

13 February 2014

Personal Data Protection Commission

460 Alexandra Road #10-02
PSA Building
Singapore 119963

Public Consultation on Proposed Real Estate Agency Guidelines

We refer to the email from CEA on the 24 January 2014 on the public consultation on the proposed real estate agency guidelines.

In general, we are supportive of the guidelines drafted with the exception of the following. In our opinion:

- 1) Definition of ‘ongoing relationship’ where the Exemption Order applies should be widen to include circumstances where salespersons are allowed to contact their previous clientele
 - 2) Illustration 5.9(c) where the ex-client did not respond to unsubscribe a regular email or sms update should be treated as an ongoing relationship and the Exemption Order should apply.
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- 1) Definition of ‘ongoing relationship’ should include cases where salespersons are allowed to contact previous clientele

Paragraph 5.7 of the Advisory Guidelines for Real Estate defines ongoing relationship as “a relationship, which is on an ongoing basis, between a sender and a subscriber or user of a Singapore telephone number, arising from the carrying on or conduct of a business or activity (commercial or otherwise) by the sender. An ongoing relationship may include, for example, a subscription, membership, account, loan or comparable relationships involving the ongoing purchase or use of goods and services supplied by the sender to the individual”

The Advisory Guideline states that having a one-off transaction is insufficient to constitute an ongoing relationship. However, taking into consideration that real estate property purchase is usually a high-valued item in Singapore, it is unlikely that a common residential owner will have frequent or multiple property purchases in a lifetime. This is different from the other industries like banking or insurance, where one person may have multiple credit cards, loans, memberships or insurance policies. Having the Exemption Order made applicable to these industries while making it unavailable for the real estate industry might have a negative effect on the growth of the industry.

It is a common practice for salespersons in the service industry to keep in contact with their past clients to maintain a good working relationship whether it is during the festive season. Naturally, most residential clients would expect an update on the market, the value of their property or any potential investment opportunities. Having dealt with the client previously, the salesperson will have better knowledge and provide better service to the ex-client. As mentioned in paragraph 4.1 and 4.2 of “Advisory Guidelines on the Do-No –Call Provisions” dated 26 December 2013, “individuals with an ongoing relationship with other persons may wish to receive information which are related to the subject of the ongoing relationship”. Hence, salespersons should be allowed to contact their ex-clients as they had an ongoing relationship and not barred from contacting their ex-clients due to the Do-Not-Call provisions.

2) Exemption Order should be applied for example 5.9(c) on page 16.

Example cited on 5.9(c) where having a transaction history, the salesperson sends regular email or sms update to the client as part of maintaining his clientele base. This is even though the client neither requested for them nor responded to them. In the advisory guideline, it states that this does not constitute an ongoing relationship between the client and the salesperson.

This is one common scenario for salesperson to maintain their clientele base and the regular email or sms updates. As required by the CEA’s Ethical Advertising Guidelines section 4.2 and 4.3, email or sms advertising by salespersons must include unsubscribe option. This Practice Guideline has been in effect since June 2011. Since the clients have not indicated their desire to unsubscribe from the email or sms updates, it should be interpreted that the salesperson has obtained deemed consent and there is an ongoing relationship between the two parties. By classifying this scenario as an example where the Exemption Order does not apply, may lead to the unintended outcome where the clients expect to but do not receive relevant information from the salespersons with whom they have an ongoing relationship.

In conclusion, we agree to most of the examples illustrated in the Advisory Guidelines with the exceptions above. Should ex-clients not wish to be contacted, they can withdraw their consent anytime. The public can also have the assurance that they are able to make a valid complaint to the CEA should there be unnecessary disturbance caused.

Please contact me at 6418 8628, or Ms Jane Niven, our Regional Legal Counsel at 6494 3845, if you require any clarifications.

Yours sincerely



Kendra Zeng
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