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考慮到個案的性質及該營業員的違規紀錄，委員會決定譴責該名地產代理、向她罰款 10,000 元，並在其牌照上附加條件，要求她在 12 個月內取得持續專業進修計劃下的 12 個學分，當中至少 3 個學分須透過參加土地查冊科目的講座或研討會而獲取。

Having considered the nature and gravity of the case, and the disciplinary record of the estate agent, the Committee decided to reprimand the estate agent and impose a fine of \$10,000 on her. A condition was also attached to her licence requiring her to obtain 12 points of the CPD in 12 months, at least 3 CPD points shall be acquired from seminars or lectures on the land search subject.



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業界意見 Comment from trade

地產代理如知悉物業附有產權負擔，如押記令、建築令等，他們有責任如實告知客戶，並提醒準買家購買該物業的相關風險。

地產代理應充分掌握查閱土地查冊的技巧，從業員也可參與監管局開辦的相關課程，以溫故知新。

If estate agents know about the encumbrances of the property, such as charging order and building order etc, they are responsible to inform their clients accordingly and should also remind prospective purchasers of the risks of purchasing such a property.

Estate agents should be skilled at checking and reading a land search. Practitioners should participate in related seminars offered by the EAA to keep their knowledge up-to-date.

紀律研訊個案 Disciplinary hearing case

有關按揭資料的失實陳述

Misrepresentation on mortgage information

引言

持牌人不得向準買家就按揭條款作出任何失實陳述或承諾，否則有可能被監管局紀律處分。

Introduction

Licencees should not make any misrepresentation or promises to prospective purchasers on mortgage terms. Otherwise, they may be subject to disciplinary action by the EAA.

事件經過

一名營業員向一名準買家介紹一個一手住宅物業，並以該項目其中一個售價逾 6,000,000 元的單位作為例子，向準買家解釋按揭計劃的計算方法。該營業員向準買家表示，可透過香港按揭證券有限公司推出的按揭保險計劃，向銀行取得樓價八成的按揭貸款。

Incident

A salesperson introduced a first-hand residential property to a prospective purchaser and used one of the units of that development with a listing price of over \$6,000,000 as an example to explain to her the calculation of a mortgage plan. The salesperson told her that she could obtain a mortgage loan of 80% of the purchase price from a bank under the Mortgage Insurance Programme ("MIP") launched by The Hong Kong Mortgage Corporation Limited.

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基於以上資訊，該買家決定以 6,851,000 元購買其中一個單位，並簽訂臨時買賣協議。其後，她向多間銀行查詢，卻被告知因該物業的樓價超過 6,000,000 元，所以不獲批出八成的按揭貸款。

結果，她只能取得樓價六成的按揭貸款，需向家人借款才能夠完成交易。該買家深感不滿，遂向監管局投訴。

Based on the above information, the purchaser decided to purchase one of the units at a price of \$6,851,000 and entered into the provisional agreement of sale and purchase. However, she was then informed by different banks that she was unable to obtain an 80% mortgage loan as the property price was over \$6,000,000.

As a result, the purchaser could only obtain a mortgage of 60% of the property price and had to borrow money from her family in order to complete the transaction. Feeling aggrieved, she lodged a complaint with the EAA.

研訊結果

監管局紀律委員會認為該營業員就按揭資料向客戶作出失實陳述。根據按揭保險計劃，八成按揭成數上限只適用於樓價 6,000,000 元或以下的物業。

因此，他違反了監管局發出的《操守守則》第 3.2.2 段：「地產代理和營業員應掌握有關的一切法律、政府規例，及地產市場的重要事實和發展」。考慮到個案的性質及該營業員的違規紀錄，委員會決定譴責該名營業員、罰款 8,000 元，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 個學分，當中至少 2 個學分須透過參加一手住宅物業科目的講座或研討會而獲取。

Result

The EAA Disciplinary Committee found that the salesperson had made a misrepresentation to his client on mortgage information. According to the MIP, a mortgage loan of up to 80% loan-to-value ratio is applicable to property values up to \$6,000,000 only.

Therefore, he was in breach of paragraph 3.2.2 of the *Code of Ethics* which stipulates: “Estate agents and salespersons should keep themselves informed of any laws, government regulations, essential facts and developments in the real estate market”. Having considered the nature and gravity of the case and the disciplinary record of the salesperson, the Committee decided to reprimand him, impose a fine of \$8,000 and attach a condition to his licence requiring him to obtain 12 points under the EAA’s Continuing Professional Development Scheme in 12 months, at least 2 CPD points shall be acquired from seminars or lectures on the first-sale residential property subject.



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業界意見 Comment from trade

地產代理應緊記，失實言詞有違專業操守。消費者也應留意寫在臨時買賣合約上的物業成交價及成交日期，並先到銀行查詢樓宇按揭預先批核及物業估值才簽署合約，以策安全。

Estate agents should bear in mind that misrepresentation is against professional conduct. At the same time, consumers should pay attention to the price and the date of transaction stated in the preliminary agreement for sale and purchase (“PASP”), check with banks on the valuation of the property and seek prior approval on mortgage before signing the PASP to play safe.