



## 紀律研訊個案 — 收購舊樓違反守則

Inquiry hearing case –

Breaching regulations when  
engaging in the acquisition of  
old buildings

近年舊樓收購活動越加頻繁，地產代理亦有參與其中。監管局提醒從業員在參與舊樓收購活動作重建用途，必須遵守《地產代理條例》、其附屬法例、《操守守則》以及相關的執業通告，否則有可能被紀律處分。

一名地產代理參與收購某舊樓大廈作重建用途，與大廈各業戶磋商，但其中一位業主多次拒絕其收購建議。該代理稍後向該業主發信，聲稱收購建議已得到大廈內85%業主同意出售單位及已簽約支持。該業主懷疑信內聲稱的真確性，遂向監管局投訴。

監管局經過查證之後，發現截至該封信件發出為止，只有60%不可分割業權分數的業主簽署了出售其物業的買賣協議，該代理在信件中的陳述欠缺合理的基礎。

監管局紀律委員會就上述個案進行紀律研訊，認為該名地產代理沒有遵守《操守守則》中第3.7.2段中「地

In recent years, there has been an increase in the number of acquisitions of flats in old buildings and some estate agents are involved in such activities. The EAA reminds practitioners when engaging in such activities that they must comply with the Estate Agents Ordinance and its subsidiary legislation, the Code of Ethics and practice circulars issued by the EAA. Non-compliance of the above may be subject to disciplinary actions.

An estate agent approached flat owners of an old building for a discussion on the acquisition of the building for redevelopment but one of the flat owners repeatedly declined the agent's offer. The agent later issued a letter to that owner, claiming that 85% of the owners of the building had entered into an agreement to sell their units. As the owner doubted the accuracy of such a claim, he lodged a complaint with the EAA.

The EAA conducted an investigation into the case and discovered that only 60% of the undivided shareowners had sold their units in the building when the letter was issued. The statement in the agent's letter was made without proper bases.

The EAA Disciplinary Committee conducted an inquiry hearing into the case and was of the view that the estate agent had failed to comply with paragraph 3.7.2 of the Code of Ethics, which states that "estate agents and salespersons should avoid any practice which may bring discredit and/or disrepute to the estate agency trade". He



產代理和營業員應避免做出可能令地產代理行業信譽及／或名聲受損的行為」的守則，故決定予以譴責及在其牌照上附加條件，要求他在一年內取得持續專業進修計劃下的核心科目12個學分，並暫時吊銷其牌照14天。

另一方面，該名代理所屬的地產代理公司，沒有設立妥善的程序或制度以監督和管理其地產代理工作的業務，違反《地產代理常規（一般責任及香港住宅物業）規例》第15條，被紀律委員會訓誡及罰款2萬元。

was therefore reprimanded and a condition was attached to his licence, requiring him to obtain 12 points in core subjects under the Continuing Professional Development Scheme within a year. Also his licence was suspended for 14 days.

In addition, the Disciplinary Committee found that the estate agency company concerned had failed to establish proper procedures or systems to supervise and manage its business of estate agency work, and was thus in breach of Section 15 of the Estate Agents Practice (General Duties and Hong Kong Residential Properties) Regulation. The Disciplinary Committee decided that the company should be admonished and fined \$20,000.

## 紀律研訊個案一 提供失實物業資料引致客戶損失

Inquiry hearing case –

Client suffering from a loss caused by the provision of false property information



**置**業人士在考慮買賣物業的過程中，十分依賴地產代理所提供的物業資訊，因此從業員必須確保提供給客戶的物業資料準確無誤，以保障消費者利益，以免行業聲譽受損。

一名從業員安排準買家兩次視察一項物業。在兩次物業視察中，從業員均向準買家表示，該物業只有15年樓齡，並在第二次視察期間出示一份土地地冊文本，指出大廈公契的日期以證明該物業的樓齡。

Purchasers rely heavily on the information provided by practitioners in property transactions. Practitioners must ensure the accuracy of the property information provided to clients, so that consumers' rights can be protected and disrepute to the trade can be avoided.

A practitioner arranged a prospective purchaser to inspect a property twice. The practitioner informed the prospective purchaser that the age of the property was 15 years during both of the inspections. In the second inspection, the practitioner showed a copy of land search of the property and pointed to the record of a "Deed of Mutual Covenant with Plan" as proof of the age of the property.

The purchaser then signed a provisional agreement for sale and purchase for the property with the vendor and also paid the vendor a deposit of \$300,000. The purchaser later discovered from the occupation permit of the property that the age of the property was 26 years.

買家隨後與物業賣方簽訂臨時買賣合約，並準備繳付30萬元作為訂金。後來，買家根據物業估用許可證，發現該物業的樓齡應為26年。

買家決定不完成這項買賣交易，已交付的訂金因此遭賣方沒收。買家隨後向監管局投訴該名從業員。

監管局紀律委員會就上述個案進行紀律研訊。該從業員在向準買家提供關於該物業樓齡的資料前，沒有盡量小心和盡一切應盡的努力查核有關資料是否準確，以致準買家遭受損失，未有遵守《操守守則》第3.5.1段中所述「地產代理和營業員在履行職務時必須盡量小心和盡一切應盡的努力」的守則。監管局紀律委員決定對該從業員作出譴責，並暫時吊銷其牌照14天。

The purchaser thus decided not to proceed with the purchase. The deposit of \$300,000 was forfeited by the vendor and the purchaser lodged a complaint against the practitioner.

The EAA Disciplinary Committee conducted an inquiry hearing into the case. Before providing information to his client regarding the age of the property, the practitioner did not exercise due care and due diligence to verify the accuracy of the information, causing the purchaser to suffer from loss. The practitioner therefore did not comply with the relevant regulation in paragraph 3.5.1 of the Code of Ethics, which states that "estate agents and salespersons shall, in fulfilling their duties, exercise due care and due diligence". The practitioner was reprimanded and his licence was suspended for 14 days.

## 地產代理管理協會會長葉潔儀女士的意見

Views from the President of the Estate Agents Management Association

Ms Kitty Ip

這兩個個案令我們意識到物業代理應該遵從規則及操守，避免違規及墮入任何涉嫌違規的陷阱，導致得不償失。地產代理在任何交易過程中，遵守規則之餘，遇到灰色地帶亦不要「踩鋼線」，否則便要承擔後果。

地產代理可藉著閱讀參考書、參與進修課程等提升本身的競爭力，以實力贏取好業績。同時，地產代理應遵守監管局的指引及法例要求，在提供優質服務之同時，得到顧客及社會的認同，提升行業的形象。

As the two cases illustrate, estate agents should comply with the regulations and the Code of Ethics, and should avoid breaching any regulations and stay away from any trap of possible breaches, as they would risk losing their business and reputation. In the course of handling property transactions, estate agents should comply with the regulations, especially when they are confronted with grey areas, or they will suffer the consequences.

To raise profits, estate agents can enhance their competitiveness by reading good reference books and participating in professional development courses. Moreover, they should comply with the guidelines issued by the EAA and the law. Estate agents should provide quality services to their clients so as to win recognition from society and to promote the trade's image.