

**RESCINDED BY
BUILDINGS BULLETIN 2020-016**

THE CITY OF NEW YORK
DEPARTMENT OF BUILDINGS

DEPARTMENTAL MEMORANDUM

DATE: 10/7/77

TO: Borough Superintendents

FROM: Irving E. Hinkin, P.E.
Director of Operations

SUBJECT: Service of a Summons without a prior order;
Court Complaint (Information) — Personal Service (B Form 39B)

Section C26-85.5 of the administrative code authorizes the issuance of a summons without prior notification that a violation exists, where the violation consists of any of the following:

1. A violation which produces an imminent hazard to persons or property by reason of a change of occupancy or use without a permit, or because of the obstruction of exits or unlawful change of exits, or by reason of permitting in a place of assembly more than the approved number of persons.
2. A violation due to the omission of protective equipment or construction which would safeguard persons or property during construction or demolition.
3. A violation that is due to work being done by an unlicensed or non-qualified person, when the law requires that such work be done only by persons licensed or possessed of a certificate of qualification to do such work.
4. A violation that consists of doing work without a permit and the worker refuses to discontinue the work.

It is to be noted that in the aforementioned cases, the very existence of the violation is deemed to be notice to the person responsible for correcting the condition. Therefore, no order is required to be served prior to the issuance of a summons and the ten day provision set forth in section C26-86.5(d) is not applicable in such cases.

The Form 39 - Personal Service court complaint cannot be used in the cases specified above because it states that an order has been issued by the commissioner and served on the defendant directing him to comply with the order and it further states that the order has not been complied with although more than ten days have elapsed since the service thereof.

Therefore, a new court complaint form has been prepared (B Form 39B - Personal Service) which is to be used in those cases where the summons is served pursuant to section C26-85.5.

1370

RESCINDED

**RESCINDED BY
BUILDINGS BULLETIN 2020-016**

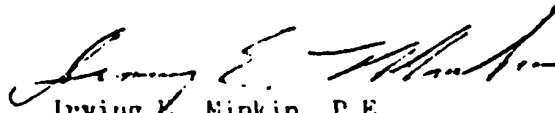
-2-

October 7, 1977

Pending the printing and distribution of the new form, enclosed herewith please find copies of the said form which is to be used as your court complaint in the aforesaid cases and is to be filed in the criminal court.

In addition, violations served pursuant to section 226-35.5 shall be modified as noted in the enclosed copy, pending printing and distribution of same (designated B Form 35A).

IEM:sr
Encl.


Irving L. Minkin, P.E.
Director of Operations

RESCINDED

1371

CRIMINAL COURT OF THE CITY OF NEW YORK

THE PEOPLE OF THE STATE OF NEW YORK
on the Complaint of

.....
against
.....

Information:

STATE OF NEW YORK, }
CITY OF NEW YORK, } ss.
COUNTY OF }

..... being duly sworn says:

That he was at all the times hereinafter mentioned, and still is, an Inspection Officer in the Department of Buildings, City of New York.

That on the day of 19.....
and at various times prior thereto, one
being the defendant in this action, and hereinafter designated as the defendant, and being the
of the premises known as
in the County of did violate the provisions of Sections C26-85.5 and C26-86.5(a) of the
Administrative Code in that said defendant did knowingly fail and neglect to comply with the lawful
requirements and provisions of the Administrative Code, affecting said premises,
and predicated upon section of said Administrative Code, in that

That said violation of law was committed by said defendant in the County of

WHEREFORE deponent prays that said defendant be dealt with according to law.

Sworn to before me this

day of 19.....

Chief Inspector
.....

1372

Inspection Officer