

## 紀律研訊個案分享 — 沒有妥善保管客戶信用卡 Inquiry hearing case — Failure to safeguard a client's credit card

**地**產代理在推銷一手住宅樓盤時，如須應發展商的要求向準買家提出交出其身份證及／或信用卡的要求，必須向準買家清楚說明其索取有關身份證及／或信用卡的用途及有關要求是發展商提出的，並且要小心保管這些證件，免被誤用。

一名地產代理陪同一準買家參觀某新樓盤的示範單位。該名地產代理向準買家表示，他必須向發展商提供準買家的身份證及信用卡，才可取得該樓盤的價格資料。該名代理也向準買家表示，由於他並無簽署任何文件，因此他的信用卡並不會被扣賬。準買家於是將他的身份證及信用卡交給該代理，以便取得該樓盤的價格資料。

該代理其後向準買家提供該樓盤部分單位的售價。準買家對該批單位沒有興趣，並要求取回他的身份證及信用卡。然而，當準買家取回他的信用卡時，發現他的信用卡已分別就三宗交易被扣賬數十萬元。該名代理解釋，其同事誤以為準買家有意購買該樓盤的單位，故安排有關的扣賬交易。其後，準買家獲退回該筆款項。

紀律委員會認為，該名代理沒有妥善保管準買家交付的信用卡，沒有盡量小心和盡一切應盡的努力履行其職務。由於該名代理沒有遵守《操守守則》第3.5.1段，故決定譴責他及在其牌照上附加條件，要求他在一年內取得在持續專業進修計劃之下的12個學分。

另一方面，該名代理所屬的地產代理公司，沒有設立妥善的程序或制度以監督和管理它所僱用的地產代理的工作，違反《地產代理常規（一般責任及香港住宅物業）規例》第15條，被紀律委員會譴責及罰款2萬元。

When estate agents ask a prospective purchaser to provide his identity card and/or credit card at the request of the developer in promoting the first-hand residential properties, they must state clearly the purposes for which the identity card and/or credit card will be used and also properly safeguard the cards to prevent their misuse.

In this inquiry hearing case, an estate agent arranged for a prospective purchaser to view the show flats of a development. The agent told the prospective purchaser that in order to enable him to obtain the price list of the units in the development, he had to provide the developer with the identity card and credit card of the prospective purchaser. The agent also assured the prospective purchaser that no amount would be debited against his credit card since he had not signed any document to that effect. The prospective purchaser, therefore, gave both his identity card and credit card to the agent in order to obtain the list.

The agent subsequently provided the prospective purchaser with the prices of some of the units. The prospective purchaser was not interested in the units and requested the return of his identity card and credit card. However, after collecting his credit card, he discovered that several hundred thousand dollars had been charged to it in three transactions. The agent explained that his colleague had misunderstood the situation, thought that the prospective purchaser would purchase a unit, and swiped the credit card for payment of the deposit. The prospective purchaser subsequently obtained a refund of the amount that had been charged to his credit card.

The EAA Disciplinary Committee was of the view that the agent had not properly safeguarded the prospective purchaser's credit card and failed to discharge his duties with due care and due diligence. As he had failed to comply with paragraph 3.5.1 of the Code of Ethics, he was reprimanded and a condition was attached to his licence which required him to obtain 12 points under the Continuing Professional Development Scheme within a year.

Furthermore, the Disciplinary Committee found that the estate agency company concerned had failed to establish proper procedures or systems to supervise or manage its frontline staff, and was thus in breach of Section 15 of the Estate Agents Practice (General Duties and Hong Kong Residential Properties) Regulation. The Disciplinary Committee decided that the company should be reprimanded and fined \$20,000.