



## 紀律研訊個案 Disciplinary hearing case

# 在社交平台上披露客戶的個人資料 Disclosing a client's personal data on social media

### 引言

持牌人應遵守《個人資料（私隱）條例》以及由監管局發出有關收集、使用和處理個人資料的指引。否則，有可能被監管局紀律處分。

### Introduction

Licenses should comply with the Personal Data (Privacy) Ordinance and the relevant guidelines issued by the EAA in respect of the collection, use and handling of personal data. Otherwise, they may be subject to disciplinary action by the EAA.

### 事件經過

一名持牌營業員在處理物業租賃時取得租客的個人資料，包括其身份證號碼及職員證副本，作為向業主提供的工作證明。租客與業主簽訂為期兩年的租約，數月後，租客要求提前終止租約，但被業主拒絕。其後，租客停止繳付租金。該名營業員獲業主授權處理物業事宜，遂自行決定在社交平台上發布遮蓋了部分資料的租客姓名、手機號碼、身份證號碼及職員證副本。租客發現該帖文後，向私隱專員公署及監管局作出投訴。在監管局調查期間，該名營業員承認在社交平台發布相關貼文，藉此代表業主逼使租客繳付租金。私隱專員公署調查亦發現該營業員在事件中涉及違反《個人資料（私隱）條例》附表一的保障資料第3原則的規定。

### Incident

A salesperson obtained personal data from a tenant, including her ID number and a copy of her staff card, as proof of employment to provide to the landlord. The tenancy term was for two years but after a few months the tenant requested an early termination which was rejected by the landlord. After the rejection the tenant stopped paying rent. Being authorised by the landlord to handle the tenancy matter, the salesperson decided to post on a social media platform the tenant's name, mobile number, ID number and a copy of her staff card with partial details redacted. The tenant discovered the post and lodged a complaint with the Office of the Privacy Commissioner for Personal Data ("PCPD") and the EAA. During the EAA investigation, the salesperson admitted that he had uploaded the post to pressure the tenant into paying rent on behalf of the landlord. A PCPD investigation also found that the behaviour of the salesperson contravened the Data Protection Principle 3 in Schedule 1 of the Personal Data (Privacy) Ordinance.

## 研訊結果

## Result

監管局紀律委員會認為該營業員沒有遵守監管局發出的執業通告（編號13-05(CR)），在沒有取得租客的同意下，在社交平台上披露租客的個人資料。因此，該營業員違反了監管局發出的《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。」

考慮到個案的性質及該營業員的違規紀錄，委員會決定譴責他，罰款共12,000港元，暫時吊銷其牌照一個月，並要求他在12個月內取得持續進修計劃下的12個學分。

The EAA Disciplinary Committee was of the view that the salesperson failed to comply with the Practice Circular (No. 13-05(CR)) issued by the EAA, disclosing the personal data of the tenant on social media without obtaining her consent. Hence, the salesperson was 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."

Having considered the nature and gravity of the case, as well as the disciplinary record of the salesperson, the disciplinary committee decided to reprimand him, impose a fine of HK\$12,000, suspend his licence for one month and required him to obtain 12 points under the CPD 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  
H.K.N.T. Estate Agents & Merchants  
Association

- 業界意見 **Comment from trade**

地產代理應該尊重客戶的私隱，在處理客戶個人資料時要小心，不可利用客戶的個人資料作其他用途，更不應在網上發布客戶的個人資料。損害客戶的私隱是非常嚴重的違規行為，業界應引以為戒。即使租客與業主發生租務糾紛，身為代理亦不應用違法的手段代表業主追討租金

Estate agents must respect clients' privacy and exercise care when handling clients' personal data. They must not use their clients' personal data for other purposes or post their clients' personal data online. Infringing upon client's privacy is a serious non-compliance and every practitioner should be vigilant against such behaviour. Even in the case of a tenancy dispute between the tenant and landlord, estate agents must not use any illegal means to recover the rent for the landlord.

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## 發布虛假或具誤導性的網上物業廣告 Issuing a false or misleading online advertisement

## 引言

## Introduction

地產代理公司切勿發布含有虛假或誤導性陳述或詳情的物業廣告，亦不得在未獲准許便擅自使用屬於其他人士或公司的相片作廣告宣傳。否則，有可能被監管局紀律處分。

Estate agency companies must not include any false or misleading statements or particulars in property advertisements and must not use photos belonging to other people or company without permission. Otherwise, they may be subject to disciplinary action by the EAA.