

City of New York v 919 Prospect Ave. LLC
2026 NY Slip Op 31110(U)
February 24, 2026
Supreme Court, Bronx County
Docket Number: Index No. 806201/2022E
Judge: Marissa Soto
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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF BRONX: I.A.S. PART 22

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The City of New York

Plaintiff,

Index No.: 806201/2022E

-against-

Decision

919 Prospect Avenue LLC et al,

Defendants.

Motion Seq. 2
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Recitation, as required by CPLR § 2219(a), of the papers considered in the review of this Motion Seq. 2

Papers:	NYSCEF Doc. No.#
Notice of Motion, Affirmation/Affidavit in Support and Exhibits thereto:	50-75
Opposition/Cross Motion Filings:	
Reply:	
Other: Motion Sequence 1	

City of New York ("City," "Plaintiff") moves for summary judgment pursuant to CPLR 3212(b) for permanent relief to correct the long-standing violations of record at the Premises and for imposition of monetary penalties against Defendants, 919 Prospect Avenue LLC, SETH MILLER, AEGIS REALTY CORPORATION, ZALMAN PERL, THE LAND and BUILDING THEREON KNOWN AS 919 PROSPECT AVENUE, also known as 830 EAST 163rd STREET, Block 2677, Lot 70, in the County of The Bronx, City and State of New York, and "JOHN DOE" and "JANE DOE" ("Defendants"). Defendants did not file opposition. In support of their motion, Plaintiffs submit affirmations from Bianca C. Isaias dated April 3, 2025 ("Isaias Aff."), and from Md Ashfaquul Bar Chowdhury dated April 3, 2025 ("Chowdhury Aff.")

BACKGROUND

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The Court adopts by way of incorporation the facts in movant's papers.

LEGAL STANDARD

It is well established that summary judgment may be granted only when it is clear that no triable issue of fact exists. Alvarez v. Prospect Hospital, 68 N.Y.2d 320 (1986). The burden is upon the moving party to make a *prima facie* showing that he or she is entitled to summary judgment as a matter of law by presenting evidence in admissible form demonstrating the absence of material facts. Giuffrida v. Citibank Corp., 100 N.Y.2d 72 (2003). The failure to oppose a motion for summary judgment alone does not justify the granting of summary judgment. Instead, the court must still assess whether the moving party has fulfilled its burden of demonstrating that there is no genuine issue of material fact and its entitlement to judgment as a matter of law. Winegrad, et al., v. New York University Medical Center, 64 N.Y.2d 851 (1985); Liberty Taxi Mgt., Inc. v. Gincheran, 32 A.D.3d 276 (1st Dept 2006). "In other words, even in the face of a non-movant's silence or a poorly drafted response, summary judgment may not be granted unless the movant has met their burden of establishing entitlement to judgment as a matter of law." Rivera v. State of New York, 34 N.Y.3d 383, 401-402 (2019). Unsubstantiated, conclusory assertions are insufficient to show a triable issue of fact. Banco Popular N. Am. v. Victory Taxi Mgmt., Inc., 1 N.Y.3d 381, 383-84 (N.Y. 2004). The function of the court on a motion for summary judgment is issue finding rather than issue determination, and the court must evaluate whether the alleged factual issues presented are genuine or unsubstantiated. Sillman v. Twentieth Century Fox Film Corp., 3 N.Y.2d 394 (1957).

ANALYSIS

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The Court adopts by way of incorporation the analysis and law in movant's papers.

CONCLUSION

Plaintiff has effectively established a prima facie showing that violating conditions exist based on the corroborating certified documents submitted, consistent with Admin Code § 28-205.1.2.1 and First Department rulings, certified records establish a prima facie of facts within. Therefore, summary judgement for the cause of an order to correct is granted.

Pursuant to the Nuisance Abatement Law, violations of the Admin. Code, such as Admin. Code § 28-301.1 and Admin. Code § 28-302.1, render the Premises a public nuisance. Courts have consistently held that the three-prong test for injunctive relief doesn't apply when the nuisance is a violation of an ordinance, code or law--which create grounds for automatic injunctive relief. Therefore, an order for the abatement of public nuisances and a permanent injunction to enjoin Defendants from further conducting, maintaining, or permitting such public nuisances at the Premises is granted.

Plaintiff has also shown that they are entitled to civil penalties pursuant to Admin. Code 7-706. The amount of public nuisance penalties imposed can be determined through the Court's assessment. CPLR §3215(b). The Court finds that Defendants have failed to uphold their nondelegable duty to maintain the Premises in a safe, code-compliant manner, incurring many longstanding violations from various city agencies. Defendants have also shown consistent noncompliance in failing to correct conditions, submit certifications of correction or reinspection, which is itself a violation of the Admin. Code, and failing to show up at OATH hearings. This persistent noncompliance requires a maximum penalty of \$1,000 pursuant to Admin. Code 7-706(h) for each day the violation has persisted, beginning to accrue on April 21, 2019, until the

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date that all NAL violations are corrected.

If Defendants fail to remedy a violation or abate a nuisance by the deadline set by the Court's Order on this motion, the City reserves the right to seek additional public nuisance penalties that will have accrued in the time between the issuance of the Court's Order and Judgment and any further motion the city may make to enforce compliance.

Dated: BRONX, N.Y.
February 21, 2026

Hon. 
MARISSA SOTO, J.S.C.