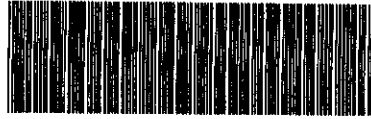


Website



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

HEARING LOCATION:
Environmental Control Board
144-06 94th Avenue
Main Floor
Jamaica, NY 11435
(718) 298-7300



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Method of Appearance
Live Hearing

DECISION AND ORDER
Violation #: 034847684P (1 NOV)
Hearing Date: December 21, 2010

To: COHEN HOCHMAN & ALLEN
80 MAIDEN LANE
NEW YORK, NY 10038

City of New York v. ABDUL LATIF
MOHAMMAD

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: 034847684P
PLACE OF OCCURRENCE: 84-58 162 STREET QUEENS
DATE OF OCCURRENCE: 05/01/2010
ISSUING OFFICER/AGENCY: 1983
ECB CODE: B202
CHARGE: AC 28-301.1
DISPOSITION: DISMISSED

CIVIL PENALTY IMPOSED: \$0.00

FURTHER FINDINGS OF FACT/CONCLUSIONS OF LAW:

NOV: 034847684P AC 28-301.1

The violation is dismissed. No penalty is imposed.

Respondent is charged with a violation of Section 28-301.1 for a failure to maintain the building in a code compliant manner. Specifically, the Affirmation of the Issuing Officer alleges that there was no protection at the top of the front retaining wall.

Robert Hochman, Esq. appeared for Respondent. Respondent was also present. Petitioner, Department of Buildings was represented by Althea Bender.

Mr. Hochman argues that the violation should be dismissed as there was no failure to maintain. He argues that the Petitioner does not allege that the retaining wall was in disrepair at the property, rather it alleges that there was no protection above the retaining wall. Petitioner alleges that this was required under the statute. Mr. Hochman submits three Certificates of Occupancy that were issued on the premises; one in 1964, one in 1985 and one in 1990. He argues that the Petitioner conducted inspections prior to the Certificate of Occupancies being issued but never found the condition cited to be a violation.

Ms. Bender moved to amend the violation to a Class 3 violation of Section 38-301.1. The motion is denied and the violation is dismissed.

I find that the Petitioner has failed to make out a prima facie case. I find that there was no failure to maintain the front retaining wall.

TOTAL CIVIL PENALTY: \$0.00

TOTAL CIVIL PENALTY: \$0.00		
Wed Dec 2010 12/22/10 10:00:30	Control 5	12/22/2010
Mary Mitchel, Administrative Law Judge		Date

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

DEC 23 2010