

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.