

## **Notice of censure against HSR International Realtors Pte Ltd**

21 December 2018

The Council for Estate Agencies (“CEA”) has notified HSR International Realtors Pte Ltd (“HSR”) of its decision to censure them pursuant to Section 66(3) of the Estate Agents Act (Cap. 95A) for HSR’s failure to conduct themselves in accordance with CEA’s Mediation-Arbitration Scheme as prescribed in the Estate Agents (Dispute Resolution Schemes) Regulations 2010, thereby contravening Regulation 5 of the Estate Agents (Dispute Resolution Schemes) Regulations 2010.

Regulation 5 of the Estate Agents (Dispute Resolution Schemes) Regulations 2010 (the “Regulations”) states that “every licensed estate agent shall participate in the dispute resolution schemes and shall comply with the terms and conditions of the dispute resolution schemes set out in the Third Schedule”.

### **Facts**

1. In May 2015, the client, referred to as “C” in this article, signed an Estate Agency Agreement with HSR’s property agent X for her services in facilitating C’s rental of a property in Bedok. The transaction was successful and C took possession of the property in June 2015.
2. In September 2016, property agent Y, who was registered with HSR and was following up on the transaction as X had left HSR, was contacted by the landlord’s agent on whether C was contemplating renewing the lease. When approached by Y, C stated that he would not require Y’s services for the renewal. Y told C that he had “a signed liability on renewal” and that regardless of whether the renewal was facilitated by HSR, C would still be liable to pay renewal commission.
3. A dispute arose when C stated that he was not agreeable to paying any commission for renewal as he had not intended to engage any property agent, and did not agree to pay renewal commission at the time of signing the Estate Agency Agreement in 2015 with agent X. C negotiated directly with the landlord and his agent to renew the lease of the property.
4. In early 2017, HSR issued an invoice and a letter of demand for the commission payment. When C continued to dispute his liability to pay commission, HSR sent him a written mediation request on 28 March 2017. Based on Paragraphs 1(c)(ii) and (d) of the Third Schedule of the Regulations, C was required to:
  - a) elect whether to mediate within three weeks after the receipt of HSR’s written mediation request; and
  - b) select an approved mediation centre and inform HSR of his selection within four weeks from his date of election.

5. C complied with the Regulations when he elected for mediation on 30 March 2017. This was communicated by email to HSR on 31 March 2017. C also acted in accordance with the Regulations when he informed HSR on 21 April 2017 that he had selected the Consumers Association of Singapore (CASE) as the mediation centre.
6. However, HSR had on 19 April 2017 sent C an arbitration request. HSR had misinterpreted the timelines prescribed in the Third Schedule of the Regulations and adopted the position that C had to elect, select a mediation centre, and submit an application for mediation to the selected mediation centre within the three-week period prescribed in Paragraph 1(c)(ii) of the Third Schedule.
7. On 21 April 2017, C informed HSR that he had selected CASE as the mediation centre but HSR informed C that they were unable to accede to mediation, and subsequently refused to attend a mediation session at CASE.
8. On 5 May 2017, C then informed HSR that he elected for arbitration, as proposed by HSR's arbitration request, at the Singapore Institute of Surveyors and Valuers. HSR subsequently did not submit to arbitration proceedings, and proceeded to file a claim in the Small Claims Tribunal action against C.
9. The matter was eventually settled through negotiations, with HSR reimbursing C for his expenses incurred in connection with the intended mediation and arbitration.
10. At all material times, C had acted in accordance with the procedures and timelines prescribed in the Third Schedule of the Regulations. Investigations by CEA established that HSR did not have valid reasons for rejecting the mediation and arbitration proceedings which were duly suggested by HSR.
11. For refusing to proceed with both of its proposals for mediation and arbitration, HSR had failed to conduct itself in accordance with the Council for Estate Agencies' Mediation-Arbitration Scheme as prescribed in the Regulations. HSR was therefore liable to be censured pursuant to Section 66(3) of the Estate Agents Act for its contravention of the Regulations. Its filing of a claim in the Small Claims Tribunal was also not an applicable dispute resolution mechanism within the regulations.

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