



OFFICE OF ADMINISTRATIVE TRIALS AND HEARINGS
Appeals Division

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Appeal No. 2501337

DOB v. Sita Ugbomah-Ragbir

December 18, 2025

APPEAL DECISION

The appeal Respondent, premises owner, is **denied**.

Petitioner appeals from that part of a recommended decision by Judicial Hearing Officer (JHO) K. Lawner, dated September 15, 2025, which sustained a Class 2 violation of Code § 28-210.1, for conversion, maintenance, or occupancy of a residence as a dwelling for more than the legally approved number of families. Having fully reviewed the record, the Board finds that the JHO’s decision is supported by the law and a preponderance of the evidence. Therefore, the Board finds as follows:

Summons	Law Charged	Hearing Determination	Appeal Determination	Penalty
39123607J	Code § 28-210.1	In Violation	Affirmed – In Violation	\$2,500

In the summons the issuing officer (IO) affirmed observing that on August 30, 2024, at Respondent’s premises located at 790 East 27th Street, Brooklyn, that there was a separate class A apartment and three-piece bathroom at cellar level, contrary to the certificate of occupancy which provided for a one-family residence with the cellar to be used as a boiler room and recreation room. The IO also noted that the cellar apartment had no secondary means of egress and inadequate light and ventilation.

At a telephonic hearing held on September 11, 2025, Petitioner, Department of Buildings (DOB), relied on the IO’s affirmations in the summons, the building’s certificate of occupancy, records from the Department of Housing Preservation and Development (HPD), and photographic evidence to establish its prima facie case. In response, Respondent argued that she purchased the property as a two-family residence, that a prior owner failed to update the certificate of occupancy when converting the property, and that the deed and multiple official records refer to the property as a two-family residence. In support of her position, Respondent submitted the deed and records from DOB and the Department of Finance (DOF) referring to the property as a two-family residence. In rebuttal, Petitioner noted that the deed is a private contract between the parties that cannot change the legal occupancy of the property and argued that the certificate of occupancy is the controlling document regardless of other records.

In the decision sustaining the summons, the JHO credited the evidence submitted by both parties but found that Respondent did not establish a defense to the charge that the property was occupied contrary to the certificate of occupancy.

On appeal, Respondent largely reiterates her hearing arguments, and also asks that the penalty be reduced due to financial hardship. In response, Petitioner argued that the certificate of occupancy was the controlling document for determining the legal use and occupancy of the premises and that pre-existing conditions are not a defense to a Code § 28-210.1 illegal conversion charge.

For the following reasons, the Board sustains the JHO’s decision.

Petitioner established its case by the IO's affirmed statement in the summons, undisputed by Respondent, that the premises was converted from a one-bedroom to two-bedroom apartment, contrary to the certificate of occupancy. Once Petitioner established its initial case, the burden shifted to Respondent to either refute the allegations or establish a defense. *See* § 6-12(a) of Title 48 of the Rules of the City of New York.

Here, Respondent asserted that a prior owner put in the extra apartment and bathroom. But it is not a defense that the cited conditions pre-existed Respondent's purchase of the property. Code § 28-210.1 makes it a violation not only to illegally change a premises but also to "maintain or permit the maintenance" of an illegal conversion. *See DOB v. Mohammed Alam*, Appeal No. 2200609 (July 28, 2022). Consequently, a pre-existing condition does not establish a defense to a Code § 28-210.1 illegal conversion charge. *See NYC v. Hiline LLC*, Appeal No. 1700826 (September 21, 2017). Additionally, Respondent relied on records showing the premises as a two-family dwelling. But absent any explanation as to the source of the information on the DOB and DOF records Respondent submitted, the Board finds that they are not sufficiently probative to establish the legal occupancy of the premises, and therefore the certificate of occupancy is the controlling document. *See DOB v. 4949 Arthur Kill Road LLC*, Appeal No. 2400077 (March 28, 2024).

Finally, the Board lacks discretion to reduce or waive the penalty, which is set by rule. *See DOB v. Kwesi A Halm*, Appeal No. 2400244 (April 25, 2024).

Accordingly, the Board affirms the JHO's decision finding Respondent in violation of Code § 28-210.1 and imposing the standard penalty of \$2,500.

By: OATH Appeals Division