DISPOSITION: DISMISSED CIVIL PENALTY IMPOSED: \$0.00

FURTHER FINDINGS OF FACT/CONCLUSIONS OF LAW:

NOV: 0176500134 CHARGE: A.C. 19-121(A) CONSTRUCTION MATERIALS/EQUIPMENT STORED ON STREET W/O PERMIT

Petitioner NYC Department of Transportation appeared by its representative Inspector Keith White.

Respondent Anjac Enterprises, Inc. appeared by its attorney Paul Volodarsky, Esq.

In support of petitioner's case Mr. White submitted into evidence a Mosaic of respondent's expired permit, and a photograph. In support of respondent's case Mr. Volodarsky submitted into evidence two photographs and a copy of an architect's plans for the property.

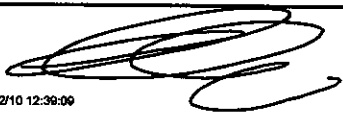
Mr. Volodarsky stated that the scissor lift in question was not stored on any public property, but rather that it was stored within respondent's property line, which he argued extends over Harrison Street since the building structure projects over the street. Mr. Volodarsky argued that a permit was not needed for such storage of the scissor lift, and suggested that the permit was obtained previously because the lift might have been stored on the public street previously.

Mr. White argued that even though respondent's building extended over Harrison Street that did not make Harrison Street a non-public street for DOT permit purposes. However, Mr. White acknowledged that based on the photographs in evidence it appeared that the scissor lift, a narrow machine, was stored within three feet of the building line and that therefore a permit for street storage of the lift was not necessary. Mr. White also pointed out that neither the photographs nor the NOV showed or alleged that the scissor lift was involved in construction activity.

I credit the statements of both Mr. Volodarsky and Mr. White. Based on their statements as well as the documentary evidence I find that respondent has adequately rebutted the allegations in the NOV, and find that the scissor lift, even if it was being used for construction purposes, was not stored on the sidewalk in violation of AC 19-121(a) as a permit for the manner in which this scissor lift was being stored was not required.

Accordingly, this NOV is dismissed.

TOTAL CIVIL PENALTY: \$0.00

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	Control 5	Date
Mon Jul 2010 07/12/10 12:39:00	JUL 14 2010	07/12/2010
Mitchell Regenbogen, Administrative Law Judge		Date

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