



紀律研訊個案 Disciplinary hearing case

於公眾場所及政府物業張貼街招廣告 Affixing property advertising bills in public places and government properties

引言

持牌人不可在未經許可下於公眾場所及政府物業張貼廣告街招，這行為不但有可能觸犯《公眾衛生及市政條例》，更會影響該些地方的宜人之處，及對行人及其他道路使用者造成滋擾。從事這違規行為有機會被監管局紀律處分。

Introduction

Licenses must not affix property advertising bills in public places and government properties without the requisite permission as this might not only be in breach of the Public Health and Municipal Services Ordinance, it may also affect the amenities of the locality and cause annoyance to pedestrians and other road users. Such non-compliance may lead to disciplinary action by the EAA.

事件經過

監管局職員在九龍一個地區巡查時，發現該處的交通燈柱、電燈柱、路牌柱、行人路欄杆、巴士站及配電箱等多處不同的公共設施上，被張貼了涉及4個樓盤的82張廣告街招。

該些街招刊登了物業的售價、地址及一名營業員的聯絡電話。監管局職員經深入調查後，發現該名營業員在未經相關政府部門的許可下張貼該些街招。

Incident

While on an enforcement patrol in a Kowloon district, EAA staff found 82 advertising bills for four properties affixed to various public facilities, including traffic light poles, lamp posts, sign posts, pedestrian railings, bus stops, and distribution boxes.

Those advertising bills displayed the properties' prices, addresses, and the contact number of a salesperson. The EAA staff conducted a thorough investigation and found that those advertising bills were posted by that salesperson without permission from the relevant government departments.

研訊結果

Result

監管局紀律委員會認為，該名營業員在未經許可下於公眾場所及政府物業張貼廣告街招，影響了該些地方的宜人之處，同時令地產代理行業聲譽受損，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及 / 或名聲受損的行為」。

考慮到個案的性質及該地產代理公司的違規紀錄，紀律委員會決定譴責該名營業員，向他罰款合共81,600港元及暫時吊銷其牌照3個月。

The EAA Disciplinary Committee was of the view that the affixing of advertising bills in public places and government properties without permission had affected the amenities of the locality and brought disrepute to the trade. The salesperson was in breach of paragraph 3.7.2 of the Code of Ethics, which stipulates: “estate agents and salespersons should avoid any practice which may bring discredit and/or disrepute to the estate agency trade.”

Having considered the nature and gravity of the case and the disciplinary record of the salesperson, the Committee decided to reprimand him, impose a fine in the total of HK\$81,600 and suspend his licence for three months.



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● 業界意見 Comment from trade

地產代理胡亂張貼物業廣告街招的行為影響市容，更會影響香港的國際大都會形象，同時令地產代理的專業形象受損。推銷物業有很多其他方式，例如代理可以採用網上或報章廣告的形式，不應違規張貼街招。地產代理公司應加強對員工的教育及監管員工的行為，避免此類情況出現。

Posting property advertising bills by estate agents in public areas not only tarnishes the cleanliness of the city but also damages Hong Kong's image as a cosmopolitan city as well as the professional image of estate agents. There are numerous alternatives to advertise properties, such as using online or newspaper advertisements. Estate agents should not affix property advertising bills without permission. Estate agency companies should enhance employee education and strengthen supervision of their staff's conduct to prevent the recurrence of a similar incident.

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未能設立妥善的程序及制度有效監管員工遵從規定 Failure to establish proper procedures or systems to monitor employees' compliance

引言

Introduction

地產代理公司須設立妥善的程序及制度，以確保其員工或其轄下的人員遵守《地產代理條例》及其附屬法例、《操守守則》、執業通告及由監管局不時發布的指引（「該等條例及指引」）。否則，有可能被監管局紀律處分。

Estate agency companies should establish proper procedures and systems to ensure that their employees and persons under their control comply with the Estate Agents Ordinance and its subsidiary legislation, the Code of Ethics, practice circulars and guidelines from time to time issued by the EAA (“Ordinance and Guidelines”). Otherwise, they may be subject to disciplinary action by the EAA.

事件經過

一間地產代理公司在13個月內接連發生33宗涉及其23名員工在網上/社交平台發布違規物業廣告的個案。監管局因此懷疑該公司沒有設立妥善的程序及制度，以確保其員工遵守該等條例及指引，於是展開調查。調查期間，該地產代理公司聲稱已設立妥善的程序及指引，包括巡查員工發出的網上廣告及處罰違規的員工，但該公司卻未能提供有關巡查及處罰的紀錄及詳情，而且員工的違規情況仍然持續發生。

Incident

There were 33 non-compliant advertisements through online / social media platforms issued by 23 employees of an estate agency company within 13 months. Therefore, the EAA suspected that the company has not established proper procedures and systems to ensure its employees' compliance with the Ordinance and Guidelines, and initiated an investigation. During the investigation, although the estate agency company claimed to have proper procedures and guidelines in place, including regular policing of the online property advertisements issued by its employees and taken disciplinary actions against the non-compliant employees, it failed to provide relevant records and details, and the non-compliant cases committed by its employees continued to occur.

研訊結果

監管局紀律委員會認為，該地產代理公司沒有設立妥善的監管制度及措施以進行持續且有效的適時監察，以確保其員遵守該等條例及指引。該公司違反了《地產代理常規（一般責任及香港住宅物業）規例》第15條，即：「持牌地產代理須設立妥善的程序或制度以監督和管理其地產代理工作的業務，以確保其僱員或其轄下的人遵守本條例的條文。」

考慮到個案的性質、該地產代理公司的違規紀錄及求情陳詞，紀律委員會決定譴責該公司及罰款130,000港元。

Result

The EAA Disciplinary Committee was of the view that the estate agency company failed to establish an effective monitoring system and measures pertinently to ensure its employees' compliance. The company was in breach of Section 15 of the Estate Agents Practice (General Duties and Hong Kong Residential Properties) Regulation, which states that, "a licensed estate agent shall establish proper procedures or systems to supervise and manage his business of doing estate agency work to ensure that his employees or persons under his control comply with the provisions of the Ordinance."

Having considered the nature and gravity of the case, as well as the disciplinary record of the company and its mitigation submission, the Disciplinary Committee decided to reprimand the company and impose a fine of HK\$130,000.



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● 業界意見 Comment from trade

地產代理公司並未妥善做好監管措施，否則不會接連發生違規網上廣告的個案。地產代理公司應加強對員工的培訓，並且要求管理層在員工發放網上廣告前作出檢核，以加強公司對發放物業廣告的監管，避免違規情況再次出現。希望同業引以為戒，不要犯上同類錯誤。

The estate agency company had failed to implement proper supervisory measures, otherwise there would not have been a number of non-compliant online advertisements. Estate agency companies should strengthen staff training and require management to review the online advertisements before issuance. It will strengthen the company's supervision of online advertisements issuance and prevent the recurrence of any non-compliance. I hope that the estate agency trade members will take this case as a warning and will not make the same mistake again.