



THE CITY OF NEW YORK ENVIRONMENTAL CONTROL BOARD

Location: 66 John Street, 10th Floor, New York, NY 10038 (212)361-1400

Method of Appearance: AT HEARING

Violation Number: 034851628M

Mailout: B/T

City of New York vs.: CLOISTER APT CORP EFM MANAGEMEN

Place of Occurrence: 2-6 HERSHAW STREET

Issuing Officer: CAMBRIA

Borough: MANHATTAN

Agency: BUILDINGS DEPARTMENT

Disposition: DISMISSED

Hearing Date: 5/12/2011

TO COHEN HOCHMAN & ALLEN  
BRADLEY J. GREEN  
80 MAIDEN LANE APT./NO.: 507  
NEW YORK, NY 10038

A Notice of Violation was duly served, charging that on: 5/5/2010, at , the Respondent violated the below infraction(s).

The Respondent appeared and entered the plea(s) indicated below, and a hearing was held before me on the above-cited date.

On the Record before me, I find: DISMISSAL: For the reasons stated below, the Notice of Violation is dismissed.

Infra. Code	Section/Description	Plea	Disposition	Reason	Penalty
B205 6	ZR 22-00-ILLEGAL USE IN RESIDENTIAL DISTRICT	Deny	Dismissed	1	\$0.00

FURTHER FINDINGS OF FACT/CONCLUSIONS OF LAW:

Assistant Counsel V. Joe represented the petitioner at the hearing. The respondent, Cloister Apt Corp EFM Realty Management, appeared by attorney Bradley J. Green.

Although this matter had been adjourned for Inspector Cambria to appear at the hearing today, he did not appear and no explanation was offered by the petitioner.

Mr. Green argued that the respondent's use of the cited premises as stores and offices is proper and predates enactment of the 1938 Building Code and 1961 Zoning Resolution. He submitted HPD documentation from 1927 in support of his claim. He also argued credibly that the description of the alleged illegal use is vague and ambiguous.

Since there is no Certificate of Occupancy for the cited premises, I find that Mr. Green submitted the best evidence available to establish that the respondent's current use of the premises is proper. The petitioner has failed to show why the use of the premises described in the 1927 HPD document is now improper.

Accordingly, I find that the respondent has established a valid defense to the Notice of Violation and the respondent's motion to dismiss is granted.

CIVIL PENALTY: I order the Respondent to pay a total of: \$0.00

In addition, I order the Respondent to perform the Compliance Order(s), if any, listed above.

R. Elliott                      5/12/11                      ALJ #: 434 ALJ Name ELLIOTT, RANDI  
Signature of Administrative Law Judge                      Date

Date Mailed: MAY 25 2011