

紀律委員會主席馬豪輝先生的意見

Comments from the Chairman of the EAA Disciplinary Committee Mr Ma Ho-fai

物業的土地查冊內載有重要的物業資料，包括物業的擁有權及有效的產權負擔。因此，根據《常規規例》第13(4)條的規定，從業員必須在緊接買賣雙方訂立買賣協議前，就物業進行土地查冊，換句話說，持牌人必須在買賣雙方訂立買賣協議之前，向買方提供**最新**的查冊結果。否則，有可能會導致客戶無法得知有關物業的最新資料，後果可以十分嚴重。

目前，土地註冊處於每天早上七時半更新土地登記冊所載的物業資料。除非有相反的證據支持，否則，持牌人所提供的土地查冊紀錄如能顯示(1)物業的土地登記冊的日期是與買賣協議的日期一致；及(2)所載物業的資料是買賣協議訂立當天早上七時半更新的該物業資料；即被視為已遵守《常規規例》第13(4)條內就有關物業進行土地查冊的規定。

就上述的個案而言，有關的持牌人雖然是在買賣雙方簽訂臨約之前就物業進行土地查冊，但查冊是在簽約前一天進行。因此，查冊結果所載的資料，並非在簽臨約前可取得的最新的物業資料，因為土地登記冊上有關該物業的資料在簽約當天早上七時半應會再度更新。因此，監管局認為該持牌人沒有遵守《常規規例》第13(4)條的規定而向他施以紀律處分。



A land search contains important property information, including the ownership and the subsisting encumbrances affecting the property. As a result, the time requirement of carrying out a land search “immediately before” an agreement for sale and purchase is entered into as prescribed in section 13(4) of the Practice Regulation is that licensees should carry out and provide the purchaser with the **most up-to-date** copy of the land search of the property before the purchaser enters into an agreement with the vendor. Otherwise, the client may not be able to know about the most up-to-date information about the property, which could lead to serious consequences.

At present, the Land Registry updates the register information of properties at 7:30am everyday. Subject to contrary evidence, a licensee shall be considered to have complied with the requirement of carrying out a land search under section 13(4) of the Practice Regulation if he is able to produce a land register bearing the same date of the agreement for sale and purchase and showing that the information of the property contained therein is updated to 7:30am of that day.

In this particular case, although the licensee conducted a land search before the sale and purchase agreement was entered into, it was carried out one day before the agreement was signed. As such, the land search did not show the latest information of the property immediately before the agreement was entered into, as the information in the land register would have been updated by the Land Registry at 7:30am on the day of the signing of the agreement. Therefore, the EAA imposed disciplinary sanctions on the licensee for failing to comply with section 13(4) of the Practice Regulation.