



紀律研訊個案 Disciplinary hearing case

提供不準確的物業資料

Providing inaccurate property information

引言

持牌人在提供物業資料予客戶時，必須盡量小心及盡一切應盡的努力去核實該些資料。倘若對物業資料的準確性存疑，應建議客戶尋求專業意見，否則有可能被監管局紀律處分。

Introduction

Licensees should exercise due care and due diligence when providing property information to clients. They should verify the information and advise their clients to seek professional advice if they are in doubt of the accuracy of the property information. Otherwise, they may be subject to disciplinary action by the EAA.

事件經過

一名準買家向地產代理表示他有意購買一個附有平台的物業，該名地產代理其後向他介紹一個單位。在視察單位時，該地產代理向準買家提供了一張顯示物業範圍的平面圖，並聲稱單位的睡房、客廳及平台均包括在物業範圍內。

準買家其後在該名地產代理安排下簽訂了臨時買賣協議。其後，他透過律師行得知，該代理提供的物業平面圖與註於土地註冊處的轉讓契圖則有所不同，平台有部分範圍並不屬於該物業。該準買家大感不滿，遂向監管局作出投訴。

Incident

A prospective purchaser told an estate agent that he was interested in purchasing a property with a flat roof. The estate agent then introduced a property to him. During the inspection, the estate agent provided the prospective purchaser a floor plan purportedly showing the ambit of the property and claimed that the area of the bedroom, the living room and the flat roof were all included in the floor plan.

After entering into the Provisional Agreement for Sale and Purchase with the estate agent, the purchaser found out from the solicitor that the assignment plan registered at the Land Registry was different from the floor plan provided by the estate agent, i.e. a portion of the flat roof actually did not belong to the property. Feeling aggrieved, the purchaser lodged a complaint with the EAA.

研訊結果

監管局紀律委員會認為，該地產代理有責任確保他所提供的平面圖上所顯示的資料是準確的，但他並沒有在向客戶提供平面圖前核實其準確性，也沒有提醒準買家就該平面圖所顯示的該物業範圍的準確性諮詢專業意見，因而違反了《操守守則》第3.5.1段，即「地產代理和營業員在履行職務時必須盡量小心和盡一切應盡的努力」。

考慮到個案的性質以及該地產代理的違規紀錄，紀律委員會決定譴責該地產代理，向他罰款5,000元及要求他在12個月內取得持續專業進修計劃下的12個學分。

Result

The EAA Disciplinary Committee was of the view that the estate agent had the duty to ensure the accuracy of the floor plan that he provided to his client, but he failed to verify the floor plan before giving it to the purchaser and also failed to remind the purchaser to seek professional advice on the accuracy of the ambit of the property shown on the floor plan. Hence, he was in breach of paragraphs 3.5.1 of the *Code of Ethics*, which stipulates: "Estate agents and salespersons shall, in fulfilling their duties, exercise due care and due diligence."

Having considered the nature and gravity of the case and the disciplinary record of the estate agent, the Disciplinary Committee decided to reprimand him, impose a fine of \$5,000 and require him to obtain 12 points in the Continuing Professional Development Scheme within 12 months.



李頌賢先生
地產代理管理協會會長
Mr Jimmy Lee
President of Estate Agents Management Association

業界意見 Comment from trade

地產代理應盡一切努力確保其提供予客戶的物業訂明資料的準確性，並應確保臨時協議內的資料均是真實及準確。倘若客人對於物業資料有任何疑問，地產代理應建議其尋求法律或其他專業意見。

Estate agents should exercise due diligence to ensure the accuracy of the stipulated property information they provide to their clients. They should also ensure the information in the provisional agreement is authentic and accurate. If the client has any queries on the property information, estate agents should advise them to seek legal or other professional advice.

紀律研訊個案 Disciplinary hearing case

有關推廣一手住宅物業的違規行為

Non-compliances in promoting first-hand residential property

引言

持牌人參與推廣一手住宅物業時，須謹記物業廣告只可由地產代理公司發出；同時，持牌人不得在展示宣傳物品及招攬生意時阻礙公共地方。這些違規行為會被監管局紀律處分。

Introduction

When participating in the promotion of first-hand residential properties, licensees should be aware that property advertisements may only be issued by estate agency companies, and placing promotional materials and conducting business-soliciting activities that would block public places are not allowed. Such non-compliances may be subject to disciplinary action by the EAA.

事件經過

一名營業員於一個商場外的行人路上展示一個一手住宅物業的易拉架廣告，並向路人派發該物業的宣傳單張。當監管局職員走近該廣告時，該營業員隨即向他遞上載有其聯絡資料的傳單並向他介紹物業的詳細資料。監管局職員遂警告該營業員，並要求他移除廣告及停止派發傳單。

Incident

A salesperson placed a pull-up banner advertisement of a first-hand residential property on a pedestrian path outside a shopping mall and distributed promotional leaflets of the said property to passers-by. When an EAA staff walked close to the advertisement, the salesperson intercepted him to distribute a promotional leaflet bearing his contact information and explained the details of the property to the EAA staff. The EAA staff then warned the salesperson and asked him to remove the pull-up banner and stop distributing the promotional leaflets.

研訊結果

監管局紀律委員會認為，該營業員以個人身份而非以地產代理公司名義發出物業的宣傳單張，違反了執業通告（編號13-04（CR））的指引，因而違反了《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」。此外，他亦因在公眾地方放置廣告及招攬生意，同時違反了《操守守則》第3.7.2段，即「地產代理和營業員應避免做出可能令地產代理行業信譽受損及/或名聲受損的行為」。

考慮到個案的性質及該營業員的違規紀錄，紀律委員會決定對其作出譴責、罰款2,500元，並於其牌照上附加條件，要求他在12個月內取得持續專業進修計劃下的12個學分。

Result

The EAA Disciplinary Committee was of the view that the salesperson was in breach of Practice Circular No.13-04(CR) as he issued the promotional leaflet in his own capacity and not in the company's and thus failed to comply with paragraph 3.2.1 of the *Code of Ethics*. He also failed to comply with paragraph 3.7.2 of the *Code of Ethics*, which states "estate agents and salespersons should avoid any practice which may bring discredit and/or disrepute to the estate agency trade" as he placed advertising materials and solicit business in public places.

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 \$2,500, and attached a condition to his licence, requiring him to obtain 12 points under the CPD Scheme in 12 months.



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業界意見 Comment from trade

監管局紀律委員會的裁決合情合理，公正嚴明。監管局對持牌人宣傳手法的規管有助提升業界的專業水平，不但改善一手住宅銷售的不當銷售行為，亦可為消費者提供更多的保障。

The decision of the Disciplinary Committee is fair and justified. The EAA's regulations on the promotional practice of the trade not only helps enhance the trade's professional standard and minimise their malpractice in the sale of first-hand residential properties, but also provides better protection to consumers.