

紀律研訊個案 — 提供不準確樓盤景觀資料

Inquiry hearing case — Providing inaccurate information of a development concerning its view

監管局曾就一手樓盤銷售發出執業通告，提醒地產代理從業員向準買家提供物業的相關資料時，須以有關發展商提供的售樓說明書及文件所載的資料為準，及採取一切合理步驟及盡一切應盡的努力核實有關資料，不得作出任何可能誤導準買家的陳述。

一名準買家到某新樓盤的銷售處參觀，被一間地產代理公司的兩名持牌人(甲及乙)游說購買單位。期間該準買家表示，得悉樓盤的前方將興建新的發展項目，特意詢問持牌人甲，哪個樓層的單位不會被新項目遮擋景觀，甲回答約25樓的單位已不會被遮擋。

準買家隨後再問持牌人乙相同的問題，並追問新項目的層數。乙答覆新項目應為16至30層高，所以購買30樓以上的單位就不會被新項目遮擋景觀。

然而，根據屋宇署的資料，新發展項目樓高16至33層，因此該樓盤25樓至33樓的單位仍有可能被遮擋景觀。該名準買家不滿兩名持牌人沒有提供準確的資料，遂向監管局投訴，並且呈交了在參觀樓盤期間，與該兩名持牌人的對話錄音作為證據。

監管局紀律委員會就上述個案進行紀律研訊。紀律委員會認為，該兩名持牌人在向客戶提供樓盤的景觀資料時，沒有盡量小心和盡一切應盡的努力查核所提供的資料是否準確，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，故決定暫時吊銷兩名持牌人的牌照七天，並在他們的牌照上附加條件，要求他們在一年內取得12個持續專業進修計劃核心科目的學分。

The EAA has issued practice circulars on the sale of first-hand residential properties to remind estate agents not to make any representation that would mislead prospective purchasers. When providing property information to their clients, practitioners should do so only on the basis of the information contained in the sales brochure and documents provided by the developer, and only after they have taken all reasonable steps and exercised all due diligence to verify the information.

Two licensees (A and B) persuaded a prospective purchaser to make a purchase at the sales office of a development. The prospective purchaser was aware that there would be a new development project in front of the development for sale. He specifically asked licensee A whether the view of flats above certain level would not be blocked by the new development. Licensee A replied that the flats at 25th floor and above would not be affected by the new development.

The prospective purchaser then asked licensee B the same question and further inquired about the building height of the new development. Licensee B told him that the building height of the new development would range from 16 to 30 storeys and the new development would not block the view of flats located above the 30th floor.

However, according to the information from the Buildings Department, the building height of the new development would range from 16 to 33 storeys. There was therefore a possibility that the view of flats from the 25th to 33rd floors of the development for sale would be blocked. The prospective purchaser was disappointed with both licensees' failure to provide accurate property information, so he lodged a complaint with the EAA. He also submitted a voice recording of his conversation with the two licensees as evidence.

The EAA Disciplinary Committee conducted an inquiry hearing into the case. The Disciplinary Committee was of the view that the two licensees did not exercise due care and due diligence to verify the information when providing their client with information about the view of flats of the development. The licensees did not comply with paragraph 3.5.1 of the Code of Ethics, which stated that they should exercise due care and due diligence in fulfilling their duties. The Committee decided to suspend the licensees' licences for seven days and a condition was attached to their licences, requiring them to obtain 12 points under the Continuing Professional Development Scheme within one year.