



牌照委員會處理個案 Case from Licensing Committee

因安排未補地價資助單位 出租而被撤銷牌照

Revocation of a licence due to handling the rental of a subsidised sale flat in which the premium had not been paid

引言

持牌人不得協助未解除轉讓限制的資助房屋業主出租單位，否則有機會觸犯《房屋條例》（第283章）及被監管局採取處分行動，最嚴重為撤銷牌照。

事件經過

一名地產代理（個人）牌照持有人被房屋署人員發現其協助及教唆一名「租者置其屋」計劃下的單位業主，在其單位尚未向香港房屋委員會繳付補價以解除轉讓限制的情況下，安排其與租客訂立一項口頭的一年租賃協議。由於該代理的行為違反了《房屋條例》下有關非法讓與等的規定，該代理被房屋署檢控，最終被定罪及罰款5千港元。

Introduction

Licencees must not assist the owner of subsidised housing in the leasing of a flat in which alienation restrictions have not been removed, otherwise they may have violated the Housing Ordinance (Cap. 283) and will be subject to the EAA's action, in which the highest sanction could be licence revocation.

Incident

The staff of the Housing Department discovered that an estate agent (individual) licence holder aided and abetted an owner of a flat under the Tenants Purchase Scheme to enter into a one-year verbal tenancy agreement with a tenant. However, the premium of the flat had not been paid to the Hong Kong Housing Authority for the removal of alienation restrictions. As the estate agent violated the provisions of the Housing Ordinance on illegal alienation, he was prosecuted by the Housing Department and was convicted of an offence with a fine of HK\$5,000.

結果

監管局牌照委員會認為，涉事地產代理應有辨別是非的能力；另外，局方有責任保障公眾利益及提高地產代理及營業員的地位；該持牌人在從事地產代理工作時干犯《房屋條例》下的非法讓與等罪行；他在知悉未補地價的資助房屋不能出租的情況下仍安排向業主介紹租客，使其及業主觸犯《房屋條例》下的罪行，情況非常嚴重。基於上述因素，監管局決定撤銷該地產代理的牌照。

Result

The EAA's Licensing Committee was of the view that the concerned estate agent should have the ability to distinguish right from wrong. Furthermore, the EAA has the responsibility to safeguard the public interest and uphold the professional standard of estate agents and salespersons. The licensee committed the offence of unlawful alienation under the Housing Ordinance while engaging in estate agency work; he introduced the tenant to the landlord despite knowing that the subsidised housing with an unpaid premium should not be leased. This led both the agent and the landlord to violate the Housing Ordinance, which is considered a serious matter. Considering these factors, the EAA decided to revoke the estate agent's licence.



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業界意見 Comment from the trade

地產代理必須嚴格遵守《房屋條例》及監管局指引，確保所有交易合法合規。本案例中，涉事代理於單位未補地價仍安排出租，不僅違反法律，更損害客戶及公眾利益，嚴重影響行業聲譽。地產代理公司應強化內部培訓與監察機制，確保員工熟悉資助房屋交易的限制，防範類似違規行為。監管局對違規行為採取嚴厲處分，充分體現維護公眾利益及行業標準的決心，希望從業員引以為鑑，秉持誠信與專業，共同提升行業公信力。

Estate agents must comply with the Housing Ordinance and the EAA's guidelines. In this case, the agent arranged for the leasing of a flat on which the premium had not been paid, which violated the regulations, harmed the interests of the client and the public, and damaged the reputation of the industry. Estate agency companies should strengthen their internal training and monitoring mechanisms to ensure that their staff are familiar with the restrictions on subsidised housing transactions to prevent similar breaches. The EAA's severe sanction for this case fully reflects its determination to safeguard the public interest and industry standards. I hope that practitioners will learn from this case and uphold their professionalism, so as to enhance the public credibility of the industry.

紀律研訊個案 Disciplinary Hearing Case

提供失實按揭資訊

Providing false mortgage information

引言

持牌人不得向客戶聲稱可保證其可獲得某按揭貸款金額或獲得其希望的按揭條款，否則有機會被監管局紀律處分。

Introduction

Licensees must not make any statement to assure the client that he would be able to obtain a specific amount of mortgage loan or the desired terms to finance the client's purchase. Otherwise, they may be subject to disciplinary action by the EAA.

事件經過

一名年過60歲的準買家在視察某一手住宅樓盤的示範單位後，於展銷廳內向涉事地產代理查詢有關按揭事宜。該地產代理告知該準買家，由發展商提供的按揭可以承造至90歲，並透過其手機應用程式，按28年年期的按揭基準為該準買家計算出每月的供款額，並將有關計算寫在紙上。

基於該地產代理的陳述及其計算後得出的每月供款額等資訊，該準買家決定購買該一手住宅物業，並簽署了臨時買賣合約。約兩星期後，該買家致電發展商的按揭部查詢有關按揭問題時發現，發展商提供的按揭只能承造至75歲，而非該地產代理所述的90歲。經考慮後，該買家決定更改至一年的「先住後付」的計劃，並須支付樓價5%的額外款項。一年後，該買家因自己的財政狀況難以負擔該單位而最終放棄交易，並向監管局作出投訴。

結果

紀律委員會認為，該持牌地產代理違反了監管局發出的《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」。考慮到個案的性質及該地產代理的違規紀錄，紀律委員會決定向該地產代理作出紀律處分，包括譴責、向其罰款港幣\$10,000及在其牌照附加進修條件，包括須在12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12個學分，當中至少有2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。

Incident

A prospective buyer aged over 60 visited the show flat of a first-hand residential property and subsequently asked an estate agent about the mortgage matters at the sales office. The estate agent informed the buyer that the mortgage provided by the developer could be underwritten up to the age of 90. He also used a mobile app to calculate the monthly repayment amount based on a 28-year mortgage term and wrote the calculation down on a paper for the buyer.

Relying on the statement and monthly repayment amount calculated by the estate agent, the prospective buyer decided to purchase the property and signed a provisional agreement for sale and purchase. About two weeks later, the buyer contacted the developer's mortgage department to inquire further about the mortgage terms and discovered that the developer's mortgage plan only allowed repayment up to the borrower's age of 75, not 90 as stated by the estate agent. After careful consideration, the buyer opted to switch to a "Pay After Occupation" plan with a one-year term, which required an additional payment of 5% of the property price. However, one year later, due to financial difficulties, the buyer was unable to afford the property and ultimately abandoned the transaction. The buyer subsequently lodged a complaint with the EAA.

Result

The Disciplinary Committee found that the licensed estate agent had breached paragraph 3.7.2 of the *Code of Ethics*: "Estate agents and salespersons should avoid any practice which may bring discredit and/or disrepute to the estate agency trade." Having considered the nature of the case and the disciplinary record of the estate agent, the Disciplinary Committee decided to sanction the estate agent, including a reprimand, imposing a fine of \$10,000 and attaching conditions on his licence. The estate agent is required to obtain 12 points through attending seminars or workshops in the "Compliance and Effective Management" category of the Continuing Professional Development Scheme within 12 months, with at least two 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

地產代理不應胡亂向客戶作出有關按揭年期或金額的承諾，地產代理應建議客戶向銀行查詢，而不應隨便向客戶作出有關申請按揭的保證。地產代理的責任僅包括物業買賣相關事宜，並不包括提供財務資訊。

Estate agents should not make any promises to their clients on the terms or amount of the mortgage loan. They should advise their clients to check with the banks and should not casually make any assurance to their clients relating to mortgage applications. Estate agents' duties only include matters related to the sale and purchase of property and do not include the provision of financial information.