

紀律研訊個案一 沒有履行向買方提供物業建築面積證明的承諾

由2013年1月1日起，地產代理向客戶推銷二手住宅物業時，須提供實用面積。在此之前，單位面積的宣傳通常只靠建築面積表述，欠缺統一標準，容易惹來爭拗。

2010年某日，一位準買家收到某地產代理公司的宣傳單張後，看中單張上介紹的一個420平方呎單位，遂聯絡該公司一名從業員安排視察。該準買家在視察時發覺單位很小，但從業員聲稱單位的建築面積是420平方呎，而實用面積只有285平方呎。該準買家遂要求從業員提供單位建築面積的證明文件，從業員表示會稍後提供，並安排該準買家與業主簽訂臨時買賣合約。

其後該準買家多次向從業員索取有關建築面積證明，但從業員卻無法提供。該準買家因未能取得單位的建築面積證明，遂終止交易，並向監管局投訴。

Inquiry hearing case — Failure to honour the promise of providing to purchaser the proof of a property's gross floor area

Starting from 1 January 2013, estate agents are required to provide information on saleable area when promoting second-hand residential properties. Before then, floor area information was usually presented in terms of gross floor area, of which there was no standard definition. Disputes sometimes arose from such information.

In 2010, a prospective buyer received a promotional leaflet from an estate agency. Interested in a property of 420 sq ft listed on the leaflet, the prospective buyer contacted a practitioner of the agency to arrange an inspection. At the inspection, the prospective buyer found the property very small. The practitioner claimed that the flat's gross floor area was 420 sq ft and its saleable area was 285 sq ft. The prospective buyer requested the practitioner to provide her with proof of the gross floor area. The practitioner replied that he would later provide the proof and arranged for the prospective buyer to enter into a provisional agreement for sale and purchase with the vendor.

The prospective buyer later repeatedly asked the practitioner to provide her with the proof of the gross floor area but he failed to do so. As the prospective buyer could not obtain the proof, she later terminated the transaction and lodged a complaint with the EAA.

監管局紀律委員會認為，從業員向客戶表示單位的建築面積為420平方呎，並承諾提供證明文件，但最後未能履行承諾，沒有遵守《操守守則》第3.4.1段所述「保障和促進客戶的利益，並對交易各方公平公正」。委員會決定譴責該從業員，並在其牌照上附加條件，要求他在12個月內取得6個持續專業進修計劃核心科目的學分。

該從業員其後就有關裁決提出上訴，結果被上訴審裁小組駁回。審裁小組同時注意到，地產代理公司未必有證據證明所提供的樓盤資料的準確性。審裁小組就此提醒業界，向客戶提供的資料必須合乎事實及證據支持，以提升地產代理業界的專業水平。

The EAA Disciplinary Committee held the view that although the practitioner informed the client that the gross floor area of the property was 420 sq ft and promised to provide documentary proof, he did not fulfill his promise. Hence, the practitioner had failed to comply with paragraph 3.4.1 of the Code of Ethics, in that he did not protect and promote the interests of his client and act in an impartial and just manner to all parties involved in the transaction. The Committee decided to reprimand the practitioner and attach conditions to his licence, requiring him to obtain six points from the core subjects under the CPD Scheme within 12 months.

The practitioner appealed against the decision, which was dismissed by the Appeal Tribunal. The Appeal Tribunal also noticed that some estate agencies might not possess proof to show the accuracy of the property information they provide. The Appeal Tribunal would like to remind the trade that the information they provide to clients must be factual and supported by evidence, so that the professional standard of the estate agency trade can be enhanced.