



DEPARTMENT OF BUILDINGS


EXECUTIVE OFFICES
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ISSUANCE # 577

LEGAL
POLICY AND PROCEDURE NOTICE # 1/99

TO: Distribution

FROM: Phyllis Arnold
General Counsel 

DATE: December 30, 1999

SUBJECT: Administrative Access Warrant Procedure

SUPERSEDED: Legal Policy and Procedure Notice # 1/97.

PURPOSE: To outline the method for obtaining an administrative access warrant to investigate a complaint.

REQUIRED FORMS:

Form LS - 3 Inspector's Affidavit
Form LS - 4 Notice to Call for Inspection
Form LS - 5 Warrant Checklist

OPTIONAL FORM:

Form LS-2 Complainant's Affidavit

1. ATTEMPTS TO INSPECT

In order to obtain an access warrant, the Department must demonstrate evidence of the existence of the condition(s) upon which the complaint is based, and prior unsuccessful attempts to

gain access for the purpose of an inspection.

To demonstrate the need for an access warrant, the inspector must have made two unsuccessful attempts to inspect on different days. Unless the Special Enforcement Unit, Office of Legal Affairs, or Chief of the appropriate inspection unit requests otherwise, said inspections shall not be attempted after 9:00 p.m. One (1) of the two inspection attempts should occur between 8:00 a.m. and 6:00 p.m. on a Saturday or Sunday, or after 7:00 p.m. on weekdays. In addition, there should be at least a four (4) hour "spread" between the time of the inspection on the first date and the time of the inspection on the second date. The two inspection attempts preferably should occur within a few weeks of each other (sooner if necessary). If there are more than forty-five days between inspections, a third inspection, closer in time to the second, shall occur, and the results will be recorded on a supplementary paragraph in the Inspector's Affidavit (Form LS-3).

On each unsuccessful inspection attempt, the inspector shall post a notice (Form LS-4) requesting the occupant to contact the Department for an inspection. The inspector must note the time, date and type of premises (e.g. commercial or residential) where he/she unsuccessfully attempted to gain access, sign the form, and submit a copy of the LS-4 left at the premises to her/his unit's Chief Inspector (or equivalent). Such information should be retained, as it will be needed for the inspector's affidavit (Form LS-3.) The inspector shall also sign, date, and record the access attempt on the Inspection Report for entry into BIS.

In units where inspectors are assigned by teams, both inspectors on the team will sign their names on any LS-4s posted at a given premises, and both inspectors shall sign their names on the Inspection Report. The inspectors' route sheets will also identify both inspectors for the properties listed.

If both inspectors on a team leave the inspection unit before a second inspection attempt has been made, one of the outgoing inspectors will be expected to fill out an affidavit detailing the failed attempt at access. The Complaint will then be assigned to a new team for one (1) additional attempt. An inspector from the new team will then fill out another affidavit detailing the second failed attempt at access. The inspector completing the second affidavit will be required to personally do his/her own records research on the relevant premises' lawful occupancy instead of relying on the research done by the prior inspector.

2. COMPLAINANT'S AFFIDAVIT (Form LS-2)

A notarized Complainant's Affidavit (Form LS-2) is not required, but may be used, in order to seek an access warrant. The Complainant's Affidavit must specify the exact nature of the condition believed to constitute a violation, and where and when the affiant personally observed it. Where appropriate, an affidavit signed by the Chair or District Manager of the Community Board with personal knowledge of the facts will be acceptable.

3. CHIEF INSPECTOR

The Chief of the appropriate inspection unit (or equivalent) will perform a quality check, to insure that forms are properly completed and to confirm proper BIS/EICS entry. A copy of a checklist to be used in the quality checks is attached (Form LS-5). Once the chief inspector (or equivalent) has completed the quality check, she or he will initial in the space provided at the bottom of the form.

Copies of the Complaint Sheets/Inspection Reports will then be forwarded to the Special Enforcement Unit along with the affidavit(s), LS-4s, quality control checklist, and records research. In turn, the Special Enforcement Unit will check every affidavit sent to the Law Department. Any affidavit that is in any way deficient will be sent back to the Chief of the appropriate inspection unit (or equivalent).

4. LAW DEPARTMENT

The Special Enforcement Unit will forward the access warrant application to the Law Department, which will complete the application.

5. ACCESS WARRANT EXECUTION

If a warrant is issued, the Law Department will notify the Special Enforcement Unit, which in turn will notify the Chief of the appropriate inspection unit (or equivalent). She or he will arrange, as necessary, for the NYPD to accompany an inspector to the premises to execute the warrant. Following execution of the warrant, the inspector will submit a special report of the results of the inspection, including copies of any violations written, to the Chief of the appropriate inspection unit (or equivalent) and to the Special Enforcement Unit.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF

-----X

In the Matter of the Application of THE CITY OF
NEW YORK and THE NEW YORK CITY
DEPARTMENT OF BUILDINGS,

Petitioners,
FOR A COURT ORDER TO CONDUCT AN
ADMINISTRATIVE INSPECTION OF THE
LAND AND BUILDING AT

**COMPLAINANT'S
AFFIDAVIT**

NEW YORK, BLOCK , LOT

-----X

STATE OF NEW YORK)
COUNTY OF) ss.:

_____, being duly sworn, deposes
(Name of Complainant)

and says under the penalties of perjury :

1. I reside at _____
Borough of _____, and am familiar with the premises known as
_____, _____, New York (the "subject premises")
which are the subject of this application for an access warrant.

2. I have personally observed in the following area of the premises that:

3. I have previously complained to the Department of Buildings on (Dates)

and requested inspection.

4. I hereby request an inspection of said premises to determine if violations of the New York City Building Code, Zoning Resolution, Multiple Dwelling Law, and/or Electrical Code are present therein.

Signature of Complainant

Sworn to before me this ___ day
of _____, _____

NOTARY PUBLIC/COMMISSIONER OF DEEDS

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF

-----X

In the Matter of the Application of THE CITY OF
NEW YORK and THE NEW YORK CITY
DEPARTMENT OF BUILDINGS,

Petitioners,

**INSPECTOR'S
AFFIDAVIT**

FOR A COURT ORDER TO CONDUCT AN
ADMINISTRATIVE INSPECTION OF THE
LAND AND BUILDING AT

NEW YORK, BLOCK _____, LOT _____

-----X

STATE OF NEW YORK)
COUNTY OF _____) ss.:

_____, being duly sworn,
deposes and says under the penalties of perjury :

1. I am employed as an Inspector with the New York City Department of Buildings.

2. There is reason to believe that the premises known as _____, _____, New York, Block _____, Lot _____ (the "subject premises") has been altered and is being occupied in violation of the (circle one or more of the following) Building Code, Multiple Dwelling Law, Zoning Resolution and/or Electrical Code in that :

(state nature of complaint, e.g., "illegal addition of extra units to premises," "work without a permit," etc.)

3. According to my independent review of Department of Building records, specifically (circle one, or more if appropriate, of the following) the Certificate of Occupancy, Occupancy and Arrangement Card, the Department of Buildings' computers' Building Information System, Zoning Resolution maps, or (identify other documents) _____, the premises is authorized to be occupied as: _____. (attach copy of documents)

4. My review further revealed that the Department of Buildings received a complaint alleging a violation of the Building Code, Multiple Dwelling Law, Zoning Resolution and/or Electrical Code. See (circle one, or more if appropriate, of the following) the accompanying affidavit of the complainant / Building Information System or Electrical Inspection Computer System print-out (annexed hereto).

5. On (day) _____, (date) _____, at _____ a.m./p.m. and on (day) _____, (date) _____, at _____ a.m./p.m., I visited the subject premises to determine whether a violation of the Building Code, Multiple Dwelling Law, Zoning Resolution and/or Electrical Code exists therein.

6. From outside of the premises, I personally observed the following conditions which indicate that the premises may have been altered and may now be occupied in violation of the specified provisions of law: *[Fill in appropriate number as observed]*

- a. _____ meters
- b. _____ separate mailboxes
- c. _____ separate doorbells
- d. _____ intercoms
- e. _____ outside entry doors

7. Other evidence of violations of the law that I personally observed is:

8. On (day) _____, (date) _____, at _____ a.m./p.m., I was (*circle one*) refused access to/no one responded at the subject premises and, therefore, I was prevented from entering the premises in order to determine whether there were violations as reported to the Department or whether the violations had been cured as required by law.

9. On (day) _____, (date) _____, at _____ a.m./p.m., I was (*circle one*) refused access to/no one responded at the subject premises and, therefore, I was prevented from entering the premises in order to determine whether there were violations as reported to the Department or whether the violations had been cured as required by law.

10. , (*Cross out if inapplicable*) On (day) _____, (date) _____, at _____ a.m./p.m., I was (*circle one*) refused access to/no one responded at the subject premises and, therefore, I was prevented from entering the

premises in order to determine whether there were violations as reported to the Department or whether the violations had been cured as required by law.

11. On each of these visits, I left a notice in a conspicuous place on the premises, requesting the occupant to contact the Department to arrange an interior inspection at a mutually convenient time. To the best of my knowledge, the occupant never responded.

12. Absent the relief requested, the Department of Buildings will be unable to fulfill its statutory obligation to enforce the statute(s) indicated in paragraph 2, above.

Signature of Inspector

Printed Name of Inspector

Badge Number

Sworn to before me this ___ day
of _____, _____

NOTARY PUBLIC/COMMISSIONER OF DEEDS

**THE CITY OF
NEW YORK**



DEPARTMENT OF BUILDINGS

NOTICE TO CALL FOR INSPECTION

MANHATTAN
60 Hudson St., 5th Fl.
New York, N.Y. 10013
(212) 312-8810

BRONX
1932 Arthur Ave., 5th Fl.
Bronx, N.Y. 10457
(718) 579-6906

BROOKLYN
Municipal Building
210 Joralemon St.,
Brooklyn, N.Y. 1120
(718) 802-3684/5
(718) 802-4342/7*

QUEENS
126-06 Queens Blvd.
Kew Gardens, N.Y. 11415
(718) 520-2474
(718) 820-3188/2*

STATEN ISLAND
Borough Hall
Staten Island, N.Y. 10301
(718) 816-2208
(718) 816-2154*

MANHATTAN / BRONX (ELECTRICAL)
1 Centre St, Room 2337
New York, N.Y. 10007
(212) 669-8350

ELEVATORS (ALL BOROUGHS)
60 Hudson St., 5th Fl.
New York, N.Y. 10013
(212) 312-8736

* ELECTRICAL

To the Owner/Tenant of _____
House Number, Street Name, Borough

An attempt was made on _____, at _____ a.m. / p.m. to inspect these premises to ensure compliance with the New York City Building Code, Zoning Resolution, Multiple Dwelling Law and/or Electrical Code. You are hereby requested to contact the New York City Department of Buildings Borough Office in _____ to arrange a date when these premises may be inspected.
Borough

FAILURE TO COMPLY WITH THIS NOTICE MAY RESULT IN THE DEPARTMENT ACQUIRING AN ACCESS WARRANT TO INSPECT THE PREMISES.

Thank you for your cooperation.

Date: _____

Inspector Name _____

Badge Number _____

Inspector Name _____

Badge Number _____



Checklist for Warrant Affidavits

Subject Premises: _____

Owner: _____

- | | | | |
|----|--|----|--------------------|
| 1. | Access gained since last inspection date? | No | Yes
Date: _____ |
| 2. | Names on first and last page of affidavit match? | No | Yes |
| 3. | Legal occupancy matches: (circle one)
C of O/ O&A Card / FOC ? | No | Yes |
| 4. | The name(s) of the inspector(s) signing the affidavit(s),
and the date(s) of attempted access, appear on the
accompanying LS-4s? | No | Yes |
| | If accompanying LS-4s have different inspectors'
names on them, and one of the inspectors has left
the inspection unit, are two affidavits submitted, each
one signed by one of the inspectors who signed the
LS-4s? | No | Yes |
| 5. | Do the dates/times in ¶¶ 8-10 of the affidavit
match the dates/times on the LS-4s ? | No | Yes |
| 6. | Do the dates/times/inspector names in ¶¶ 8-10
of the affidavit match those in BIS? | No | Yes |
| 7. | <i>(If affidavit is for a suspected illegal conversion)</i>
Is there evidence of an increase of at least two units
over legal occupancy (e.g. 1 to 3, 2 to 4)? | No | Yes |

Chief Inspector (or equivalent): _____

Special Enforcement Unit: _____