



DEPARTMENT OF BUILDINGS

EXECUTIVE OFFICES  
60 HUDSON STREET, NEW YORK, N.Y. 10013

RUDOLPH J. RINALDI, Commissioner

BARRY G. COX  
Assistant Commissioner  
Borough Operations  
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Issuance # 241

**OPERATIONS**  
**POLICY AND PROCEDURE NOTICE # 16/90**

To: Distribution  
From: Barry G. Cox  
Date: June 5, 1990  
Subject: Administrative Search Warrant Procedure

Superseded:

Operations Policy and Procedure Notice # 5/88 dated 2/23/88 from Fredric J. Pocci.

Purpose:

To provide a new method for obtaining an administrative search warrant to gain access on a complaint.

Specifics:

The complaint system generates a response letter to the complainant after two (2) unsuccessful attempts to gain access have been made by inspectors. Our response letter states we will not pursue the complaint further unless the complainant submits a notarized complainant's affidavit (Form LS-2). If the complainant does submit the required affidavit, the following procedures are followed:

1. Complainant;

The complainant sends the notarized affidavit (Form LS-2) to the borough office where it is distributed to the appropriate Chief Inspector or Division Director, depending on the nature of the complaint.

2. Chief Inspector or Division Director:

The Chief Inspector or Division Director reviews the complainant's affidavit (Form LS-2) for accuracy and completeness. If everything is correct, the Chief Inspector or Division Director has the inspector(s) complete the required paper work (Form LS-1 and Form LS-3).

### **3. Inspector:**

The Inspector(s) who completed the two (2) "no access" inspections completes the Inspector's Affidavit (Form LS-3), and has it notarized. This form verifies that they were unable to gain access to the premises.

The inspector then completes the information requested on Form LS-1 and signs the form.

### **4. Chief Inspector or Division Director:**

The Chief or Director signs Form LS-1 and attaches the Complainant's Affidavit, Inspector's Affidavit and any other relevant documentation and sends it to the Assistant Commissioner of Operations.

### **5. Assistant Commissioner Operations:**

The Assistant Commissioner of Operations reviews the request to make sure it is complete. If the request is complete, the Assistant Commissioner of Operations records it in a log. The approved-as-complete request is then forwarded to the General Counsel's Office.

### **6. General Counsel**

The Department of Buildings General Counsel reviews the documents to determine if the allegations are legally sufficient. If the allegations are determined to be legally sufficient, the search warrant request is forwarded to the Law Department.

### **7. Law Department:**

The Law Department reviews the request. If it is determined to be legally sufficient, the case is presented to the court. Once the warrant is obtained, the Law Department and the complainant inspector (the inspector who signed the LS-3 form) arrange for a police officer to accompany the inspector to the subject premises to execute the warrant. The Law Department then files the warrant as required by the particular court. At the same time the Law Department sends copies of all documents to the Chief Inspector or Division Director.

### **8. Chief Inspector or Division Director:**

The Chief Inspector or Division Director arranges for a Police Officer to assist the Law Department as needed in the execution of the search warrant. A report of the inspection results is sent to the Assistant Commissioner of Operations for completion of the log.

**Special Circumstances:**

If the Chief Inspector or Division Director believes a search warrant should be obtained even though they do not have a complainant's affidavit, a short justification is written on Form LS-1 (see step # 4) and the form should also be signed by the Borough Superintendent or Executive Chief Inspector.

**BGC:SM:mh**



**TO: General Counsel**  
**FROM: Assistant Commissioner for Operations**  
**DATE: \_\_\_\_\_**  
**RE: Request for Administrative Search Warrant**

Premises Address \_\_\_\_\_  
 Borough \_\_\_\_\_  
 Police Precinct Number \_\_\_\_\_  
 Complaint \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 Name of Complainant \_\_\_\_\_  
 Address of Complainant \_\_\_\_\_  
 Telephone Number of Complainant \_\_\_\_\_  
 Number of Attempts to Gain Access to the Premises \_\_\_\_\_  
 Justification \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

A signed Affidavit from Inspector is attached  Yes  No

A signed Affidavit from Complainant is attached  Yes  No

In order to gain access to the premises so as to review the above complaint, an administrative warrant is hereby requested.

\_\_\_\_\_  
 Inspector

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Administrative Chief Inspector/Supervising Inspector/Borough Manager

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Borough Superintendent/Director

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Assistant Commissioner Operations

\_\_\_\_\_  
 Date

COUNTY OF \_\_\_\_\_

In the Matter of the Application of
for a Search Warrant to Inspect the Premises known as

**AFFIDAVIT**

State of New York, County of \_\_\_\_\_

\_\_\_\_\_ being duly sworn, deposes and says:

1. I am a (check one)  Resident  
 Adjacent Owner  
 Neighbor  
 Other (explain) \_\_\_\_\_

of the premises known as \_\_\_\_\_

2. I reside at \_\_\_\_\_

3. I have personally observed the following \_\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

4. I have previously complained to the Department of Buildings on (dates) \_\_\_\_\_

5. I herewith request an inspection of said premises to determine if violations to the New York City Building Code, Zoning Laws and/or Electrical Code, are present.

Dated \_\_\_\_\_

Signature of Complainant \_\_\_\_\_

Social Security Number \_\_\_\_\_

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

Notary Public/Commissioner of Deeds \_\_\_\_\_

COUNTY OF \_\_\_\_\_

In the Matter of the Application of
<i>for a Search Warrant to inspect the Premises known as</i>

**AFFIDAVIT**

State of New York, County of \_\_\_\_\_

\_\_\_\_\_ being duly sworn, deposes and says:

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

2. On \_\_\_\_\_ 19\_\_\_\_ and \_\_\_\_\_ 19\_\_\_\_,

I visited the premises known as \_\_\_\_\_ to determine whether a violation violation of the New York City Building Code, Zoning Laws and/or Electrical Code, as reported to the Department of Buildings, exists therein.

3. Annexed hereto is/are notice(s) of violation currently outstanding for the above-mentioned premises, if any.

4. On each of the aforementioned dates I was unable to gain access to said premises in order to determine if there were violations as were reported to the Department or if the violations had been cured as required by law.

5. Absent the relief requested, the Department of Buildings will be unable to fulfill its statutory obligation to enforce the New York City Building Code, Zoning Laws and Electrical Code.

6. (Other) \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Dated

\_\_\_\_\_  
Signature of Inspector

\_\_\_\_\_  
Social Security Number

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 19 \_\_\_\_\_

\_\_\_\_\_  
Notary Public/Commissioner of Deeds