



**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 #: 034765075K (1 NOV)
Hearing Date: June 3, 2010

To: Cohen Hochman & Allen
80 Maiden Lane
Suite 506
New York, NY 10038

City of New York v. ROCKLEDGE SCAFFOLD
CORP

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: 034765075K
PLACE OF OCCURRENCE: 5 BEEKMAN STREET MANHATTAN
DATE OF OCCURRENCE: 04/23/2009
ISSUING OFFICER/AGENCY: DOB
ECB CODE: B223
CHARGE: BC 3307.6&AC27-1021
DISPOSITION: DISMISSED

CIVIL PENALTY IMPOSED: \$0.00

FURTHER FINDINGS OF FACT/CONCLUSIONS OF LAW:

NOV: 034765075K BC 3307.6&AC27-1021

Robert Hochman appeared as attorney for the respondent, Rockledge Scaffolding Corp. along with John Harrington, comptroller for Rockledge. Valerie Joe appeared for the Department of Buildings, along with Inspector DeMarco, who issued the violation. Ms. Joe submitted photographs taken by Inspector DeMarco at the time he issued the violation. Mr. Hochman submitted copies of permits showing that the sidewalk shed in question has been in place since 2003, before the 2008 Building Code came into effect. He claimed that the plastic shields that are visible in the pictures were acceptable under the old code, and since the permits were issued under the old code, the previous standard should apply. Ms. Joe claimed that all lights in sidewalk shed must now be protected by shatterproof glass shields and that the older plastic guards were no longer adequate.

The code section cited and the applicable prior code section (NYC AC 27-1021(b)(10)) require that lamps be enclosed in "vandal-proof" fixtures. The term "vandal-proof" is not defined in this code section, and Ms. Joe was unable to provide any basis for her claim that "vandal-proof" means that the bulbs must be enclosed in shatterproof glass. The photographs show that the bulbs had plastic shields and were placed approximately twelve feet above the sidewalk. I find that in the absence of any other, more specific guidelines from the DOB, such lighting can be considered vandal-proof, as it has some protection and is too far even a tall vandal to reach. The charge is therefore dismissed.

TOTAL CIVIL PENALTY: \$0.00

GAH

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Fri Jun 2010 06/04/10 11:40:21

Control 5

Christopher J Stephens, Administrative Law Judge

Date