



紀律研訊個案： 發出具誤導性或虛假廣告

DISCIPLINARY HEARING CASE: ISSUING MISLEADING OR FALSE ADVERTISEMENTS

持牌人從事時必須秉持誠實的態度，不可發放虛假或具誤導性陳述的廣告，否則有可能被監管局紀律處分。

一間地產代理公司發出一則住宅物業的放售及放租廣告，資料包括該物業的座數、實用面積及建築面積，並附有數張展示單位景觀及內部間隔的照片。

然而，那些照片並不屬於該廣告中的物業，而是屬於同座較低層的另一物業，但兩者皆享有相同座向及景觀。該地產代理

Licensees must act in an honest manner and must not issue any advertisements with misleading or wrong information. Otherwise, they may be subject to disciplinary action by the EAA.

An estate agency company posted an advertisement of a residential property for sale or rent with information of its block number, saleable area and gross floor area. Several photos showing the view of the property and its interior were also included.

However, the photos did not belong to the advertised property but belonged to another property located in the same block on a lower floor which shared the same direction and view. The staff



公司的員工在公司電腦資料庫中找出這些照片使用。其後，照片所屬的單位業主發現該廣告，遂向監管局作出投訴。

監管局經調查後展開紀律研訊。監管局紀律委員會認為，該地產代理公司在刊登廣告前，未有查核清楚資料便使用其他物業照片，違反《地產代理常規(一般責任及香港住宅物業)規例》第9(1)條，即「持牌地產代理不應就其地產代理業務發出在要項上屬虛假並具誤導性陳述的廣告」的規定。

考慮到個案的性質、持牌人的違規紀錄及同類個案的罰則，該地產代理公司結果被譴責及罰款11,500元。

of the estate agency company found the photos in the company computer database and used them. Later on, when the owner of the other property discovered the advertisement, she lodged a complaint with the EAA.

An inquiry hearing was conducted after an investigation. The EAA Disciplinary Committee was of the view that the estate agency company adopted the photos of another flat without carefully verifying the information when issuing the advertisement and thus was in breach of section 9(1) of the Estate Agents Practice (General Duties and Hong Kong Residential Properties) Regulation, which stipulates that “a licensed estate agent shall not cause or permit to be issued an advertisement wholly or partly relating to his estate agency business which includes any statement or particular that is false or misleading in a material particular”.

Having considered the nature and gravity of the case, the disciplinary record of the licensee and the sanctions imposed in similar cases, the estate agency company was reprimanded and fined \$11,500.

紀律研訊個案： 提供錯誤的物業資料

DISCIPLINARY HEARING CASE: PROVIDING FALSE PROPERTY INFORMATION

持牌人在履行職務時，必須盡量小心和盡一切應盡的努力，包括先核實物業資料才向買方作出有關陳述，否則有可能被監管局紀律處分。

一名營業員在一宗住宅物業交易中為買賣雙方行事。他安排一名買家前往視察物業。該單位景觀開揚，享有海景。由於物業前方尚有兩幅待發展的地皮，該買家擔心將來海景會被遮擋，遂向營業員查問有關地皮的高度限制。該營業員向買家表示，上述兩幅地皮的高度限制為50米，應可保留部份海景。於是，該買家便決定購入該單位並簽署臨時買賣合約。

其後，該買家從網上得知，該兩幅地皮的高度限制已由50米放寬至65米。買家大感不悅，遂向監管局作出投訴。

監管局紀律委員會認為，該營業員在安排買方簽署臨時買賣合約前，沒有盡量小心和盡一切應盡的努力先核實地皮的高度限制，便向買方作出有關陳述。該營業員違反了《操守守則》第3.5.1段，即「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」的規定。考慮到個案性質及類似個案的罰則後，紀律委員會決定暫時吊銷其牌照7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。

Licensees must exercise due care and due diligence in fulfilling their duties, including verifying the information of a property before presenting it to the purchaser. Otherwise, they may be subject to disciplinary action by the EAA.

A salesperson represented both the purchaser and the vendor in a residential property transaction. He arranged a site check of a property with an open sea view with the purchaser. As there were two building sites in front of that property, the purchaser asked the salesperson about the height restriction of these building sites as he was worried that the sea view would be blocked in the future. The salesperson told the purchaser that a part of the sea view could be retained as the height restriction of the sites was 50 metres. The purchaser then signed the Provisional Agreement for Sale and Purchase.

Later on, the purchaser learnt from the Internet that the height restriction of the two building sites had been relaxed from 50 metres to 65 metres. Feeling aggrieved, he lodged a complaint with the EAA.

The EAA Disciplinary Committee was of the view that the salesperson failed to exercise due care and due diligence in verifying the height restriction of the building sites, and made a false presentation to the purchaser. He was in breach of paragraph 3.5.1 of the *Code of Ethics*, which provides: “estate agents and salespersons shall, in fulfilling their duties, exercise due care and due diligence”. Having considered the nature of the case and the sanctions imposed in similar cases, the Disciplinary Committee suspended his licence for seven days. A condition was also attached to his licence, requiring him to obtain 12 points in the core subjects of the CPD Scheme in 12 months.