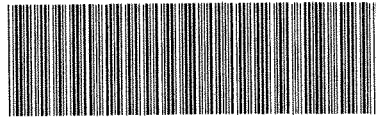




**THE CITY OF NEW YORK
ENVIRONMENTAL CONTROL BOARD**

HEARING LOCATION:
Environmental Control Board
66 John Street
10th Floor
New York, NY 10038
(212) 361-1400



11760882139DACE0C48

Method of Appearance
Live Hearing

DECISION AND ORDER
Violation #: 0178976546 (1 NOV)
Hearing Date: September 18, 2012

City of New York v. DANIEL OBLATH

To: Deveraux, Baumgarten Attorneys
39 Broadway
Suite #910
New York, NY 10006



Total Civil Penalty: \$0.00

I Notice(s) of Violation (NOV(s)) was/were issued to the Respondent. On the record before me, and upon the Further Findings of Fact/Conclusions of Law stated below, I find as follows and, where applicable, order payment and compliance.

NOV: 0178976546
PLACE OF OCCURRENCE: BATTERY PARK MANHATTAN
DATE OF OCCURRENCE: 04/28/2012
ISSUING OFFICER/AGENCY: D. SANCHEZ 160118 846
ECB CODE: AA18
CHARGE: 56 RCNY 1-04(I),3-18(D) UNLEASHED OR UNCONTROLLED ANIMALS IN PARK
DISPOSITION: DISMISSED CIVIL PENALTY IMPOSED: \$0.00

FURTHER FINDINGS OF FACT/CONCLUSIONS OF LAW:

NOV: 0178976546 CHARGE: 56 RCNY 1-04(I),3-18(D) UNLEASHED OR UNCONTROLLED ANIMALS IN PARK

Respondent, Daniel Oblath, appeared and was accompanied by his attorney, Michael Deveraux, of Deveraux, Baumgarten, and denied that at the date, place and time set forth in the NOV he was in violation of 56 RCNY 1-04(i) of the Park Rules of NYC in that the Issuing Officer observed Respondent's brown dog "unleashed on park property, dog was also on lawn unleashed sign are post (no dog on lawn)". Respondent testified that for the past 2 years he and other dog owners have utilized the lawn in Battery Park between the hours of 6:00am-9:00am as allowed by the "Off Leash" approved Program. His attorney offered in evidence an article describing the approval by CB #1 in Nov. 2010 in approving an unleashed program similar to one in Central Park, Prospect Park and other Parks around the City. Mr. Deveraux also offered in evidence photos he said were taken over a period of time in support of the contention of Respondent, including some showing the Urban Ranger stationed in the Park with the dogs unleashed. Mr. Deveraux, on behalf of Respondent, Moved to Dismiss the NOV.

I have considered the testimony of Respondent, which I find to be credible, along with the Report of CB #1 & the photos in evidence, the argument in support of the Motion to Dismiss by Mr. Deveraux. I find that the Battery Park Area where the dog owned by Respondent was unleashed, was an area where such unleashing of dogs at the time the NOV was issued, was permissible. I find, therefore, that Respondent is not in violation of 56 RCNY 1-04(i) of the Park Rules of NYC as is alleged in the NOV.

Accordingly, the NOV is Dismissed.

TOTAL CIVIL PENALTY: \$0.00	
	SEP 20 2012
Tue Sep 2012 09:18:12 15.10.32	Control 5
Robert Straniere, Administrative Law Judge	09/18/2012 Date

**PAYMENT DUE WITHIN TEN (10) DAYS
READ BACK OF THIS ORDER – PROTECT YOUR RIGHTS**