



THE CITY OF NEW YORK ENVIRONMENTAL CONTROL BOARD

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Location: 66 John Street, 10th Floor, New York, NY 10038 (212)361-1400

Method of Appearance: AT HEARING

Violation Number: 034636218H

Mailout: B/T

City of New York vs.: L.J.C. DISMANTLING CORP.

Place of Occurrence: 460 WEST 54TH STREET

Issuing Officer: THOMPSON

Borough: MANHATTAN

Agency: BUILDINGS DEPARTMENT

Disposition: DISMISSED

Hearing Date: 10/21/2010

TO COHEN HOCHMAN & ALLEN PC
ROBERT B. HOCHMAN, ESQ.
80 MAIDEN LANE APT./NO.: SUITE 506
NEW YORK, NY 10038

A Notice of Violation was duly served, charging that on: 5/7/2008, at , the Respondent violated the below infraction(s).

The Respondent appeared and entered the plea(s) indicated below, and a hearing was held before me on the above-cited date.

On the Record before me, I find: DISMISSAL: For the reasons stated below, the Notice of Violation is dismissed.

Table with 5 columns: Infra. Code, Section/Description, Plea, Disposition, Reason, Penalty. Rows include BB5H 3 and BB5U 3.

FURTHER FINDINGS OF FACT/CONCLUSIONS OF LAW:

Assistant Counsel M. Burns represented the petitioner at the hearing. The respondent, L.J.C. Dismantling Corp., appeared by its Owner, Benedict Versaci, and its attorney Robert Hochman.

Officer Thompson credibly testified that he had been notified that a worker had fallen off a scaffold at the site and had been taken to the hospital. He acknowledged that he did not witness the incident. He also testified that although no workers were on site at the time of his inspection, he issued the two violations because none of the workers on site had a certificate of completion and the scaffold did not have diagonal bracing.

The respondent's owner credibly testified, and submitted credible documentation in support thereof, that all of the men working on the scaffold had certificates of completion as did the worker who was injured.

In light of the Inspector's testimony that he would not have issued these violations if he had seen the certifications submitted at the hearing, I find that the respondent has rebutted the petitioner's prima facie case with sufficient credible evidence to support its defense. Accordingly, both violations are dismissed.

CIVIL PENALTY: I order the Respondent to pay a total of: \$0.00

In addition, I order the Respondent to perform the Compliance Order(s), if any, listed above.

Signature of Administrative Law Judge: R. Elliott, Date: OCT 27 2010, ALJ #: 434, ALJ Name: ELLIOTT, RANDI

Date Mailed: NOV 04 2010