

Law Office of Charnel James



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- Property inspections in the code enforcement context are subject to constitutional prohibitions against unreasonable search and seizures.
- If the things or places to be searched are constitutionally protected, then a code enforcement official, absent consent or emergency, must obtain an inspection warrant before proceeding with an inspection.
- Inspections warrant must be based on affidavit that specifically describes the place and things to be inspected and the purpose for the inspection. (CCP 1822.51)
- It's only good for 14 days and must be executed between 8am and 6pm.
- If prior consent of the responsible party has been sought and refused, 24 hour prior notice of the inspection must be given. (CCP 1822.55-1822.56)
- Penal code 373(a) for criminal enforcement authority for nuisance conditions.
- If it is a clear violation, according to the above code they can charge you with a misdemeanor.
- Due process consideration-
 - The minimal standard is adequate notice and opportunity to be heard on the issues before a fair and impartial hearing or body.
- The underlying premise behind adequate notice is that the citizen has a chance to defend the charges:
 - Before property interest are disrupted.
 - Before assessments or penalties are imposed.
 - Or when a penalty or forfeiture might be suffered for the mere failure to act.

Where they have failed is that notice and opportunity to appeal must be in place before disturbing a property right.

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