

Bo-Yuan Construction Corporation

1531st Commissioners' Meeting (2021)

Case: Bo-Yuan Construction violated the Fair Trade Law by posting false advertisements to market “Zhongshan Kaiyan” housing project

Keyword(s): Rent increase, housing project, false advertisement

Reference: Fair Trade Commission Decision of March 17, 2021 (the 1531st Commissioners' Meeting); Disposition Kung Ch'u Tzu No.110016

Industry: Real Estate Development Activities (6700)

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

Summary:

1. When marketing the “Zhongshan Kaiyan” housing project, Bo-Yuan Construction Corporation (hereinafter referred to as “Bo-Yuan Construction”) claimed in its advertisement that buyers would be able to “enjoy rent increase up to 25%--a home purchase with high return on investment” and also posted a bar chart to indicate that ““Zhongshan Kaiyan’ continues to make new rent increase records.” It was a false and misleading representation that could also affect transaction decisions. Obviously, false advertising was involved.
2. Findings of the FTC after investigation:
 - (1) Bo-Yuan Construction invested to build the housing project in question and also put out funds to produce and review the advertisements. The company then outsourced the printing work and advertisement distribution between October 17, 2019 and January 16, 2020. Later, advertisement distribution was suspended for a while before the company informed the flyer distribution service to resume distribution on February 19, 2020. On March 2 of the same year, all the flyers were distributed.
 - (2) The company claimed in the advertisement that homebuyers could “enjoy rent increase up to 25% — a home purchase with high return of investment.” It also posted a bar chart to show “Zhongshan Kaiyan continues to make new records on rent increase.” The flyers distributed also included the text of an “analysis of the real examples of the rent of two units increased from NT\$60,000 per month in November 2017 to NT\$75,000 per month in August 2019. The rent went up by 25% in less than one year” and pictures. The overall advertisement gave people the impression that the rent for each of the two units increased 25%. In fact, the NT\$60,000 rent in November 2017 and the NT\$75,000 rent in August 2019 were for two different units. The former included a parking space whereas the latter included three parking spaces. However, this information was not disclosed in the

advertisement. In addition, a comparison of the data regarding the rent examples indicated that the rent increase could not achieve the percentage claimed in the advertisement. Apparently, the 25% increase stressed in the advertisement was inconsistent with the fact and it could cause the general public to have wrong perceptions or make wrong decisions. The practice was in violation of Article 21(1) of the Fair Trade Law.

3. Grounds for disposition:

- (1) Bo-yuan Construct invested to build the housing project and signed real estate contracts with consumers. Since the company intended to market its own products, it also put out money to produce and review the advertisements but outsourced the printing work and distribution. For this reason, Bo-Yuan Construction was indeed the advertiser in this case.
- (2) The overall advertising content gave people the impression that the objects being sold could bring high return on investment since the rent for each of the two units given as examples had gone up 25% within one year. Nonetheless, the six other rental homes could not achieve the 25% rent increase within one year as claimed in the advertisement. Obviously, the content of the advertising was inconsistent with the fact and the difference exceeded the extent normal trading counterparts could accept. It could cause trading counterparts to have wrong perceptions or make wrong decisions. It was a false and misleading representation that could affect transaction decisions and thus in violation of Article 21(1) of the Fair Trade Law. After reviewing the motivation behind the illegal conduct of Bo-Yuan Construction, the degree of harm to trading order, the duration of the conduct, the business scale, management condition and market position of the company, past violations, and the attitude of cooperation during the investigation, the FTC cited the first section of Article 42 of the Fair Trade Law and imposed an administrative fine of NT\$2 million on the company.

Appendix:

Bo-Yuan Construction Corp.'s Uniform Invoice Number: 27543652

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