



**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



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**DECISION AND ORDER**  
Violation #: 034709275Z (1 NOV)  
Hearing Date: July 8, 2010

City of New York v. DEXTER PROPERTIES LL

To: Bradley Green  
80 Maiden Lane  
#507  
New York, NY 10038

**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: 034709275Z  
PLACE OF OCCURRENCE: 345 WEST 86 STREET MANHATTAN  
DATE OF OCCURRENCE: 09/19/2008  
ISSUING OFFICER/AGENCY: 2348 DOB  
ECB CODE: B201  
CHARGE: AC 28-105.1  
DISPOSITION: DISMISSED

CIVIL PENALTY IMPOSED: \$0.00

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

NOV: 034709275Z AC 28-105.1

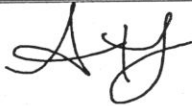
Respondent, Dexter Properties, appeared by Bradley Green, Esq. Petitioner was represented by Narisa Sasitorn, Esq. at the hearing. Issuing Officer Hussain testified on behalf of Petitioner. Robert Goicochea testified on behalf of Respondent. Respondent was cited with violating §28-105.1 of the NYC Administrative Code. Specifically, the issuing officer alleges Respondent performed work without obtaining the requisite permit.

§28-105.1 of the NYC Administrative Code states "It shall be unlawful to construct, enlarge, alter, repair, move, demolish [or] remove . . . any building or structure in the city . . . or to cause any such work to be done unless and until a written permit therefore shall have been issued by the commissioner in accordance with the requirements of this code. . . ."

The IO testified that he had observed 15 individual access doors for sleeping rooms (SRO's) on the 1st floor of the premises contrary to the 1943 CO that was for 2 apartments and 5 SRO's. Respondent argued that this was a pre-existing condition and submitted a closing statement from 1957, between Dexter Estates Company as Seller and Simon Cwern as Purchaser, that states "said certificate of occupancy permits the use of the first story for two apartments and five rooms (single room occupancy). The Seller has made full disclosure to the Purchaser concerning the fact that said apartments and rooms on said first story have been converted so that there is presently one apartment and twelve rooms (single room occupancy). Respondent further argued that Petitioner has insufficient proof that the rooms were SRO's because the IO never entered the rooms for a visual inspection. The IO stated he may have entered 1 room, but that he could not remember much of the premises. Mr. Goicochea testified that Respondent became owner in May, 2004 and no work was done to change the configuration since then.

I find that the plain language of the statute makes it unlawful to construct, enlarge, alter, repair, move, or demolish any building or structure. The statute is written using action verbs, and it is the actions that give rise to the violation. Therefore, it is the person who performs the specified work without a permit, or the actor, who is liable under the statute. I further find that Respondent's evidence was sufficient to establish that the cited conditions existed prior to his ownership of the premises. At the hearing, Mr. Goicochea credibly testified that Respondent became owner in May, 2004 and no work was done to change the configuration since then. Furthermore, Petitioner has failed to submit credible evidence of the actual configuration of the premises. I note that no photos of the premises were submitted by Petitioner and the IO's testimony was that he had determined the configuration by looking at the doors without making any attempts to enter the rooms. On this record, I find that Petitioner has failed to prove by a preponderance of the evidence that Respondent violated the cited section of law. Accordingly, Notice of Violation dismissed.

**TOTAL CIVIL PENALTY: \$0.00**

<b>TOTAL CIVIL PENALTY: \$0.00</b>	
	07/19/2010
Control 5	Date
Alan Bronfeld, Administrative Law Judge	

**JUL 20 2010**

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