

## 紀律研訊個案 Disciplinary hearing case

### 有關按揭資訊的失實陳述 Misrepresentation on mortgage information

#### 引言

持牌人不得向客戶提供任何不準確的按揭計劃資料或保證其可獲得某按揭貸款金額或條款，否則有機會被監管局紀律處分。

#### Introduction

Licensees must not provide any inaccurate information on mortgage plans to clients or give any assurance that a certain amount of mortgage loan or terms could be successfully obtained. Otherwise, they may be disciplined by the EAA.

#### 事件經過

一名地產代理安排一名準買家視察某個工廈單位。因該準買家並不是香港居民，故此她向代理查詢是否可向香港的銀行取得按揭貸款。該名地產代理向她稱，她能夠取得樓價八成的按揭貸款。在簽訂臨時買賣合約前，代理亦再次向她列出利息、兩成首期及八成按揭貸款的金額等資料。

其後，該買家向數家香港銀行查詢按揭事宜。然而，各銀行均拒絕向她提供按揭貸款；只有一間銀行表示因她的主要收入來源來自香港以外地區，而最高只能批出樓價三成的按揭貸款。她最終取消交易，並向監管局作出投訴。

#### Incident

An estate agent arranged for a prospective purchaser to inspect an industrial property. The prospective purchaser, who is not a Hong Kong resident, asked the estate agent if she could obtain a mortgage from a bank in Hong Kong. The estate agent replied that she could obtain a mortgage loan of 80% of the property price. Before entering into the provisional agreement for sale and purchase, the estate agent reconfirmed the client on the interest rate, amount of 20% down payment and amount of mortgage loan she could obtain.

Later, the purchaser visited several banks in Hong Kong to make enquiries for a mortgage loan. However, most of the banks refused to provide her a mortgage loan of the property, only one bank indicated that as her main source of income was outside Hong Kong, the bank could only grant her a mortgage loan of 30% of the property price. She finally cancelled the transaction and lodged a complaint with the EAA.



## 研訊結果

監管局紀律委員會認為，該地產代理沒有充分理解香港金融管理局（「金管局」）制定的措施，並向其客戶作出有關按揭資料的失實陳述。根據金管局當時的指引，主要收入來自香港以外地區的申請人，就工商物業承造的物業按揭成數上限為樓價之三成。

因此，該地產代理違反了《操守守則》第3.2.2段，即「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，以便能盡責地向客戶提供意見。他們應盡量憑本身在地產方面的知識、訓練、資歷和經驗向客戶提供服務和意見」。

考慮到個案的性質及該地產代理的違規紀錄，紀律委員會決定譴責該名地產代理，向他罰款2,000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。

## Result

The EAA Disciplinary Committee was of the view that the estate agent made a misrepresentation on mortgage information to his client without being fully conversant with the measures of the Hong Kong Monetary Authority ("HKMA"). According to the guidelines issued by HKMA at the material time, the maximum debt-servicing ratio for commercial and industrial properties for which an applicants' income is mainly derived from outside Hong Kong is 30% of the property price.

Hence, the estate agent was in breach of paragraph 3.2.2 of the *Code of Ethics* which states that "Estate agents and salespersons should keep themselves informed of any laws, government regulations, essential facts and developments in the real estate market in order to be in a position to advise their clients in a responsible manner."

Having considered the nature and gravity of the case, and the disciplinary record of the estate agent, the Committee decided to reprimand him, impose a fine of \$2,000 and attached a condition to his licence, requiring him to obtain 12 points under the EAA's Continuing Professional Development Scheme in 12 months.



廖志明先生  
香港新界地產代理商聯會永遠榮譽主席  
**Mr Liu Chi-ming**  
Life-long President of H.K.N.T. Estate  
Agents & Merchants Association

## 業界意見 Comment from trade

地產代理不應輕率地向客戶作出任何有關按揭金額或條款的承諾，從業員應謹記作出失實陳述是不負責任的行為，他們應建議客戶諮詢相關銀行或金融機構。

Estate agents must not assure their clients on the amount of mortgage loan that they will be able to obtain, or make any guarantees on the mortgage terms. Practitioners should bear in mind that making misrepresentations is irresponsible and they should advise their clients to consult banks or financial institutions.

## 紀律研訊個案 Disciplinary hearing case

## 發出虛假或誤導性廣告

## Issuing a false or misleading advertisement

## 引言

持牌人不可在物業廣告中使用不屬於該物業的照片，否則有機會因發出虛假或誤導性廣告而被監管局紀律處分。

## Introduction

Licensees must not use photos which are not taken from the property being advertised in advertisements. Otherwise, they may be disciplined by the EAA for issuing a false or misleading advertisement.

## 事件經過

一名賣家委託一間地產代理公司放售其物業。後來，她在該地產代理公司的網站上發現自己物業的照片出現於另一物業的廣告內。

該賣家對於自己物業的照片被用作宣傳其他物業深感不滿，遂向監管局投訴該地產代理公司。

就監管局的調查，該地產代理公司表示已得悉事件，並已向涉事的地產代理作出警告，表示其公司一向設有監察措施以確保員工遵守監管局發出的要求及指引，亦會加強監督有關分行的運作以防類似事件再度發生。

## Incident

A vendor appointed an estate agency company to sell a property she owned. Later, she found photos of her property being shown to advertise another property, which was not hers, on the website of the estate agency company.

Feeling discontent that her own property photos were being used to promote another property, she lodged a complaint against the estate agency company.

In replying to the EAA's enquiries during investigation, the estate agency company said that they had warned the relevant estate agent after the incident was brought to their attention. The company also said that it has monitoring measures to ensure the compliance of its staff to the requirements and guidelines issued by the EAA, the company assured that it would strengthen the supervision of the branch's operation so to avoid similar mistake from happening again.



### 研訊結果

監管局紀律委員會認為，該地產代理公司發出全部或部分與其地產代理業務有關並載有在要項上屬虛假或具誤導性陳述或詳情的廣告。因此，該公司違反了《地產代理常規（一般責任及香港住宅物業）規例》第9(1)條。

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40,000元。

### Result

The EAA Disciplinary Committee was of the view that the estate agency company issued an advertisement wholly or partly relating to its estate agency business which includes any statement or particular that is false or misleading in a material particular. Hence, the company was in breach of section 9(1) of the Estate Agents Practice (General Duties and Hong Kong Residential Properties) Regulation.

Having considered the nature and gravity of the case, the sanctions for similar cases and the disciplinary record of the estate agency company, the Committee decided to reprimand it and impose a fine of \$40,000.



黃健基先生  
香港地產代理商總會秘書長

**Mr Andy Wong**  
Chief Secretary of Hong Kong Real Estate  
Agencies General Association

### 業界意見 Comment from trade

個案中的地產代理公司除令賣家失去信任外，準買家亦會因在視察物業時發現與廣告不符而產生被騙感覺。這不但有損該公司商譽，亦有機會破壞交易，亦令客戶對地產代理行業失去信任。

The estate agency company lost the trust of the vendor. At the same time, the prospective purchaser will also feel cheated when he/she finds out that the property he/she inspects is not the same as the one advertised. This will undermine the reputation of the company as well as the possibility of a transaction, and will also make customers lose confidence in the estate agency trade.