



## 紀律研訊個案一 未有向買家披露大廈的業主立案法團涉及法律訴訟

倘若物業涉及法律訴訟，物業的價值可能會受影響。因此，倘若從業員知悉物業涉及法律訴訟，應向客戶披露相關事實以保障客戶利益。否則，從業員有可能被紀律處分。

在一宗涉及工業大廈兩個單位的交易中，一名從業員為買賣雙方行事。該名從業員在安排買家參觀單位並為買賣雙方商議價錢後，安排雙方簽訂臨時買賣合約(臨約)。

然而，在交易完成前，買家透過其律師得悉兩個單位所在的工業大廈的業主立案法團涉及法律訴訟，遂決定終止交易，並向監管局投訴該名從業員。

監管局在調查中發現，該名從業員在安排買家參觀物業及簽署臨約之前，已得悉有關法律訴訟，但她既沒有向買家披露此事，也沒有在臨約中述明有關訴訟的事宜。

監管局紀律委員會認為，該從業員沒有告知其客戶有關法律訴訟及建議他就此事宜諮詢法律意見，未有遵守《操守守則》第3.4.1段，即：地產代理和營業員應保障和促進客戶的利益、按照地產代理協議執行客戶的指示，並對交易各方公平公正。因此，委員會決定暫時吊銷該從業員的牌照12天，並在牌照上附加條件，要求該從業員在兩年內取得持續專業進修計劃下24個核心科目的學分。

## Disciplinary Inquiry case – Failing to disclose to the purchaser the legal proceedings involving the incorporated owners of the building

A property's price may be affected if it is involved in legal proceedings. If practitioners know that the property is involved in legal proceedings, they should disclose such relevant facts to their clients so as to protect their clients' interests. Otherwise, they may be subject to disciplinary actions by the EAA.

In a transaction of two properties in an industrial building, a practitioner acted for both the purchaser and vendor. After arranging for the purchaser to inspect the properties and negotiating a price between both sides, the practitioner arranged for both sides to sign preliminary agreements for sale and purchase (PASP) in respect of the properties.

Before the completion of the transactions, the purchaser learnt from his lawyer that there were legal proceedings involving the incorporated owners of the industrial building of which the properties formed part. The purchaser decided to cancel the transactions and then lodged a complaint against the practitioner with the EAA.

During the investigation, the EAA discovered that the practitioner had knowledge about the legal proceedings before the inspection of the properties and the signing of the PASP. However, she did not disclose that fact to the purchaser, nor did she state such relevant facts in the PASP.

According to the EAA Disciplinary Committee, the practitioner did not inform her client of the legal proceedings and advise him to seek legal advice on the risk thereof. In this regard, the practitioner failed to comply with paragraph 3.4.1 of the *Code of Ethics*, which states that estate agents and salespersons should protect and promote the interests of their clients, carry out the instructions of their clients in accordance with the estate agency agreement and act in an impartial and just manner to all parties involved in the transaction. The Disciplinary Committee decided to suspend the practitioner's licence for 12 days. A condition was also attached to the licence, requiring the practitioner to acquire 24 points in core subjects of the CPD Scheme in two years.



## 紀律研訊個案一 對準買家使用粗鄙及具侮辱性的措辭

從業員在執業時應注意言行，倘若在與客人溝通時使用粗言穢語，非但不尊重客人，更會損害行業的公眾形象，並有可能被監管局紀律處分。

一名準買家在網站上看中一個物業廣告後，以電郵聯絡刊登該廣告的從業員，查詢有關物業資料並索取物業的照片。該從業員以電郵回覆並向準買家傳送了數張照片，但準買家希望從業員提供更多照片，始決定是否視察物業。從業員不但沒有依照準買家的要求回覆，並在電郵中使用了粗鄙及具侮辱性的措辭。準買家其後就該從業員的操守向監管局投訴。

監管局紀律委員會就個案進行紀律研訊。研訊中，該從業員承認曾對準買家使用粗鄙及具侮辱性的言辭，但不認為做法有問題，更反過來諉過於準買家，認為其要求無理及對他的專業侮辱。

委員會認為，該從業員沒有避免做出可能令地產代理行業信譽及／或名聲受損的行為，未有遵守《操守守則》第3.7.2段的要求。考慮到該從業員對自己的違規行為毫無悔意，不明白自己的過失何在，紀律委員會決定譴責該名從業員及暫時吊銷其牌照一個月，並在其牌照上附加條件，要求他在12個月內取得持續專業進修計劃下核心科目的12個學分，其中一個科目必須是監管局舉辦，有關《操守守則》、執業通告及相關案例的核心科目。

## Disciplinary inquiry case – Using insulting and vulgar words in communication with a prospective purchaser

Practitioners' behaviour must be exemplary when on duty. Hence, using insulting and vulgar words when communicating with clients is not only disrespectful but also adversely affects the trade's public image. Such behaviour may be subject to disciplinary action by the EAA.

A prospective purchaser saw a property advertised by a practitioner on a website. He emailed the practitioner to ask for details and photos of the property. Although the practitioner provided a few photos in his reply, the prospective purchaser asked to see more before deciding whether to inspect the property. The practitioner in his next reply failed to comply with the request and wrote some insulting and vulgar words. The prospective purchaser lodged a complaint with the EAA regarding the practitioner's conduct.

The EAA Disciplinary Committee conducted an inquiry into the case. During the inquiry, the practitioner

admitted that he had used insulting and vulgar language in his communications with the prospective purchaser. However, he did not think that it was wrong and believed that the prospective purchaser's requests were unreasonable and an insult to his professionalism.

The Committee was of the view that the practitioner had failed to comply with paragraph 3.7.2 of the *Code of Ethics*, in that he did not avoid practice which may bring discredit and/or disrepute to the estate agency trade. Taking into consideration that the practitioner showed no remorse and did not understand his wrongdoing, the Disciplinary Committee decided to reprimand him and suspend his licence for one month. A condition was also attached to his licence, requiring him to obtain 12 points from the core subjects under the CPD Scheme within 12 months, and one of the subjects must be the core subject relating to *Code of Ethics*, practice circulars and case studies offered by the EAA.