

THE CITY OF NEW YORK
HOUSING AND DEVELOPMENT ADMINISTRATION
DEPARTMENT OF BUILDINGS

DEPARTMENTAL MEMORANDUM

DATE: March 9, 1970

TO: John T. O'Neill, Commissioner

FROM: Louis Beck, Deputy General Counsel

SUBJECT: Cases In Court

As previously indicated on February 24, 1970 the Court of Appeals affirmed the opinion of the Appellate Division in the "Matter of Del Giorno" and held that city employees are not special patrolmen. In view of the foregoing decision of the court, our inspectors are not empowered to prepare, issue and serve the universal summons. Also, they cannot execute the court complaint before a chief inspector, assistant chief inspector or supervisor. (Previously authorized under section 58 of the New York City Criminal Court Act)

It is the opinion of the Corporation Counsel that since the decision in the Del Giorno case was affirmed by the Court of Appeals, that our cases presently pending in court which have not as yet been brought to trial may be subject to dismissal. Accordingly, the Corporation Counsel will submit legislation to attempt to give legality to all these pending cases. In the meantime, they intend to adjourn all cases when defendants request a dismissal.

It is my recommendation that the borough offices be advised to alert their legal sections to carefully watch the court calendars. If any cases are dismissed by the court because of the technicality caused by the Del Giorno decision, then the procedure should be as follows:

- (1) If the case involved hazardous and emergency violations, a reinspection should be immediately made establishing a new "charge date". A court complaint should be prepared and brought to court by the inspector who made the reinspection.
- (2) If the case involved non-hazardous violations, a reinspection should be made establishing a new "charge date". A court complaint should be prepared and typed and kept in the borough office until new legislation is enacted into law giving our inspectors special patrolmen status. If such legislation is not passed in the near future, it will be necessary to reexamine the procedure so as to bring all court complaints before the Criminal Court.



Louis Beck
Deputy General Counsel

LB:MF

cc: Deputy Commr. J. Ferro
Asst. Commr. P. Balaban
Dir. of Oper. T. V. Burke
Dir. of Spec. Proj. J. W. Schneider
Exec. Engr. H. E. Jankin ✓
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