



**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



971910712A00DEC461

Method of Appearance
Live Hearing

DECISION AND ORDER
Violation #: 034754451L (1 NOV)
Hearing Date: July 22, 2010

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

City of New York v. GRAND IMPERIAL LLC

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: 034754451L
PLACE OF OCCURRENCE: 307 WEST 79 STREET MANHATTAN
DATE OF OCCURRENCE: 12/18/2009
ISSUING OFFICER/AGENCY: 2218 DOB
ECB CODE: B127
CHARGE: AC 27-369&BC1020.2
DISPOSITION: DISMISSED

CIVIL PENALTY IMPOSED: \$0.00

FURTHER FINDINGS OF FACT/CONCLUSIONS OF LAW:

NOV: 034754451L AC 27-369&BC1020.2

Lisa Minor appeared on behalf of Petitioner along with Inspector Pugach. She offered into evidence a photo of the alleged violating conditions (the actual cart) (Petitioner's Exhibit 1) as well as a six-page manufacturer's printout of the cart, citing its actual dimensions (Petitioner's Exhibit 2).

Inspector Pugach testified that 1) On the day of issuance of the instant NOV, he was inspecting the cited premises; 2) He wrote the NOV for the cited cart obstructing the hallway, because it was in an exit passageway; 3) The passageway is four feet wide, and the cart is twenty-one inches wide and fifty-one inches long; and 4) The Building Code requires that a minimum of thirty-six inches be kept clear in an exit passageway, and it must be kept clear at all times, ("24/7").

Ms. Minor stated that the issue is the 24/7 at all times requirement, even though the cart is there temporarily.


Bradley Green, Esq. appeared on behalf of Respondent, Grand Imperial LLC, and stated that Respondent stipulates to the width requirements of the cart and that the photo and dimensions are what they are. However, he argued that at a minimum, this NOV is an attack on the hospitality industry in New York City and that the cited cart is transient in nature, traveling through the hallways of a hotel to service customers. He further argued that there is still plenty of passage room with the cart in the hallway and that the cart is used to accommodate transient occupants of the hotel, which is a full service facility that offers maintenance.

Inspector Pugach stated that he did see cleaning people in this part of the building at the time of his inspection.

I credit Mr. Green's argument and find that the cited cart is transient in nature and easily moved and that even when present in the hallway, it allows for plenty of passage room. As such, I find that at the time of issuance of the instant NOV, it was not obstructing an exit passageway.

Therefore, the Notice of Violation is DISMISSED.

TOTAL CIVIL PENALTY: \$0.00


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Susan Brand, Administrative Law Judge

Date

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

≡ JUL 28 2010