

## 紀律研訊個案一沒有保障和促進買方的利益

在一宗住宅物業買賣中，一名從業員代表買賣雙方行事。該從業員安排買賣雙方訂立物業的臨時買賣合約，但其後得知買方的律師對該物業的業權提出質詢，但賣方的律師並無回覆，以致該物業的成交日期可能延後。儘管如此，該名從業員為了盡快完成交易，仍安排買方簽署一份文件，確認買方知悉該物業的管理公司涉及訴訟，而該文件可能影響買方就該業權的潛在瑕疵提出質詢的權利。

由於該物業的成交日期有可能延後，買方未能及時取得該物業的鎖匙進行裝修。雖然該從業員知悉買方律師曾提出意見，指由於交易最終可能無法完成，買方提早收取該物業的鎖匙存在風險，但她仍建議買方在成交日前先向賣方借用該物業的鎖匙及租用該單位以便進行裝修，並向買方保證該物業的樓契沒有問題。

### Inquiry hearing case — Failing to protect and promote the interests of purchaser

An estate agency practitioner acted for both the purchaser and the vendor in a residential property transaction. The practitioner arranged for both parties to sign a provisional agreement for sale and purchase, but subsequently she knew that the lawyer representing the vendor had not replied to requisitions on the title of the property raised by the lawyer representing the purchaser. The completion date of the transaction might be postponed due to the title issue. Nevertheless, in order to expedite the transaction, the practitioner arranged for the purchaser to sign an acknowledgement to confirm her awareness of the legal proceedings involving the property management company of the building of which the property was formed part, thus exposing the purchaser to potential risk of being unable to raise requisitions on potential title defects.

Moreover, as the completion date might be postponed, the purchaser was not able to obtain the key to the property in time for its renovation. Although the practitioner was aware of the legal advice given by the purchaser's lawyer on the risks to which the purchaser would be exposed by obtaining the key before completion as the transaction might not be completed,

最後，由於買賣雙方的律師未能就業權爭議達成共識，買方沒有如期完成交易，並因此損失了租用單位和裝修的費用。買方隨後向監管局投訴。

紀律委員會就該個案進行紀律研訊。委員會認為，該名從業員在得悉賣方律師未妥善答覆買方律師對該物業的業權質詢的情況下，仍安排買方簽署該確認文件，又罔顧買方提早收取該物業的鎖匙的風險，提議買方成交前取匙裝修，未能保障買方的利益，沒有遵守《操守守則》第3.4.1段，被委員會譴責及暫時吊銷牌照14天，並在其牌照上附加條件，要求她在兩年內取得12個持續專業進修計劃核心科目的學分。

she advised the purchaser to borrow the key to the property and rent the property for renovation before the completion date, and assured the purchaser that the title of the property was good.

Subsequently, the lawyers representing the purchaser and the vendor failed to resolve the dispute over the property's title. The purchaser did not complete the transaction as scheduled and suffered loss regarding rental and renovation expenses. The purchaser then lodged a complaint with the EAA.

The practitioner arranged for the purchaser to sign the acknowledgement despite the dispute over the title of the property. She also disregarded the risks concerned and advised the purchaser to borrow the key to the property for renovation before the completion date. The practitioner therefore failed to comply with paragraph 3.4.1 of the Code of Ethics in that she failed to protect the purchaser's interests. The Disciplinary Committee decided to reprimand the practitioner, suspend her licence for 14 days and attach conditions to her licence, requiring her to obtain 12 points from the core subjects under the CPD Scheme within two years.