

S/N 14/2022 – Doing an Act that may Bring Discredit or Disrepute to the Estate Agency Trade or Industry by Facilitating Lease of a Whole Flat within the Minimum Occupation Period under the Guise of a Room Rental Transaction

Note: This case is related to S/N 15/2022 and involved the same lease transaction; the Respondent in S/N 15/2022 (i.e. Salesperson X) had represented the tenants of the Flat.

Facts of Case

The Respondent was at all material times a registered salesperson.

Sometime in or around January 2020, the Respondent became acquainted with the owner of a Housing and Development Board (“HDB”) flat, Mr L. Mr L requested for the Respondent’s assistance to rent out the flat (the “Flat”) and informed the Respondent of the following:

- (a) Mr L had not owned the Flat for more than 5 years i.e. the Flat was still within the HDB’s Minimum Occupation Period (“MOP”) of 5 years;
- (b) Mr L desired to rent out both the bedrooms of the Flat; and
- (c) Mr L and his wife would be residing elsewhere, but either of them might come back to the Flat and sleep in the living room.

The Respondent was aware of HDB’s Terms and Conditions for Renting out of Bedrooms which provided, *inter alia*, that only 1 bedroom of a 3-room flat could be rented out and the owner(s) of the flat had to continue living in the flat during the period of rental.

Notwithstanding that the Respondent was aware of Mr L’s ineligibility to rent out the entire Flat, the Respondent continued to advertise the entire Flat as being available for rent on an online property portal.

In or around February 2020, Salesperson X was contacted by her clients to facilitate the rental of rooms for them. All three of them were students of foreign nationalities who were studying in Singapore at the material time. As the trio were physically overseas at that point in time, Salesperson X agreed to help them source for and attend viewings of prospective properties on their behalf.

Salesperson X was also aware of HDB’s Terms and Conditions for Renting out of Bedrooms, and had in fact advised her clients of this.

In March 2020, Salesperson X contacted the Respondent regarding his listing of the Flat and thereafter viewed the Flat on 20 March 2020. The Respondent, Mr L and his wife were present during the viewing. The Respondent also informed Salesperson X that while the Flat had not met the MOP, Mr L intended to rent out both bedrooms in the Flat.

After the viewing, the Respondent continued to correspond with Salesperson X to further discuss the rental of the Flat. The Respondent informed Salesperson X that as the Flat had not met the MOP, they could not prepare a tenancy agreement that would reflect the lease as being for the whole Flat. In response, Salesperson X suggested that she would prepare the tenancy agreement. As they were both aware that Mr L could not rent out the entire Flat as this would be in breach of the MOP and HDB’s

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Terms and Conditions for renting out bedrooms, they mutually agreed that the tenancy agreement would indicate that the tenants were renting one bedroom. In actuality, the tenants would instead be renting the whole Flat and using both bedrooms.

Salesperson X hence proceeded to prepare a tenancy agreement which indicated that her clients were going to lease one master bedroom in the Flat for a period of 12 months, with an option to renew for a further 12 months. Neither the Respondent nor Salesperson X declared having facilitated the transaction to their estate agent, as they were both aware that the actual nature of the tenancy was not permissible under the MOP and HDB's Terms and Conditions.

The tenancy agreement was duly signed by Salesperson X's clients on 24 March 2020 and thereafter signed by Mr L on 28 March 2020.

Sometime in or around September 2020, HDB officers inspected the Flat and found that the entire Flat had been leased out in breach of the MOP and HDB's Terms and Conditions. Mr L was thereafter issued a warning letter by HDB, and the period of unauthorized rental (from 1 June 2020 to 18 November 2020) was excluded from the computation of the MOP applicable to the Flat.

The Respondent knew that in advertising the availability for rental of the entire Flat and in facilitating and deliberately letting his client sign and submit the tenancy agreement prepared by Salesperson X, he would be facilitating a lease transaction that was in breach of the MOP and HDB's Terms and Conditions, which would subject Mr L to penalties imposed by HDB.

Further, in colluding with and/or acting together with Salesperson X to mask the lease of the entire Flat under the guise of a room rental transaction, the Respondent intended for HDB to be deceived and/or misled into approving the said rental in the belief that it was in accordance with HDB's Terms and Conditions.

The Respondent did not retain his share of the commission received from facilitating the lease transaction, which was returned to Mr L.

Charge

The Respondent faced the following charge:

Charge 1 (Proceeded)

For doing an act that may bring discredit or disrepute to the estate agency trade or industry when he, while facilitating the lease of the whole Flat to the tenants, had colluded and/or acted together with Salesperson X to facilitate the said lease under the guise of a room rental transaction when the tenants were in fact renting the whole Flat, in spite of his knowledge that Mr L was not eligible to rent out the whole Flat as he had not fulfilled the 5-year MOP imposed by HDB and that Mr L was not going to stay in the Flat during the rental period in breach of the requirements of HDB's Terms and Conditions for Renting out of Bedroom(s), in contravention of paragraph 7(1) of the Code of Ethics and Professional Client Care.

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Outcome

Pursuant to a plea bargain, the Respondent pleaded guilty to Charge 1.

The DC imposed the following financial penalty and disciplinary order on the Respondent:

Charge 1: A financial penalty of \$4,000 and a suspension of 4 months.

Fixed costs of \$2,000 was also imposed on the Respondent.