

SUMMONS NUMBER: 1564719F0

ISSUING AGENCY NAME: Department of Health and Mental Hygiene  
 DIVISION: Environmental Health  
 AGENCY ADDRESS AND PHONE NUMBER: 125 Worth Street, 10th Floor, Room 1020, CN 59A  
 New York, NY 10013-4006  
 Tel:(212) 676-1600 Fax:(347) 396-8046 Email: infobfscs@health.nyc.gov

RESPONDENT: WDI NEW YORK LLC DBA: TIM HO WAN

RESPONDENT MAILING ADDRESS:

RESPONDENT ID NUMBER: 50056918 TYPE OF ID & ISSUED BY: ACCELA, DOHMH

DATE AND TIME OF OCCURENCE: 08/12/2019 11:22AM START & END TIME OF INSPECTION: 11:22AM / 1:57PM

PLACE OF OCCURENCE: 85 4TH AVE, MANHATTAN, NY 100035205 BOROUGH: MANHATTAN

The respondent is summoned to appear and respond to the details of violation(s) stated below. Respondent must appear in person.

HEARING DATE: Tuesday, August 27, 2019 AT 11:30 AM

OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS: 66 John Street, Manhattan, New York 10038

INSTRUCTIONS FOR RESPONDING TO THIS SUMMONS ARE ON THE BACK OF THIS PAGE.

REFER TO THE SUMMONS NUMBER ABOVE IN ALL CORRESPONDENCE.

**WARNING:** If you do not show up for your hearing (or pay the penalty by mail if permitted) the Summons will be decided against you and penalties will be imposed. Your license may also be suspended or revoked. In addition, the City may enter a judgment against you in court.

Details of Violation(s)				
LINE ITEM	VIOLATION CODE	TOTAL CONDITION	PROVISION OF LAW VIOLATED	DESCRIPTION
1a	02G	3	NYCHC 81.09(a)	Potentially hazardous cold food, other than processed fish, not held at or below 41°F (5°C) in that approximately 10 pounds of raw pork registered at 67.7°F inside colander in middle compartment of 3-compartment sink in basement food prep area. Food has been inside 3-compartment sink for 30 minutes, prior to testing, as per Su Yin Huang's statement. Raw pork was taken from refrigeration and placed at said area 30 minutes prior, where it was left untattended while employees had family meal, as per Su Yin Huang's statement. Corrective action: Proper cooling procedures were implemented by placing food inside walk-in refrigeration. NYCHC 81.09(a) Note: NYCHC and OATH Law sets situations when food may be out of temperature (OOT). See, e.g., Everyday Gourmet Deli, Inc., Dkt No. 0645112F1 (App. Unit 10/4/12) (rejecting necessary preparation when respondent failed to show preparation required food to be OOT); Restaurants LLC Trump, Dkt No. 2335313F1 (App. Unit 2/12/14) (rejecting reheating defense when respondent used improper reheating method); Gus & Steve Luncheonette, Inc., Dkt No. 2457312F1 (App. Unit 2/4/13) (same, thawing); Palate Restaurant LLC, Dkt 09264-15F1 (App. Unit

NYC Charter Sections 1048, 1049 and 1049-a and the Rules of the City of New York authorize the NYC Office of Administrative Trials and Hearings (OATH) to hold hearings. For hearing options, see other side of this notice.

I, an employee of the agency named above, affirm under penalty of perjury that I personally observed the commission of the violation(s) charged above and/or verified their existence through a review of departmental records. False statements made herein are punishable as a Class A Misdemeanor pursuant to section 210.45 of the Penal Law.

NAME/ID: Latasia Simmons / 1575

RANK/TITLE: ASSOCIATE PHS I

DATE: 08/12/2019 11:22AM

I acknowledge that I have received a copy of this Notice of Violation and instructions for responding, and that I am authorized to accept service of this Notice of Violation.

RECEIVED BY: Su Yin Huang

TITLE: Manager

DATE: 08/12/2019 11:22AM

RESPONDENT: WDI NEW YORK LLC DBA: TIM HO WAN

RESPONDENT MAILING ADDRESS:

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				10/19/15) (same, cooling); LLC Koi NY, Dkt No. 2389413F1 (App. Unit 4/10/14) (same, TPHC). Rulings available at nyls.edu/cityadmin
1b	02G		NYCHC 81.09(a)	Potentially hazardous cold food, other than processed fish, not held at or below 41°F (5°C) in that approximately 12 pounds of congealed radish cake (containing a wet mixture of flour and water) registered at 58°F in metal pan on food storage table in front food preparation area. Food has been on food storage table for 1 hour and 45 minutes, prior to testing, as per Su Yin Huang's statement. Time as a Public Health Control was observed being used for food item, however, label for food item was observed missing the initial temperature of the food item at time of removal from [cold holding] temperature control. Corrective action: Proper cooling procedures were implemented by placing food inside lowboy refrigerator. NYCHC 81.09(a) Note: NYCHC and OATH Law sets situations when food may be out of temperature (OOT). See, e.g., Everyday Gourmet Deli, Inc., Dkt No. 0645112F1 (App. Unit 10/4/12) (rejecting necessary preparation when respondent failed to show preparation required food to be OOT); Restaurants LLC Trump, Dkt No. 2335313F1 (App. Unit 2/12/14) (rejecting reheating defense when respondent used improper reheating method); Gus & Steve Luncheonette, Inc., Dkt No. 2457312F1 (App. Unit 2/4/13) (same, thawing); Palate Restaurant LLC, Dkt 09264-15F1 (App. Unit 10/19/15) (same, cooling); LLC Koi NY, Dkt No. 2389413F1 (App. Unit 4/10/14) (same, TPHC). Rulings available at nyls.edu/cityadmin
1c	02G		NYCHC 81.09(a)	Potentially hazardous cold food, other than processed fish, not held at or below 41°F (5°C) in that approximately 12 pounds of congee (rice porridge) registered at 66°F in metal pan on food storage table in front food preparation area. Food has been on food storage table for 1 hour and 50 minutes, prior to testing, as per Su Yin Huang's statement. Time as a Public Health Control was observed being used for food item, however, label for food item was observed missing the initial temperature of the food item at time of removal from [cold holding] temperature control. Corrective action: Proper cooling procedures were implemented by placing food inside lowboy refrigerator. NYCHC 81.09(a) Note: NYCHC and OATH Law sets situations when food may be out of temperature (OOT). See, e.g., Everyday Gourmet Deli, Inc., Dkt No. 0645112F1 (App. Unit 10/4/12) (rejecting necessary preparation when respondent failed to show preparation required food to be OOT); Restaurants LLC

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2a	04L	5	NYCHC 81.23(a)	Evidence of mouse activity present in that 107 mice excreta observed in the following areas throughout the front food prep area: 13 observed on tile floor under food storage shelf, 2 observed on a used 5-gallon oil plastic container, 12 observed on a yellow cutting board inside a food storage trolley, 60 observed on food storage shelves next to the wok stove, 8 observed on tile floor under handwash sink, 6 observed on tile floor under the microwave storage shelf and 6 observed on tile floor between two lowboy refrigerators holding MFD machines. Corrective action: Operator instructed to implement proper pest control measures by removing harborage conditions, such as standing water, closing all entry ways and holes, storing food in vermin proof containers, eliminating breeding conditions, improve overall sanitary conditions, and provide proper extermination, if necessary. All contaminated area and equipment are to be washed, rinsed, and sanitized.NYCHC 81.23(a)
2b	04L		NYCHC 81.23(a)	Evidence of mouse activity present in that 190 mice excreta observed in the following areas in the basement food storage/prep area: 19 observed on tile floor next to reach-in freezer located next to the door leading to the main building's parking garage and 171 scattered on tile floor in the chemical storage area located next to the door leading to the main building's parking garage. Corrective action: Operator instructed to implement proper pest control measures by removing harborage conditions, such as standing water, closing all entry ways and holes, storing food in vermin proof containers, eliminating breeding conditions, improve overall sanitary conditions, and provide proper extermination, if necessary. All contaminated area and equipment are to be washed, rinsed, and sanitized.NYCHC 81.23(a)
3	04N		NYCHC 81.23(a)	Filth Flies present in that 5 live fruit flies observed observed on wall in the tea prep/pantry area next to front food prep area and 2 live fruit flies observed on wall next to sump pump in the basement food prep area. Corrective action: Operator

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4	06C	1	NYCHC 81.07(a)	Food not protected at all times from potential sources of contamination in that 5 pounds of fried noodles inside of a metal colander container wrapped in saran wrap, being held for customer service with Time as a Public Health Control labels, observed stored on yellow cutting board, which was observed with 12 mice excreta on food storage trolley in the front food preparation area. NYCHC 81.07(a)
5a	08A	4	NYCHC 81.23(a)	Conditions conducive to the existence of pests in that tile floor in the front food prep area observed with food debris under the wok stove and steamers. NYCHC 81.23(a) Please note that the violation you have been issued for having conditions conducive the existence of pests is separate and distinct from the violation you have been issued for having pests and both may be sustained by the Hearings Division. See DOHMH v. Harissa LLC, Dkt 0879213F0, Appeal Decision Oct. 8, 2013 at 1 and DOHMH v. Just Lorraine's Place, LLC Dkt 2748012F1, Appeal Decision Apr. 9, 2013 at 4. available on nyls.edu/cityadmin.
5b	08A		NYCHC 81.23(a)	Conditions conducive to the existence of pests in that front customer entrance door leading to the sidewalk, door located between entrance doors and customer seating area and door leading to the main building's parking garage, all observed with approximate 1/2" inch gaps between bottom of door and floor in the customer seating area and basement food prep area. NYCHC 81.23(a) Please note that the violation you have been issued for having conditions conducive the existence of pests is separate and distinct from the violation you have been issued for having pests and both may be sustained by the Hearings Division. See DOHMH v. Harissa LLC, Dkt 0879213F0, Appeal Decision Oct. 8, 2013 at 1 and DOHMH v. Just Lorraine's Place, LLC Dkt 2748012F1, Appeal Decision Apr. 9, 2013 at 4. available on nyls.edu/cityadmin.
5c	08A		NYCHC 81.23(a)	Conditions conducive to the existence of pests in that brownish colored standing water observed on the sump pump next to ice machine in basement food prep area. NYCHC 81.23(a) Please note that the violation you have been issued for having

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