

Fair Trade Commission Disposal Directions (Guidelines) on Cases of Real Estate in Advertising

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1. (Purpose)

These guidelines ("Guidelines") are enacted by the Fair Trade Commission (hereinafter called the "FTC") to maintain trading order and protect consumer's rights and interest by preventing the real estate industry from employing false advertisement to mislead trading counterparts and causing unfair competition.

2. (Definition)

The term "real estate advertisement" referred to in these Guidelines shall mean advertisement employed by enterprises to participate in the sales of land, buildings (pre-construction houses and finished houses) and transferable rights thereon and in the brokerage business of real estate sales, exchange and rental (broker, commission or agent).

3. (Type 1 of untrue, false or misleading representations or symbols)

Real estate advertisements may not contain the following untrue, false or misleading representations or symbols:

(1) Building locations: The building location indicated in the advertisement is inconsistent with the fact and the general or concerned public finds it difficult to accept the difference.

(2) The real estate area:

A. The total area of the building or land is inconsistent with the

area indicated on the land ownership certificate.

B. The total area of the building or land is consistent with the area indicated on the land ownership certificate, while one of the following situations exists:

a. Use of "usable area," "common area," "interior area," "beneficiary area," "common facilities," "beneficiary certification," or other non-legal terms to be the representation or symbol of the building area in the advertisement without indication of the actual area included in a proportionate font on a conspicuous spot that causes misconceptions about the size of area.

b. Use of "gross floor area," "site area," "main building area," "auxiliary building area," "shared area" or other legal terms to be the representation of the building area with the size of the area indicated being inconsistent with the area represented in legal terms or registered, and the general or concerned public finds it difficult to accept the difference.

c. The percentages of common facilities in the building indicated in the advertisement are inconsistent with the ones in the completed building and the general or concerned public finds it difficult to accept the difference.

(3) Mezzanine design: The advertisement indicates the building has a high ceiling in texts, pictures, the layout and floor plan, sectional elevations, or a model home is applied to indicate there is a mezzanine design or more usable space than the original building design, and one of the following situations exists:

A. The description in the advertisement is inconsistent with what is indicated in the shop or as-built drawings.

B. The advertisement does not indicate the restrictions of building regulations on mezzanine construction (such as the floor level, area, materials, floor ratio control, etc.)

C. The mezzanine is confirmed by the building authority as an illegal structure.

(4) Internal layout of the building:

The internal layout of the building (such as the balcony, machine room and awning positions) is inconsistent with the shop or as-

built drawings and it is confirmed by the building authority as illegal or its design change application is denied.

(5) Hot spring facility: The advertisement indicates there is a hot spring facility, but the claim is inconsistent with related regulations in the Hot Spring Act.

(6) The appearance, design and shared areas of the building:

A. The appearance, design and shared areas (such as the reading room, lounge, gym, etc.) are inconsistent with the descriptions in the advertisement or are as advertised but inconsistent with the shop or as-built drawings, and it is confirmed by the building authority as illegal or its design change application is denied.

B. Facilities or services that are not part of the performance of the contractual obligations or subordinated performance are advertised as part of the performance of the contractual obligations or subordinated performance to mislead the general or concerned public.

(7) Parking space: The parking space indication in the advertisement is inconsistent with the shop or as-built drawings, and the parking space arrangement is confirmed by the building authority as in violation of building regulations.

(8) Public facilities or roads:

A. The public facilities indicated (such as schools, parks, stadiums, government agencies, etc.) in the advertisement are inconsistent with the objective condition when the advertisement is posted or the actual condition when the construction is completed, and the general or concerned public finds it difficult to accept the difference.

B. Uncompleted public facilities or roads are used as representations or symbols in the advertisement to mislead the general or concerned public that such structures are completed.

C. The traffic condition, transportation time or distance indicated in the advertisement is not calculated according to regular road conditions.

(9) External landscape and environment: The surrounding environment, views and landscape indicated in the advertisement are inconsistent with facts and the general or concerned public

finds it difficult to accept the difference.

(10) The builder or building project receiving awards: The record of award reception indicated in the advertisement is inconsistent with the fact and the general or concerned public finds it difficult to accept the difference.

(11) The management performance of the realtor: The management performance of the realtor indicated in the advertisement (such as transaction record, number of branches, and number of buyers or sellers, etc.) is inconsistent with the fact and the general or concerned public finds it difficult to accept the difference.

4. **(Type 2 of untrue, false or misleading representations or symbols)**

Real estate advertisements may not contain the following untrue, false or misleading representations or symbols:

(1) Claim of rarity: Use of untrue claim of rarity to increase the willingness of potential buyers to check out the units and prompt them to make purchase decisions.

(2) Low price offers: Use of a small number of public relations customers to mislead the public to believe the sales are the final prices.

(3) Promotional offers: The special offers advertised are inconsistent with the fact and the general or concerned public finds it difficult to accept the difference.

(4) Return on investment: The return on investment in a certain period indicated in the advertisement is inconsistent with the fact and the general or concerned public finds it difficult to accept the difference.

(5) Building permit: The building permit is not yet issued, but the representation in the advertisement misleads people to believe it is already issued.

(6) Building or land usage: The usage of building or land advertised is inconsistent with the statutory usage in land use zoning which cannot be changed. In consequence, such a representation can mislead people to believe the building or land can be used for residential or other non-statutory purposes, such

as a piece of land statutorily defined as for industrial use:

A. The advertisement does not indicate the construction site is statutorily defined as for industrial purposes or a piece of Type D building land; or it is indicated, but the indication is inadequate, compared to other descriptions in the advertisement.

B. The advertisement does not clearly point out the building is for industrial purposes.

C. Images of regular residential equipment are displayed in the advertisement, or texts are shown to imply the building is suitable for residential purposes.

The conditions described in the subparagraphs of the preceding paragraph shall be handled in accordance with the Conclusion of Consultation between the Fair Trade Commission and the Ministry of the Interior on Handling of Property Hype.

5. **(Judgment on Pre-sale House Advertisements)**

Whether a pre-sale house advertisement is false or misleading shall be judged depending on an objective situation when advertisements are used by advertisers.

When the pre-sale house advertisement is used by advertisers, if it has already been predicted or known that their later offerings cannot meet the contents of advertisement, the advertisement is regard as false or misleading.

An objective situation mentioned in the above 1st paragraph refers to advertisers' capacity of giving later offerings, regulation of the laws, and supplies of construction materials.

6. **(Legal effects)**

Enterprises violating Point 3 or Paragraph 1 of Point 4 are in violation of Article 21 of the Fair Trade Law.

7. **(Handling of realtor advertisements)**

Realtor advertisements shall be handled according to the principle of division of labor prescribed in the Conclusion of Consultation between the Fair Trade Commission and the Ministry of the Interior on Handling of Property Hype.

8. **(Supplementary provisions)**

Besides the regulations of this Principle, Article 21 of the Fair Trade

Law and related handling principles shall also apply to real estate advertising cases.