

**Chang Shin Construction & Development Co., Ltd. and
Pu Shi Development Co., Ltd.**

1456th Commissioners' Meeting (2019)

Case: Chang Shin Construction and Pu Shi Development violated the Fair Trade Law by posting false advertisements to market "Dazhi Hui" housing project

Keyword(s): False advertising, business zone

Reference: Fair Trade Commission Decision of October 2, 2019 (the 1456th Commissioners' Meeting); Disposition Kung Ch'u Tzu No.108059

Industry: Real Estate Development Activities (6700)

Relevant Law(s): Article 21 of the Fair Trade Law

Summary:

1. The Department of Land Administration of Taipei City Government transferred to the FTC a case involving Chang Shin Construction and Development Co., Ltd. (hereinafter referred to as "Chang Shin Construction") using wordings for residential units to advertise the Dazhi Hui housing project which was located in a business zone. In other words, the advertising was in potential violation of the Fair Trade Law.

2. Findings of the FTC after investigation:

From 2015 to 2017, Chang Shin Construction commissioned Pu Shi Development Co., Ltd. (hereinafter referred to as "Pu Shi Development") to market the housing project in question. Therefore, Pu Shi Development planned, produced and posted advertisements to market the project and also took total responsibility for the advertising planning budget and expenses.

3. Grounds for disposition:

(1) In the advertisement posting on the Facebook fan page, the wordings of "garden castle," "residence," "home," "smart living," "intelligent home," "in the family," "when not at home," "before arriving home," "living alone," "two people living together," "small family," "elegant home with cultural atmosphere," "living" "warmth of home," "waking up to the sounds of insects and birds," "slow pace of life," "mansion," and "dwelling" to advertise the housing project. It gave the general public the impression that the "Dazhi Hui" housing project was for residential purposes.

(2) According to the Department of Urban Development of Taipei City Government, the project was located in a business zone (for commercial purposes) and could not be used for private residences. Taipei City Government had already announced its guidelines for sanctioning illegal use of land in the zone for private residences. Offenders could be fined through different stages, ordered to stop the illegal use within a given period or disconnected water and power supply. Descriptions of uses in advertisements for housing projects could have significant impacts on trading counterparts when they decided whether they would make purchases. That is, the regulations governing the uses of buildings determine whether and how trading counterparts could legally use the units they purchased. If trading

counterparts were told the housing project in question could be used for residential purposes, it could be inconsistent with the approved uses of the buildings and such trading counterparts would face the risk of getting fined, ordered to stop the illegal use, or disconnected water and power supply. In other words, such considerations would definitely have an impact when trading counterparts decided whether they would purchase units of the housing project. In order to prevent the general public from getting misled by false advertising, having damages caused to their rights and interests, descriptions in advertisements had to be consistent with the facts. Therefore, businesses using false advertising naturally had to be held liable for their violations.

- (3) As described above, the wordings for regular residential units applied in the advertisement on the Facebook fan page for the “Dazhi Hui” housing project located in a business zone was a false and misleading representation in violation of Article 21(1) of the Fair trade Law.
- (4) After assessing the business incomes of Chang Shin Construction and Pu Shi Development, the motive behind their behaviors, the management condition and market status of each company, the number of violations in the past, the level of remorse and the cooperativeness throughout the investigation, the FTC cited the first section of Article 42 of the Fair Trade Law and imposed an administrative fine of NT\$800,000 on Chang Shin Construction and NT\$400,000 on Pu Shi Development respectively.

Appendix:

Chang Shin Construction & Development Co., Ltd.’s Uniform Invoice Number:
28199191

Pu Shi Development Co., Ltd.’s Uniform Invoice Number: 24320046

Summarized by: Hsu, Tzung-Yu; Supervised by: Chen, Jen-Ying □