

## 紀律研訊個案：沒有進行土地查冊

### DISCIPLINARY HEARING CASE: FAILING TO CONDUCT LAND SEARCHES

#### 引言

持牌人必須在緊接物業的買賣協議或租約訂立之前，就該物業進行土地查冊，並向買方/租客提供該土地查冊結果的文本，否則有可能被監管局紀律處分。

#### INTRODUCTION

Licensees shall carry out a land search in respect of the property and supply a copy of the land search to the purchaser/tenant immediately before a provisional agreement for sale and purchase or a provisional tenancy agreement is entered into by the parties. Otherwise, they may be subject to disciplinary action by the EAA.

#### 事件經過

一名營業員在一宗住宅物業租賃中擔任雙邊代理。在安排租客簽訂租約前，該營業員並沒有於緊接租約訂立之前，向該租客提供物業的土地查冊結果的文本。而在他安排租客簽約時，該租約上的部分條款被遮蓋着。同時，該營業員曾向租客承諾會於租約簽訂後30天內，代其辦理加蓋印花手續及繳交印花稅。然而，該營業員最終未能兌現承諾，更延至兩個月後才為客人繳付印花稅。租客對此感到憤怒，遂向監管局作出投訴。

#### INCIDENT

A salesperson represented both the tenant and the landlord in a leasing transaction of a residential property. He failed to provide a copy of the land search of the relevant property to the tenant immediately before the tenancy agreement was entered into. Also, part of the terms and conditions of the tenancy agreement was covered when the salesperson arranged for the tenant to sign on it. Moreover, though the salesperson promised the tenant that he would submit the tenancy agreement for stamping and pay the stamp duty within 30 days after the agreement was signed, he failed to do so as he only paid the stamp duty after 2 months. Feeling angry, the client lodged a complaint against him.

#### 研訊結果

監管局紀律委員會認為，該營業員違反監管局發出的《操守守則》第3.4.1段，以及《地產代理常規(一般責任及香港住宅物業)規例》。結果，該營業員被譴責及罰款合共6,000元。

#### RESULT

The EAA Disciplinary Committee was of the view that the salesperson failed to comply with paragraph 3.4.1 of the *Code of Ethics* issued by the EAA and the Estate Agents Practice (General Duties and Hong Kong Residential Properties) Regulation. As a result, the salesperson was reprimanded and fined \$6,000 in total.



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#### 業界回應

上述個案中，該名持牌人除沒有在緊接物業的租約訂立之前進行土地查冊外，同時安排租客簽署部分條款被遮蓋的租約，實屬不當。此外，該名持牌人更沒有兌現承諾在30天內代客人辦理租約印花稅，有可能因過期繳付印花稅導致須付過期罰款。此等行為均沒有保障客戶權益並容易引起糾紛，作為專業的持牌人，必須引以為戒。

#### COMMENT FROM TRADE

In the above case, the licensee failed to carry out a land search and supply a copy of it to the tenant immediately before the tenancy agreement was entered into. In addition, part of the terms and conditions of the tenancy agreement was covered. Moreover, his failure to pay the stamp duty on behalf of his client on time might give rise to payment of penalty for late stamping. His behaviour not only failed to protect the interest of his client, but could also easily lead to disputes. A professional licensee should learn a lesson from this case.