

Chang Yuan Homes Corp.

1600th Commissioners' Meeting (2022)

Case: Chang Yuan Homes violated the Fair Trade Law for posting false advertisements to market “Chang Yuan Shou Xi” housing project

Keyword(s): Housing project, false advertisement

Reference: Fair Trade Commission Decision of May 25, 2022 (the 1600th Commissioners' Meeting); Disposition Kung Ch'u Tzu No.111032

Industry: Real Estate Development Activities (6700)

Relevant Law(s): Article 25 of the Fair Trade Law

Summary:

1. When marketing the “Chang Yuan Shou Xi” housing project located in Sanzhi, New Taipei City, Chang Yuan Homes Corp. (hereinafter referred to as “Chang Yuan Homes”) posted on its Chang Yuan Shou Xi Landscape Villas page on Facebook a B1 floor plan, on which the rooftop level was indicated as a bedroom space. However, according to the building use permit, the first level of rooftop was meant to be a staircase. Therefore, false advertising was suspected.
2. Findings of the FTC after investigation:
 - (1) According to the Ministry of the Interior, the regulations regarding application for change of building use permit were specified in Article 73(2)(3) of the Building Act and Article 8 of the Regulations Governing Types of Building Use and Change of Use. If a changed structure was used without permission in advance, the building owner and user could be subject to a fine between NT\$60,000 and NT\$300,000 while they could also be ordered to make corrections or take necessary procedures within a given period. Those failing to make corrections or take necessary correction steps within the given period and continuing to use the structure could be fined consecutively and ordered to stop using the structure within a given period, as clearly specified in Article 91(1)(i) of the Building Act.
 - (2) Meanwhile, at the request of the FTC, New Taipei City Government expressed that, according to Article 9 of the Building Act, “The term ‘construction’ mentioned in this Code refers to the following actions:... 2) Extension: Increase of square footage or height on existing buildings. Where an aisle is used to connect to the existing building, it shall be regarded a new construction.” However, the as-built drawings attached to the 107 Zhi-Shi-Zi Building Use Permit No. 25 issued for the housing project indicated that the height of the building was 12.6m (not including the rooftop overhang). Therefore, if the first level of rooftop overhang

approved to be a landing space were used as a bedroom space as shown in the advertisement, addition of building height and floor area would be involved and the builder would have to commission a legally registered architect to apply for an extension permit.

3. Grounds for disposition:

- (1) The use of building described in home advertisements is an important factor in trading counterparts' transaction decision. Chang Yuan Homes marketed the housing project in question and posted on its Facebook page a B1 floor plan on which the rooftop overhang space was indicated as a bedroom space. The overall advertisement was able to mislead people to believe that the space on the rooftop overhang level could be legally used as suggested on the floor plan. According to the Ministry of the Interior and New Taipei City Government, however, using the rooftop overhang first level originally approved to be a landing space as a bedroom space as indicated in the advertisement involved extension of building height and floor area. It would be necessary to commission a legally registered architect to apply to New Taipei City Government for an extension permit. Changing the structure without applying for permission and using the structure would result in the owner and the user getting fined between NT\$60,000 and NT\$300,000, ordered to make corrections or take necessary correction steps within a given period. If failing to comply and continuing to use the structure, the offenders could be fined consecutively and ordered to stop using the structure. Since the space arrangement indicated on the floor plan was inconsistent with the original plan, trading counterparts would not be able to legally enjoy the space arrangement shown in the advertisement. The representation in the advertisement was inconsistent with the fact and was able to cause the general public to have wrong perceptions about the content and use of the building or make wrong decisions. The practice could make market competition and order lose the original function and unfair competition would thus be created. It was in violation of Article 21(1) of the Fair Trade Law.
- (2) After evaluating the motivation behind the unlawful act of Chang Yuan Homes, the degree of harm, the seriousness of the violation, the business scale of the company and the attitude of the company after the violation, the FTC cited the first section of Article 42 of the Fair Trade Law and imposed an administrative fine of NT\$600,000 on the company.

Appendix:

Chang Yuan Homes Corp.'s Uniform Invoice Number: 54671722

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