

誠信與你

Integrity in Focus

紀律研訊個案 Disciplinary hearing case

就地產代理業務刊登具誤導性資訊的廣告

Advertising in relation to its estate agency business with misleading information

引言

地產代理公司切勿就其地產代理業務刊登具誤導性資訊的廣告，否則，有機會被監管局紀律處分。

Introduction

An estate agency company must not put up an advertisement in relation to its estate agency business with misleading information. Otherwise, it may be disciplined by the EAA.

事件經過

一間地產代理公司於報章上刊登一則廣告，當中載有一些字眼表明該公司為某發展商行事，以協助收購座落於某街道某些幢數的物業。然而，廣告中所使用的字眼亦提及一些其他幢數的物業，造成公眾誤會，以為這些幢數物業也是由該公司所成功收購，但事實並非如此。由於這些幢數物業的業主並沒有透過該地產代理公司出售其物業，卻因該廣告而受到不必要的煩擾，他們遂向監管局作出投訴。

Incident

An estate agency company published an advertisement in a newspaper stating that it acted for a developer in its acquisition of a number of blocks on a specific street. However, the wording of the advertisement also mentioned some other blocks which caused a misleading impression to the public that the estate agency company had helped the developer to successfully acquire those blocks, which was not true. As some owners of these blocks did not engage the estate agency company concerned to sell their properties, annoyances were caused to these owners by the misleading advertisement, and thus they lodged a complaint to the EAA.



研訊結果

監管局紀律委員會認為，該地產代理公司刊登了具誤導性資訊的廣告，造成公眾誤會，違反了《操守守則》第 3.7.2 段，即「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」。

考慮到個案的性質及該地產代理公司的違規紀錄，紀律委員會決定譴責該地產代理公司，並向其罰款 15,000 元。

Result

The EAA Disciplinary Committee was of the view that the estate agency company published an advertisement which contained misleading information and had caused confusion to members of the public. Hence, it 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.”

Having considered the nature and gravity of the case, and the disciplinary record of the estate agency company, the Committee decided to reprimand it and impose a fine of \$15,000.



黃漢成先生
地產代理管理協會會長
Mr Daniel Wong
President of Estate Agents
Management Association

業界意見 Comment from trade

隨著社會的進步，消費者權益日漸受到重視，作為專業的地產代理，對於物業資料的收集和廣告的發放，須加倍的審慎，除進行相關的盡職審查外，在發放廣告時，亦要確保廣告內的資料正確無誤，避免買家或業主因廣告內容失實或誤導而招致損失。

As consumer rights are getting stronger, a professional estate agent should be extremely prudent when obtaining property information and issuing advertisements. As well as conducting the relevant due diligence, they must ensure the information in the advertisements is accurate and not misleading or false in order to protect the purchaser and the landlord from suffering any losses.

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向一手物業準買家提供貸款

Offering loan to prospective purchaser of first-hand property

引言

Introduction

持牌人在任何情況下都不得向一手住宅物業的準買家提供或提出提供貸款，否則有可能被監管局紀律處分。

Licencees must not offer or make loans to a prospective purchaser of first-hand residential properties under any circumstances. Otherwise, they may be subject to disciplinary action by the EAA.

事件經過

Incident

一名地產代理安排一名準買家視察某一手住宅樓盤的示範單位。視察完畢後，該名準買家被游說購買該物業，她最終簽署臨時買賣協議。然而，當她以信用卡支付十萬元作為部分訂金後，因知悉其信用卡公司的手續費相當昂貴，遂決定以支票支付餘下的六十萬元訂金。

An estate agent arranged for a prospective purchaser to view a show flat of a first-hand residential development. After the inspection, the prospective purchaser was persuaded by the estate agent to purchase the property and she finally signed a provisional agreement for sale and purchase. However, after paying \$100,000 with her credit card as part of the deposit, the prospective purchaser realised that the handling charges of her credit card company was too high and she decided to pay the remaining deposit of \$600,000 by cheque.

由於該準買家未能趕及在售樓處關閉前取得其支票簿，地產代理向準買家提供一張由他所屬的地產代理公司開出的支票，用作向發展商支付訂金，要求準買家則於翌日早上以她本人的支票交換。可是，準買家當晚因考慮到需支付巨額印花稅而改變主意，決定取消交易。而她已支付的十萬元訂金則被沒收。她感到因被地產代理過度游說而作出錯誤的購買決定，遂向監管局投訴。

As the prospective purchaser could not obtain her own cheque book before the first-sale site closed, the estate agent then offered her a cheque issued by the estate agency company to pay the remaining deposit to the developer, and in return the prospective purchaser was asked to repay them with her own cheque the next morning.

However, later that night, the prospective purchaser changed her mind and decided to cancel the deal due to the heavy stamp duty, and her deposit of \$100,000 was forfeited. She blamed the estate agent for over-persuading her to make the wrong purchase decision and lodged a complaint to the EAA.



研訊結果

監管局紀律委員會認為該地產代理及其地產代理公司沒有遵守執業通告（編號 13-04（CR））的指引，即「持牌人不可向準買家提供貸款」，因此違反了《操守守則》第 3.2.1 段：「地產代理和營業員應熟悉並必須在執業時遵守《地產代理條例》、其附屬法例、本操守守則，以及由監管局不時發布的所有其他指引。」此外，該地產代理公司因未有設立妥善的程序或制度以監督和管理其地產代理業務，以確保其僱員遵守《地產代理條例》，同時亦違反了《地產代理常規（一般責任及香港住宅物業）規例》第 15 條。

考慮到個案的性質及違規紀錄，委員會決定譴責該地產代理公司、罰款合共 150,000 元；而該涉事地產代理則被譴責、罰款 30,000 元、暫時吊銷牌照 6 個星期，其牌照亦被附加條件，要求他在 12 個月內取得持續專業進修計劃下的 12 個學分。

Result

The EAA Disciplinary Committee found that the estate agent and the estate agency company he worked for failed to comply with the guidelines set out in the Practice Circular No. 13-04 (CR), which states that licensees must not offer or make loans to a prospective purchaser. Hence, they were in breach of paragraph 3.2.1 of the *Code of Ethics* which states that “Estate agents and salespersons should be fully conversant with the EAO, its subsidiary legislation, this Code of Ethics, and other guidelines issued by the EAA from time to time and shall observe and comply with them in the course of their practice”. In addition, the estate agency also violated section 15 of the Estate Agents Practice (General Duties and Hong Kong Residential Properties) Regulation as it failed to establish proper procedures and systems to ensure that employees or persons under its control comply with the Estate Agents Ordinance.

Having considered the nature and gravity of the case and the disciplinary record of the estate agency company, the Committee decided to reprimand the company and impose a fine of \$150,000. The estate agent concerned was reprimanded and fined \$30,000. His licence was also suspended for six weeks and a condition was attached to his licence requiring him to obtain 12 points under the EAA’s Continuing Professional Development Scheme in 12 months.



李景亮先生
香港房地產代理業聯會主席
Mr Paul Lee
Chairman of Hong Kong Property
Agencies Association

業界意見 Comment from trade

從業員必須遵守監管局指引，絕不可代客墊支，倘若遇到個案中的情況，可建議準買家借用親戚或朋友的支票，惟地產代理不可向客戶提供貸款。另外，地產代理公司應設立有效監控措施，提醒並確保前線員工遵守相關指引。

Practitioners must comply with the EAA guideline that they must not offer loans to clients. Under the circumstances of this case, the estate agent could have suggested to the prospective purchaser that if she could not obtain her own cheque book before the first-sale site closed she could try to contact her friends or relatives to see if they could help her with a cheque. Under no circumstances should the estate agent offer a loan to his client. In addition, the estate agency company should have set up effective monitoring measures to remind and ensure that its frontline staff comply with the relevant guidelines.