



## 紀律研訊個案 Disciplinary hearing case

### 作出可獲取的按揭貸款額保證

### Giving an assurance on the amount of mortgage loan that could be obtained

#### 引言

持牌人不得向客戶作出其可成功取得某按揭貸款額或有關按揭條款的保證，他們應建議準買家直接向銀行及財務機構查詢。否則，他們有可能被監管局紀律處分。

#### Introduction

Licensees must not give any assurances to clients that a certain amount of mortgage loan or terms could be successfully obtained. They should advise prospective purchasers to make enquiries directly with the banks or finance institutions concerned. Otherwise, they may be disciplined by the EAA.

#### 事件經過

一名營業員安排一名準買家視察一個一手住宅物業，該準買家表示，該物業售價太高而無法負擔。該營業員遂向她聲稱，倘若她經指定按揭轉介服務公司申請按揭，便可承造相等於樓價八成的按揭貸款。基於該營業員的陳述，準買家便決定購買該物業。

在訂立臨時買賣協議（「臨約」）後，準買家聯絡該按揭轉介服務公司申請按揭；然而，該公司職員卻告訴她，除非她可提供另一物業申請

#### Incident

A salesperson arranged for a prospective purchaser to inspect a first-hand residential property. The prospective purchaser said the price was too high to afford. The salesperson then told her that she could obtain a mortgage loan of 80% of the property price through a designated mortgage services company. Relying on this statement by the salesperson, the prospective purchaser decided to purchase the property.

After entering into the Provisional Agreement for Sale and Purchase ("PASP"), the purchaser contacted the mortgage services company to apply for a mortgage loan. However, the company informed her that

轉按，否則只能承造相等於樓價五成的按揭貸款。準買家因未能獲得所需的按揭貸款，遂取消交易並向監管局作出投訴。

she could only obtain a loan of 50% of the property price unless she could provide another property for refinancing. Being unable to get the mortgage loan, she cancelled the transaction and lodged a complaint with the EAA.

## 研訊結果

監管局紀律委員會認為，該營業員在安排買家訂立臨約前，不應作出任何保證買家能成功獲批按揭貸款以購買該物業的陳述。

因此，他沒有遵守執業通告（編號13-04（CR））的指引，因而違反《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」。

考慮到個案的性質及該營業員的違規紀錄，紀律委員會決定向他作出譴責及罰款7,000元。

## Result

The EAA Disciplinary Committee was of the view that before arranging for the purchaser to sign the PASP, the salesperson should not have made any statement to assure the purchaser that she could successfully obtain a mortgage loan to finance her purchase.

Hence, he failed to comply with the guidelines set out in Practice Circular No. 13-04(CR) and thus was in breach of paragraph 3.2.1 of the *Code of Ethics* which stipulates: “Estate agents and salespersons should be fully conversant with the Estate Agents Ordinance, 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.”

Having considered the nature and gravity of the case, and the disciplinary record of the salesperson, the Committee decided to reprimand him, and imposed on him a fine of \$7,000.



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香港地產代理商總會主席  
**Ms Karen Sze**  
Chairman of Hong Kong Real Estate  
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## 業界意見 Comment from trade

專業地產代理應對客戶負責，為他們提供準確的物業資料。倘若買家需申請按揭貸款，代理應建議客戶先行諮詢銀行才作購買決定。個案中的買家，因從業員提供的錯誤資訊導致金錢損失；其實，不同按揭計劃的審批條件各異，因此，地產代理應提醒客戶尋求專業意見。

Professional estate agents should be accountable to their clients and provide them with accurate property information. If a purchaser needs to apply for a mortgage loan, estate agents should advise him/her to make inquiries from the bank before making a purchase decision. In this case, the purchaser lost her deposit due to the false information provided by the practitioner. In fact, as different mortgage plans may have different approval requirements, estate agents should remind their clients to seek professional advice.