

## 紀律研訊個案：在行車道上截車招攬生意

就着持牌人在一手樓盤銷售地點的秩序事宜，監管局曾發出執業通告(編號 10-02(CR))，為業界提供詳細指引。持牌人必須遵守相關指引，否則可能會被監管局紀律處分。

一名營業員在某新盤銷售處外的行車道上向行人招攬生意，並攔截一輛正前往該樓盤銷售處的計程車，向車上乘客推銷該一手樓盤。

監管局紀律委員會就該個案進行紀律研訊。委員會認為該營業員未有遵循執業通告中的指引，站在行車道上或攔截車輛，對駕駛人士和其他道路使用者構成危險，即

沒有遵守《操守守則》第3.2.1段：「地產代理和營業員應熟悉並必須在執業時遵守《地產代理條例》、其附屬法例、《操守守則》，以及由監管局不時發布的所有其他指引」的守則。因此，委員會決定訓誡該名營業員及罰款1,000元；同時在其牌照上附加條件，要求他在24個月內取得持續專業進修計劃下核心科目的18個學分。

至於負責監督該營業員的地產代理員工監督，以及僱用該營業員及員工監督的地產代理公司，因為未有妥善監督其前線員工，違反了《地產代理常規(一般責任及香港住宅物業)規例》第15條的規定，結果亦被譴責及分別罰款10,000元及35,000元。

## Disciplinary hearing case: Intercepting cars on the road to solicit business

The EAA has issued a Practice Circular (No. 10-02(CR)) setting out detailed guidelines on maintaining good order at first sale sites. Licensees must comply with them or they might be subject to disciplinary action by the EAA.

A salesperson solicited business on the road outside a first sale site. He intercepted a taxi heading to the site and approached the passengers to market the property.

The EAA Disciplinary Committee conducted an inquiry hearing into the case. The Committee was of the view that the salesperson had not complied with the guidelines in the Practice Circular, as he stood on the carriageway to intercept vehicles, endangering his own safety and the safety of drivers and other road users. He failed to comply with paragraph 3.2.1 of the *Code of Ethics*: “estate agents and salesperson should be fully conversant

with the Estate Agents Ordinance, its subsidiary legislation, *Code of Ethics*, and other guidelines issued by the EAA from time to time and shall observe and comply with them in the course of their practice”. As a result, the salesperson was admonished and fined \$1,000. A condition was also attached to his licence, requiring him to obtain 18 points in the core subjects of the CPD Scheme in 24 months.

As to the controller, who was responsible for overseeing the salesperson concerned at the first sale site, as well as the estate agency company employing both the salesperson and the controller, they did not supervise their frontline staff properly and thus were in breach of section 15 of the Estate Agents Practice (General Duties and Hong Kong Residential Properties) Regulation. They were reprimanded and fined \$10,000 and \$35,000 respectively.

## 紀律研訊個案：誤導賣方有關物業成交價的資料

持牌人必須秉持誠實的態度向客人提供服務，不可作出任何誤導客人的陳述，包括有關其他物業成交價的參考資料，否則有可能被監管局紀律處分。

一名營業員在處理一宗商舖交易中為買賣雙方行事。賣家向該名營業員表示，從街坊口中得知其店舖附近的另一個舖位剛以1,000多萬元售出。但該營業員向賣方稱該舖位交易是經由她促成，賣出價僅為800多萬元。

稍後，該營業員再次致電賣方，表示有客人願意出價900萬元購買其物業，並安排買賣雙方簽署臨時買賣合約。然而，一個月後，賣方知悉其店舖附近由該營業員促成

交易的舖位實際上是以1,000萬售出，而非其所指的800多萬元。賣方覺得被該營業員誤導，遂向監管局投訴。

監管局紀律委員會認為，該名營業員在安排賣方簽署臨時買賣合約前，誤導賣方另一宗物業成交的資料，違反了監管局發出的《操守守則》第3.4.1段，即持牌人應保障和促進客戶的利益、按照地產代理協議執行客戶的指示，並對交易各方公平公正。因此，委員會決定譴責該營業員及吊銷其牌照14天，並在其牌照上附加條件，要求他在12個月內取得持續專業進修計劃下的12個核心科目學分。

## Disciplinary hearing case: Misleading the vendor about relevant property transaction price

Licensees must provide services to clients in an honest manner and must not make any misrepresentation that may mislead their clients, including information on the transaction prices of other properties. Otherwise they may be subject to disciplinary action by the EAA.

A salesperson acted for both the vendor and purchaser in a shop transaction. The vendor told the salesperson that he learnt from his neighbour that a shop near his was sold for more than \$10 million. The salesperson denied this and claimed the selling price was just over \$8 million, as the transaction was handled by her.

After that, the salesperson called the vendor, telling him that someone would like to buy his property for \$9 million and arranged for both parties to sign the Provisional Agreement for Sale and Purchase (PASP) later on. However, a month later, the vendor discovered that the shop nearby was actually sold for \$10 million, but not for just

over \$8 million as the salesperson had previously claimed. Feeling aggrieved, the vendor lodged a complaint with the EAA.

The EAA Disciplinary Committee was of the view that the salesperson made a misrepresentation to the vendor about the transaction price of the other property before arranging for the vendor to sign the PASP, not complying with paragraph 3.4.1 of the *Code of Ethics*, which states that “estate agents and salespersons, in engaging and accepting an appointment as an agent, should protect and promote the interests of their clients, carry out the instructions of their clients in accordance with the estate agency agreement and act in an impartial and just manner to all parties involved in the transaction”. The Disciplinary Committee thus reprimanded the salesperson and suspended her licence for fourteen days. A condition was also attached to her licence, requiring her to obtain 12 points in the core subjects of the CPD Scheme in 12 months.