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業界意見 Comment from trade

不少從業員在工作上可能會向客戶提供額外服務，業主基於信任才委託地產代理協助新租客，而代理在接受業主委託後，便應盡己所能履行及提供忠誠服務。從業員不應像個案中的代理，因其行為已違反《操守守則》。

Many practitioners may offer clients with additional services in the course of their work. The estate agent should do her best to assist the new tenant and be loyal to the landlord who trusted her. Practitioners should not behave like the estate agent in this case as her action has violated the *Code of Ethics*.

紀律研訊個案 Disciplinary hearing case

就物業的水電供應作出失實陳述

Misrepresentation on the provision of public utilities of a property

引言

持牌人不得就物業相關的任何資訊作出失實陳述，否則有可能被監管局紀律處分。

Introduction

Licensees must not make any misrepresentation to clients on any information related to a property. Otherwise, they may be subject to disciplinary action by the EAA.

事件經過

一名地產代理在一項地舖租賃中被委任為雙邊代理。在視察該物業時，準租客查詢地舖內是否有供水，該地產代理向準租客確認物業內設有水電供應。

Incident

An estate agent was appointed as the dual agent in the tenancy of a street shop. During the property inspection, the potential tenant asked the estate agent whether there was any water supply in the property. He replied that there was both water and electricity supply.

及後，該地產代理安排該租客訂立臨時租約。租客後來才發現該物業並沒有設置水錶，他須自行向水務署申請水錶。

Later, the estate agent arranged for the tenant to enter into a provisional tenancy agreement. After signing, the tenant discovered that the property did not have a water meter and he needed to apply one from the Water Supplies Department.

此外，租客發現該地產代理修改了臨時租約的條款，卻沒有取得他的書面同意或安排他就已修改的條款簽名作實。租客對此深感不滿，遂向監管局投訴。

In addition, the tenant discovered that the estate agent had amended the provisional tenancy agreement without seeking his written consent or arranged for him to initial against the relevant amendment. Feeling aggrieved, the tenant lodged a complaint with the EAA.

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研訊結果

該地產代理在回覆租客的查詢前沒有核實相關物業是否設有水錶，監管局紀律委員會認為該地產代理向客戶作出失實陳述，沒有保障及促進客戶利益，因而違反了監管局發出的《操守守則》第 3.4.1 段。

另外，上文提及他沒有妥善處理有關修改臨時租約的條款，因此，他亦違反了《操守守則》第 3.2.1 段。

考慮到個案的性質及該地產代理的違規紀錄，委員會就上述兩項違規決定譴責該名地產代理、暫時吊銷其牌照七日，並在其牌照上附加條件，要求他在 24 個月內取得持續專業進修計劃下的 24 個學分。

Result

The estate agent did not verify whether there was a water meter installed for the property before he replied to the tenant. The EAA Disciplinary Committee found that the estate agent made a misrepresentation to the client and failed to protect and promote his interests. Therefore, he was in breach of paragraph 3.4.1 of the *Code of Ethics* issued by the EAA.

He was also in breach of paragraph 3.2.1 of the *Code of Ethics* regarding the improper handling of an amendment of a term of the provisional tenancy agreement mentioned above.

With regard to the above two breaches and having considered the nature and gravity of the case and the disciplinary record of the estate agent, the Committee decided to reprimand him, suspend his licence for seven days, and attach conditions to his licence requiring him to obtain a total of 24 points under the Continuing Professional Development Scheme in 24 months.



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業界意見 Comment from trade

該地產代理在回覆租客前沒有核實相關物業是否設有水錶，租客可能因水源問題面對爭拗或訴訟，因此他沒有保障客戶利益。

另外，他並未就已修改的條款給雙方簽名作實，這是相當嚴重的失當行為。因租約上任何修改的條款，一定要租客與業主雙方確認並簽名作實，合約方能生效。

As the estate agent did not verify whether there was any water meter in the property before reverting to the tenant, he failed to protect his client's interest as the tenant might face disputes or lawsuits arising from the issue of water supply.

In addition, after revising the terms in the provisional tenancy agreement, he failed to arrange for both parties to sign the revised agreement, which is a severe malpractice. A valid tenancy agreement should have the signature of both parties regarding any amendments made.