



Jonathan Mintz
Commissioner

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October 15, 2013

Re: Interpretation Letter – A parking garage operator need not be the owner or tenant of the property to obtain a DCA License

I write in response to a request from your law firm for an interpretation letter concerning certain requirements for a Department of Consumer Affairs license to operate a garage.

Your inquiry to the Department presented three questions:

1. Does a DCA parking lot license have to be property-specific?
The short answer to this question is yes.

Section 20-320 of the Administrative Code of the City of New York provides, in relevant part:

As used in this subchapter, the following terms shall mean and include:

1. “Garage.” A building, shed or enclosure or any portion thereof which has the capacity to hold five or more motor vehicles and which is used to accommodate, store, or keep any motor vehicle for the payment of a fee or other consideration charged directly or indirectly.

Section 20-112 of the Administrative Code provides, in relevant part:

Except as specifically provided in chapter two, a license shall be valid only for the location designated upon the application therefor, except in the case of licenses issued for activities which in their nature are carried out at large and not at a fixed place of business. No license shall be issued for more than one location.

Read together, these provisions make “property-specific” a license to operate a parking garage. A license to operate a garage is valid only at the address for



which the Department issues it.

2. Can a mere licensee, rather than an owner or tenant, obtain a DCA parking lot license for its licensed area? The short answer to this question is yes.

Section 20-321 of the Administrative Code provides, in relevant part:

a. It shall be unlawful for any person to maintain, *operate* or conduct a garage or parking lot without a license therefor issued by the commissioner.

b. A license to maintain, *operate* or conduct a garage or parking lot shall be granted to a person of good character, in accordance with the provisions of this subchapter and the rules and regulations of the commissioner.
(Italics added).

The Code does not require a DCA licensee to be the owner or tenant of the premises in which it operates a garage. A person authorized by an agreement with the owner, tenant or other person with control over the property in which a garage is maintained, including a person operating the garage under a private licensing agreement with the owner, may apply for and be issued a Department license to operate the garage.

3. Can a mere licensee obtain the necessary insurance required by the governing laws for such activity? The short answer to the question is yes.

Section 2-161 of Title 6 of the Rules of the City of New York provides in relevant part:

(d) (1) The number and types of insurance policies carried by the applicant for a license, must be set forth on the face of the application and must be reasonably adequate, in the opinion of the Commissioner, to protect the public, which policies shall include coverage for legal liability resulting from operation on the licensed premises of vehicles and bicycles owned by the licensee or by third persons, for injury or damage to person or property and garage keepers liability, in the sum of not less than \$100,000 for personal injury to any one person and \$300,000 for personal injury to two or more persons and \$25,000 for damage to property.

Since a person or entity operating a garage under a private licensing agreement may obtain a DCA license, the rule intends that that person or entity carry the required liability insurance. Accordingly, if a person operating the garage under a private licensing agreement carries the appropriate insurance, it has



satisfied the requirements of 6 RCNY § 2-161(d).

Very truly yours,

[Redacted signature]

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cc:

[Redacted list of recipients]