

出的《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、涉案廣告相距的發放時間、案情的嚴重性以及該地產代理的違規記錄，紀律委員會決定向該地產代理作出紀律處分，包括譴責、向其合共罰款240,000港元及在其牌照附加進修條件，包括須在24個月內，透過參加並完成地產代理監管局的持續專業進修計劃下的『合規及有效管理』類別的講座或研討會，並取得地產代理監管局認可的24個學分，當中至少有6個學分須透過參加專業操守及誠信科目的講座或研討會而獲取。

EAA which states that, "Estate agents and salespersons should avoid any practice which may bring discredit and/or disrepute to the estate agency trade.", by issuing property advertisements with false licence information. Having considered the nature of the case, the time frame of the breaches and the disciplinary record of the estate agent, the Disciplinary Committee decided to impose disciplinary actions on the estate agent, including reprimand, imposing a total fine of \$240,000 and conditions on his licence. The estate agent is required to obtain a total of 24 points through attending seminars or workshops in "Compliance and Effective Management" category of the Continuing Professional Development Scheme within 24 months, with at least six points from seminars or workshops on the subject of Professional Ethics and Integrity.



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■ 業界意見 Comment from the trade

持牌人不應該以虛假的地產代理公司名稱或地產代理姓名發布物業廣告。此舉不但破壞業界的專業形象，也對守法循規的地產代理造成不公平的現象。持牌地產代理所發布的物業廣告須符合法規及遵從監管局規定的要求，以保障消費者的利益。

Licensees should not publish property advertisements with false estate agency company names or estate agent names. This not only tarnishes the professional image of the estate agency industry but is also unfair to the compliant estate agents. Licensed estate agents should always ensure that their property advertisements are compliant with the regulations and guidelines issued by the EAA, so that the interests of consumers can be protected.

刑事個案 Criminal case

向劏房租戶濫收水費 Overcharge subdivided unit tenants for water

引言

持牌人在處理《業主與租客（綜合）條例》第IVA部下的分間單位（俗稱「劏房」）的出租時，必須遵從監管局發出的相關執業通告（編號22-01(CR)）內的指引，包括必須提醒其客戶留意，如業主要求租戶繳付劏房的任何指明的公用設施及服務的收費的付還，或以其他方式從租戶收取該等收費的付還，而所涉款項超過業主向租戶提供的書面帳目中就有關劏房顯示的經分攤款額，將構成違反《業主與租客（綜合）條例》下的罪行。

Introduction

When handling the letting of subdivided units ("SDUs") under Part IVA of the Landlord and Tenant (Consolidation) Ordinance ("LTO"), licensees are required to comply with the guidelines under the Practice Circular (No. 22-01(CR)) issued by the Estate Agents Authority ("EAA"). Amongst which, licensees are required to draw their clients' attention that it would constitute an offence under the LTO if the landlord requires the tenant to pay for, or the landlord otherwise receives from the tenant, the reimbursement of the charges for any of the specified utilities and services for the SDUs at a sum exceeding the apportioned amount for the SDU as shown in the account in writing provided by the landlord to the tenant.

事件經過及結果

《水務設施條例》（第102章）禁止向劏房租戶濫收水費，並規定收取水費的人士（水務監督除外）向劏房租戶提供水費收據。自首宗濫收劏房租戶水費案件於2022年6月定罪以來，水務署注意到已有超過25宗定罪的同類案件，罰款金額則介乎1,000元至22,000元。

鑑於上述情況，持牌人應留意，在處理劏房的出租時，切勿參與向租戶濫收水費，否則會違反《水務設施條例》。持牌人應注意，為打擊濫收水費的違法行為，濫收水費的最高罰款為25,000元。此外，持牌人應注意，向水務監督提供虛假或具誤導性資料亦屬犯罪，最高刑罰為罰款25,000元及監禁六個月。

根據《地產代理條例》，地產代理必須符合「適當人選」的資格，才可獲監管局批發牌照或繼續持有牌照。監管局在考慮地產代理是否「適當人選」時，會考慮所有相關因素，當中包括該人士曾否因任何罪行而被刑事定罪。因此，倘若地產代理因觸犯《業主與租客（綜合）條例》或《水務設施條例》而被定罪，則有可能影響其是否「適當人選」；監管局有可能會暫時吊銷或撤銷其牌照。

Incident and Result

The Waterworks Ordinance (Cap. 102) ("WWO") prohibits overcharging SDU tenants for water and imposes an obligation on a person (other than the Water Authority) to give receipts for charges for water to a SDU tenant. Since the first convicted case of overcharging SDU tenants for water in June 2022, the Water Supplies Department noted over 25 similar convictions with associated fines that ranged from \$1,000 to \$22,000.

In view of the above, licensees should be aware that when handling the letting of SDUs, they must not engage in overcharging SDU tenants for water. Failure to comply with such requirement would constitute an offence under the WWO. Licensees should note that the maximum penalty for overcharging SDU tenants for water is \$25,000 with a view to deterring such illegal act. Moreover, licensees should note that providing false or misleading information to the Water Authority is also an offence with a maximum penalty of \$25,000 fine and six months' imprisonment.

According to the Estate Agents Ordinance, estate agents must fulfill certain requirements for being a fit and proper person to hold or continue to hold a licence. When considering whether an estate agent is a fit and proper person, the EAA will consider all relevant factors which include whether an individual has any criminal conviction for any offence. That said, if an estate agent is convicted of violating the LTO or the WWO, he/she may not be a fit and proper person to hold a licence and the EAA may consider suspending or revoking his/her licence.



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■ 業界意見 Comment from the trade

為免前線代理在處理分間單位租賃時違反相關法例及指引，地產代理公司應為前線員工提供足夠的內部培訓，讓他們清楚明白相關指引內容。此外，地產代理應提醒業主切勿向分間單位租戶濫收水電費。我相信這些個案能夠引起同業注意，並帶來警惕作用。

For avoidance of frontline estate agents' breaching the relevant regulations when handling the leasing of subdivided units, estate agency companies should provide comprehensive internal training for their frontline staff to let them gain a good understanding of the relevant regulations. Furthermore, estate agents should remind landlords that they must not overcharge tenants of subdivided units for utility fees. I believe that these cases will serve as a significant reminder to the trade, fostering greater awareness and adherence to regulations.