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INTEGRITY IN FOCUS

紀律研訊個案： 誤導客戶將可獲批核之按揭貸款額 DISCIPLINARY HEARING CASE: MISLEADING A CLIENT ON THE MORTGAGE AMOUNT THEY WILL BE OFFERED



引言

持牌人不應向客戶就物業按揭貸款事宜上作出任何誤導或保證，否則有可能被監管局紀律處分。

INTRODUCTION

Licensees should not make any misrepresentation or promises about mortgages to clients. Otherwise, they may be subject to disciplinary action by the EAA.

事件經過

一名地產代理向一名準買家介紹一個一手服務式住宅物業。該地產代理向她聲稱，她必定可從發展商指定的借貸機構取得樓價八成半的按揭貸款。

在訂立臨時買賣合約前，該準買家再次向地產代理確認有關按揭貸款額，而該地產代理向她重申，貸款額可達樓價的八成半。

然而最終，買家因其財務狀況而只獲批樓價四成的按揭貸款。結果，該買家未能完成交易及被發展商沒收訂金。買家大感不滿，遂向監管局作出投訴。

INCIDENT

An estate agent introduced a first-hand serviced apartment to a prospective purchaser and told her that she could definitely obtain a mortgage loan of 85% of the purchase price from the lending institution appointed by the developer.

Before signing the provisional agreement of sale and purchase, the prospective purchaser reconfirmed the mortgage loan amount with the estate agent and the agent reassured her that the loan amount would cover up to 85% of the property price.

However, a mortgage loan to the purchaser of only 40% of the property price was finally approved due to her financial situation. As a result, the purchaser was unable to complete the transaction and her deposit was forfeited to the developer. Feeling aggrieved, she lodged a complaint with the EAA.

研訊結果

監管局紀律委員會認為，地產代理不可向買家作出任何按揭貸款金額的保證。該地產代理違反了《操守守則》第3.7.2段：「地產代理和營業員應避免做出可能令地產代理行業信譽及/或名聲受損的行為」。

委員會決定譴責該地產代理及暫時吊銷其牌照一個月，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。

RESULT

The EAA Disciplinary Committee was of the view that the estate agent should not have assured the purchaser that she would be able to obtain a certain amount of mortgage loan. The estate agent was in breach of paragraph 3.7.2 of the *Code of Ethics*, which stipulates: “estate agents and salespersons should avoid any practice which may bring discredit and/or disrepute to the estate agency trade.”

The Committee decided to reprimand the estate agent and suspend his licence for one month. A condition requiring him to obtain 12 points in the core subjects of the Continuing Professional Development Scheme in 12 months was also attached to his licence.



地產代理(從業員)總公會副主席
岑柱華先生

Mr Shum Chu-wah
Vice-Chairman of
Estate Agent Association

業界回應

從業員必須告知客戶在申請物業按揭時需經過銀行壓力測試，並以銀行批核作實。而在每宗交易過程中，從業員必須盡一切努力如實向客戶提供資料，不可作出任何誤導或胡亂作出任何承諾，令客戶蒙受損失，否則可能因此負上法律責任。

COMMENT FROM TRADE

Practitioners should inform their clients that there are stress-test and stressed-DSR (Debt-Servicing Ratio) cap for mortgage loans provided by banks, the availability of such mortgage loan is subject to individual banks' approval. Moreover, practitioners should provide valid information to clients in order to exercise due care and due diligence in each transaction. They should not make any misrepresentation or any promise to clients about mortgage loans. Otherwise, they may be subject to legal liability for causing loss to clients.

紀律研訊個案：以有別於客戶指示的放售價宣傳物業 DISCIPLINARY HEARING CASE: ADVERTISING A PROPERTY AT A DIFFERENT PRICE FROM THAT INSTRUCTED BY THE CLIENT

引言

持牌人不應以有別於客戶所指示的價格、租金或條款宣傳有關的住宅物業，否則有可能被監管局紀律處分。

INTRODUCTION

Licensees should not advertise a residential property at any price, rental or terms different from that instructed by the client concerned. Otherwise, they may be subject to disciplinary action by the EAA.

事件經過

監管局接獲一宗匿名投訴，有關一則網上的一手樓盤廣告。一間地產代理公司於網上物業平台發布該則一手住宅物業廣告，物業的售價標示為\$16,000,000。

根據一手住宅物業銷售資訊網所載的價單，該發展項目的售價由\$16,567,000至\$21,541,000。

INCIDENT

The EAA received an anonymous complaint regarding an online advertisement of a first-hand residential property posted by an estate agency company on an online property platform. The listing price of that property was \$16,000,000.

According to the price list on the Sales of First-hand Residential Properties Electronic Platform, the price of that development ranged from \$16,567,000 to \$21,541,000.