

ROYAL INSTITUTION OF CHARTERED SURVEYORS

DISCIPLINARY PANEL HEARING BY WAY OF WRITTEN REPRESENTATIONS

Case of

Sui Ching Janet Ng MRICS [0831854]

Hong Kong

On

Thursday 27 April 2016

Via telephone conference

Panel

Helen Riley (Member Chair)

Chris Boothman (Lay Member)

CHARGE HEARD

The Panel considered the following:

You have failed to comply with RICS' requirements in respect of continuing professional development ("CPD") in that you have not recorded your CPD activity for 2015 online **contrary to rule 6 of the Rules of Conduct for Members 2007 version 6.**

DETERMINATION

1. Service

By Rule 23 notice of a hearing must be given by "special post". In the Disciplinary Registration and Appeal Panel Rules the definition of special post is "special post means a method of delivery by which delivery of the post can be confirmed". "Post" is not a defined term.

Notice of this hearing was sent by email to the email address notified by the Relevant Person to RICS.

The notice of the hearing was posted by email, and such notice complies with the Rules. The service of the notice was evidenced by a copy of the email, correctly addressed to the address given by the Relevant Person, and by a printout from the sending email account stating that the email had been delivered to that address.

The Panel noted that the Relevant Person had responded to the notice in the Listing Questionnaire dated 1 April 2016, giving such submissions as she wished the Panel to consider and indicated that she would not be attending the hearing and did not ask for an adjournment. The Relevant Person had not asked for an oral hearing, and so consented to a paper hearing.

The Panel decided that it was appropriate to proceed with a paper hearing.

2. The burden of proof is on RICS and the standard of proof is the balance of probabilities.

Findings of fact

3. From January 2013 RICS members were obliged to complete 20 hours CPD activity by 31 December of each calendar year.
4. Rule 6 provides: “Members shall comply with RICS requirements in respect of continuing professional development.”
5. CPD requirements for members are: –
 - Of the 20 hours at least 10 hours must be formal CPD.
 - All members must maintain a relevant and current understanding of RICS’ professional and ethical standards during a rolling three-year period. Any learning undertaken in order to meet this requirement may count as formal CPD.
 - All members must record their CPD activity online.
6. The online CPD record was attached to the charge. It is a matter of record. The record for the Relevant Person for the calendar year 2015 does not show 20 hours CPD recorded. There are no submissions from the Relevant Person that the record is inaccurate.
7. In the Listing Questionnaire signed and dated 1 April 2016, the Relevant Person has admitted the charge.
8. Accordingly the Panel finds the allegation proved.

Sanction

9. The Panel next considered sanction. The RICS rules about CPD require members to undertake and to record online 20 hours CPD each year. For those who failed to comply with that rule, the sanction imposed was a caution. For those who failed to comply for a second year the sanction was a further caution and a penalty of £150.

This is the third year of compulsory recording of CPD online. The Relevant Person is charged with failing to record CPD for the calendar year 2015, and had received the two cautions and paid the fine of £150 imposed last year.

10. From the inception of the compulsory recording of CPD online RICS has publicised its policy on sanctions for non-compliance. For a third failure the Sanctions Policy at paragraph 22 indicated that expulsion was the likely sanction.
11. The explanation offered by the Relevant Person was that she has experienced serious health issues especially towards the end of 2015. She provided documentary evidence to support this explanation. She also said she deeply regretted the breach. She said that she communicated and responded promptly to RICS once she was aware of the email dated 2 February 2016 and that, on 22 February 2016, RICS confirmed that she had fully complied with the CPD requirements for 2015. The Panel noted an email from RICS dated 22 February 2016 in the bundle stating “you have met the requirement of CPD 2015”. Following the provision of a spreadsheet by the Relevant Person, RICS retrospectively loaded her 24 hours CPD online for 2015 (despite it being after RICS’s additional period of grace until 31 January 2016). This was shown on the CPD Annual Summary print out by RICS in the bundle. The Panel also noted previous correspondence with the Relevant Person. RICS had sent numerous email reminders and made chasing telephone calls, to which either the Relevant Person had not responded or had made promises that she would record her CPD before the deadline. For example, on 17 December 2014, she said she would “complete the CPD soon” and on 7 December 2015 that she would record her CPD before the deadline. The Panel noted the Relevant Person did not mention her health issues to RICS on this latter date but RICS were aware of these issues when they assisted her with the spreadsheet in February 2016.
12. The Panel accepted the evidence provided of the Relevant Person’s health issues as mitigation for her failure to record her 2015 CPD by the extended deadline of 31 January 2016. The Panel also accepted that RICS had subsequently told her that she had met the 2015 CPD requirements and noted that the full record was shown on the CPD Annual Summary. Accordingly the Panel has decided not to expel the Relevant Person with immediate effect.
13. The Panel directed, however, that the Relevant Person must comply with the requirement to undertake and record 20 hours of CPD for 2016 by 31 December 2016. Failure to do so will result in her automatic expulsion from membership of RICS without further recourse.

Publication

14. The Panel has considered the policy on publication of decisions, The Sanctions Policy Supplement 3 - Publication of Regulatory Disciplinary Matters. This decision will be published on RICS’ website, in RICS’ magazine Modus, but not in a local newspaper.

Costs

15. RICS asked for costs of £600, the standard charge for a paper hearing. This is a straightforward matter, and the standard fee is in excess of what may realistically be expected to be the costs incurred in bringing the charge. The Panel orders that the Relevant Person pay costs of £100.

Appeal Period

16. The Relevant Person has 28 days, from the service of the notification of the decision, to appeal this decision in accordance with Rule 59 of the Disciplinary, Registration and Appeal Panel Rules.

17. In accordance with Rule 60 of the Disciplinary, Registration and Appeal Panel Rules, the Honorary Secretary of RICS has 28 days, from the service of the notification of the decision, to require a review of this Decision.