

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. (Types of Untrue, False or Misleading Representations or Symbols)

A real estate advertisement shall not contain the following untrue, false or misleading representations or symbols:

1. Industrial Residences:

- A. An advertisement fails to indicate that a construction site is confined to use as an "industrial zone" or "Type D Construction Land;"
 - B. An advertisement indicates that that a construction site is confined to use as an "industrial zone" or "Type D Construction Land," but such annotation is obviously
 - C. insufficient relative to other explanatory portions of the advertisement;
 - D. An advertisement fails to expressly indicate that a building is for industrial-related use;
 - E. An advertisement uses ordinary residential accessories in an illustration, or a textual description suggests that the building is suitable for residential use; or
 - F. An advertisement's claims concerning the use of a building differ from the building or usage permit.
2. Public Housing Advertisements:
- A. An advertisement presents housing for sale under the name of "public housing" without having obtained the permission of the competent authorities;
 - B. An advertisement misleads people into believing that a government agency is a sponsor or co-sponsor.;
 - C. An advertisement misleads people into believing that people can get preferential loans for public housing without restrictions on purchaser eligibility;
 - D. Only a portion of a building(s) has been approved for construction as public housing, but an advertisement misleads people into believing that the entire building(s) is public housing; or

E. A construction enterprise makes an advertisement for public housing in the form of a "public announcement," and the advertisement conceals the advertiser, or the content published in a "public announcement" is insufficient to identify the transaction principal or is sufficient to mislead people into believing that public housing is being directly built and sold by a government agency.

3. Building Location:

Advertisement indicates a location different from the actual location of the building, and the discrepancy is of a degree unacceptable to the general public.

4. Real Estate Area:

A. The advertised aggregate building or land area of a building is different from the area recorded on the certificate of title.

B. The advertised aggregate building or land area of a building is no different from the area recorded on the certificate of title, but the following circumstances are present:

1. Non-statutory language is used as a representation or symbol of building area, such as "usable area," "common area," "indoor floor area" "beneficiary area," "public facilities," "beneficiary certificate" without conspicuously annotating in a commensurate font the scope encompassed thereby, leading people to misapprehend the area size.

2. Statutory language is used as the representation of building area, such as "building area," "base area," "main building area," "ancillary building area," or "area of common-use portions" with area size represented different from the rightful area under such statutory language or with the registered area, and the discrepancy is of a degree unacceptable to the general public.

3. A representation in an advertisement of a specific numeric proportion of commonly owned or common-use facilities of a building(s) that is different from that of the completed building as built.
5. The appearance, design, and layout (commonly owned or common-use portions of a building with divided ownership rights, e.g. recreation trail, pool, gym, garden, swimming pool and pavilion):
 - A. The actual appearance, design, and layout are different from an advertisement/poster;
 - B. The actual appearance, design, and layout are no different from an advertisement/poster but are different from the construction layout plan or the as-built drawings and determined to be a squatter by the competent building authority; or
 - C. Facilities or services are not included in or additions to the deliverables but are likely to be mistaken as such.
6. Building Materials and Equipment: Representations or symbols in an advertisement with respect to the building materials of a building are different from the actual building materials used, and the discrepancy is of a degree unacceptable to the general public.
7. Commonly-Owned Public Facilities:
 - A. Representations of an advertisement with respect to publicly owned common facilities (e.g. schools, parks, athletic fields, government agencies, and so forth) are different from objective conditions at the time of use of the advertisement or actual conditions after completion of construction, and the discrepancy is of a degree unacceptable to the general public.

- B. A representation or symbol of unfinished publicly owned common facilities or transportation roads in a sales advertisement for a building(s) misleads people into believing they are already completed.
 - C. Representations in an advertisement with respect to traffic conditions or travel times or distances are not calculated based on the actual road conditions.
8. Building Surroundings, View and Landscape: The actual building surroundings, view and landscape are different from the advertisement representations, and the discrepancy is of a degree unacceptable to the general public.
9. Mezzanine:
- An apartment represented in an advertisement is a loft space, and a representation is made in text, photographs (illustrations), reference designs illustrations, floor plans, sectional elevation diagrams, or housing models, that a mezzanine is included or more usage area is available than in the original building design, and any of the following circumstances exists:
- A. The advertised floor plan is different from the construction plans or as-built drawings;
 - B. The advertisement fails to expressly indicate the restrictions put by building regulations on mezzanine design (floors, dimensions, materials, bulk rate control, etc.)
 - C. It has been determined by the competent building authority to be a squatter.
10. Parking Space: An advertisement is different from the construction (or as-built) drawings, and the spaces have been determined to be illegal by the competent authority for construction. The same applies even if parking spaces

subsequently actually delivered by the construction firm are no different from the advertisement.

11. An advertisement misleads people into believing that the construction permit has been approved and issued when it is not.
12. An ossuary advertisement misleads people into believing that permission has been obtained for its use, development, or so forth.
13. A representation of building use in an advertisement is different from the use stated on the building license (or use license), where the use may not be changed under urban planning or construction administration laws or regulations.
14. Awards mentioned in the advertisement are different from the actual situation, and the discrepancy is of a degree unacceptable to the general public.
15. The preferential contents stated in the advertisement are different from the actual situation, and the discrepancy is of a degree unacceptable to the general public.
16. In addition to the aforementioned rules, a real estate brokerage business commits false, untrue and misleading representations or symbols if its advertisement contains any of the following items:
 - A. The business dealing completion records stated in the advertisement are different from the actual records, and the discrepancy is of a degree unacceptable to the general public.
 - B. The number of branches stated in the advertisement is different from the actual number, and the discrepancy is of a degree unacceptable to the general public.
 - C. The advertisement employs non-legal terms such as "buyer" or "buyer quantity" as the representations or symbols of the

service quantity and has no statistical period and region expressly stated at an prominent place in the advertisement and might be misleading.

4. **(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.

5. **(Comparative Advertisement)**

In the event that the contents of a real estate advertisement is made in comparison, the advertisement shall not have false, untrue or misleading representations regarding to another person's product or service.

6. **(Other Deceptive or Obviously Unfair Actions)**

An enterprise shall not have any deceptive or obviously unfair conduct, which is able to affect trading order, concerning real estate advertisements.

7. **(Penalty)**

An enterprise, which meets the descriptions set forth in Article 3, is in violation of Article 21 of the Fair Trade Law. An enterprise, which meets the descriptions set forth in Article 5, might be in violation of Article 24 or Article 25 of the Fair Trade Law.

An enterprise, which meets the descriptions set forth in Article 6, is in violation of Article 25 of the Fair Trade Law.

8. These Guidelines merely list several possible violations of the Fair Trade Law involving real estate advertising cases. Individual cases shall be handled respectively based upon the specific facts.
9. Except for the principles mentioned above, real estate advertising is still subject to the Article 21 of the Fair Trade Law and related guidelines.