



The New York City
Department of
Consumer Affairs
42 Broadway
New York, NY
10004-1716

Jonathan Mintz
Commissioner

Asst. Commissioner

April 17, 2008

[REDACTED]
Re: Patron Parking Exemption

Dear Mr. [REDACTED]

I am writing in response to your inquiry dated March 25, 2008. You ask, on behalf of your client operating a parking lot, whether the drug salespersons of the physician/tenants of a building serviced by your client, can be considered to be "patrons" and/or "employees" of such business. If so, you argue that the parking lot should be exempt from needing a parking lot license from the Department pursuant to Section 20-322 of the Administrative Code of the City of New York. The facts set forth in your letter are ambiguous and therefore a definite response to your query can not be provided at this time.

Section 20-322 of the New York City Administrative Code ("Code") provides, in pertinent part, that the parking lot license requirement "shall not apply to the maintenance, operation or conduct of a garage or parking lot "... *in conjunction with a business for the exclusive accommodation of patrons of such business, or the employees of such business.*" Section 20-322 (b). (Emphasis added)

While drug salespersons can certainly be considered salespersons to the physician/tenants in the building in question, they would not be patrons of them, since they are not visiting the physicians for the purpose of purchasing their services. The patrons of physicians would be their patients.

If such non-patrons utilize your client's parking lot or if there are others who utilize the parking lot beyond the physician's patients, then the parking lot can not avail itself of the exemption found in Code Section 20-322 (b), since that exemption only applies if the lot is used "in conjunction with a business for the exclusive accommodation of patrons of such business, or the employees of such business."

Finally, the drug salespersons can not be deemed employees of the physician/tenants' business since they work for drug companies or are acting as independent contractors.

Sincerely,

[REDACTED]
Asst. Commissioner
Legal Services
[REDACTED]