

An Open Letter to Randy A. Daniels, Secretary of State

Op-Eds & Articles

by Braden Cox

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New York State Department of State

123 William Street

New York, NY 10038-3804

Dear Secretary Daniels:

The undersigned groups, while hailing from various parts of the country, share a common tie to the State of New York. Each has come to know Ms. LaLa Wang, owner of the real estate portal MLX.com, and of her legal situation with the Department of State.

We write to urge you to:

1. Begin proceedings within the Department that would call for amending or eliminating the Apartment Information Vendor (AIV) law before it claims its next victim; and
2. Reinstate Ms. Wang's real estate broker's license so that she and her creative business enterprise can do what they do best—help consumers find affordable and desirable housing in New York City.

MLX.com allows renters and buyers to find matched listings accessible via the web and e-mail and hosts message centers that offer a place to exchange questions and opinions. It provides New York City property seekers with private accounts for managing apartment searches and connecting to landlords, owners, brokers, and MLX.com advisers. The company performs many of the same services as "traditional" real-estate brokerage companies—consultation and negotiation assistance—but it does not show properties.

However, New York State requires all companies that furnish information about location and availability of rental property to obtain an AIV license. As you know, the licensing law is a 1975 statute originally enacted to prevent consumer fraud. Laudable intentions aside, the law's requirements—hard-copy contracts and escrow agreements, submissions of available listings from landlords in writing before distribution, mandatory refunds on request, and a ban on advertising of specific properties—are incompatible with the 24/7 convenience, control, and lower costs of online, subscription-based information services that consumers demand and expect. The law's clash with e-commerce has been the bane of existence for Ms. Wang and MLX.com.

We believe that after analysis and dialogue with the real estate community, the Department of State would conclude that the existing AIV rules are no longer applicable. Indeed, dramatic changes have occurred and continue to take place in the way property owners and consumers exchange rental and sale information.

There are real casualties to regulatory indifference toward old and outdated laws. The hardships seem magnified in view of the Department of State's lax compliance enforcement against currently licensed AIVs. We implore you to retroactively acknowledge that the AIV law cannot be fairly applied to protect consumers in an electronic information-sharing world.

Sincerely,

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