



**THE CITY OF NEW YORK  
ENVIRONMENTAL CONTROL BOARD**

**HEARING LOCATION:**  
Environmental Control Board  
233 Schermerhorn Street  
11th Floor  
Brooklyn, NY 11201  
(718) 875-7428



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Method of Appearance  
Live Hearing

**DECISION AND ORDER**  
Violation #: 034836586H (1 NOV)  
Hearing Date: April 27, 2011

To: Cohen Hochman & Allen  
80 Maiden Lane Ste 507  
New York, NY 10038

City of New York v. LIDA AGOSTINO

**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: 034836586H  
PLACE OF OCCURRENCE: 6702 14 AVENUE BROOKLYN  
DATE OF OCCURRENCE: 06/17/2010  
ISSUING OFFICER/AGENCY: 2341 DOB  
ECB CODE: B106  
CHARGE: BC 3314.9  
DISPOSITION: DISMISSED

CIVIL PENALTY IMPOSED: \$0.00

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

NOV: 034836586H BC 3314.9

Bradley Green, Esq. represented the respondent Lida Agostino. Joe Casciano, Esq. represented the petitioner, the New York City Department of Buildings (DOB). Inspector Cobain appeared and testified for the petitioner.

The Notice of Violation (NOV) charges a violation of Building Code Sections 3314.9 and notes that the supported scaffold did not meet code specifications. The NOV notes the scaffold was erected at two exposures and was missing cross bracing, was tied to the fire escape, the planks were not tied down and the scaffold was not fully planked at any level. The NOV charges a Class "1" violation.

Inspector Cobain produced six photos of the scaffold, marked petitioner's exhibits "1" through "6". The inspector testified that he served the NOV by posting it on an entrance door. The inspector stated that he would have issued the NOV to the contractor instead of the owner but there was no record at DOB of a contractor. The inspector stated that he inquired at the barber shop at the corner as to the whereabouts of the owner and the barber said the owner was not there. The inspector stated that he did not recall looking for buzzers. Inspector Cobain testified that the workers could not identify their employer. Mr. Green disputed proper service and submitted a sworn statement from the respondent, marked respondent's exhibit "A", stating that she was at home at the cited location on June 17, 2010, but the inspector did not personally serve her. Mr. Green also questioned whether the barber shop was a part of the same building. A copy of the certificate of occupancy, dated December 7, 1999 and marked respondent's exhibit "B", showed the cited building as containing only residential units. Mr. Casciano stated that the inspector made reasonable efforts to serve the respondent.

I credit the allegations in the NOV, the testimony of Inspector Cobain and petitioner's exhibits and find that petitioner established a class "1" violation of the section of law charged. I also credit Ms. Agostino's statement that she was home at the cited location on the day the NOV was issued and find that the petitioner failed to establish that reasonable efforts were made to serve the respondent before a copy of the NOV was affixed to the door. Accordingly, the notice of violation is dismissed.

**TOTAL CIVIL PENALTY: \$0.00**

Thu May 2011 05/05/11 15:42:28

Control 5

MAY 03 2011 05/05/2011

Eileen Casey, Administrative Law Judge

Date

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