

**Jieli Construction Co., Ltd. &
Yuyun International Enterprise Co., Ltd.**

1482nd Commissioners' Meeting (2020)

Case: Jieli Construction and Yuyun International violated the Fair Trade Law by posting false advertisements to market the “Nyuyue Shishang” Housing project

Keyword(s): Mezzanine, false advertisement

Reference: Fair Trade Commission Decision of April 1, 2020 (the 1482nd Commissioners' Meeting); Disposition Kung Ch'u Tzu No.109021

Industry: Real Estate Development Activities (6700), Real Estate Agencies Activities (6812)

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

Summary:

1. The FTC received complaints from private citizens claiming that the “Nyuyue Shishang” housing project in Guishan District, Taoyuan City was for office purposes, but the model unit at the reception center was furnished like a residential home. It gave people the wrong impression that the units of the housing project were to be used as residential homes. Therefore, the FTC sent staff members on May 28, 2019 to pay a visit at the reception center of the “Nyuyue Shishang” housing project built by Jieli Construction Co., Ltd. (hereinafter referred to as “Jieli Construction”). Taken by the salespersons to see the model unit on the 6th floor of A7 Building, they were told each floor was 4.28 meters in height and a mezzanine structure could be built to serve as a bedroom. The model unit gave people the impression that the units of the housing project could be used by buyers as regular homes. In addition, a mezzanine could be built in each unit. However, the building permit and use license of the housing project indicated the second floor to the eleventh floor were to be used for offices. In other words, the housing project was not meant to be used as residential homes. At the same time, the applications filed for various licenses and permits for the office spaces on each floor did not include any mezzanine design. Hence, violation of Article 21 of the Fair Trade Law was suspected.

2. Findings of the FTC after investigation:

Jieli Construction commissioned Yuyun International Enterprise Co., Ltd. (hereinafter referred to as “Yuyun International”) to market the housing project in question. The salespersons at the reception center were all hired by Yuyun International. Both Jieli Construction and Yuyun International were aware that having the housing project in question used as residential homes or building mezzanines in the units of this housing project would be in violation of building regulations. However, the salespersons at the reception center still used the already sold model unit which was furnished as a residential home with a mezzanine structure as an example to mislead consumers to believe each unit of the housing project could be used as a residential home and a mezzanine structure could be built in each unit. Consumers had no idea that the mezzanine structure and use of any unit as a residential home were in violation of building regulations and they could be therefore

subject to fines, being obligated to dismantle the mezzanine, be forbidden to use the unit, or be required to restore everything to the original condition.

3. Grounds for disposition:

- (1) Jieli Construction provided the fund to build the “Nyuyue Shishang” housing project and gave Yuyun International the exclusive marketing right, making Yuyun International to be in charge of advertisement design and production, and at the same time to sell the units of the housing project. Yuyun International borrowed the key to the unit on the sixth floor of A7 Building from the owner and use it as the model unit of the housing project. Showing it to prospective buyers, the salespersons told them each unit could be used as a residential home and a mezzanine could be built. The practice of showing the model unit to unspecific consumers was “to make it known to the public” stated in Article 21(1) of the Fair Trade Law. In other words, Yuyun International’s use of the model unit with the mezzanine design and furnishings to attract trading counterparts to increase transaction opportunities and Jieli Construction’s substantial cooperation with Yuyun International to market the housing project made both companies the responsible parties in this case.
- (2) Both Jieli Construction and Yuyun International confirmed that the pictures of the housing project taken by the FTC’s staff members were indeed images of the “Nyuyue Shishang” housing project and the unit with the mezzanine design and residential home furnishings was the sixth floor of A7 Building. In addition, the two companies also ascertained the two salespersons in the film shot at the housing project were personnel hired by Yuyun International and the salespersons did explain to prospective homebuyers the design and arrangement of the unit on the sixth floor of A7 Building under the supervision of a project manager. In other words, the mezzanine structure and the furnishings in the model unit apparently delivered to potential buyers the impression that they were compliant with related regulations.
- (3) According to Taoyuan City Government, the mezzanine design had to be filed in accordance with related building regulations for a building permit. In the meantime, since the units belonged to the G2 Regular Office Category, any changes of the original use without application for permission according to building regulations would be subject to the penalty provisions and disposal regulation set forth in Article 91(1)(i) of the Building Act. Meanwhile, according to the building permit and use license issued by Taoyuan City Government for the housing project, the second floor to the eleventh floor of the housing project were indicated as regular office spaces of the G2 Category. Therefore, they could not be used as residential homes. At the same time, no application had ever been filed for the permission to include mezzanine structures. Since Jieli Construction never applied for permission to make changes, and the units it sold to buyers remained units to be used as offices without mezzanine structures, under such circumstances the salespersons talking about building a mezzanine structure and using the unit as a residential home was enough to make the general or concerned public to have the wrong perception that it was legal to put in a mezzanine and the unit could be used as a residential home. However, prospective buyers had no idea at all that the mezzanine structure and use of a unit as a residential home was in violation of building regulations and thus in the future they might be subject to fines, ordered to dismantle the illegal structures, and forbidden to use the unit or ordered to restore the unit to its original condition. Obviously, the practices adopted by Jieli

Construction and Yuyun International to market the housing project was a false and misleading representation with regard to content and use of product that could affect transaction decision in violation of Article 21(1) of the Fair Trade Law.

- (4) After assessing the business income of Jieli Construction and Yuyun International from the unlawful act, the motive behind the conduct, the management condition and market status of each company, their records of violations in the past, the level of remorse after the violation, and the degree of their 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 Jieli Construction and NT\$600,000 on Yuyun International.

Appendix:

Jieli Construction Co., Ltd.'s Uniform Invoice Number: 66657750

Yuyun International Enterprise Co., Ltd.'s Uniform Invoice Number: 59035173

Summarized by: Wu, Bo-Yu; Supervised by: Chen, Jen-Ying