



SUMMONS • FOR CIVIL PENALTIES ONLY

SUMMONS NUMBER: 0644818F1

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: 05/25/2018 11:07AM START & END TIME OF INSPECTION: 11:07AM / 1:43PM

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.

HEARING DATE: Thursday, June 21, 2018 AT 09:30 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
1	02B	1	NYCHC 81.09(a)	Potentially hazardous hot food not held at or above 140°F (60°C), except during necessary preparation, in that 2 metal containers consisting of approximately 8 pounds each of cooked white rice wrapped with lotus leaves into individual portions registered at 64°F left unattended on lower food storage shelf underneath food prep table in the kitchen. Time as a public health control was not observed being used with said food at time of inspection. As per operator's statement, said food was cooked and placed directly at observed location more than 2 hours prior to testing. Corrective action: Food was rendered inedible and discarded by food worker at time of inspection. NYCHC 81.09(a) Please Note: The Health Code describes the situations when food may be out of temperature. The OATH Appeals Unit has further clarified the rules. For example, food under "necessary preparation" may be out of temperature only when the preparation process requires food to be out of temperature. See, e.g., DOHMH v. Everyday Gourmet Deli, Inc., Dkt No. 0645112F1 (App. Unit Oct. 4, 2012) (rejecting necessary preparation defense when respondent failed to show preparation required food to be out of temperature). And, food being

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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: Kimberly Alfred / 2088

RANK/TITLE: Public Health Sanitarian I

DATE: 05/25/2018 11:07AM

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: Yu Juan Li

TITLE: FPC Holder

DATE: 05/25/2018 11:07AM

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				reheated, thawed, cooled or labeled for time and temperature and monitored under Time as a Public Health Control (TPHC) may be out of temperature only if the restaurant is following the required Health Code methods for these procedures. See, e.g., DOHMH v. Restaurants LLC Trump, Dkt No. 2335313F1 (App. Unit Feb. 12, 2014) (rejecting reheating defense when respondent used improper reheating method); DOHMH v. Gus & Steve Luncheonette, Inc., Dkt No. 2457312F1 (App. Unit Feb. 4, 2013) (same, thawing); DOHMH v. Palate Restaurant LLC, Dkt 09264-15F1 (App. Unit Oct. 19, 2015) (same, cooling); DOHMH v. LLC Koi NY, Dkt No. 2389413F1 (App. Unit April 10, 2014) (same, TPHC). These rulings are available at nyls.edu/cityadmin
2	04L	4	NYCHC 81.23(a)	Evidence of mouse activity present in that 53 fresh mice excreta were observed in the following areas: 15 fresh mice excreta were observed scattered on floor in employee belongings closet in rear hallway leading to restrooms, 20 fresh mice excreta were observed scattered on floor underneath glassware/supply storage racks across from staircase leading to basement, 5 fresh mice excreta were observed on floor in closet adjacent to staircase leading to basement, 2 fresh mice excreta were observed on ledge above staircase leading to basement, 4 fresh mice excreta were observed on metal panel attached underneath dishwasher in basement ware washing area, 2 fresh mice excreta were observed on floor under dry goods storage racks in basement food storage area and 5 fresh mice excreta were observed on floor next to sump pump in basement food prep area. 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 18 live fruit flies were observed in the following areas: 1 live fruit fly was observed flying above slop sink in rear kitchen area, 1 live fruit fly was observed resting on cabinet above cash register in waiter station area, 4 live fruit flies were observed resting on wall behind ceramics/plastic ware storage racks in waiter station area, 2 live fruit flies were observed resting on walls above staircase leading to basement, 2 live fruit flies were observed resting on wall behind cleaning

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				chemicals storage racks in basement, 2 live fruit flies were observed resting underneath metal table in basement, 1 live fruit fly was observed flying underneath dishwasher in the basement ware washing area, 1 live fruit fly was observed resting on wall behind pots/container storage racks in basement ware washing area, 1 live fruit fly was observed flying underneath hand wash sink in basement food prep area and 3 live fruit flies were observed resting on wall behind dough mixer in basement food prep area. 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)
4	06A	1	NYCHC 81.13(b)	Effective hair restraint not worn to keep hair from contaminating food or food contact surfaces in that one female food worker(s) with long hair twists tied in a ponytail was observed deep frying 3 spring rolls in deep fryer and placing said food onto ceramic plate in the kitchen to be served to patrons for immediate consumption with an ineffective hair restraint that covered top of hair but did not restraint long hair twists. NYCHC 81.13(b)
5	06C	1	NYCHC 81.07(i)	Supplies or equipment stored under or near source(s) of contamination in that one metal table attached to dishwasher used to hold ceramics, glassware and metal ware that is used to prep and serve foods to customers was observed stored directly underneath compressor of walk in refrigerator that was observed condensating directly onto said table in the basement ware washing area. NYCHC 81.07(i)
6a	08A	4	NYCHC 81.23(a)	Conditions conducive to the existence of pests in that one opening measuring at approximately 1 inch long and half an inch wide leading into building structure was observed in ceiling tile around pipe connected to fire extinguisher above slop sink in rear kitchen area and one hole measuring at approximately 1 inch in diameter leading into building structure was observed in ceiling tile around pipe above slop sink in rear kitchen 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,

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				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.
6b	08A		NYCHC 81.23(a)	Conditions conducive to the existence of pests in that accumulation of stagnant water measuring at approximately a quarter inch deep and 3 feet wide was observed on floor underneath 3-compartment sink in the basement food prep area, old brown soiled rags and aprons were observed uncovered in container underneath metal table where fruit fly activity was observed in the basement and old brown sticky beverage spillage measuring at approximately 8 inches wide was observed on wall next to 2-compartment sink in waiter station 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.
7a	10B	2	NYCHC 81.20(b)	Liquid waste not carried to sewer or sewage disposal system so as to prevent contamination of the premises and its contents in that waste line connected underneath hand wash sink was observed leaking onto the floor when faucet is turned on, in basement food prep area . Said sink observed to be the only sink provided for hand washing in said area. NYCHC 81.20(b)
7b	10B		NYCHC 81.20(b)	Condensation or waste water pipes not properly discharged in that condensate water was observed dripping from water pipe connected under dishwasher onto the floor in basement ware washing area. NYCHC 81.20(b)
8	10H	1	NYCHC 81.29(b)(1)	High temperature mechanical warewashing procedure inadequate in that accurate numerically-scaled thermometer not provided for unit located in basement ware washing area and was observed in use to wash ceramics, glassware and metal ware used to prep and serve foods to customers. NYCHC 81.29(b)(1)

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