

Paragraph 3.6.1 of the *Code of Ethics*

Estate agents and salespersons should avoid accepting an appointment involving a property in which they have a beneficial interest.

Illustration (1)

Leasing Own Property to a Client

Mr C was looking for a flat to rent. He learnt that the lease of his friend's flat would soon expire and that his friend would move out. His friend told him to contact a licensee who would help arrange the leasing of the flat to him. Over the phone, the licensee told Mr C that the landlord was living overseas and he had full authority to handle the leasing of the flat. After negotiation, the licensee arranged for Mr C to sign a tenancy agreement and Mr C also paid a commission to the licensee for arranging the tenancy agreement.

Throughout the transaction, the licensee did not disclose to Mr C that he was in fact the landlord of the property.

Commentary and Suggestion:

In this case, the licensee was Mr C's agent and at the same time the landlord of the property. He failed to avoid accepting an appointment involving a property which he had a beneficial interest and thus failed to comply with paragraph 3.6.1 of the *Code of Ethics*.

According to the guidelines in the Practice Circular regarding disclosure of interests by an agent (Circular No. 08-03 (CR)), licensees should refrain from handling a property transaction to which he is an interested party (i.e. a vendor, purchaser, landlord or tenant) unless he has fully disclosed all the relevant facts to his client and has obtained the client's informed and written consent to handle such a transaction.

In the aforesaid circumstances, the licensee should have disclosed to Mr C that he was in fact the landlord of the property and he was therefore not able to act for him. The licensee should also have advised Mr C to instruct other agents to act for him. In addition, the licensee should not have accepted the appointment by Mr C in order to avoid any conflict of interest.