

Xiyuan Construction Co., Ltd.

1600th Commissioners' Meeting (2022)

Case: Xiyuan Construction violated the Fair Trade Law for posting false advertisements to market "Xiyuan Four Seasons" housing project

Keyword(s): False advertisement, presale home, mezzanine

Reference: Fair Trade Commission Disposition of May 25, 2022 (the 1600th Commissioners' Meeting); Disposition Kung Ch'u Tzu No.111030)

Industry: Real Estate Development Activities (6700)

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

Summary:

1. When marketing the "Xiyuan Four Seasons" housing project located in Huwei Town, Yunlin County, Xiyuan Construction Co., Ltd. (hereinafter referred to as "Xiyuan Construction") posted the wording of "one-suite apartment (1+1 bedrooms, 1 living room, 1 kitchen and 1 bathroom) in an advertisement in which a mezzanine design was also displayed and false advertising was suspected.
2. Findings of the FTC after investigation:
 - (1) The wording of "one-suite apartment (1+1 bedrooms, 1 living room, 1 kitchen and 1 bathroom) was posted in an advertisement on the web page for the housing project while a one bedroom apartment floor plan including a mezzanine design was also displayed. The floor plan was available at the reception center and the show home there was the same as the one shown in the advertisement. Overall, it could cause consumers to think putting in a mezzanine and using it after purchasing a unit was legal. However, according to Yunlin County Government, the mezzanine design was not part of the housing project. If this structure was built without permission acquired in advance, it would be deemed as an illegal structure.
 - (2) Xiyuan Construction expressed that the advertisement was produced to suggest customers to put in a mezzanine to have an extra room for use. It also claimed that the layout attached to the approved building license did not include any mezzanine design and the units were conducted without any change of design. At the same time, the company had not applied to Yunlin County Government for change of design either. In other words, the building authority had not given the approval for the housing project to include the mezzanine design, however the claim of "1+1 bedrooms" was posted in the advertisement and the mezzanine design was displayed.

It could mislead consumers and the general public to have the wrong perception that a mezzanine could be put in to become an extra room and decide to purchase a unit as a result. They had no idea that they could be fined and ordered to dismantle, stop using or restore the illegal structure to the original condition if they actually have a mezzanine built.

3. Grounds for disposition:

- (1) When marketing the “Xiyuan Four Seasons” housing project, Xiyuan Construction posted the wording of “one-suite apartment (1+1 bedrooms, 1 living room, 1 kitchen and 1 bathroom) in the advertisement and a mezzanine design was also displayed. The practice was a false and misleading representation with regard to content and use of product that could affect transaction decisions. It was in violation of Article 21(1) of the Fair Trade Law.
- (2) After assessing the motivation and purpose behind the unlawful act of Xiyuan Construction, the degree of harm to trading order, the duration of the unlawful act, the profit obtained, the business scale, the operating condition and market position of the company, its past violations, intervals and punishments received, rectification of the act, its cooperation in the investigation, and other factors, the FTC cited the first section of Article 42 of the Fair Trade Law and imposed an administrative fine of NT\$800,000 on the company.

Appendix:

Xiyuan Construction Co., Ltd.’s Uniform Invoice Number: 76426126

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