

A Legal Analysis of the Functions of “Existing-Housing Contract Warranties” and Misleading Advertisement of Dealers in the Real Estate Market—Discussions on “Decision No.096075 of the Fair Trade Commission”, Executive Yuan

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Abstract

Due to the changing socio-economic conditions in Taiwan, the application and rights of real estate have also become more intricate. Hence, under the situation of shortage of communication and transparency of data, it's easy for information to be asymmetrical. Therefore, it's necessary for the authority to make decision or to interpret the controversies. “Decision No. 096075 of the Fair Trade Commission” can be used as a typical example and this also serves as the objective of this article.

The “existing-housing contract warranties” and “misleading advertisement” related to real estate where it is claimed that there is no risk in the so-called “existing-housing contract warranties” for buyers during the transactions. However, in fact, the buyer still needs to confront the risk. Meanwhile, the misleading advertisement is also important for the dealers in this case. In this context, the goal of this article is to analyze and compare the function of the “existing-housing contract warranties” in Taiwan and the “escrow” in the US. Furthermore, this article reviews the factors of “misleading advertisement” in “Decision No.096075 of the Fair Trade Commission”.

Finally, it is significant for the authority to establish a system of transactions security during the transaction of real estate between related participants. In addition, it's also important for the dealers to fulfill their responsibility of providing information about real estate to buyers.

Key words: Existing-Housing Contract Warranties, Misleading Advertisement, Escrow, Liability of Providing Information, Fair Trade Commission

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