

# 地產代理監管局 15周年慶典

為慶祝成立15周年，地產代理監管局(監管局)於2012年11月26日在香港會議展覽中心舉行紀念慶典，並於慶典前舉辦了「十五年發展與進步•邁向優質、專業、誠信新時代」專業論壇。

論壇由專家和學者就地產代理業未來發展方向及「專業化」的重要性進行探討，並與中、港兩地的地產代理交換意見。多年來，監管局致力建立行內的誠信文化，積極推行切合業界需要的培訓活動，提升業界的專業水平。

紀念慶典則由運輸及房屋局局長張炳良教授及監管局主席陳韻雲女士主禮，接近300名嘉賓出席，場面熱鬧。出席嘉賓包括現任和前任監管局成員和委任成員、立法會議員、政府部門代表、地產代理業界商會、公營機構、專上院校和培訓機構的代表等。內地及澳門的嘉賓也應邀來港參加慶典。

在慶典上，監管局主席陳韻雲女士表示，監管局經過15年的發展，已經成為一個具有公信力和專業的規管機構。她相信，在未來日子裏，監管局將會一如以往，為保障消費者的權益，確保地產代理業界健康發展和邁向專業化而努力。

她更向監管局歷任和現任的成員、職員致意，感謝他們對監管局工作所作出的貢獻。她亦多謝多個政府部門、業界商會、各機構團體、傳媒和市民大眾過去多年的支持和協助。

慶典中，監管局行政總裁伍華強先生代表監管局與中國房地產估價師與房地產經紀人學會的代表劉曉瑞女士交換紀念狀，象徵首屆互認資格計劃順利完成，並恭賀經此計劃下取得兩地執業證書的首批香港及內地地產代理。

會場內擺放了展板，讓嘉賓們重溫監管局的發展歷程和精華照片。此外，為推廣有關實用面積的資訊而特別製作的電視短片亦於慶典上率先播放，讓嘉賓先睹為快。

若要重溫當日盛況，請登入：  
[www.eaa.org.hk/15anniversary/ch](http://www.eaa.org.hk/15anniversary/ch)

## Celebrating the EAA's 15<sup>th</sup> anniversary

To celebrate its 15<sup>th</sup> anniversary, the Estate Agents Authority (EAA) held a ceremony at the Hong Kong Convention and Exhibition Centre on 26 November 2012. A professional forum on “15 years of development and advancement — marching into the era of quality, professionalism and integrity” was also organised before the ceremony.



監管局主席陳韻雲女士(右三)及行政總裁伍華強先生(左二)與專業論壇的講者合照：香港中文大學副校長許敬文教授(左一)、廉政公署香港道德發展中心總幹事于慧芬女士(右二)、英國皇家特許測量師學會(香港分會)住宅專業委員會副主席黎漢群女士(右一)。

EAA Chairman Ms Vivien Chan (3<sup>rd</sup> from right) and Chief Executive Officer Mr Augustine Ng (2<sup>nd</sup> from left) pose at the professional forum with the guest speakers: The Chinese University of Hong Kong Vice-President Professor Michael K. Hui (1<sup>st</sup> from left), Independent Commission Against Corruption Hong Kong Ethics Development Centre Executive Director Ms Monica Yu (2<sup>nd</sup> from right), The Royal Institution of Chartered Surveyors (Hong Kong) Residential Professional Group Vice-Chairman Ms Cherrie Lai (1<sup>st</sup> from right).

▼ 監管局主席陳韻雲女士在監管局十五周年慶典上致歡迎辭。

EAA Chairman Ms Vivien Chan delivers a welcome speech at the EAA 15<sup>th</sup> Anniversary ceremony.



In the forum, experts and scholars expressed their views on the future direction of estate agency trade development and the importance of “professionalism”. The speakers also exchanged ideas with licensees from the Mainland and Hong Kong. Over the years, the EAA has been making every endeavour to build a culture of integrity in the trade. With the purpose of improving the professional standards of estate agents, the EAA proactively implemented educational activities that meet the trade's needs.

The ceremony was officiated by the Secretary for Transport and Housing Professor Anthony Cheung Bing-leung and Chairman of the EAA Ms Vivien Chan. Close to 300 guests attended, including current and former EAA Board members and Board-appointed members, members of the Legislative Council, representatives of government departments, estate agency trade associations, public bodies, and tertiary and training institutions. Guests from the Mainland and Macau also attended the ceremony.

At the ceremony, EAA Chairman Ms Vivien Chan said that the past 15 years had witnessed the EAA growing into a credible and professional regulatory body. She believes in the years ahead, the EAA will continue striving to protect consumers' interests and ensure the trade's healthy development towards professionalism.



▲ 運輸及房屋局局長張炳良教授在監管局十五周年慶典上致辭。

Secretary for Transport and Housing Professor Anthony Cheung Bing-leung delivers a speech at the EAA 15<sup>th</sup> Anniversary ceremony.





(右起)監管局主席陳韻雲女士、運輸及房屋局局長張炳良教授、監管局副主席梁永祥先生及監管局行政總裁伍華強先生為慶祝監管局十五周年主持切蛋糕儀式。

(From right) EAA Chairman Ms Vivien Chan, Secretary for Transport and Housing Professor Anthony Cheung Bing-leung, EAA Vice-chairman Mr William Leung Wing-cheung and EAA Chief Executive Officer Mr Augustine Ng cut a cake to celebrate the EAA's 15<sup>th</sup> Anniversary.

Ms Vivien Chan paid tributes to the past and present EAA members and staff, for their contribution to the work of the EAA. She also thanked government departments, trade associations, various organisations, the media and the public for their support and assistance.

At the ceremony, EAA's Chief Executive Officer Mr Augustine Ng exchanged commemorative certificates with Ms Liu Xiao-rui, the representative of the China Institute of Real Estate Appraisers and Agents. This marked the completion of the first phase of the mutual

recognition scheme. They also extended their congratulations to the Mainland and Hong Kong estate agents who had qualified under the scheme.

There were display panels and photos for guests to review the EAA's major accomplishments at the ceremony venue. In addition, the TV Announcement in the Public Interest on promoting information related to saleable area was premiered at the ceremony.

To revisit the ceremony, please logon to:  
[www.eaa.org.hk/15anniversary/en](http://www.eaa.org.hk/15anniversary/en)



監管局主席陳韻雲女士(右八)、運輸及房屋局局長張炳良教授(右九)、監管局副主席梁永祥先生(右十)及監管局成員、監管局行政總裁向參與監管局十五周年慶典的嘉賓祝酒。

EAA Chairman Ms Vivien Chan (8<sup>th</sup> from right), Secretary for Transport and Housing Professor Anthony Cheung Bing-leung (9<sup>th</sup> from right), Vice-chairman Mr William Leung Wing-cheung (10<sup>th</sup> from right), EAA members and EAA Chief Executive Officer toast to guests of the 15<sup>th</sup> Anniversary Ceremony.



# 精彩時刻 Capturing the moment









## 監管局新一屆董事局 The New EAA Board

特區行政長官委任／再委任監管局以下成員，任期至2014年10月為止。成員來自社會上不同的界別，包括地產代理行業。

The Chief Executive of the Hong Kong Special Administrative Region appointed/reappointed the following individuals to the EAA until October 2014. They are from various sectors in the community, including the estate agency sector.

主席：陳韻雲女士，BBS，JP

副主席：梁永祥先生，BBS，JP

普通成員：陳超國先生

鄒廣榮教授

張國鈞先生

鍾詠雪女士

葉松茂博士

郭昶先生

劉振江先生

劉詩韻女士

李景亮先生

李國麟議員，SBS，JP

劉哲寧先生

廖玉玲女士

呂耀華先生

伍景華先生

黃鳳嫻女士

吳麗莎女士

余惠偉先生

運輸及房屋局常任秘書長(房屋)或  
其代表

Chairman : Ms Vivien Chan, BBS, JP

Vice-Chairman : Mr William Leung Wing-cheung, BBS, JP

Ordinary Members : Mr Chan Chiu-kwok

Professor Chau Kwong-wing

Mr Horace Cheung Kwok-kwan

Ms Cynthia Chung Wing-suet

Dr Ip Saimond

Mr Anthony Kwok Chong

Mr Lau Chun-kong

Ms Serena Lau Sze-wan

Mr Lee King-leong

Dr the Hon Joseph Lee Kok-long, SBS, JP

Mr Liu Che-ning

Ms Elaine Liu Yuk-ling

Mr Alexander Lui Yiu-wah

Mr Ng King-wah

Ms Gilly Wong Fung-han

Miss Melissa Wu

Mr Yu Wai-wai

Permanent Secretary for Transport  
and Housing (Housing) or  
his representative



監管局設宴歡迎新任成員，並向前任委員致謝意。

The EAA Board and Administration welcome new Board members and pay tribute to former members.

## 監管局新任行政總裁伍華強先生專訪



監管局新任行政總裁伍華強先生已於2012年10月履新。本期《專業天地》特別訪問了伍先生，了解他對新工作的體驗，以及對未來發展的期望。

伍先生曾經擔任公務員30多年，公共行政經驗豐富。他在接任新職之後三個多月以來，深感任重而道遠。他表示：「住宅物業交易之中，絕大部分是由地產代理促成。監管局規管地產代理，確保他們以誠待客，為客戶爭取最大的利益，工作真是十分重要。」

伍先生相信，監管局經過十多年的努力，地產代理的專業水平已經大為提升。目前行內人數接近36,000人，但監管局每年平均只接獲500多宗投訴，可見行內違規情況並不算嚴重。

因此，伍先生認為監管局應在已建立的堅實根基之上，更進一步，精益求精。未來，監管局會積極提高工作透明度，爭取市民的支持，令監管局的工作事半功倍。此外，監管局會繼續與業界保持緊密的聯繫，務求令措施推行得更順利。

他在總結時說：「未來，業界必定要朝專業化的方向發展，這樣業界才能提高社會地位，爭取公眾人士的認同。」

## Interview with the EAA's new CEO Mr Augustine Ng

The EAA's new Chief Executive Officer Mr Augustine Ng has been in his post since October 2012. In this issue of *Horizons*, Mr Ng shares with us his experiences so far and his views about the EAA's future direction.

A veteran civil servant with over 30 years' experience, Mr Ng is well versed in public administration. After taking up his new post more than three months ago, Mr Ng is even more convinced of the importance of the EAA's work. He said, "The majority of the transactions of residential properties are handled by estate agents. Hence, the EAA's regulatory work is important to ensure that the estate agents serve consumers with honesty and promote consumers' interests."

Mr Ng believes that the EAA's over a decade of hard work has considerably raised the professional standards

of the trade, as reflected by an average of only about 500 complaints each year from a trade with over 36,000 practitioners. He believes that these figures show that the issue of non-compliance is not serious in the trade.

In this regard, Mr Ng believes that the EAA should develop and evolve based on the solid foundations established over the years. In the future, the EAA will enhance transparency so as to garner public support, which will help to facilitate its work. In addition, the EAA will continue to keep close contacts with the trade for smooth implementation of new measures.

In conclusion, Mr Ng said, "In the days ahead, the trade must advance towards professionalism. This is the right direction in which the trade must go to raise its social status and public recognition in society."

## 有關提供二手住宅物業面積的執業通告經已生效

有關地產代理在處理二手住宅物業交易時採用實用面積的執業通告，已於2013年1月1日正式實施。該通告要求持牌人就推銷二手住宅物業發出廣告宣傳及向客戶提供物業樓面面積的資料時，必須從差餉物業估價署或物業首次轉讓的買賣協議取得實用面積，並向客戶提供相關的資料。

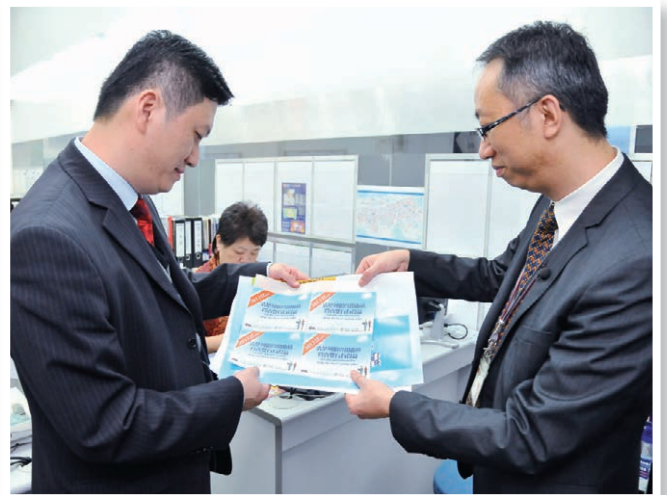
倘若物業的實用面積未能從上述的訂明來源中取得，持牌人可以提供物業的建築面積或其他樓面面積資料。通告容許持牌人在提供實用面積的同時，也可提供建築面積，但在廣告中表述實用面積的字體不可比表述建築面積的字體小。

持牌人須注意，執業通告規管的範圍不止限於店鋪的櫥窗廣告和派發的宣傳單張，還包括網上及報章上的廣告，以至口頭向客戶介紹物業等。執業通告正式實施後，監管局在巡查時如發現懷疑違規的個案或收到投訴時會秉公處理。

為了加深持牌人對執業通告的了解，監管局在網站上加設了相關的專頁。監管局並將有關通告的疑問集成一套「問與答」，持牌人可登入以下網址瀏覽：  
[www.eaa.org.hk/url/saleablearea.htm](http://www.eaa.org.hk/url/saleablearea.htm)

監管局會繼續舉辦持續進修講座，及通過巡查地產代理商舖，協助業界了解通告的內容，以達致通告的要求。同時，監管局會繼續加強向公眾宣傳實用面積的概念，除印製海報及貼紙供持牌人於店舖內張貼，亦已透過電視短片和展覽等途徑，協助消費者熟習實用面積的概念。

實用面積有統一定義，不但提高物業交易的透明度，更提供了一個客觀的基礎，令消費者可就不同物業的樓面面積作出比較。因此，於二手住宅物業銷售中統一採用實用面積，對香港物業市場的發展可謂是一個里程碑，就連海外組織亦表示關注。國際地產代理規管機構協會ARELLO (The Association of Real Estate License Law Officials)於2012年11月的會員通訊中曾對此作出報導，簡介執業通告的要求。有關的報導刊載於以下網址(僅有英文版本)：  
[www.arello.org/assets/library/November\\_Boundaries.pdf](http://www.arello.org/assets/library/November_Boundaries.pdf)



透過教育性巡查，監管局向持牌人講解執業通告的要求，並派發海報及貼紙供持牌人於店舖內張貼。

Through educational visits, EAA explains to licensees the requirements set out in the practice circular. Posters and stickers are also distributed for posting in shops.

供持牌人張貼於店舖內的海報及貼紙

Poster and sticker for posting in estate agency shops





有關實用面積的電視短片(可於監管局網站重溫：消費者專區>短片)

TV Announcement in Public Interest on saleable area (available at EAA website: Consumer Corner > Videos)

## Practice circular on provision of floor area information for second-hand residential properties now in force

The practice circular on provision of saleable area information for second-hand residential properties came into operation on 1 January 2013. The practice circular requires estate agents to provide information on the saleable area of a second-hand residential property to their clients in advertisements and in provision of the floor area information of the property. The saleable area of the property should be obtained from either one of the prescribed sources: the Rating and Valuation Department or the agreement for sale and purchase of the first assignment of the property.

If the saleable area of the property cannot be obtained from the prescribed sources, licensees may provide the

gross floor area or other floor area information of the property. The circular allows estate agents to provide information on both the saleable area and the gross floor area of a property. However, the font size regarding the saleable area used in advertisements shall be no smaller than that of the gross floor area of the property.

Licensees should note that the practice circular covers not only the advertisements in shop windows and promotional leaflets, but also online and newspaper advertisements and verbal presentations to clients. Upon implementation of the practice circular, the EAA will handle all complaints received and/or suspected non-compliant cases found during compliance inspections impartially.

To enhance licensees' understanding of the practice circular, the EAA has launched a webpage containing related information. A set of relevant "questions and answers" was also compiled at:

[www.eaa.org.hk/url/saleablearea.htm](http://www.eaa.org.hk/url/saleablearea.htm)

The EAA will continue to help the trade to understand and comply with the requirements set out in the circular through organising CPD seminars and educational visits at estate agency shops. At the same time the EAA will continue to step up the promotion of the concept of saleable area to the public. In addition to providing posters and stickers for licensees' posting in shops, the EAA also helps consumers to familiarise themselves with the concept through an Announcement in Public Interest aired on TV and roving exhibitions.

With a standardised definition, saleable area does not only help to raise the transparency of property transactions, it also provides an objective basis for consumers to compare the floor area of different properties. Adopting saleable area in the sale of second-hand residential properties is therefore a milestone in the development of the Hong Kong real estate market which attracts overseas attention. The Association of Real Estate License Law Officials (ARELLO), an international association of estate agency trade regulatory bodies, reported the initiative in its November 2012 newsletter and briefly introduced the requirements set out in the practice circular. Licensees may view the article at the website:

[www.arello.org/assets/library/November\\_Boundaries.pdf](http://www.arello.org/assets/library/November_Boundaries.pdf)



地產代理就推銷二手住宅物業發出的廣告宣傳如載有樓面面積資料，則必須提供實用面積。

If floor area information is provided in an advertisement promoting a second-hand residential property, information on saleable area must be provided.

監管局於商場舉行巡迴展覽推廣消費者資訊，協助公眾適應採用實用面積。

Roving exhibitions held at shopping arcades to help the public to familiarise themselves with the concept of saleable area.





# 額外印花稅及買家印花稅

政府於2012年10月宣布調整「額外印花稅」及引入「買家印花稅」，以進一步遏抑炒賣活動。為加深地產代理業界對有關新政策的了解，監管局早前邀請來自稅務局與運輸及房屋局（運房局）的代表，向業界商會代表簡介建議新措施內容。

稅務局與運房局的代表於2012年11月7日出席監管局與業界的特別會議。出席的政府代表包括稅務局助理局長謝玉葉女士、稅務局印花稅署高級總監康偉權先生及運房局高級政務主任（私營房屋）吳肇基先生，八個地產代理業界商會亦有派員出席。

會議中，政府代表簡介了建議新措施的內容，包括修訂「額外印花稅」及新「買家印花稅」的適用範圍、生效日期及稅率等，並解答商會代表就執行細節方

面的提問。監管局期望，會議能釐清業界關注的問題，並希望商會代表向會員轉達相關的資訊。

有關新措施的建議有待立法會通過，監管局會密切留意立法進程，待條例草案通過後，再向業界發出相關執業通告。監管局早前亦透過電郵通知持牌人，並於網頁刊載相關資訊，供業界參閱：

持牌人 > 致持牌人函件 > 有關：「額外印花稅」和「買家印花稅」

另外，政府代表在會上簡介的「額外印花稅」及「買家印花稅」內容已刊登於監管局的網頁供業界人士參閱：

[www.eaa.org.hk/Portals/0/Sections/CC/2012\\_Nov/ppt\\_chi\\_ird\\_nov2012.pdf](http://www.eaa.org.hk/Portals/0/Sections/CC/2012_Nov/ppt_chi_ird_nov2012.pdf)

## Special Stamp Duty and Buyer's Stamp Duty

In October 2012, the Government proposed amending the Special Stamp Duty (SSD) and introducing a Buyer's Stamp Duty (BSD) in order to further curb speculative activities. To deepen the estate agency trade's understanding of the new initiatives, the EAA invited representatives from the Inland Revenue Department (IRD) and the Transport and Housing Bureau (THB) to brief representatives of the trade on details of the proposed new initiatives.

On 7 November 2012, representatives of IRD and THB were invited to attend the EAA's special meeting with the trade. The representatives attending the meeting included Ms Tse Yuk-yip, Assistant Commissioner of the IRD, Mr Raymond Hong Wai-kuen, Senior Superintendent of Stamp Office of the IRD and Mr Kasper Ng Siu-kei, Senior Administrative Officer (Private Housing) of the THB. Also attending the meeting were representatives of eight trade associations.

At the meeting, the Government representatives introduced the proposed new initiatives, including the scope, effective date and rates of the amended SSD and

the new BSD. They also answered enquiries on the implementation details raised by the trade representatives. The EAA hoped that the trade's concerns were clarified through the meeting. The trade representatives were expected to share the relevant information with their members.

The amendment bill on the new initiatives has yet to be passed by the Legislative Council. The EAA will closely monitor the legislative process. Upon the passage of the amendment bill, the EAA will issue a related practice circular to the trade. The EAA had earlier notified the licensees through email and posted related information on the EAA's website for the trade's reference:  
Licensee > Letter to Licensees > Re: Special Stamp Duty and Buyer's Stamp Duty

In addition, the briefing notes for the meeting have been uploaded onto the EAA website for the trade's reference (Only Chinese version available):  
[www.eaa.org.hk/Portals/0/Sections/CC/2012\\_Nov/ppt\\_chi\\_ird\\_nov2012.pdf](http://www.eaa.org.hk/Portals/0/Sections/CC/2012_Nov/ppt_chi_ird_nov2012.pdf)

## 合資格香港持牌人獲批內地執業註冊證書

在首屆內地與香港地產代理專業資格互認計劃之下，分別有212名合資格的香港持牌人及35名內地經紀人獲批執業註冊證書／牌照，可以在對方的管轄範圍內執業。

中國房地產估價師與房地產經紀人學會(中房學)較早前向212名已完成培訓課程及通過考試的香港持牌人批出註冊證書。這批註冊證書的有效期由2012年10月1日至2013年12月31日止，經已透過監管局轉交持牌人。此外，監管局已完成35宗內地合資格經紀人的牌照申請，並且已按照他們的選擇，向他們發出有效期12個月或24個月的牌照。

監管局已經與中房學就著第二屆培訓課程及考試詳情，展開商討。請留意監管局稍後的公布。

監管局一直與中房學保持緊密聯繫，共同推動香港與內地地產代理的專業交流。來自中房學的代表團，於2012年11月26日應邀來港出席監管局15周年慶典以及專業論壇。翌日，該代表團造訪監管局，了解監管局規管地產代理的工作，稍後更參觀了某地產代理公司，增進對於香港地產代理業的了解。



中房學代表團於監管局辦事處與局方代表合照留念。

The delegation of CIREA poses with EAA's representatives at the EAA's office.

## Qualified Hong Kong licensees granted certificates of registration to practise in the Mainland

Under the first phase of the scheme on the mutual recognition of professional qualifications of estate agents in the Mainland and Hong Kong, 212 Hong Kong licensees and 35 Mainland estate agents received their certificates of registration/licences to practise in the respective jurisdiction.

The China Institute of Real Estate Appraisers and Agents (CIREA) has approved the applications from 212 Hong Kong licensees who completed the first training course and passed the examination. The certificates of registration, with a validity period from 1 October 2012 to 31 December 2013, have been passed to the licensees via the EAA. In addition, 35 applications from qualified Mainland agents have been approved by the EAA. Licences with validity period of either 12 or 24 months, depending on their choices, have been granted to them.

Discussion on the details of the second phase of the training course and examination is underway. Please stay tuned for the EAA's announcements later.

With a view to promoting professional exchanges of estate agents between Hong Kong and the Mainland, the EAA has kept in close contact with the CIREA. A delegation from the CIREA came to Hong Kong to attend the EAA's 15<sup>th</sup> Anniversary ceremony and the professional forum on 26 November 2012. On the following day, the delegation visited the EAA's office to learn more about its regulatory work. The delegation also visited an estate agency company to gain a better understanding of estate agency practices in Hong Kong.



## 紀律研訊個案一 不應向客戶聲稱可保證取得物業按揭貸款

置業涉及龐大的金錢投資，買家一般都會向銀行申請按揭貸款，作為專業的地產代理，當客戶查詢有關按揭貸款的資料時，不應隨便向客戶保證可取得有關物業的按揭貸款，也不得就按揭貸款的條款作出任何保證。

一對夫婦透過一名資深地產代理購入一個一手樓盤住宅物業。在訂立臨時買賣合約前，這對夫婦曾向該代理表示，他們是退休人士，擔心申請按揭貸款有困難，同時他們必須獲得樓價七成的按揭，才有能力支付首期及供款。當時該代理聲稱，該樓盤是優質物業，保證準買家必可向銀行取得樓價七成、甚至九成的按揭貸款。該對夫婦其後向多間銀行申請按揭，但均只獲提供樓價五成的按揭。該對夫婦隨後向監管局投訴。

事實上，監管局曾發出執業通告，規定從業員在促銷一手樓盤時，不可向準買家作出有關按揭條款的保證。個案中該名地產代理因違反監管局發出的「操守守則」第3.2.1段，被監管局紀律委員會譴責及暫時吊銷牌照七天，並在其牌照上附加條件，要求她在12個月內取得12個持續專業進修計劃核心科目的學分。

其實，香港金融管理局不時會因應市況而修訂物業按揭貸款的指引；而貸款機構在審批按揭貸款時也可能就申請者的收入來源及經濟狀況等作出不同考慮；因此，從業員不應向準買家就物業按揭貸款事宜上作出任何保證，而應建議客戶直接向貸款機構查詢。

## Inquiry hearing case — Do not make any statements to assure a client that he will obtain a mortgage loan to finance his purchase of a property

Purchasing a property is a big investment requiring a large amount of money. Most buyers will therefore apply for a mortgage loan to finance their purchase from a bank. When a client asks about a mortgage loan, a professional estate agency practitioner should neither make any assurances to the client that he/she will obtain a mortgage loan nor make any assurances on the mortgage terms.

A couple bought a first-hand residential property through an experienced estate agent. Before entering into the provisional agreement for sale and purchase, the couple told the estate agent that they were retired and thus worried it would be difficult for them to acquire a mortgage loan. They also expressed that they must obtain a mortgage of 70% of the property's purchase price to afford the down payment and installments. At that time, the estate agent told them that the property was of high quality and assured the couple that the bank would approve a mortgage loan of 70%, or even 90% of the property's price. The couple subsequently applied for a mortgage to a number of banks, but they were only offered a loan of 50% of the property's price. The couple then lodged a complaint with the EAA.

According to the practice circular issued by the EAA, practitioners must not make any assurances to prospective buyers on mortgage terms when they are handling first-hand property transactions. In this case, the estate agent failed to comply with paragraph 3.2.1 of the Code of Ethics issued by the EAA. The Disciplinary Committee decided to reprimand the estate agent, suspend her licence for seven days and attach conditions to her licence, requiring her to obtain 12 points from the core subjects under the CPD Scheme within 12 months.

The Hong Kong Monetary Authority revises its guidelines on mortgage loans from time to time in light of market conditions. Lending institutions may also consider a number of factors, such as the applicant's income sources and economic conditions, when vetting a mortgage loan application. Thus, practitioners should not make any assurances to prospective buyers on mortgage loans and should advise their clients to inquire with lending institutions directly.

## 紀律研訊個案一 未得客戶同意下使用其個人資料作直接促銷

從業員在業務過程中需要經常收集和處理客戶的個人資料。監管局提醒從業員，在處理客戶的個人資料時，必須謹慎及遵守《個人資料(私隱)條例》(《私隱條例》)，否則不但可能被監管局紀律處分，更可能因違反《私隱條例》而被法庭定罪。

某地產代理公司曾經替一位客戶購入物業，因而取得其個人資料。在交易完成後，該客戶要求地產代理公司不要使用他的個人資料作直接促銷，但仍然收到該地產代理公司的直接促銷電話。

該客戶其後向香港個人資料私隱專員公署及該地產代理公司的一位董事作出投訴。該董事向他表示，

其公司的職員不會再致電他，並已將他的資料列入「拒絕服務名單」。然而，其後該地產代理公司一位從業員仍繼續致電該客戶作直接促銷。該客戶遂向警方報案。

監管局後來就事件作出調查。監管局紀律委員會認為，地產代理公司和從業員在客戶要求停止使用其個人資料後，仍然致電客戶作促銷活動，並因而違反《私隱條例》而被法院定罪，未有遵守《操守守則》第3.1.1段中所述「地產代理和營業員在執業時必須避免從事可能觸犯法律的活動」。委員會決定對該公司作出譴責及罰款\$30,000，並對該從業員作出譴責及暫時吊銷其牌照七天。

## Inquiry hearing case — Using a client's personal data for direct marketing without consent

Practitioners collect and handle personal data of their clients in the course of carrying out estate agency work. The EAA would like to remind practitioners that they must be prudent and abide by the Personal Data (Privacy) Ordinance (PDPO). Failure to do so may not only result in disciplinary action by the EAA but also a court conviction for contravention of PDPO.

An estate agency company handled a property purchase for a client and obtained her personal data. The client requested the company not to use her personal data for direct marketing upon completion of the transaction. However, she still received direct marketing calls from the company.

The client then lodged a complaint with the Office of the Privacy Commissioner for Personal Data and with a director of the estate agency company. The director told the client that the staff of the company would not call her

again and the company had also put the client's personal data in the "opt-out list". However, a practitioner working for the company still called the client for direct marketing. The client therefore made a report to the Police.

The EAA instigated an investigation into the case. Despite the client's request to stop using her personal data, the estate agency company and the practitioner still made direct marketing calls to the client and were convicted by the court for contravening the PDPO. The EAA Disciplinary Committee found the company and the practitioner did not comply with paragraph 3.1.1 of the Code of Ethics, which states that "estate agents and salespersons shall refrain from activities during their practice which may infringe the law". The EAA Disciplinary Committee reprimanded the company and imposed a fine of \$30,000, and reprimanded the practitioner and suspended her licence for seven days.



# 統計數字 Statistics



## 考試 Examinations

考試及考試日期 Examination and date	參加人數 No. of candidates	合格率 Pass rate
地產代理資格考試 Estate Agents Qualifying Examination		
5/10/2012	<b>1,945</b>	<b>52.5%</b>
14/12/2012	<b>1,751</b>	<b>61.7%</b>
營業員資格考試 Salespersons Qualifying Examination		
24/8/2012	<b>1,909</b>	<b>54.3%</b>
19/10/2012	<b>1,836</b>	<b>48.7%</b>
28/12/2012	<b>1,514</b>	<b>34.9%</b>



## 牌照數目 (截至2012年12月31日) Number of licences (as at 31/12/2012)

營業員牌照 Salesperson's Licence:	<b>20,126</b>
地產代理(個人)牌照 Estate Agent's Licence (Individual):	<b>16,293</b>
個人牌照總和 Total no. of individual licences:	<b>36,419</b>
地產代理(公司)牌照 Estate Agent's Licence (Company):	<b>2,924</b>



## 營業詳情說明書 (截至2012年12月31日) Number of statements of particulars of business (as at 31/12/2012)

合夥經營 Partnerships:	<b>268</b>
獨資經營 Sole proprietorships:	<b>1,641</b>
有限公司 Limited companies:	<b>4,379</b>
總數 Total:	<b>6,288</b>



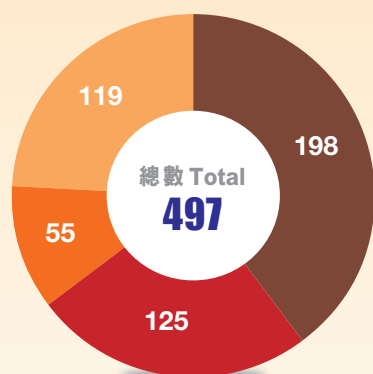
## 接獲的投訴 (2012年1月至12月): Number of complaint cases received (January to December 2012)

	<b>547</b>
--	------------



## 已處理的投訴個案結果\* (2012年1月至12月)

### Results of completed complaint cases\* (January to December 2012)



指稱成立 Substantiated:	198
指稱不成立 Unsubstantiated:	125
資料不足 Insufficient information to pursue:	55
其他(例如投訴人撤回投訴或因其他原因而終止調查): Others (include cases withdrawn or curtailed because of some other reasons)	119

\* 部分是往年接獲的個案 Some cases were carried over from previous years



## 巡查次數 (2012年1月至12月)

### Number of compliance inspections (January to December 2012)

• 一手樓盤銷售處 First-sale sites:	1,019
• 代理商舖 Estate agency shops:	1,531
• 網上物業廣告 Online property advertisements:	610



## 經巡查發現主動調查的個案 (2012年1月至12月)

### Number of cases arising from self-initiated investigations during inspections (January to December 2012)

• 主動調查的個案 : Cases arising from self-initiated investigations	148
• 主動調查而指稱成立的個案* : Cases completed from self-initiated investigations and were substantiated*	101

\* 部分是往年展開調查的個案 Some cases were carried over from previous years



## 向持牌人或前持牌人採取的行動 (2012年1月至12月)\*

### Actions taken against licensees or ex-licensees (January to December 2012)\*

有關的持牌人或前持牌人人數 No. of licensees or ex-licensees	463
行動 Actions taken	
訓誡／譴責 Admonishment/reprimand	345
罰款 Fine	150
於牌照附加／更改條件 Attachment/alteration of conditions to licence	279
暫時吊銷牌照 Suspension	35
撤銷牌照 Revocation	0

\* 向持牌人或前持牌人作出的行動是根據《地產代理條例》而作出的判決，當中有部份可能屬於紀律性質。

\* These actions were taken pursuant to powers under the EAO. Some actions may be disciplinary in nature and others not, and they include the attachment of conditions to licences whether upon issuance or otherwise.

《專業天地》由監管局寄發。如果你不希望收到此刊物，請致電2111 2777或電郵至enquiry@eaa.org.hk通知監管局。  
Horizons is sent by the EAA. If you wish to stop receiving it, please call the EAA at 2111 2777 or email to enquiry@eaa.org.hk to unsubscribe.