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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.

該地產代理公司聲稱收到發展商的特別通知，指可將樓盤售價調整至\$16,000,000或以下。但是，就監管局的查詢，發展商表示他們沒有指示任何受委託的地產代理公司根據價單以外的售價來調整售價。

The estate agency company claimed that it received a special notice from the developer that the price could be adjusted to \$16,000,000 or below. However, upon EAA's enquiry, the developer said they did not instruct any appointed estate agency companies to adjust the listing price other than that stated in the price list.

研訊結果

監管局紀律委員會認為，該地產代理公司以有別於賣方所指示的價格發布廣告，違反了《地產代理常規（一般責任及香港住宅物業）規例》第9(3)條：「持牌地產代理不得就其以持牌地產代理身分代理的住宅物業，安排或准許以有別於有關的客戶所指示的價格或租金或條款宣傳該住宅物業。」

在考慮個案的性質及該公司的違規紀錄後，委員會決定譴責該地產代理公司及罰款3,000元。

RESULT

The EAA Disciplinary Committee found that the estate agency company issued an advertisement in which the property price stated was different from that instructed by the vendor. Thus, it was in breach of section 9(3) of the Estate Agents Practice (General Duties and Hong Kong Residential Properties) Regulation: "A licensed estate agent shall not cause or permit to be advertised a residential property in respect of which he is acting as agent at a price or rental or on terms different from those instructed by the client concerned."

Having considered the nature and gravity of the case and the disciplinary record of that estate agency company, the EAA Disciplinary Committee reprimanded the estate agency company and fined it \$3,000.



地產代理管理協會有限公司會長
黃漢成先生

Mr Daniel Wong
President of Estate Agents
Management Association
Limited

業界回應

是次監管局研訊的結果十分公平合理，相信違規地產代理公司受到應有的懲處外，此個案對業界亦能起警惕作用。

本人深信唯有專業守規，才能提升整個地產代理業界的水平和社會地位，在此謹提醒各地產從業員，執業時務必守規守法，一起營造公平而健康的業界生態。

COMMENT FROM TRADE

The result of this disciplinary case is fair and reasonable. The non-compliant estate agency company was punished and I believe this case could be a warning to other trade members.

I am convinced that in order to enhance the professional standard and reputation of the trade, practitioners must act professionally and follow all the regulations and guidelines at all times. Let us develop a fair and healthy way of doing business in the industry.