



Jonathan Mintz
Commissioner

[Redacted]
Staff Counsel
[Redacted]

42 Broadway
9th Floor
New York, NY 10004

nyc.gov/consumers

May 5, 2011

VIA E-MAIL
[Redacted]

Re: Bike Parking in Garages and Disclaimers of Liability

Dear Mr. [Redacted]

The Department of Consumer Affairs (“Department”) issues this letter in response to your inquiry whether it is permissible for a garage to post a sign on a bicycle parking rack stating: “Park at your own risk – this is not a bailment.”¹ The short answer is no. A licensed parking lot or garage is liable for its own negligence and the negligence of its employees under the Rules of the City of New York (“RCNY”), whether or not “a bailment” exists.

The statement “Park at your own risk” violates 6 RCNY section 2-161(j) and 6 RCNY section 5-40. 6 RCNY section 2-161(j) provides:

No contract, agreement, lease, receipt, rule or regulation made or issued by any licensee with or to a person who parks or stores a motor vehicle or bicycle in a garage or parking lot operated by such licensee, shall exempt such licensee from liability for damage or loss caused by the negligence of such licensee or any employee of such licensee.

6 RCNY section 5-40 provides in relevant part:

A seller may not state that it is not liable for damages caused by negligence, if such a statement is invalid according to a statute, regulation or ordinance.

For example . . . (e) garagekeepers, parkers, or servicers of motor vehicles may not disclaim liability for negligence. . . .

In addition, 6 RCNY section 2-161(d)(1) requires that a garage maintain liability insurance that covers property damage to vehicles.

We note, too, that the statement “this is not a bailment” may be false or misleading in violation of Code sections 20-700 and 20-701 depending on additional facts not stated in your letter. When a bailment exists, the bailee-garage owes a duty of care to the bailor-consumer and may be liable for the damage, theft, or loss of personal property without a showing of negligence. The ordinary relationship between a parking garage and a consumer who uses the

¹ The Department limits this interpretation to the sign actually posted inside the parking garage referred to in your letter, not a disclaimer posted on parking garage’s website.



garage to store a vehicle is that of bailee and bailor. In contrast, when a mere license to park exists instead of a bailment, then the garage is liable for damage, theft or loss of the personal property of the consumer only if negligence is proved. Whether a bailment exists turns on the facts of the relationship between the bailee and bailor and may be express or implied.

We hope this letter is of assistance.

Thank you for your inquiry.

Sincerely,

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A solid black rectangular redaction box covering the name of the sender.

Staff Counsel