

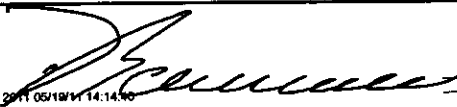
expected to issue.

Next, Inspector Bruschi was asked how the violations were written and served on this occasion. He testified clearly that he left the DOB engineers and Mr. Fichtner inside the job site fence, and returned to his car. At that time, he stated that he wrote out the violations. When he was finished writing the violations, he stated that he went to the fence and posted them. He specifically stated that he did not seek out Mr. Fichtner before posting as it was getting late.

This same testimony was repeated at the end of the hearing, and it was again clear that Inspector Bruschi made no attempt to serve Mr. Fichtner or even ask him if he was authorized to accept service, before posting the violations on the fence near the permits.

Service in this instance was purported to be pursuant to the alternative method allowed under 1049(a) of the Charter. That section states clearly that: "Such notice may only be affixed or delivered pursuant to items (i) and (ii) of subparagraph (a) of this paragraph where a reasonable attempt has been made to deliver such notice to a person in such premises upon whom service may be made as provided for by article three of the Civil Practice Law and Rules or article three of of the Business Corporation Law."

In this instance it is clear that Inspector Bruschi made no attempt to serve anyone, prior to posting these violations. I therefore find that service here was defective, and therefore dismiss the within four violations.

TOTAL CIVIL PENALTY: \$0.00		
	MAY 20 2011	05/19/2011
<small>Thu May 20 11 05/19/11 14:14:50</small>	<small>Control 5</small>	
Douglas Baumann, Administrative Law Judge		Date

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