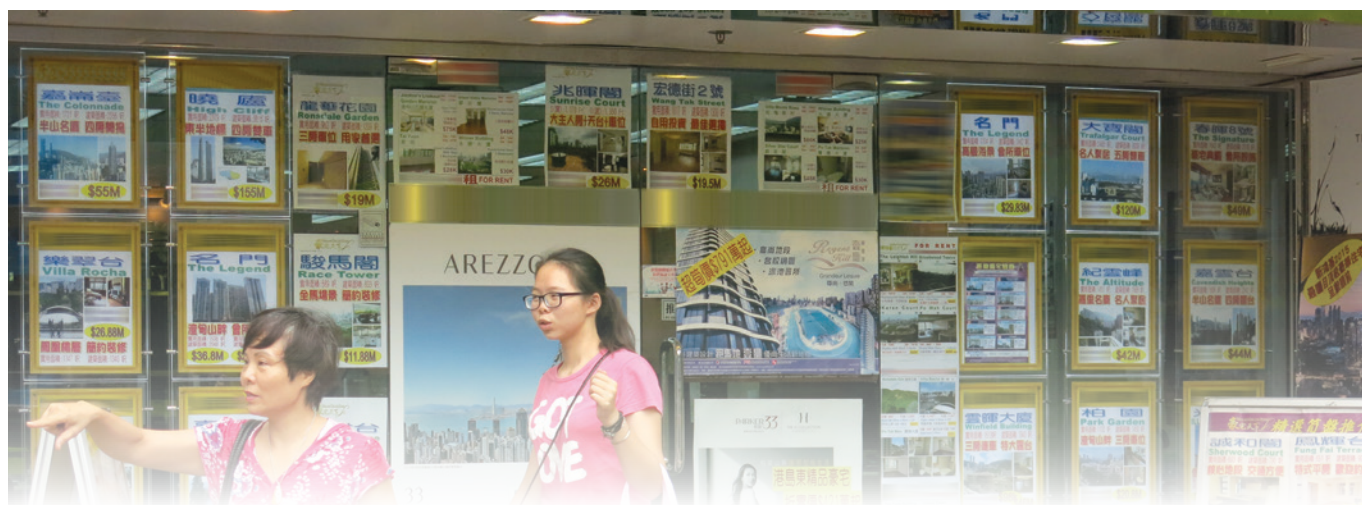




紀律研訊個案 Disciplinary hearing case

沒管有物業的訂明資料

Failing to possess the prescribed information in relation to the property

引言

持牌人須向客戶提供準確及最新的物業資料，並且管有住宅物業的訂明資料，否則有可能被監管局紀律處分。

Introduction

Licensees should provide accurate and up-to-date property information to their clients and possess the prescribed information in relation to the residential property. Otherwise, they may be subject to disciplinary action by the EAA.

事件經過

在巡查期間，監管局要求一間地產代理公司就其張貼於櫥窗上的一則住宅物業廣告提供訂明文件。然而，該地產代理公司只提供了相關的地產代理協議及差餉物業估價署「物業資訊網」的查冊記錄，但未能提供相關的土地查冊。

該公司的董事解釋，其員工忘記在地產代理協議有效期間開始當日，就該物業進行土地查冊。

Incident

During an inspection, an estate agency company was requested by the EAA to provide the prescribed information of a residential property being advertised in the shop window. However, the estate agency company could only provide the estate agency agreement and the property information from the Rating and Valuation Department, but failed to provide the land search record.

The director of the company explained that their staff forgot to carry out a land search of the property on the commencement date of the validity period of the estate agency agreement.

研訊結果

監管局紀律委員會認為，該地產代理公司與物業的賣方訂立地產代理協議，並為賣方行事，惟該公司卻沒管有相關物業的資料，如註冊於土地查冊處的當時擁有權及有效的產權負擔、政府租契等資料，因而違反了《地產代理條例》第36(1)(a)(i)條，即「如持牌地產代理代

Result

The EAA Disciplinary Committee was of the view that the estate agency company had entered into an estate agency agreement with the vendor and acted for the vendor. However, it failed to possess the property information, such as the current ownership, subsisting encumbrances and Government lease, as registered in the Land Registry. Therefore, the company was in breach of section 36(1)(a)(i) of the Estate Agents Ordinance which stipulates that “*if a licensed estate agent acts for the*

表賣方行事並與其訂立地產代理協議，他必須管有或控制某些訂明的物業資料。」

考慮到個案的性質、類似個案的罰則，以及該地產代理公司的違規紀錄，紀律委員會決定譴責該公司、並向其罰款25,000元。

vendor and has entered into an estate agency agreement with him, he is required to have in his possession or control certain prescribed property information.”

Having considered the nature and gravity of the case and the disciplinary record of the estate agency company, the Disciplinary Committee decided to reprimand the company, and impose a fine of \$25,000.



吳元興先生
地產代理（從業員）總公會主席
Mr Evan Ng
Chairman of Estate Agent Association

業界意見 Comment from trade

部分從業員可能過分依賴公司的內部資訊，而忽略了須從訂明來源取得相關資料的必要。地產代理公司的管理層可鼓勵員工參與持續專業進修活動，以熟習基本執業要求，避免再次違規。

Some practitioners may rely too much on their company's internal information and fail to obtain the relevant information from the prescribed source. Management of estate agency companies should encourage their staff to participate in the Continuing Professional Development activities to familiarise themselves with the basic practice requirements to prevent them from breaking the rules again.

紀律研訊個案 Disciplinary hearing case

未有在物業廣告中述明物業編號、廣告日期及實用面積 Failing to state the Property Number, advertisement date and saleable area on the property advertisement

引言

地產代理公司在發布物業廣告時，必須清楚述明該物業的編號及發出廣告的日期。於住宅物業廣告中提供的樓面面積資訊，應是從差餉物業估價署取得或首次轉讓的買賣協議中述明之實用面積資料，否則有可能被監管局紀律處分。

Introduction

When issuing property advertisements, estate agency companies must state clearly and legibly the Property Number(s) of the properties advertised and the date on which the advertisements are issued; and if the floor area information of the residential property is mentioned, they should provide the saleable area information obtained from the Rating and Valuation Department (“RVD”) or as stipulated in the agreement for sale and purchase of the first assignment of the property (“First Agreement”). Otherwise, they may be subject to disciplinary action by the EAA.

事件經過

監管局接獲投訴，指某地產代理公司未有在其物業廣告中清楚述明物業編號及發出廣告

Incident

The EAA received a complaint claiming that an estate agency company did not state clearly and legibly the property number and the advertisement

的日期。在調查期間，監管局職員向該公司抽查兩則住宅物業廣告。該兩則廣告中列出的物業實用面積分別是512平方呎及426平方呎。然而，根據差餉物業估價署的資料顯示，該兩個物業正確的實用面積分別是509平方呎及413平方呎；而相關的首次轉讓的買賣協議中則述明實用面積分別是531平方呎及438平方呎。此外，該地產代理公司亦未有在該兩則物業廣告中述明物業編號及廣告日期。

date. During the investigation, the EAA staff required the company to provide two residential property advertisements for checking. In the advertisements, the saleable area of the two properties was 512 sq. ft. and 426 sq. ft. respectively. However, according to the RVD record, the actual saleable area of the two properties should be 509 sq. ft. and 413 sq. ft., and the saleable areas of the two properties were 531 sq. ft. and 438 sq. ft. as respectively stipulated in the First Agreement. Also, the estate agency company failed to state the property number and the advertisement date on both of the advertisements.

研訊結果

Result

監管局紀律委員會認為，該地產代理公司違反了《操守守則》第3.2.1 段，即「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、操守守則，以及由監管局不時發布的所有其他指引」；亦違反了監管局發出的執業通告（編號18-02（CR）），即未有清楚述明該廣告的物業編號及發出廣告或更新的日期。另外，該公司也違反了執業通告（編號12-02（CR）），即未有提供從差餉物業估價署或在首次轉讓的買賣協議中取得物業的實用面積資料。

The EAA Disciplinary Committee found that the estate agency company failed to comply with 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” and also breached the Practice Circular No. 18-02 (CR) issued by the EAA by failing to state clearly and legibly or ensure that it was stated clearly and legibly the Property Number(s) of the properties advertised and the date on which the advertisements are issued or updated. It also breached the Practice Circular No. 12-02 (CR) by failing to provide in the advertisement the saleable area of the property which can be obtained from the RVD or as stipulated in the First Agreement of the property.

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公司，並就其三項違規向其罰款合共10,000 元。

Having considered the nature and gravity of the case and their disciplinary record, the Disciplinary Committee decided to reprimand the estate agency company, and impose a total fine of \$10,000 as the sanction for the three breaches.



柯興捷先生
香港專業地產顧問商會副會長
Mr Stephen Or
Vice President of Hong Kong Chamber of Professional Property Consultants Ltd.

業界意見 Comment from trade

個案中的違規事件屬低級錯誤，當地產代理受委託處理住宅物業買賣時，須為客戶提供重要物業資料，俗稱「開門七件事」。由於買賣雙方普遍以物業呎價為考量，倘若客戶獲得的實用面積資料不準確，有可能影響他們的購買決定。

The licensee of the case committed a fundamental mistake. When estate agents are appointed to handle the sale and purchase of residential properties, they need to provide certain key property information to their clients. Since property price per square foot is one of the major considerations for the vendor and purchaser, inaccurate saleable area information may affect their transaction decision.