

Carlos Agudo  
Appeal  
Addendum to Section C  
Summons: #863425242-5

The original judge made mistakes of law and fact when reaching his guilty verdict. The verdict should be reversed.

**I raised the following defenses at my original hearing:**

" Dear Honorable Judge,

I hereby certify as follows:

I plead not guilty to this parking violation because:

**-The place of occurrence was misdescribed**

I drove my car out of my parent's driveway, located at 33-25 101 Street in Queens, (which was the property next door to the place of occurrence.

The place of occurrence, 33-23 101 Street in Queens, did not have a driveway

**-I did not stop on the sidewalk**

I drove my car out of my parent's driveway. I stopped with the front end of my car in the street and my rear tires on the concrete pavement adjacent to the roadway while I looked around to make sure no traffic was coming before entering

the street.

The traffic agent issued this ticket while I was stopped waiting to enter the roadway

**-Lack of proper service**

The traffic agent did not enter my name on the parking ticket even though I was sitting behind the wheel of my car when this ticket was issued.

I have submitted a series of exhibits in support of my defenses.

Due to this circumstances, please dismiss this parking ticket.

Thank you.

-I hereby certify that my testimony is the truth to the best of my knowledge. I fully understand that if my testimony is willfully false, I am subject to punishment

-I certify that the images contained in the exhibits are true and accurate reproductions of the original parking ticket, Google Maps, NYC Map, and the DOF Digital Tax Map

Respectfully submitted,

Carlos Agudo"

**The original judge found me guilty because:**

"The respondent has been charged with violating Traffic

Rule 4-08(e)(3) by stopping, standing or parking a vehicle on a sidewalk. Pursuant to Traffic Rule 4-01(b), sidewalk is defined as that portion of the street, whether paved or unpaved, between the curb lines or the lateral lines of a roadway and the adjacent property lines intended for the use of pedestrians. Where it is not clear which section is intended for the use of pedestrians, the sidewalk will be deemed to be that portion of the street between the building line and the curb.

Respondent's claim that he was pulling out of his parent's driveway, located next door to the place of issuance cited, waiting to pull into traffic at the time of issuance is not persuasively established by the submitted, Google street view image, and undated photographs depicting an unidentifiable vehicle at a portion of an unidentifiable location.

Claim that the place of issuance cited does not have a driveway does not establish that the vehicle was not on the sidewalk as charged.

Claimed improper service is not persuasively established by the foregoing submissions, or otherwise.

Guilty"

## **Argument**

The original judge exhibited a bias in favor of the respondent by his failure to engage in a thoughtful, fair-minded weighing of all the credible, evidence.

I offered my:

-Certified Testimony and the following eight certified exhibits:

### Exhibit 1

This is the online image of the parking ticket.

**-The place of occurrence was misdescribed**

I drove my car out of my parent's driveway, 33-25 101 Street in Queens, the property next door to the place of occurrence, 33-23 101 Street in Queens.

The place of occurrence, 33-23 101 Street did not have a driveway

**-I did not stop on the sidewalk**

I drove my car out of my parents driveway. I stopped with the front end of my car in the street and my rear tires on the concrete pavement adjacent to the roadway looking around to make sure no traffic was coming before entering the street

The traffic agent issued this ticket while I was stopped waiting to enter the roadway

**-Lack of proper service**

The traffic agent did not enter my name on the parking ticket even though I was sitting behind the wheel of my car when this ticket was issued.

The City of New York Notice of Parking Violation						
YOU MUST ANSWER WITHIN 30 DAYS OF THE DATE OF THIS TICKET IF YOU DO NOT RESPOND, PENALTIES AND INTEREST WILL BE ADDED AND YOUR VEHICLE MAY BE BOOTED OR TOWED.						
NYC/DOH/STREET NYC/DOH/STREET						
Permit Displayed	Permit Number		Type			
N/S	N/A		N/A			
Name of the Operator, if present. If not present: OWNER OF THE VEHICLE BEARING LICENSE						
Plate	CD	Exp. Date	State	Plate Type		
GJU5687	9	08/30/19	NY	PAS		
Make	Color	Year	Body Type			
DODG	BK	2014	2DSD			
VIN #						
2C3CDYBT6EH103986						
THE OPERATOR AND OWNER OF THE ABOVE VEHICLE ARE CHARGED AS FOLLOWS:						
In Violation of NYC Traffic Rules, Section: 4-08(e)(3)						
Sidewalk						
Place of Occurrence						
Front of 33-23 101st St						
VC	Meter # / Zone	Operational	Limit	County	Pct.	
51				Q	115	
Date/Time of Offense			Date/Time 1st Observed			
01/11/18 11:08 AM			N/A			
Complainant's Comments:						
FINE AMOUNT: \$ 115.00						
Agency	Command	Tax Reg #	Device ID			
TRAFFIC	T-401	354159	AM7613			
Complainant's Name						
PRIETO, M.						



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## Exhibit 2

Feedback Form | User Guide | Disclaimer | Other Map Themes | Blog

### The property next door to the place of occurrence

Advanced Search

AdvancedMap Type

• Was twice the size of the place of occurrence

• Had twice the frontage

• Had a driveway

101 ST

102 ST

34 AV

Tax Lot (PLUTO)

Borough: QUEENS Block: 1716 Lot: 53

Police Precinct: 115

Owner: MYRIAM AGUDO

Address: 33-25 101 STREET

Lot Area: 4000 sf

Lot Frontage: 40' Lot Depth: 100

Year Built: 1910

Number of Buildings: 2

Gross Floor Area: 1,760 sf (estimated)

Residential Units: 1 Total # of Units: 1

Land Use: One and Two Family Buildings

Zoning: R5

Commercial Overlay:

Zoning Map #: 10B

Dept. of City Planning, PLUTO 17v1 © 2017

Add to Searched Locations

My parent's home was next to the place of occurrence

Advanced Search

Searched Locations

33-23 101 STREET  
Corona 11368

Hide Additional Information...

Find Nearest

Building & Property Information

Borough: Queens Block: 1716 Lot: 56

Police Precinct: 115

Owner: MARIA COLLADO

Address: 33-23 101 STREET, Corona 11368

Lot Area: 2000 sf

Lot Frontage: 20' Lot Depth: 100

Year Built: 1910

Number of Buildings: 1

Number of Floors: 2

Gross Floor Area: 1,824 sf (estimated)

Residential Units: 3 Total # of Units: 3

Land Use: Multi-Family Walk-up Buildings

Zoning: R5

Commercial Overlay:

Zoning Map #: 10B

Dept. of City Planning, PLUTO 17v1 © 2017 and other city agency sources

Links to More Information

Address Translator

Building ECR Violations

Building Elevator Information

Building Profile

Neighborhood Information

Elected Official Information

The place of occurrence

Show Additional Data on Map

Data Feedback



## Exhibit 3

### DOF - Digital Tax Map

Search for a Location

Searched Locations

33-23 101 STREET  
Corona 11368



Show Additional Information...

33-25 101 STREET  
Corona 11368



Show Additional Information...

The property located at the  
place of occurrence was  
one-half the size of the  
my parent's property and did  
not have a driveway

Show Additional Data on Map

Legend

Overview Map





# Exhibit 4

## DOF - Digital Tax Map

Search for a Location

### Searched Locations

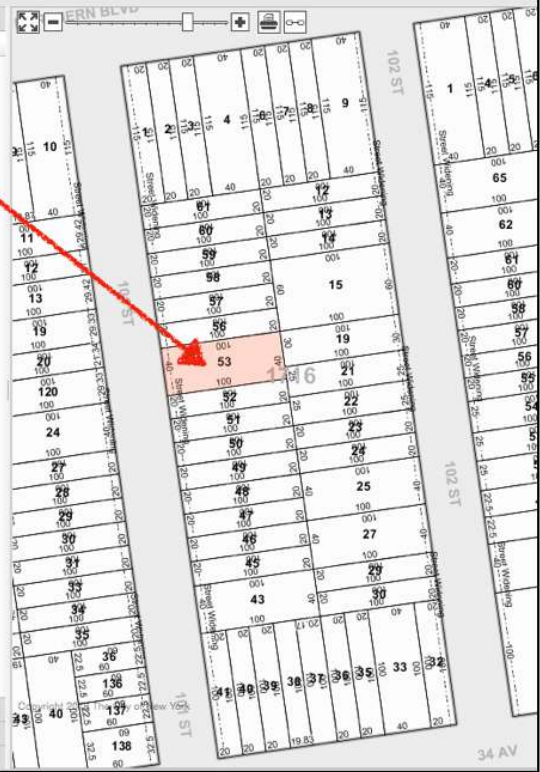
33-25 101 STREET  
Corona 11368

This is my parent's property.  
It had a driveway

Show Additional Data on Map

Legend

Overview Map











Place of occurrence  
No driveway

My parent's driveway

NO  
PARKING  
VIOLATORS  
WILL BE  
TOWED

**Exhibit 7**



I took this photograph of my car stopped exactly where it was stopped when the Traffic Agent issued this sidewalk ticket.

My rear wheels were stopped on this concrete pavement adjacent to the roadway.





## Parking Ticket | Evidence Upload

[Help](#)

### Evidence Upload Confirmation

**Summons Number:** 8634252425

#### Uploaded Files

File Count	Uploaded Document	Page Count	File Size
1	CarlosAgudo-1.jpeg	1	342.5 KB
2	CarlosAgudo-2.jpeg	1	556.72 KB
3	CarlosAgudo-3.jpeg	1	338.96 KB
4	CarlosAgudo-4.jpeg	1	304.99 KB
5	CarlosAgudo-5.jpeg	1	824.43 KB
6	CarlosAgudo-6.jpeg	1	808.53 KB
7	CarlosAgudo-7.jpeg	1	991.11 KB
8	CarlosAgudo-8.jpeg	1	932.6 KB
Total:		8	4.98 MB

Your files have been successfully uploaded. Please close the window

The judge offered a mistake riddled, boilerplate, net opinion. He stated all of my defenses were not persuasive, but did not reveal the why's or wherefore's other than in reply to my first defense:

"Respondent's claim that he was pulling out of his parent's driveway, located next door to the place of issuance cited, waiting to pull into traffic at the time of issuance is not persuasively established by the submitted, Google street view image, and undated photographs depicting an unidentifiable vehicle at a portion of an unidentifiable location."

He ignored the fact that:

- I certified the vehicle in the exhibits was my car and I was pulling into the roadway
- The location was identified by the Exhibits and my certified testimony

He dismissed my other two defenses with the following boilerplate, net opinion:

-“Claim that the place of issuance cited does not have a driveway does not establish that the vehicle was not on the sidewalk as charged.”

-“Claimed improper service is not persuasively established by the foregoing submissions, or otherwise”

My parents have a large driveway the winds around their house. I parked my car in their driveway. When I left my parents home, I pulled my car out of the driveway and was waiting for traffic to pass before entering the roadway. I was stopped as shown in the photographs.

A traffic agent scanned by registration and gave me a ticket. He didn't ask for my identification, didn't enter my name, and left the ticket on the windshield.

That's what happened.

Yet, the judge says that I could have parked on the sidewalk in front of the other property.

Sure, that was possible. But, I could have parked in the middle of the street, which was just as unlikely, since my

parents had a large driveway for me to safely park my car.

Was it more probable that I parked in my parents, safe, fenced in, driveway, or parked my car on the sidewalk in front of their next door neighbor's house?

I presented substantial, certified evidence that cannot be characterized as patently incredible in support of my defenses. (See, *Young v City of New York Dept. of Fin. Parking Violations Adjudications* 2007 NY Slip Op 51460(U) [16 Misc 3d 1117(A)] Decided on June 13, 2007 Supreme Court, New York County Goodman).

Please right this wrong and dismiss the parking ticket.

Respectfully submitted,

Carlos Agudo

PS...I forget to number Exhibit 6, but submitted it into evidence (as confirmed by the Evidence Upload document)