

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

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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.