

監管局發出有關

# 送讓契

的新執業通告及更新有關

# 物業資料及 土地查冊

的執業通告

[www.eaa.org.hk](http://www.eaa.org.hk) 2013年3月 Mar 2013

監管局於2013年3月13日舉行新聞發布會，宣布發出一份有關處理涉及送讓契／無償轉讓契的物業新執業通告。監管局同時更新了有關物業資料及土地查冊的執業通告並分成兩份通告，以便向業界提供詳細清晰的指引。上述三份執業通告經已上載於監管局網站，並於今年4月1日生效。

考試及執業委員會主席梁永祥先生指出，監管局曾接獲投訴，指持牌人未有適當地提醒客戶有關購買涉及送讓契／無償轉讓契物業的風險。他補充，購買涉及送讓契／無償轉讓契物業可能涉及風險，例如買方可能無法取得任何或足夠的按揭貸款以完成購買該物業，或在轉售該物業時無法證明其良好業權。

因此，考試及執業委員會通過發出相關的執業通告，以提醒持牌人在處理涉及送讓契／無償轉讓契的物業應注意的事項，從而保障客戶的利益。

此外，監管局更新了有關提供物業資料及土地查冊的執業通告，並發出兩份相關執業通告，以便向業界提供更清晰和詳盡的指引。

其中，有關物業資料的通告更清楚地列明，除非持牌人所管有的資料仍屬準確，否則必須於地產代理協議的有效期限開始當日，從訂明來源取得物業資料。至於有關土地查冊的執業通告，則更清楚列明代表賣方和買方的持牌人在向客戶提供土地查冊文本的責任，及有關要求的適用範圍。

監管局行政總裁伍華強先生補充，監管局將舉辦持續進修講座，向從業員詳細講解執業通告的內容，並會通過教育性巡查，向前線從業員講解執業通告，協助他們清楚了解及執行通告的要求。

上述三份執業通告(編號13-01(CR)－送讓契／無償轉讓契；編號13-02(CR)－物業資料及填妥物業資料表格／出租資料表格；編號13-03(CR)－土地查冊)均已上載至監管局網站([www.eaa.org.hk](http://www.eaa.org.hk))供持牌人查閱。

## 有關送讓契／無償轉讓契的執業通告的重點

- (1) 倘若物業的現時土地查冊顯示賣方作為物業的現任註冊業主少於五年，持牌人應就該物業進行過往及現時的土地查冊。
- (2) 持牌人應查閱土地查冊以確定是否有任何送讓契／無償轉讓契的註冊紀錄。
- (3) 倘若該物業的土地查冊顯示有送讓契／無償轉讓契的註冊紀錄而該送讓契／無償轉讓契的日期與土地查冊的日期相距少於五年，持牌人應：
  - (a) 告知客戶該送讓契／無償轉讓契的存在；
  - (b) 提醒客戶該送讓契／無償轉讓契可能會影響物業的業權及買方可能有無法取得足夠的按揭貸款以購買該物業的風險；及
  - (c) 建議客戶在簽訂任何該物業的買賣協議前，就買賣該物業的風險尋求法律意見。
- (4) 假若儘管有送讓契／無償轉讓契的註冊紀錄及持牌人已提醒客戶以上所述的風險後，客戶仍決定進行有關買賣，持牌人為保障在發生糾紛時的自身利益，宜向客戶取得書面確認，說明客戶已獲告知有關風險。



監管局執業及考試委員會主席梁永祥先生(中)、行政總裁伍華強先生(右)和規管及法律總監劉淑棻女士(左)舉行記者會，簡介局方發出有關送讓契的執業通告及更新有關物業資料及土地查冊的執業通告。

Chairman of the Practice & Examination Committee of the EAA Mr William Leung (centre), Chief Executive Officer Mr Augustine Ng (right) and Director of Regulatory Affairs & General Counsel Ms Eva Lau (left) brief the press on the new practice circular on deed of gift/assignment at nil consideration and the updated circulars on property information and land search.

多間傳媒代表出席記者會，了解新執業通告的內容。  
Representatives of the media attend the press conference to gain an understanding of the content of the new practice circular.



## The EAA issued a new practice circular on deed of gift/assignment at nil consideration and updated circulars on property information and land search

The EAA held a press conference on 13 March 2013 to announce the issuance of a new practice circular on handling properties involving a deed of gift/assignment at nil consideration. In addition, the EAA has updated a practice circular and issued two related circulars in its stead, respectively on property information and land search, so as to provide clearer and more detailed guidelines. The above three practice circulars are effective from 1 April 2013 onwards and have been uploaded to the EAA's website.

According to the Chairman of the Practice and Examination Committee (PEC) of the EAA, Mr William Leung Wing-cheung, the EAA had received complaints that licensees had not properly brought to the attention of the purchasers the risks of buying properties involving a deed of gift/assignment at nil consideration. The risks might include the purchaser not being able to obtain any or sufficient mortgage loan to complete the purchase, or to prove that the property has a good title on resale.

As such, the PEC approved the issuance of the practice circular to remind licensees of the points to note when handling properties involving a deed of gift/assignment at nil consideration so as to enable licensees to better protect their clients' interests.

In addition, the EAA has updated the related practice circular on the provision of property information and land search and issued two related circulars.

The practice circular on the provision of property information makes it clear that unless a licensee has already possessed the prescribed information and such information is still accurate, he is required, on the commencement date of the validity period of the estate agency agreement, to obtain property information from the prescribed sources. As for the practice circular on land search, it states more clearly the responsibilities of an estate agent to provide the land search result in respect of the property when he acts for the vendor or for the buyer.

EAA Chief Executive Officer Mr Augustine Ng added that the EAA would organise continuing professional development courses to explain the circulars to the licensees in detail. The EAA would also assist frontline practitioners in meeting the circulars' requirements through educational visits to estate agency shops.

The aforementioned three circulars (No.13-01(CR)—Deed of Gift/Assignment at Nil Consideration; No.13-02(CR)—Property Information and Completion of Property Information Form/Leasing Information Form; and No.13-03(CR)—Land Search) have been uploaded to the EAA website ([www.eaa.org.hk](http://www.eaa.org.hk)) for licensees' perusal.

### Gist of the new practice circular on deed of gift/assignment at nil consideration

- (1) Licensees should conduct a historical and current land search of the property if its current land search reveals that the vendor has been the current registered owner of the property for less than five years.
- (2) Licensees should check the land search(es) to see if there was any registration of a deed of gift/assignment at nil consideration.
- (3) Where the land search reveals that a deed of gift/assignment at nil consideration made within five years from the date of the land search has been registered, licensees should:
  - (a) inform clients of the existence of the deed of gift/assignment at nil consideration;
  - (b) alert clients that the deed of gift/assignment at nil consideration may affect the title of the property and that there is a risk that the purchaser may not be able to obtain sufficient mortgage loan to complete the purchase of the property; and
  - (c) advise clients to seek legal advice on the risk of selling/purchasing the property before they enter into any agreement for sale and purchase of the property.
- (4) If, despite the existence of the registered deed of gift/assignment at nil consideration and the clients having been alerted to the risks as stated above, the clients still decide to proceed with the transaction, the estate agent concerned, in order to protect his own interests in case of dispute, is advised to obtain a written acknowledgement from his clients stating that they have been informed of the related risks.

# 監管局回顧2012年工作及簡介2013年工作重點

監管局於2013年1月29日舉行新聞發布會，由主席陳韻雲女士及行政總裁伍華強先生回顧監管局在2012年的工作，及簡介2013年的工作重點。

陳韻雲主席指出，監管局在2012年5月推出有關提供二手住宅物業實用面積的執業通告，是其中一項受關注的措施。自從有關通告於2013年1月1日正式生效之後，監管局密切監察業界遵守指引的情況，陳韻雲主席認為，通告實施不久，絕大部分代理商舖能夠遵從及落實執業通告的要求，因此監管局推動二手住宅使用實用面積的政策是順利及成功的。

陳韻雲主席又表示，為慶祝成立15周年，監管局去年舉辦了慶典及專業論壇，亦編製了全新消費者小冊子《精明物業交易錦囊》，藉此推廣有關置業的資訊。

在其他工作方面，2012年應考資格考試的整體考生人數比2011跌近20%，但牌照數目則未見下調。去年底個人牌照數目達36,419個，而公司牌照則達2,924個，均創出新高。投訴數字方面，監管局在2012年接獲547宗投訴個案，較前一年輕微減少7%。

陳韻雲主席又指出，監管局於2013年將會繼續發出執業通告。由於《一手住宅物業銷售條例》將會在今年4月正式實施，監管局將發出相關的執業通告。此外，監管局會因應個別條例的修訂，考慮更新有關的執業通告。

監管局行政總裁伍華強先生表示，監管局在2013年會繼續密切監察業界提供實用面積的情況，通過宣傳和教育活動，促進業界遵行指引的要求。此外，為了向消費者說明簽署地產代理協議的重要性，監管局將推出有關簽訂地產代理協議的電視短片，並製作相關的海報及貼紙。同時，監管局會繼續舉辦巡迴展覽，向消費者推廣有關置業的資訊。



監管局主席陳韻雲女士(左)與行政總裁伍華強先生於新聞發布會上回顧局方在2012年的工作，並簡介2013年的工作重點。

EAA Chairman Ms Vivien Chan (left) and Chief Executive Officer Mr Augustine Ng review the EAA's work in 2012 and introduce its initiatives for 2013 at the press conference.

## EAA reviews its work in 2012 and introduces its initiatives for 2013

The EAA held a press conference on 29 January 2013 at which EAA Chairman, Ms Vivien Chan, and EAA Chief Executive Officer, Mr Augustine Ng, reviewed the EAA's work in 2012 and introduced key tasks for 2013.

Ms Vivien Chan pointed out that the EAA's Practice Circular on the Provision of Saleable Area Information for Second-hand Residential Properties issued in May 2012 has aroused much public attention. Since the Circular became effective on 1 January 2013, the EAA has closely monitored the compliance of the guidelines. Ms Vivien Chan opined that since the majority of estate agency shops had already complied with and implemented the circular shortly after it took effect, the EAA's efforts to promote the adoption of saleable area for second-hand residential properties were successful, and its implementation was smooth.

Ms Vivien Chan also said that the EAA held a ceremony and a professional forum last year to celebrate the EAA's 15<sup>th</sup> anniversary. As part of the celebration, the EAA has also produced a new booklet, entitled: "Smart Property Transaction Tips", with a view to raising the awareness of consumers on home buying.

As regards the EAA's other work, the overall number of candidates participating in the qualifying examinations in 2012 decreased by about 20% over 2011. Nonetheless,

the number of licences did not show a downward trend. Instead, there were 36,419 individual licences and 2,924 company licences as at 31 December 2012, which were both record highs. As for complaint figures, the EAA received 547 complaints in 2012, which is about 7% less than 2011.

According to Ms Vivien Chan, the EAA would continue to issue new practice circulars in 2013. As the "Residential Properties (First-hand Sales) Ordinance" will be implemented in April this year, the EAA will issue a related practice circular. In addition, the EAA is considering updating the circulars in response to the amendments made to the relevant ordinances.

EAA Chief Executive Officer, Mr Augustine Ng, the EAA would continue to closely monitor the trade's adoption of saleable area in 2013. The EAA would assist the trade in complying with the guidelines through promotional and educational activities. Mr Augustine Ng also said that in order to explain to consumers the importance of signing an estate agency agreement, the EAA would launch a TV Announcement in Public Interest on the subject this year and produce related posters and stickers. Moreover, the EAA would continue to hold roving exhibitions to promote consumer information relating to home buying.



# 有關「簽署地產代理協議」的電視短片經已推出

《地產代理條例》訂明，地產代理從業員獲客人委託買賣或租賃住宅物業時，必須與客人簽署地產代理協議。監管局亦十分鼓勵消費者在委託地產代理時，與代理簽署地產代理協議，清楚列明主要的委託條款。因為，地產代理協議除了訂明地產代理的基本責任外，還可以確立及釐清客戶與代理雙方的權責、協議有效期、地產代理對交易有否利益衝突等主要條款。既能提高交易的透明度，亦可保障客戶與代理雙方的權益。

有見及此，監管局特別製作了一段關於「簽署地產代理協議」的電視短片。短片由2013年2月15日起，在各主要電視頻道上播放。另設有廣東話、英文及普通話的旁白版本在電台廣播。持牌人可到監管局網站內的「消費者專區」>「短片」或於<http://youtu.be/y6vX8QsDveY>瀏覽短片。

監管局期望透過短片，提醒消費者在委託地產代理從業員進行住宅物業買賣或租賃時，謹記與從業員簽訂地產代理協議，以保障雙方權益。

同時，監管局亦印製了相關的海報及貼紙，供地產代理商舖張貼於店內，讓地產代理從業員和公眾都能夠清晰知道有關資訊。

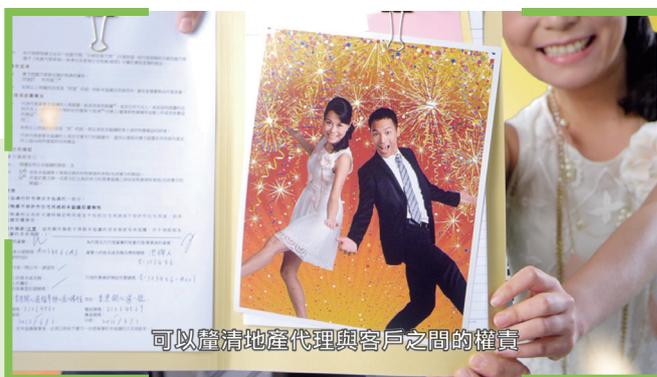
另外，新一輪的消費者資訊推廣巡迴展覽於今年3月底開始，展覽分別在港鐵香港站、荃灣站及九龍塘站舉行，設有展板簡介監管局的主要職能和工作，藉着一些違規個案的分析，提醒物業消費者在委託地產代理及進行物業交易時，應注意的部分事項；並簡介有關實用面積執業通告的要求。

監管局同時於展覽場內放置《置業須知》、《訂立租約須知》及最新編印的《精明物業交易錦囊》供市民取閱。

上文提到的《精明物業交易錦囊》是監管局最新編印的消費者小冊子。這本刊物由十個模擬置業個案結集而成，藉着這些短篇個案，分析地產代理的責任及角色，以及置業人士應注意的事項。

個案所涵蓋的題材廣泛，包括有關實用面積的最新執業指引、土地查冊的重要性、查證物業是否「凶宅」的途徑、物業僱建所帶來的問題、按揭估價等。

置業涉及大量金錢，又牽涉繁複的法律條文，因此，監管局期望透過這本小冊子，加深消費者對物業交易和委託地產代理的認識，減少發生爭拗的機會。



有關「簽署地產代理協議」的電視短片(可於監管局網站重溫：消費者專區>短片)  
TV API on "Signing Estate Agency Agreement" (available at EAA website: Consumer Corner > Videos)

## TV Announcement in Public Interest on “Signing Estate Agency Agreement” has been launched

Under the Estate Agents Ordinance, estate agents are required to sign an estate agency agreement with their clients when being appointed to buy, sell or lease a residential property. The EAA also encourages consumers to sign the agreement with the estate agent and state clearly the key terms of the appointment. The agreement sets out the basic responsibilities of the estate agent, clarifies the rights and duties of the estate agent and their clients, the validity period of the agreement, and the estate agent’s potential conflicts of interest etc. It will enhance the transparency of the transaction and better protect the interests of both parties.

Therefore, the EAA has produced a TV Announcement in Public Interest (API) on “Signing Estate Agency Agreement” which has been aired on various major television channels since 15 February 2013. Narrative versions in Cantonese, English and Putonghua are also being broadcast on radio stations. Licensees can view the API at the “Consumer Corner” > “Videos” of the EAA’s website or at <http://youtu.be/qgS99C1RfYU> (with English subtitles).

Through this API, the EAA is reminding consumers to sign an estate agency agreement with estate agents when appointing them to buy, sell or lease a residential property. Hence, the rights and interests of both parties will be better protected.

At the same time, the EAA has also produced relevant posters and stickers for licensees’ posting in shops, so that the trade and consumers will be aware of this information.

In addition, a new round of roving exhibitions would be launched in March to April this year. The exhibitions would be held at the Hong Kong Station, Tsuen Wan Station and Kowloon Tong Station of the MTR network respectively. There would be display panels introducing the key functions and work of the EAA, highlighting the points to note for consumers in appointing estate agents and during property transactions, through analyses of some non-compliant cases. The requirements of the practice circular on saleable area would also be covered in the exhibitions.



Pamphlets titled “Guide to Purchasing Properties”, “Notes on Signing a Tenancy Agreement”, and the newly published consumer booklet, “Smart Property Transaction Tips”, would also be available at the exhibitions.

“Smart Property Transaction Tips” is the latest consumer booklet published by the EAA. This booklet consists of ten simulated scenarios in property transactions. Through these short cases, the EAA explains to consumers the role and responsibilities of estate agents and the points to note in property transactions.

The cases cover a wide range of topics, including the latest practice circular on saleable area; the importance of land search; ways to verify whether a property is “haunted”; the risks associated with unauthorised building works; and information on valuation and mortgages and so forth.

Home buying involves a large sum of money with complicated legal issues. Therefore, the EAA wishes to enhance consumers’ understanding of property transactions and the appointment of estate agents through the consumer booklet; thus reducing the chance of any disputes.



供地產代理商舖張貼於店內的海報及貼紙  
Poster and sticker for posting in estate agency shops



監管局最新編印的消費者小冊子  
Newly published consumer booklet

# 從業員應留意有關地產市場的重要消息

根據《操守守則》，地產代理從業員應掌握有關的一切法律、政府規例，及地產市場的重要事實和發展，以便能盡責地向客戶提供意見。就近日不少市場重要消息，監管局特別提醒持牌人多加留意，以免不慎違規。

## (一)有關網上流傳虛假新聞公布事件

就早前有傳媒報道，有地產代理涉嫌參與在網上流傳一份虛假新聞公布，警方已就有關事件展開調查，監管局亦會嚴肅跟進。

監管局對事件非常關注，特此再次提醒從業員，無論在向公眾或傳媒以廣告或其他形式發放物業資訊，均不可發出具誤導性虛假的資訊。發放虛假消息會影響行業的專業形象及聲譽，有可能被監管局紀律處分，甚至可能觸犯法例。

## (二)有關從業員參與銷售「雍澄軒」

就早前有從業員參與銷售「雍澄軒」，監管局提醒從業員，根據《操守守則》，從業員在經營過程中，必須秉持誠實、忠誠和嚴正的態度向客戶提供服務，並保障客戶在地產交易中不因欺詐、失實陳述或不合專業操守的行為而受損。

因此，從業員應提醒客戶注意風險，並建議客戶在購買之前，諮詢法律意見。同時，從業員在銷售過程中，絕不可向客戶發出任何不準確或具誤導性的資訊，否則有可能被紀律處分。

## (三)政府因應樓市過熱推出的最新措施

繼於2012年10月26日宣布調整「額外印花稅」並引入「買家印花稅」後，政府於2013年2月22日再宣布推出一系列應對樓市過熱的措施，當中包括提高物業的「從價印花稅」及收緊按揭貸款等。從業員應充分掌握新措施的內容，以便能盡責地向客戶提供意見，避免作出失實陳述。

有關各項新措施的更多詳情，持牌人可參閱稅務局(www.ird.gov.hk)、香港金融管理局(www.hkma.gov.hk)及香港按揭證券有限公司網頁(www.hkmc.com.hk)。



## Licensees should pay attention to important news about the real estate market

According to the Code of Ethics, estate agency practitioners should keep themselves informed of any laws, government regulations, essential facts and developments in the real estate market in order to be in a position to advise their clients in a responsible manner. The EAA would like to remind licensees to pay attention to important real estate market news in order to avoid non-compliance.

### (A) About the online dissemination of a fraudulent press release

There has been media reports that estate agents allegedly participated in disseminating a fraudulent press release online. The Police have launched an investigation into the incident and the EAA will also be following up accordingly.

The EAA is concerned about the incident and would like to remind licensees that they must refrain from disseminating false or misleading information when providing information to the public or the media in the form of advertisements or through other channels. The provision of false information may not only create confusion in the market, but also adversely affect the trade's professional image. This may result in disciplinary actions by the EAA and also constitute an infringement of the law.

### (B) About licensees' participation in the sale of "Apex Horizon"

Regarding the recent participation of some licensees in the sale of "Apex Horizon", the EAA would like to remind licensees that they shall, according to the Code of Ethics, in the course of business, provide services to clients with honesty, fidelity and integrity. They should protect their clients against fraud, misrepresentation or any unethical practices in connection with real estate transactions.

Therefore, practitioners should draw their clients' attention to the associated risks and recommend their clients to seek legal advice before purchase. Licensees must not convey any inaccurate or misleading information in the course of the property sale, otherwise they could be subject to disciplinary action.

### (C) The Government's latest measures to cool the property market

Subsequent to the amendment of the Special Stamp Duty and the introduction of a Buyer's Stamp Duty on 26 October 2012, the Government announced on 22 February 2013 a series of new measures to curb the overheated property market, including adjusting the ad valorem stamp duty rates and tightening of mortgage loans etc. Licensees should be fully conversant with the new measures so as to be in a position to advise their clients in a responsible manner and refrain from making any misrepresentation.

Licensees may refer to the websites of the Inland Revenue Department ([www.ird.gov.hk](http://www.ird.gov.hk)), Hong Kong Monetary Authority ([www.hkma.gov.hk](http://www.hkma.gov.hk)), and Hong Kong Mortgage Corporation Limited ([www.hkmc.com.hk](http://www.hkmc.com.hk)) for more details of the new measures.

## 紀律研訊個案一 沒有履行向買方提供物業建築面積證明的承諾

由2013年1月1日起，地產代理向客戶推銷二手住宅物業時，須提供實用面積。在此之前，單位面積的宣傳通常只靠建築面積表述，欠缺統一標準，容易惹來爭拗。

2010年某日，一位準買家收到某地產代理公司的宣傳單張後，看中單張上介紹的一個420平方呎單位，遂聯絡該公司一名從業員安排視察。該準買家在視察時發覺單位很小，但從業員聲稱單位的建築面積是420平方呎，而實用面積只有285平方呎。該準買家遂要求從業員提供單位建築面積的證明文件，從業員表示會稍後提供，並安排該準買家與業主簽訂臨時買賣合約。

其後該準買家多次向從業員索取有關建築面積證明，但從業員卻無法提供。該準買家因未能取得單位的建築面積證明，遂終止交易，並向監管局投訴。

### Inquiry hearing case — Failure to honour the promise of providing to purchaser the proof of a property's gross floor area

Starting from 1 January 2013, estate agents are required to provide information on saleable area when promoting second-hand residential properties. Before then, floor area information was usually presented in terms of gross floor area, of which there was no standard definition. Disputes sometimes arose from such information.

In 2010, a prospective buyer received a promotional leaflet from an estate agency. Interested in a property of 420 sq ft listed on the leaflet, the prospective buyer contacted a practitioner of the agency to arrange an inspection. At the inspection, the prospective buyer found the property very small. The practitioner claimed that the flat's gross floor area was 420 sq ft and its saleable area was 285 sq ft. The prospective buyer requested the practitioner to provide her with proof of the gross floor area. The practitioner replied that he would later provide the proof and arranged for the prospective buyer to enter into a provisional agreement for sale and purchase with the vendor.

The prospective buyer later repeatedly asked the practitioner to provide her with the proof of the gross floor area but he failed to do so. As the prospective buyer could not obtain the proof, she later terminated the transaction and lodged a complaint with the EAA.

監管局紀律委員會認為，從業員向客戶表示單位的建築面積為420平方呎，並承諾提供證明文件，但最後未能履行承諾，沒有遵守《操守守則》第3.4.1段所述「保障和促進客戶的利益，並對交易各方公平公正」。委員會決定譴責該從業員，並在其牌照上附加條件，要求他在12個月內取得6個持續專業進修計劃核心科目的學分。

該從業員其後就有關裁決提出上訴，結果被上訴審裁小組駁回。審裁小組同時注意到，地產代理公司未必有證據證明所提供的樓盤資料的準確性。審裁小組就此提醒業界，向客戶提供的資料必須合乎事實及證據支持，以提升地產代理業界的專業水平。

The EAA Disciplinary Committee held the view that although the practitioner informed the client that the gross floor area of the property was 420 sq ft and promised to provide documentary proof, he did not fulfill his promise. Hence, the practitioner had failed to comply with paragraph 3.4.1 of the Code of Ethics, in that he did not protect and promote the interests of his client and act in an impartial and just manner to all parties involved in the transaction. The Committee decided to reprimand the practitioner and attach conditions to his licence, requiring him to obtain six points from the core subjects under the CPD Scheme within 12 months.

The practitioner appealed against the decision, which was dismissed by the Appeal Tribunal. The Appeal Tribunal also noticed that some estate agencies might not possess proof to show the accuracy of the property information they provide. The Appeal Tribunal would like to remind the trade that the information they provide to clients must be factual and supported by evidence, so that the professional standard of the estate agency trade can be enhanced.

## 紀律研訊個案一沒有保障和促進買方的利益

在一宗住宅物業買賣中，一名從業員代表買賣雙方行事。該從業員安排買賣雙方訂立物業的臨時買賣合約，但其後得知買方的律師對該物業的業權提出質詢，但賣方的律師並無回覆，以致該物業的成交日期可能延後。儘管如此，該名從業員為了盡快完成交易，仍安排買方簽署一份文件，確認買方知悉該物業的管理公司涉及訴訟，而該文件可能影響買方就該業權的潛在瑕疵提出質詢的權利。

由於該物業的成交日期有可能延後，買方未能及時取得該物業的鎖匙進行裝修。雖然該從業員知悉買方律師曾提出意見，指由於交易最終可能無法完成，買方提早收取該物業的鎖匙存在風險，但她仍建議買方在成交日前先向賣方借用該物業的鎖匙及租用該單位以便進行裝修，並向買方保證該物業的樓契沒有問題。

### Inquiry hearing case — Failing to protect and promote the interests of purchaser

An estate agency practitioner acted for both the purchaser and the vendor in a residential property transaction. The practitioner arranged for both parties to sign a provisional agreement for sale and purchase, but subsequently she knew that the lawyer representing the vendor had not replied to requisitions on the title of the property raised by the lawyer representing the purchaser. The completion date of the transaction might be postponed due to the title issue. Nevertheless, in order to expedite the transaction, the practitioner arranged for the purchaser to sign an acknowledgement to confirm her awareness of the legal proceedings involving the property management company of the building of which the property was formed part, thus exposing the purchaser to potential risk of being unable to raise requisitions on potential title defects.

Moreover, as the completion date might be postponed, the purchaser was not able to obtain the key to the property in time for its renovation. Although the practitioner was aware of the legal advice given by the purchaser's lawyer on the risks to which the purchaser would be exposed by obtaining the key before completion as the transaction might not be completed,

最後，由於買賣雙方的律師未能就業權爭議達成共識，買方沒有如期完成交易，並因此損失了租用單位和裝修的費用。買方隨後向監管局投訴。

紀律委員會就該個案進行紀律研訊。委員會認為，該名從業員在得悉賣方律師未妥善答覆買方律師對該物業的業權質詢的情況下，仍安排買方簽署該確認文件，又罔顧買方提早收取該物業的鎖匙的風險，提議買方成交前取匙裝修，未能保障買方的利益，沒有遵守《操守守則》第3.4.1段，被委員會譴責及暫時吊銷牌照14天，並在其牌照上附加條件，要求她在兩年內取得12個持續專業進修計劃核心科目的學分。

she advised the purchaser to borrow the key to the property and rent the property for renovation before the completion date, and assured the purchaser that the title of the property was good.

Subsequently, the lawyers representing the purchaser and the vendor failed to resolve the dispute over the property's title. The purchaser did not complete the transaction as scheduled and suffered loss regarding rental and renovation expenses. The purchaser then lodged a complaint with the EAA.

The practitioner arranged for the purchaser to sign the acknowledgement despite the dispute over the title of the property. She also disregarded the risks concerned and advised the purchaser to borrow the key to the property for renovation before the completion date. The practitioner therefore failed to comply with paragraph 3.4.1 of the Code of Ethics in that she failed to protect the purchaser's interests. The Disciplinary Committee decided to reprimand the practitioner, suspend her licence for 14 days and attach conditions to her licence, requiring her to obtain 12 points from the core subjects under the CPD Scheme within two years.

## 關於業主繳納差餉地租須注意的事項

地產代理為物業轉易的相關各方提供專業服務。差餉物業估價署(下稱「估價署」)請持牌地產代理注意，協助買賣雙方交易和說明繳付差餉/地租的責任時，務須查閱物業的全部差餉/地租帳目，確定繳清所有差餉/地租，以免因未能如期繳納而招致不良後果。此舉有助大大提高業主如期繳交差餉地租的責任感，並保障買方的利益。

### 誰人有責任繳納差餉地租？

根據《差餉條例》(第116章)，業主和佔用人均有責任繳納差餉。依據《地租(評估及徵收)條例》(第515章)，政府可要求物業的業主或差餉繳納人繳交地租。

### 購置物業時須注意的事項

1. 查閱物業的全部差餉地租結餘，方法是使用物業資訊網([www.rvdpi.gov.hk](http://www.rvdpi.gov.hk))的「查詢差餉及/或地租帳目資料」服務，或填妥表格RVD 1009。市民可透過估價署熱線取得表格，或從該署網站下載。
2. 確保物業成交前繳清所有差餉地租。
3. 物業成交後盡快通知估價署，以便更新登記繳納人的姓名和/或通訊地址。

### 欠繳差餉地租的後果

最後繳款日期過後，繳納人即時被加徵5%附加費。如過期逾六個月，繳納人再被加徵10%附加費，政府並可採取法律行動追收欠款。

如物業有欠繳地租(包括業權轉易前所累欠的)，政府有權根據《政府土地權(重收及轉歸補救)條例》(第126章)收回有關物業。業主須付出額外費用，才能取回該物業。

本文由差餉物業估價署供稿。

查詢熱線：2152 0111

網站：[www.rvd.gov.hk](http://www.rvd.gov.hk)

地址：九龍長沙灣道303號長沙灣政府合署15樓

## Advice to Property Owners on Rates and Government Rent Liability

Estate agents offer professional services to parties involved in property conveyance. The Rating and Valuation Department (RVD) provides some tips for our licensees, when assisting the vendor and purchaser in completing a property transaction and advising the client on the liability of rates/Government rent, to take important steps in checking and clearing outstanding rates/Government rent and to avoid the undesirable consequences of not paying rates/Government rent on time. The trade's assistance would help greatly in raising property owners' awareness of their responsibility of making timely payment of rates and Government rent and protecting the purchasers' interest.

### Who is responsible for paying rates and Government rent?

Under the Rating Ordinance (Cap 116), both the owner and the occupier are liable for rates. Pursuant to the Government Rent (Assessment and Collection) Ordinance (Cap 515), the Government may demand Government rent from the owner or the ratepayer of the property.

### Points to note when buying a property

1. Check the property's overall rates and Government rent balances via the "Enquiry on Rates and/or Government Rent Account" service on the Property Information Online ([www.rvdpi.gov.hk](http://www.rvdpi.gov.hk)) or use Form RVD 1009 which can be obtained by calling RVD's hotline or downloaded from RVD's website.
2. Ensure that the rates and Government rent are fully paid before completion of the purchase.
3. After completion of purchase, inform the RVD of the change in the registered payer's name and/or correspondence address as soon as possible.

### Consequences of not paying rates and Government rent

A 5% surcharge will be imposed immediately for late payment. If the outstanding amount is not settled after six months, a further 10% surcharge will be imposed and the Government may take legal action to recover the outstanding amount.

If the Government rent, including that accrued before change of ownership, is not paid, the Government is entitled to take back the property under the Government Rights (Re-entry and Vesting Remedies) Ordinance (Cap 126). The owner will incur extra costs to get the property back.

*This article is contributed by the Rating and Valuation Department.*

*Enquiry Hotline: 2152 0111*

*Website: [www.rvd.gov.hk](http://www.rvd.gov.hk)*

*Address: 15/F Cheung Sha Wan Government Offices,  
303 Cheung Sha Wan Road, Kowloon.*

## 活動紀要 Events and activities



2013年2月20日

監管局舉行新春傳媒聚餐，監管局主席陳韻雲女士(右四)、行政總裁伍華強先生(右五)、執行總監黃維豐先生(左三)、規管及法律總監劉淑棻女士(左二)、服務總監韓婉萍女士(右二)與部份出席記者合照。

20 February 2013

The EAA organises a spring reception with the media. EAA Chairman Ms Vivien Chan (fourth from right), Chief Executive Officer Mr Augustine Ng (fifth from right), Director of Operations Mr Anthony Wong (third from left), Director of Regulatory Affairs and General Counsel Ms Eva Lau (second from left), and Director of Services Ms Ruby Hon (second from right) with some attending reporters.



2013年3月7日

廣東省房地產行業協會代表團到訪監管局。

7 March 2013

The EAA receives a delegation from the Guangdong Real Estate Association.

## 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
營業員資格考試 Salespersons Qualifying Examination 26/2/2013	<b>1,141</b>	<b>43.3%</b>



### 牌照數目 (截至2013年2月28日) Number of licences (as at 28/2/2013)

營業員牌照 Salesperson's Licence:	<b>20,315</b>
地產代理(個人)牌照 Estate Agent's Licence (Individual):	<b>16,640</b>
個人牌照總和 Total no. of individual licences:	<b>36,955</b>
地產代理(公司)牌照 Estate Agent's Licence (Company):	<b>2,980</b>



### 營業詳情說明書 (截至2013年2月28日) Number of statements of particulars of business (as at 28/2/2013)

合夥經營 Partnerships:	<b>266</b>
獨資經營 Sole proprietorships:	<b>1,600</b>
有限公司 Limited companies:	<b>4,428</b>
總數 Total:	<b>6,294</b>



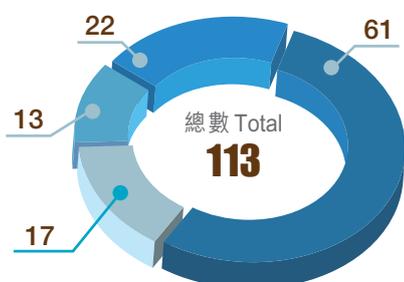
### 接獲的投訴 (2013年1月至2月): Number of complaint cases received (January to February 2013)

**83**



## 已處理的投訴個案結果\* (2013年1月至2月)

### Results of completed complaint cases\* (January to February 2013)



指稱成立 Substantiated:	<b>61</b>
指稱不成立 Unsubstantiated:	<b>17</b>
資料不足 Insufficient information to pursue:	<b>13</b>
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)	<b>22</b>

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



## 巡查次數 (2013年1月至2月)

### Number of compliance inspections (January to February 2013)

• 一手樓盤銷售處 First-sale sites:	<b>205</b>
• 代理商舖 Estate agency shops:	<b>262</b>
• 網上物業廣告 Online property advertisements:	<b>104</b>



## 巡查發現主動調查的個案 (2013年1月至2月)

### Number of cases arising from self-initiated investigations during inspections (January to February 2013)

• 主動調查的個案 : Cases arising from self-initiated investigations	<b>9</b>
• 主動調查而指稱成立的個案* : Cases completed from self-initiated investigations and were substantiated*	<b>41</b>

\* 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 (2013年1月至2月)\*

### Actions taken against licensees or ex-licensees (January to February 2013)\*

有關的持牌人或前持牌人人數 No. of licensees or ex-licensees	<b>116</b>
行動 Actions taken	
訓誡/譴責 Admonishment/reprimand	<b>106</b>
罰款 Fine	<b>52</b>
於牌照附加/更改條件 Attachment/alteration of conditions to licence	<b>57</b>
暫時吊銷牌照 Suspension	<b>6</b>
撤銷牌照 Revocation	<b>0</b>

\* 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.