



紀律研訊個案 Disciplinary hearing case

發布具誤導性的物業廣告 Issuance of misleading advertisements

引言

地產代理公司應確保其所發布的所有物業廣告不得包含任何虛假或具誤導性的陳述或詳情，並且必須在發布廣告前獲得物業擁有人的委託及書面同意。否則，有可能被監管局紀律處分。

Introduction

Estate agency companies should ensure all property advertisements they issue must not include any false or misleading statement or particulars and must obtain instruction and written consent from the vendor prior to issuance. Otherwise, they may be subject to disciplinary action by the EAA.

事件經過

監管局接獲一宗投訴，涉及一個載於某物業銷售網站上的住宅物業廣告。廣告中包含以下字句：「地區屋苑」、「市場罕有」、「售\$295萬（港）元」和地產代理公司的名稱及其牌照號碼。在調查期間，監管局要求該地產代理公司提交有關住宅物業的訂明表格及文件，檢視後發現相關的「出售香港住宅物業用的地產代理協議」（表格3）已經屆滿，而且該住宅物業於廣告刊載日期的半年前已經售出。

Incident

The EAA received a complaint regarding a residential property advertisement on an online property platform. The advertisement contained wording including, “listing property”, “rare in the market”, “selling price for HK\$2.95 million”, an estate agency company name and its licence number. During the investigation, the EAA required the estate agency company to submit the prescribed forms and information of that residential property and discovered that the relevant Estate Agency Agreement (Form 3) had expired, and that property had already been sold about half a year prior to the advertisement’s posting date.

研訊結果

監管局紀律委員會認為，該廣告會令人認為該地產代理公司已獲得該物業的擁有人的委託代為出售物業，惟事實上並非如此。就此，該地產代理公司發布或允許發布了一則與其業務有關、並載有虛假或具誤導性的陳述或詳情的廣告。因此，該地產代理公司違反了《地產代理常規（一般責任及香港住宅物業）規例》第9(1)條。

考慮到個案的性質及該地產代理公司的違規紀錄，委員會決定予以譴責，並罰款共73,000港元。

Result

The EAA Disciplinary Committee was of the view that the concerned advertisement could lead consumers into believing that the estate agency company had been appointed by the vendor to act on his/her behalf to list the property for sale, but which was not true. Therefore, the estate agency company had caused or permitted an advertisement to be issued wholly or partly relating to its estate agency business which included a statement or particular that was false or misleading in a material particular. Hence, the estate agency 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 and the disciplinary record of the estate agency company, the Disciplinary Committee decided to reprimand the estate agency company and impose a fine of HK\$73,000.



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Ms CHONG Bo-tuen
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● 業界意見 Comment from trade

地產代理公司可能為了吸引客人注意，即使樓盤已經售出仍為其刊登廣告，但此舉不單違反相關規例，而且是得不償失。如果有客人被廣告吸引作出查詢，卻發現樓盤已售的話，客人可能對該地產代理公司產生負面印象，而且也浪費雙方時間。地產代理公司應不時向業主更新樓盤狀況，如有關物業已經不再可供出售，便應立即移除有關廣告。

Estate agents may advertise properties even after they have been sold in order to attract customers' attention, but this practice not only violates relevant regulations, but also does more harm than good. If customers are attracted by the advertisement but find out that the property has been sold, they will likely have a negative impression of the estate agency company, and both parties also wasted their time. Estate agents should update the status of the properties with the owners frequently, and remove the relevant advertisements immediately if the properties are no longer available for sale.

紀律研訊個案 Disciplinary hearing case

以粗言穢語辱罵及使用暴力 Swearing with foul language and use of violence

引言

持牌人應避免做出令地產代理行業信譽及/或名聲受損的行為，否則有可能被監管局紀律處分。

Introduction

Licencees should avoid any behaviour that may bring discredit and/or disrepute to the estate agency trade in their practice. Otherwise, they may be subject to disciplinary action by the EAA.

事件經過

一名持牌營業員在某住宅大廈大堂等候業主和租客到場簽署租約，期間他向物業管理員要求到另一單位視察。由於他未獲得該單位業主的事先許可，因此被物業管理員拒絕。被拒後，該營業員以粗言穢語辱罵對方，並以身體推撞對方，而他的暴力行為亦被大廈大堂的閉路電視錄影下來。該物業管理員隨即報警，並於事後向監管局作出投訴。在紀律研訊中，該營業員承認使用了粗言穢語及曾用身體推撞該物業管理員。

Incident

A salesperson was waiting for the landlord and the tenant of a residential property to sign the tenancy agreement at the reception area of a building. While waiting, the salesperson asked the property management staff if he could inspect another flat in the same building but his request was refused as he did not obtain the prior consent from the flat owner. Having been refused, the salesperson used foul language and pushed his body against the property management staff, and his violence was captured on the CCTV footage of the building. The police were called at the scene and the property management staff later lodged a complaint with the EAA. During the inquiry hearing, the salesperson admitted using foul language and pushing against the property management staff with his body.

研訊結果

監管局紀律委員會認為該營業員違反了監管局發出的《操守守則》第3.7.2段：「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。」委員會指出，該營業員使用粗言穢語和暴力行為有損地產代理行業的信譽及名聲。

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，並暫時吊銷其牌照兩個月，藉此向業界表明監管局對暴力行為零容忍的立場。

Result

The EAA Disciplinary Committee was of the view that the salesperson was in breach of paragraph 3.7.2 of the *Code of Ethics*, which states that “Estate agents and salespersons should avoid any practice which may bring discredit and/or disrepute to the estate agency trade”. The Disciplinary Committee pointed out that the salesperson’s use of foul language and violent behaviour discredited and brought disrepute to the estate agency trade.

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 and suspend his licence for two months, so as to send a clear message of zero-tolerance of violence by the EAA to the trade.



李頌賢先生
地產代理管理協會會長
Mr Jimmy LEE Chung-yin
President of the Estate Agents
Management Association

● 業界意見 Comment from trade

地產代理必須秉持嚴格的操守標準，為客戶提供專業的服務。在任何情況之下，都不可使用暴力等不當的行為。除了有機會負上刑事責任之外，地產代理公司亦會作出嚴懲。冀望每位從業員都能時刻留意個人言行操守，合力為業界建立正面及專業的形象。

Estate agents must adhere to a very high standard of conduct and provide a professional service to customers. Using violence or inappropriate behaviour is not allowed under any circumstance. If they do so they will be committing a criminal offence and will be severely punished by their estate agency company and the EAA. I hope that every practitioner always pays attention to their behaviour and ethics and works to establish a positive and professional image for the industry.