



STATE OF NEW YORK  
DEPARTMENT OF STATE  
ALBANY, NY 12231-0001

ALEXANDER F. TREADWELL  
SECRETARY OF STATE

APR 05 1995

Honorable Roy M. Goodman  
New York State Senate  
Suite 913, Legislative Office Building  
Albany, NY 12247

Dear <sup>Roy</sup> Senator ~~Goodman~~:

You ask whether a licensed real estate broker engaged in the practice of apartment information vending may be waived from the fiscal requirements of the apartment information vendors licensure law (RPL Art. 12-C, hereinafter Art. 12-C). Specifically, your constituent, Ms. Lan Lan Wang, a licensed real estate salesperson, has been operating an apartment information vending business but has not been licensed to do so. She maintains that the fiscal requirements of Art. 12-C are unreasonable and that she cannot comply with them and remain in business. Article 12-C does not provide any waiver authority to the Department.

The article mandates the licensure of any person who engages in the business of "apartment information vending." Briefly, an apartment information vendor is one who, for a fee, furnishes information concerning the location and availability of residential rentals. Formerly, this activity was subsumed in the real estate broker law (RPL Art. 12-A). This separate category of licensure was enacted in 1975 (c. 772).

Presently, an apartment information vendor must maintain a trust account "in the minimum of five thousand dollars." Monies may not be withdrawn without the Secretary's certification. This account is intended to provide a recourse to consumers who have been defrauded by judgment proof or defunct practitioners. All but fifteen dollars of any advance fee must be deposited in yet another trust account. Should a customer give written notice stating that it has not leased or rented the subject premises and that he or she does not intend to rent such premises, the vendor must refund all the trusted monies to the customer. The vendor is "entitled" to its fee only when the customer has actually rented the premises.

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It is my opinion that these statutory requirements make it virtually impossible to carry on the business of apartment information vending within New York State. Consequently, at this time, the Department licenses only seven apartment information vendors. I agree with Ms. Wang that the law is onerous and should be amended.

I would be pleased to assist you in fashioning a legislative solution to this problem.

Very truly yours,



Alexander F. Treadwell

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