



## 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.