

HAND DELIVERED

OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD

2520 Venture Oaks Way, Suite 300

Sacramento, CA 95833

(916) 274-5751

FAX (916) 274-5785

RECEIVED

DEC 16 2010

OSH Appeals Board

**A P P E A L F O R M**

314323643

Inspection Number on Citation

**2010-R 2 D 2 -3889**

Delta Window Cleaning Co, Inc.

Employer Name on Citation

1. You only have 15 working days from receipt of a citation to appeal.

Employer Legal Name or DBA (Optional)

2. A copy of this form must be attached to each citation or notification appealed. Failure to file a completed form may result in dismissal of the appeal.

2062 Walsh Ave Ste A

Address

Santa Clara, Ca 95050

**FIRST READ IMPORTANT INFORMATION ON THE REVERSE SIDE  
THEN COMPLETE ONE APPEAL FORM FOR EACH CITATION**

1. This is an Appeal from:

CITATION NO(s): 1 Item No(s): 1

NOTIFICATION OF FAILURE TO ABATE ALLEGED VIOLATION  
CITATION NO(s): \_\_\_\_\_ Item No(s): \_\_\_\_\_

SPECIAL ORDER/SPECIAL ACTION NO: \_\_\_\_\_  
Item No(s): \_\_\_\_\_

2. Specific ground(s) for this appeal are: (Check all that apply)

The safety order was not violated.

The classification (i.e. serious, willful, repeat) is incorrect.

The abatement requirements are unreasonable.

Required changes  Time allowed to complete changes

The proposed penalty is unreasonable.

3. Explain any other reasons for appeal or issues to be raised on appeal. Affirmative defenses must be specifically stated. Some important affirmative defenses are listed on the OSHAB website at: <http://www.dir.ca.gov/OSHAB/oshab.html>

By Eduardo Guerra's statement Jose Herrera kept the  
minimum distance of 10 feet according to Title 8 Article 37.

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APPEAL FORM

314323643  
Inspection Number on Citation

Delta Window Cleaning Co, Inc.  
Employer Name on Citation

Employer Legal Name or DBA (Optional)

2062 Walsh Ave Ste A  
Address  
Santa Clara, Ca 95050

DOCKET \_\_\_\_\_  
(Leave blank-Appeals Board will fill in.)

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FIRST READ IMPORTANT INFORMATION ON THE REVERSE SIDE  
THEN COMPLETE ONE APPEAL FORM FOR EACH CITATION

1. This is an Appeal from:
  - CITATION NO(s): 1 Item No(s): 2
  - NOTIFICATION OF FAILURE TO ABATE ALLEGED VIOLATION  
CITATION NO(s): \_\_\_\_\_ Item No(s): \_\_\_\_\_
  - SPECIAL ORDER/SPECIAL ACTION NO: \_\_\_\_\_  
Item No(s): \_\_\_\_\_

2. Specific ground(s) for this appeal are: (Check all that apply)

- The safety order was not violated.
- The classification (i.e. serious, willful, repeat) is incorrect.
- The abatement requirements are unreasonable.
  - Required changes
  - Time allowed to complete changes
- The proposed penalty is unreasonable.

3. Explain any other reasons for appeal or issues to be raised on appeal. Affirmative defenses must be specifically stated. Some important affirmative defenses are listed on the OSHAB website at: <http://www.dir.ca.gov/OSHAB/oshab.html>

Job site evaluation was done by Sergio Elizondo and Jose  
Herrera a day before and they identified all aspects of  
work to be done and high voltage wires.

4.

(Signature of Employer or Employer's Representative)  
{If there is any change in representation after you file your appeal, you must notify the Appeals Board in writing}

Ricardo Elizondo

(Type or print name)

President

(Title)

2062 Walsh Avenue Suite A

(Address) {Address where all communications from the Appeals Board will be sent}

Santa Clara

Ca

95050

(City)

(State)

(Zip Code)

(Telephone)

deltawcci@aol.com

12/15/2010

(E-Mail Address)

(Date)

{All correspondence from the Appeals Board will be sent to the representative above at the address above. If there is any change in address, telephone number, and/or e-mail address after you file your appeal, you must notify the Appeals Board of the change(s). All such notifications must be in writing}

### IMPORTANT INFORMATION

- A. Use this form to appeal a Citation, Notification of Failure to Abate Alleged Violation, or Special Order/Special Action.
- B. You must complete *a separate appeal form for each citation or notification* you wish to appeal and *attach a copy of the complete citation or notification that you are appealing.*
- C. If the citation or notification being appealed includes more than one item **do not use separate appeals forms for each item.** Instead, specify the items you are appealing in the space provided in No. 1 on the front of this form. (for example, "Citation No. 1, Item Nos. 2, 5, and 8)
- D. **Be sure to sign your appeal form and provide all the information requested in No. 4 above.**
- E. Your appeal form shall be deemed not completed unless you attach a copy of each citation or notification that you are appealing, and failure to file a completed appeal form may result in dismissal of the appeal.
- F. If you or your representative change address, telephone number, and/or e-mail address, it is your responsibility to notify the Appeals Board in writing of the change(s). Otherwise the Appeals Board will continue to use the address it has on file and you risk not receiving notices or other communications from the Appeals Board. Appeals Board regulations make it the employer's obligation to notify the Appeals Board of any changes to the employer's and/or representative's contact information.
- G. Mail each completed Appeal form and citation or notification to the Occupational Safety and Health Appeals Board, 2520 Venture Oaks Way, Suite 300, Sacramento, CA 95833.
- H. Late appeals will not be accepted unless good cause is shown.

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**State of California**

Division of Occupational Safety and Health  
Cal/OSHA Concord District Office (0950622; 4028)  
1450 Enea Circle, Suite 525  
Concord, CA 94520

Inspection Number: 314323643

DEC 16 2010

Inspection Dates: 06/05/2010 - 12/01/2010

Issuance Date: 12/03/10

CSHO ID: Q2693

Optional Inspection Nbr: 059-10

OSHA Appeals Board



Phone: (925) 602-6517 Fax: (925) 676-0227

**Citation and Notification of Penalty**

**Company Name:** Delta Window Cleaning Company, Incorporated  
**Inspection Site:** 25 Orinda Way, Orinda, CA 94563

**Citation 1 Item 1 Type of Violation: **Regulatory****

T8CCR 2947:

The owner, agent, or employer responsible for the operations of equipment shall post and maintain in plain view of the operator and driver on each crane, derrick, power shovel, drilling rig, hay loader, hay stacker, pile driver, or similar apparatus, a durable warning sign legible at 12 feet reading: "Unlawful To Operate This Equipment Within 10 Feet Of High-Voltage Lines of 50,000 Volts Or Less."

In addition to the above wording, the following statement in small lettering shall be provided on the warning sign: "For Minimum Clearances of High-Voltage Lines In Excess of 50,000 Volts, See California Code of Regulations, Title 8, Article 37, High-Voltage Electrical Safety Orders."

The statement posted within 12 feet of the operator of the Terex TB 85 Boom Lift did not contain the following wording:

"For Minimum Clearances of High-Voltage Lines In Excess of 50,000 Volts, See California Code of Regulations, Title 8, Article 37, High-Voltage Electrical Safety Orders."

Date By Which Violation Must be Abated:

01/05/2011

Proposed Penalty:

\$ 225.00

See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

**State of California**

Division of Occupational Safety and Health  
Cal/OSHA Concord District Office (0950622; 4028)  
1450 Enea Circle, Suite 525  
Concord, CA 94520

Inspection Number: 314323643  
Inspection Dates: 06/05/2010 - 12/01/2010  
Issuance Date: 12/03/2010  
CSHO ID: Q2693  
Optional Inspection Nbr: 059-10



Phone: (925) 602-6517 Fax: (925) 676-0227

**Citation and Notification of Penalty**

**Company Name:** Delta Window Cleaning Company, Incorporated  
**Inspection Site:** 25 Orinda Way, Orinda, CA 94563

**Citation 1 Item 2 Type of Violation: **General****

T8CCR 3203(a)(4):

(a) Effective July 1, 1991, every employer shall establish, implement and maintain an effective Injury and Illness Prevention Program (Program). The Program shall be in writing and, shall, at a minimum:

(4) Include procedures for identifying and evaluating work place hazards including scheduled periodic inspections to identify unsafe conditions and work practices. Inspections shall be made to identify and evaluate hazards.

**Employer did not implement an effective Injury and Illness Prevention Program that identified unsafe conditions and work practices as per this section. The employers' Jobsite Evaluation did not identify the hazardous High Voltage Power Lines at the job site.**

Date By Which Violation Must be Abated: 01/05/2011  
Proposed Penalty: \$ 675.00

See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD

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DEC 16 2010

APPEAL FORM

OSH Appeals Board

314323643

Inspection Number on Citation

**2010-R 2 D 2 -3890**

Delta Window Cleaning Co, Inc.  
Employer Name on Citation

1. You only have 15 working days from receipt of a citation to appeal.

Employer Legal Name or DBA (Optional)

2. A copy of this form must be attached to each citation or notification appealed. Failure to file a completed form may result in dismissal of the appeal.

2062 Walsh Ave Ste A  
Address

Santa Clara, Ca 95050

**FIRST READ IMPORTANT INFORMATION ON THE REVERSE SIDE  
THEN COMPLETE ONE APPEAL FORM FOR EACH CITATION**

1. This is an Appeal from:

CITATION NO(s): 2 Item No(s): 1

NOTIFICATION OF FAILURE TO ABATE ALLEGED VIOLATION  
CITATION NO(s): \_\_\_\_\_ Item No(s): \_\_\_\_\_

SPECIAL ORDER/SPECIAL ACTION NO: \_\_\_\_\_  
Item No(s): \_\_\_\_\_

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The classification (i.e. serious, willful, repeat) is incorrect.

The abatement requirements are unreasonable.

Required changes  Time allowed to complete changes

The proposed penalty is unreasonable.

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By Eduardo Guerra's statement they kept the proper distance from the basket and the cables.

**State of California**

Division of Occupational Safety and Health  
Cal/OSHA Concord District Office (0950622; 4028)  
1450 Enea Circle, Suite 525  
Concord, CA 94520

Inspection Number: 314323643  
Inspection Dates: 06/05/2010 - 12/01/2010  
Issuance Date: 12/03/2010  
CSHO ID: Q2693  
Optional Inspection Nbr: 059-10



Phone: (925) 602-6517 Fax: (925) 676-0227

**Citation and Notification of Penalty**

**Company Name:** Delta Window Cleaning Company, Incorporated  
**Inspection Site:** 25 Orinda Way, Orinda, CA 94563

**Citation 2 Item 1 Type of Violation: **Serious****

T8CCR 2946(b)(2):

Clearances or Safeguards Required. Except where overhead electrical distribution and transmission lines have been de-energized and visibly grounded, the following provisions shall be met:

(2) The operation, erection, handling, or transportation of tools, machinery, materials, structures, scaffolds, or the moving of any house or other building, or any other activity where any parts of the above or any part of an employee's body will come closer than the minimum clearances from energized overhead lines as set forth in Table 1 shall be prohibited.

Exception: Amusement rides or attractions shall not be located under or within 15 ft. (4.57 m) horizontally of conductors operating in excess of 600 volts.

Operation of boom-type equipment shall conform to the minimum clearances set forth in Table 2, except in transit where the boom is lowered and there is no load attached, in which case the distances specified in Table 1 shall apply.

TABLE 2

Boom-type lifting or hoisting equipment clearances required from energized overhead high-voltage lines.

Nominal voltage (Phase to Phase)	Minimum Required Clearance (Feet)
600..... 50,000	10
over 50,000..... 75,000	11
over 75,000..... 125,000	13
over 125,000.... 175,000	15
over 175,000.... 250,000	17
over 250,000.... 370,000	21
over 370,000.... 550,000	27
over 550,000.... 1,000,000	42

See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

**State of California**

Division of Occupational Safety and Health  
Cal/OSHA Concord District Office (0950622; 4028)  
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Inspection Number: 314323643  
Inspection Dates: 06/05/2010 - 12/01/2010  
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**Citation and Notification of Penalty**

Company Name: Delta Window Cleaning Company, Incorporated  
Inspection Site: 25 Orinda Way, Orinda, CA 94563

The employer did not ensure that minimum clearances from energized overhead lines as set forth in table 2 were being followed. While operating the Terex TB 85 Boom Lift to power wash the windows of the building located at 25 Orinda Way Orinda, CA, the highest point of the lift came within one (1) foot of the lowest overhead power line located in close proximity of the building. There were two (2) employees inside the basket of the lift at the time of the accident; one (1) sustained fatal injuries and the other received burns to 50% of the total body surface area. The voltage in the overhead high voltage lines was 115,000 volts nominal (PHASE TO PHASE) and required a minimum clearance of 13 feet per Table 2.

Date violation observed: 06/05/2010

Date By Which Violation Must be Abated: 12/13/2010  
Proposed Penalty: \$ 12600.00

See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

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OSH Appeals Board

APPEAL FORM

2010-R 2 D 2 -3891

314323643  
Inspection Number on Citation

Delta Window Cleaning Co, Inc.  
Employer Name on Citation

\_\_\_\_\_  
Employer Legal Name or DBA (Optional)

2062 Walsh Ave Ste A  
Address  
Santa Clara, Ca 95050

1. You only have 15 working days from receipt of a citation to appeal.

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CITATION NO(s): 3 Item No(s): 1

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By Eduardo Guerra's statement Jose Herrera was hooked  
to the manlift basket while he was operating the equipment.

**State of California**

Division of Occupational Safety and Health  
Cal/OSHA Concord District Office (0950622; 4028)  
1450 Enea Circle, Suite 525  
Concord, CA 94520

**Inspection Number:** 314323643  
**Inspection Dates:** 06/05/2010 - 12/01/2010  
**Issuance Date:** 12/03/2010  
**CSHO ID:** Q2693  
**Optional Inspection Nbr:** 059-10



Phone: (925) 602-6517 Fax: (925) 676-0227

**Citation and Notification of Penalty**

**Company Name:** Delta Window Cleaning Company, Incorporated  
**Inspection Site:** 25 Orinda Way, Orinda, CA 94563

**Citation 3 Item 1 Type of Violation: **Serious****

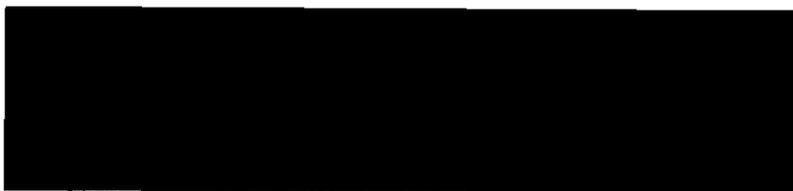
T8CCR 3648(o):

An employee, while in an elevated aerial device, shall be secured to the boom, basket or tub of the aerial device through the use of a safety belt, body belt or body harness equipped with safety strap or lanyard.

**The lanyard of the Fall Protection harness of one (1) of the employees working in the basket of the Terex TB 85 Boom Lift was not secured to the basket of the lift. There were two (2) employees in the lift basket and the height of the basket was approximately 38 feet above ground level.**

**Date violation observed: 06/05/2010**

**Date By Which Violation Must be Abated:** 12/13/2010  
**Proposed Penalty:** \$ 4050.00



**Compliance Officer/District Manager  
Terry Lee/David A. Becker**

See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.