



**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



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Method of Appearance  
Live Hearing

**DECISION AND ORDER**  
Violation #: 034709354R (1 NOV)  
Hearing Date: August 12, 2010

To: BRADLEY GREEN ESQ  
80 MAIDEN LANE  
SUITE 507  
NEW YORK, NY 10038

City of New York v. 265 W 34 ST

**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: 034709354R  
PLACE OF OCCURRENCE: 265 WEST 34 STREET MANHATTAN  
DATE OF OCCURRENCE: 11/12/2008  
ISSUING OFFICER/AGENCY: DOB  
ECB CODE: B304  
CHARGE: AC 28-302.1  
DISPOSITION: DISMISSED CIVIL PENALTY IMPOSED: \$0.00

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

NOV: 034709354R AC 28-302.1

Lisa Minor appeared on behalf of Petitioner and stated that Petitioner stands on the case presented in the NOV.

Bradley Green appeared on behalf of Respondent, 265 West 34th Street, and moved to dismiss the NOV, arguing that the language of the details of the NOV fails to state a prima facie case of any state of neglect or disrepair tantamount to a failure to maintain. In addition, he stated that Respondent challenges DOB's jurisdiction over this violation and argued that this is a sanitation issue and not one pertaining to construction or maintenance.

Ms. Minor argued that the cited area is in a state of neglect or disrepair and that the Building Code says that it must be maintained in a safe manner. She further stated that the roof is part of a building, which gives DOB jurisdiction, and any DOB inspector can inspect the building. Also, she said that construction debris is not supposed to be on top of the roof.


Mr. Green offered nothing further.

The cited section of law reads in relevant part, "ARTICLE 302, MAINTENANCE OF EXTERIOR WALLS, §28-302.1 General. A building's exterior walls and appurtenances thereof shall be maintained in a safe condition. All buildings greater than six stories shall comply with the maintenance requirement of this article.

I find that the DOB does have jurisdiction over the cited violation. However, I further find that the cited section of law refers to building exterior walls and appurtenances and not to roofs, and therefore, there is no violation under the cited section of law.

Therefore, the Notice of Violation is DISMISSED.

**TOTAL CIVIL PENALTY: \$0.00**

  
Mon Aug 2010 08/16/10 13:04:23 Control 5

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08/16/2010

Susan Brand, Administrative Law Judge

Date

**PAYMENT DUE WITHIN TEN (10) DAYS  
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