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Res. No. 655

Resolution calling upon the New York State Board of Real Estate and the New York State Department of State to adopt appropriate guidelines and enforcement measures on the use of the Internet for real estate business purposes.

By Council Members Brewer, Gerson, James, Palma and Seabrook

Whereas, New York City's occupancy rate for apartment rentals was 97% in 2005 and, according to New York City Rent Guidelines Board's "2005 Income and Affordability Study," more than a quarter of all rental households in New York spend more than 50% of their household income in gross rent; and

Whereas, Manhattan has the highest real estate prices in the country; and

Whereas, Real estate agents are increasingly starting to use the Internet as a means of disseminating information about the availability of apartments rentals on the market; and

Whereas, Online listing services have been vulnerable to scams and fraudulent behavior by brokers or people acting as brokers; and

Whereas, A 2006 investigation by the New York City Council titled "Brokered Deception: The Hidden Perils of Online Real Estate Ads" showed deceptive practices by brokers with nearly one in three real estate agents falsely advertising in the "no broker fee" section of online listing sites; and

Whereas, Many online listing services offer the opportunity to report inappropriate or misleading advertisements but do not have the ability to limit all fraudulent listings; and

Whereas, The New York State Department of State is charged with governing the licensing and monitoring of real estate agents and brokers; and

Whereas, The New York State Board of Real Estate was established within the Department of State by

statute in 1995 with the authority to promulgate rules and regulations affecting real estate brokers and salespersons in accordance with the State's licensing laws; and

Whereas, The New York State Board of Real Estate also has the authority to study the operation of the laws and regulations affecting real estate brokers and real estate salespersons and make recommendations on pending or proposed legislation; and

Whereas, With authority over the licensing and regulation of real estate brokers and real estate salespersons, the Department of State investigates complaints against licensed and unlicensed practitioners and may revoke a license after a hearing or refer complaints to the New York State Attorney General; and

Whereas, The Department of State's Division of Licensing Services provides an online complaint form that must be printed and submitted by mail; and

Whereas, The Department of State may revoke, suspend, fine, or reprimand a real estate broker or real estate salesperson if that licensee is involved with fraud or fraudulent practices or has demonstrated untrustworthiness or incompetency; and

Whereas, The Secretary of State has broad discretion in determining what should be deemed untrustworthy conduct; and

Whereas, The New York State Board of Real Estate recommends that real estate brokers and real estate salespersons within the state adopt the Association of Real Estate License Law Officials (ARELLO) Electronic Marketing Internet Policy; and

Whereas, There are no official guidelines, however, the New York State Board of Real Estate and the Department of State are involved in an ongoing process to develop guidelines for the appropriate use of the Internet and other emerging technologies; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the New York State Board of Real Estate and the New York State Department of State to adopt appropriate guidelines and enforcement measures on the use of the Internet for real estate business purposes.

CFP
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