



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS

Appeals Division

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Appeal No. 2501160

DSNY v. The Angela
Genova Irrevocable Trust

October 30, 2025

APPEAL DECISION

The appeal of Respondent, premises owner, is granted.

Respondent appeals from a recommended decision by Judicial Hearing Officer (JHO) D. Mbabazi, dated September 2, 2025, sustaining a violation of § 16-118(2)(a) of the Administrative Code of the City of New York (Code) for a dirty area. Having fully reviewed the record, the Board finds that the JHO’s decision is not supported by the law and a preponderance of the evidence. Therefore, the Board finds as follows:

Table with 5 columns: Summons, Law Charged, Hearing Determination, Appeal Determination, Penalty. Row 1: 48852365M, Code § 16-118(2)(a), In Violation, Reversed – Dismissed, \$0

In the summons, the issuing officer (IO) affirmed observing on April 7, 2025, at 7:56 a.m. in the side yard of Respondent’s premises at 116 Gladwin Street, Staten Island, cited as a 1-2 family dwelling, a large accumulation of litter, tall grass, napkins, paper bags, and pieces of paper “during the established routing hour of 7:00 a.m. to 7:59 a.m.”

In an in-person hearing held on August 27, 2025, Respondent, by the settlor of the trust, testified as follows. The only items in the side yard at that time were bags of rocks she intended to use for landscaping. She needed help to move the bags of rocks, so they were in the side yard for some time. She cleans around the property every couple of days. In support, Respondent submitted two undated photographs showing the yard and the bags of rocks.

In the decision sustaining the charge, the JHO credited both the IO’s observations and Respondent’s assertions, but found Respondent failed to refute the charge or establish valid defense.

On appeal, Respondent reiterates the hearing assertions. Petitioner, the Department of Sanitation (DSNY), did not answer the appeal.

The Board reverses the JHO’s decision. Code § 16-118(2)(a) requires that property owners keep specified areas, including the cited areas, free from garbage, refuse, rubbish, litter, and other offensive material at all times. Code § 16-118.1(a) establishes a routing system of two daily one-hour periods for citing residential premises with violations of § 16-118(2)(a) from 8:00 a.m. until 9:00 a.m. and from 6:00 p.m. until 7:00 p.m. In line with Code § 16-118.1(a), a summons fails to establish a prima facie case if it charges a violation of Code § 16-118(2)(a) based on conditions observed outside of the applicable hours. See NYC v. Rora Iacobacci, Appeal No. 1400162 (April 24, 2014). Here, the IO misstated the routing hours and issued the summons based on conditions observed at 7:56 a.m., outside of the actual residential routing hours. Therefore, Petitioner failed to establish a prima facie case.1

1 As the Board dismisses on this basis, it does not address Respondent’s other arguments on appeal.

Accordingly, the Board reverses the JHO's decision sustaining a violation of Code § 16-118(2)(a) and dismisses the summons.

By: OATH Appeals Division