



## 紀律研訊個案—— 沒有告知客戶物業內有違建工程

監管局曾經發出執業通告，提醒從業員在處理物業交易時，應留意物業存在違建工程可能會導致的問題，並採取適當措施以保障客戶利益。從業員如沒有遵守執業通告，有可能被紀律處分。

一名從業員在一宗工商物業買賣中，以雙邊代理的身分行事。該從業員在安排買賣雙方訂立有關物業的臨時買賣合約（「臨約」）之前，他知悉該物業內有一個屬於違建的閣樓，但他既沒有將此事告知買方，也沒有進行最新的土地查冊，以核實該物業的查冊紀錄中有否被註上有關該違建閣樓的記項。

雙方簽署臨約後，買方支付訂金予賣方，惟其後買方得悉該物業的閣樓屬於違建工程，遂決定終止有關交易，透過訴訟取回已支付的訂金，並向監管局投訴。

監管局紀律委員會就上述個案進行紀律研訊。委員會認為，該名從業員沒有保障和促進買方的利益，並對交易各方公平公正，因而沒有遵守《操守守則》第3.4.1段。該從業員被委員會譴責及罰款\$2,000，並在其牌照上附加條件，要求他在24個月內取得12個持續專業進修計劃核心科目的學分。

## Disciplinary inquiry case — Failing to inform clients of the existence of unauthorized building works in a property

The EAA has issued practice circulars requiring practitioners to remind clients of the risks involved in transactions of properties with unauthorized building works ("UBW") and take appropriate steps to protect clients' interests. Failing to comply with the guidelines in the circulars may be subject to disciplinary actions by the EAA.

An estate agency practitioner acted for both the purchaser and the vendor in a commercial property transaction. Before arranging for both parties to sign a preliminary agreement for sale and purchase ("PASP"), the practitioner knew that the cockloft inside the property involved UBW. However, he did not inform the purchaser of such fact, nor ascertain whether there was an entry regarding UBW registered against the property by conducting an up-to-date land search.

The purchaser paid a deposit to the vendor after signing the PASP but later he learnt that the cockloft inside the property involved UBW. He decided to cancel the deal and claimed back the paid deposit through litigation. He also lodged a complaint with the EAA.

The EAA Disciplinary Committee conducted an inquiry into the case, and was of the view that the practitioner failed to comply with paragraph 3.4.1 of the *Code of Ethics*, in that he failed to protect the purchaser's interests and act in a just and impartial manner to all parties concerned. The practitioner was reprimanded and fined \$2,000, and conditions were also attached to his licence, requiring him to obtain 12 points from the core subjects under the CPD Scheme within 24 months.