

監管局

嚴查在牌照申請中

使用虛假 / 偽造學歷證明文件

False / forged documents of educational attainment
used in licence applications
under EAA's scrutiny



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監管局嚴查在牌照申請中 使用虛假／偽造學歷證明文件

False / forged documents of educational attainment used in licence applications under EAA's scrutiny

監管局的主要職責之一是向符合法定發牌條件的申請人批出牌照。為了有效地執行該項職責，監管局嚴謹地查核申請人遞交的學歷資料及文件。監管局發現，最近在牌照申請中使用虛假／偽造的學歷證明文件的個案大增，監管局對此事甚為關注。

牌照申請人必須遞交文件，包括學歷證明文件，予監管局查核及確認申請人是否符合發牌條件。最近，監管局發現在牌照申請中使用虛假／偽造的學歷證明文件的個案大幅上升。2014年截至6月底為止，監管局發現21宗這類個案，超過2013年全年的19宗及2012年的七宗。

個案中涉及的虛假／偽造的文件包括聲稱在本港、內地及海外教育機構發出的畢業證書。監管局會採取嚴謹的步驟審查每宗可疑個案。對於這些使用虛假／偽造學歷證明文件的人，監管局會拒絕其牌照申請，甚至撤銷其牌照。此外，監管局也將表面證據成立的個案轉交警方跟進。

牌照委員會主席劉詩韻女士表示：「使用虛假／偽造學歷證明文件是絕對不能容忍的罪行，監管局會竭盡全力，仔細審閱每一宗由行政部門提交給委員會的可疑個案，也會向被發現提供偽造文件的人士採取行動。」

The EAA's principal duties include granting licences to applicants who fulfil the statutory licensing requirements. To effectively discharge the duty, the EAA is rigorous in verifying the information and documents submitted in licence applications as proof of fulfillment of the education requirement. Recently, it was found that there has been an increase in the number of cases of using false/forged documents in licence applications and the EAA is very concerned about this issue.

Licence applicants have to submit documents, including the proof of their educational attainment, for the EAA to verify the authenticity of such documents and to determine whether the applicants fulfil the licensing requirements. Recently the EAA discovered there has been a drastic increase in the number of cases of using false/forged documents of educational attainment in licence applications. As at the end of June 2014, the EAA discovered 21 such cases this year. The number of cases in the first half of 2014 has already exceeded the 19 cases in 2013 and the seven cases in 2012.

The false/forged documents included fake graduation certificates claimed to be issued by educational institutions in Hong Kong, the Mainland as well as from overseas. The EAA took thorough steps in reviewing each suspicious case. The actions taken against those persons found to have submitted false/forged documents included rejection of their licence applications and revocation of their licences. The cases with prima facie evidence were referred to the Police for further investigation and prosecution.

The Chairman of the EAA Licensing Committee Ms Serena Lau Sze-wan said, "Using false/forged documents for educational attainment is an intolerable offence and we would spare no



除了審批或拒絕牌照申請之外，監管局牌照委員會也負責監察持牌人是否持有牌照的「適當人選」，如發現持牌人不再是「適當人選」，則會撤銷其牌照。

委員會最近簡化了程序，加快審視持牌人是否「適當人選」的個案。基於這情況下，在2014年上半年被委員會撤銷的牌照數目比過去為多。2014年截至6月底，委員會撤銷了30個牌照，多於2013年全年的11個。被撤銷牌照的人士，大部分是因為被刑事定罪而被認為不再是持牌的「適當人選」。

efforts in reviewing each suspicious case and taking actions against those persons found to have submitted forged documents.”

In addition to approving or rejecting licence applications, the EAA Licensing Committee also checks whether existing licensees are “fit and proper” to hold a licence, and would revoke a licence if the licensee concerned is no longer “fit and proper”.

Recently, the Committee has adopted streamlining measures to handle the “fit and proper” cases more efficiently. As a result, more licences were revoked in the first half of 2014 as compared to previous years. As at the end of June 2014, the Committee has revoked a total of 30 licences, as compared to 11 revocations in 2013. Most of the licensees concerned were not “fit and proper” because they had been convicted of criminal offences.





與牌照委員會主席劉詩韻女士，JP 訪談

本期《專業天地》專訪了監管局牌照委員會主席劉詩韻女士，JP，以了解有關牌照委員會的工作；劉女士分享了她參與監管局工作的經驗。



牌照委員會主席
劉詩韻女士
Ms Serena Lau,
Chairman of
the Licensing Committee

問：編者

答：劉詩韻女士

問：在地產代理的監管制度中，嚴謹的把關機制是十分重要的。你會如何評價監管局牌照委員會的把關工作呢？

答：監管局十分明白把關的重要性，因為這是有效的地產代理監管制度的基礎。牌照委員會的其中一個主要職能，便是審閱並批准或拒絕牌照申請。我們致力確保只有被監管局認為是「適當人選」、並符合所有法定發牌條件的人士，才能加入這個行業。這不僅為了保障消費者，也對整體業界有利。牌照委員會及行政部門一直都嚴格執行嚴謹的把關措施。

問：數字顯示，牌照申請者使用虛假／偽造學歷證明文件的個案大幅上升。你會如何領導牌照委員會應付這個問題？

答：牌照委員會的工作保持不變。然而，涉及使用虛假／偽造學歷證明文件的個案數字的確有所增加。牌照委員會會竭盡全力，仔細審閱每一宗由行政部門提交給委員會的可疑個案。使用虛假／偽造學歷證明文件是絕對不能容忍的罪行，我們絕不容許那些使用虛假／偽造學歷證明文件的人士加入地產代理行業。

另一方面，我們也關注牌照申請人取得的學歷的質素。舉例說，牌照申請人可能僅僅在多年前完成中學一年級教育，但聲稱修畢一個短期課程後，便完成了中學五年級的教育程度。這些情況會令人對其學歷產生懷疑，我們可能會花多些時間審視其個案。

問：有持牌人被監管局撤銷牌照，部份個案是由牌照委員會決定的。有些人認為這未免有點苛刻，你對此有何看法？

答：任何人士必須被監管局認為是「適當人選」才可獲批給、持有或繼續持有牌照。如果牌照委員會認為持牌人不再是「適當人選」的話，我們別無選擇，只可撤銷其牌照。牌照委員會所採用的準則一直沒有改變。然而，沒有一個直接快速的答案可說明在甚麼情況下，牌照會被撤銷或牌照申請會被拒絕。在一些情況下，假如持牌人／牌照申請者曾被刑事定罪，牌照委員會會在決定批給／拒絕該牌照申請或撤銷其牌照之前，查核該人士的個案，以考慮該人士是否屬「適當人選」。我們必須認真考慮到有關人士的誠信和操守，因為這是地產代理應具備的條件之一。在制衡機制方面，凡牌照申請被拒絕或牌照被撤銷，有關人士可就該決定以書面形式向運輸及房屋局局長提出上訴。

問：業界正面對經營困難，持牌人數目亦下降，你對此情況有何意見？這又會否影響牌照委員會的工作？

答：我明白業界正處於艱苦經營時期，但我相信他們過往曾經歷過類似的風浪，有足夠的經驗去應對房地產市場的起伏。在現時的市場情況下，持牌人數目或新入行人數下降是無可避免的，但監管局和牌照委員會的工作不會因此而受到影響。無論市況如何，我們的把關工作都一如既往，秉持同一標準和原則。

問：作為牌照委員會的主席，你認為新入行的地產代理應具備怎樣的條件？

答：發牌條件始終如一，有關人士符合有關的發牌條件的話，便可獲批給牌照。然而，我同意地產代理應在符合此基本要求之上，具備一些額外的素質，以滿足日益提高的公眾期望，並有能力在行內競爭。因此，我非常推介持牌人多加參與監管局的持續專業進修計劃，以提升專業水平。



問：你由2008年起加入監管局董事局，可否與我們分享你對監管局工作及從業員水平的看法？

答：一分耕耘，一分收穫。經過董事局及行政部門不懈的努力，監管局已在穩固的基礎上成長不少，業界也普遍比以前進步，雖然仍有害群之馬。這正好解釋了監管局於1997年成立的原因，就是要引領地產代理業向正確的方向發展。我很榮幸能夠參與其中，以自己的專業協助監管局成長。

問：作為一位經驗豐富的專業測量師，你在忙碌的工作之外，還非常積極參與公共事務，可否分享一下你如何分配時間，在工作與生活上取得平衡？

答：在貢獻社會的同時又能獲得新知識，這實在是無與倫比的經驗。我的公職大多涉及我的專業知識，而我也十分樂此不疲參與其中。我花在公職上的時間，佔去我部分處理公司業務的時間及一些私人時間。在通信科技日益先進的情況下，加上我的公司業務又漸上軌道，我可以更好地分配在工作及私人的時間。經過辛勞的一天，我會與家人留在家中，陪伴女兒溫習功課，和她一起溫故知新。



An Interview with Ms Serena Lau Sze-wan, JP, Chairman of the Licensing Committee

In this issue of *Horizons*, we interview Ms Serena Lau Sze-wan, JP, Chairman of the EAA Licensing Committee, with a view to understanding more about the work of the Licensing Committee. She also shares with us her experiences of participating in the EAA's work.

Q: Editor A: Ms Serena Lau Sze-wan

Q: A rigorous gatekeeping mechanism plays an important role in the regulatory regime of estate agents. How would you appraise the gatekeeping work of the EAA Licensing Committee?

A: The EAA understands well the importance of gatekeeping as it is the essence of an effective regulatory regime of estate agents. One of the key functions of the Licensing Committee is to consider and to approve or refuse applications for licences. We strive to ensure that only those who are “fit and proper” and otherwise meeting all the licensing requirements are allowed to practise in the trade. It is not only for the protection of the consumers but also for the benefit of the trade as a whole. Stringent gatekeeping measures have been rigorously executed by the Licensing Committee and the Administration.

Q: Figures showed that there is a drastic increase in the number of cases concerning the use of false/forged documents for educational attainment in licence applications. How would you lead the Licensing Committee to tackle the situation?

A: The work of the Licensing Committee remains the same. However, the figures of such cases concerning the use of false/forged documents for educational attainment are indeed rising and the Licensing Committee spares no effort in reviewing in detail the suspicious cases brought to the Committee by the Administration. Using false/forged documents for educational attainment is an intolerable offence and we

would not allow applicants who use false/forged documents to enter into the trade.

On the other hand, we are also concerned about the quality of the educational qualification that licence applicants claim to have completed. For example, an applicant might claim he/she has completed a Form-five education after taking a short course but prior to enrolling into such a short course, he/she has only completed a Form-one education many years ago. Such cases cast doubts on the quality of the educational qualification and we might spend more time in determining such cases.

Q: There are a number of licences revoked by the EAA, and some of the decisions were made by the Licensing Committee. Some may think that it is a little too harsh. What do you think?

A: In order to be granted, hold or continue to hold a licence, an individual must be considered a “fit and proper” person by the EAA. If the Licensing Committee considers that a licensee is no longer a “fit and proper” person, then we have no other options but to revoke his/her licence. The yardstick that the Committee adopts is all along the same. That said, there is no quick answer to under what circumstances a licence will be revoked or a licence application will be refused. In some cases, for example, if a licensee/licence applicant has been convicted of a criminal offence, the Licensing Committee may look into his/her case to decide whether he/she is “fit and proper”, before deciding to grant or refuse his/her application or revoke his/her licence. We have to carefully consider the



integrity and conduct of the individual as it is one of the many qualities that an estate agent should possess. Checks and balances are also in place. For refusal of licence application or revocation of licence, the individual may appeal against the EAA's decision by filing a notice with the Secretary for Transport and Housing.

Q: The trade has been facing quite a difficult time and the number of licensees has dropped. What do you think of the situation? Will it affect the work of the Licensing Committee?

A: I understand that the trade is now experiencing a rough time in doing their business. However, I believe they are experienced in dealing with the ups and downs of the property market, as they have also fought similar waves in the past. It is inevitable that in such market conditions the number of licensees or new entrants could drop, but the work of the EAA, including the Licensing Committee, should not be affected. Our gatekeeping work is consistent and irrespective of any market conditions. The standard and benchmarking is always the same.

Q: As the Chairman of the Licensing Committee, what are your views about the qualities that the newcomers of the estate agency trade should possess?

A: The licensing requirements have been the same. An individual will be granted a licence if he/she meets the requirements. However, I agree that an estate agent should possess qualities on top of the basic requirements in order to meet the rising public expectations and compete in the trade. Therefore, I strongly recommend licensees to participate in the EAA's Continuing Professional Development Scheme to advance their professional level.

Q: You have been an EAA board member since 2008. Could you share your views about the EAA's work and the standard of the practitioners?

A: As you sow, so shall you reap. With the unremitting efforts contributed by the EAA Board and Administration, the EAA has grown a lot on a solid foundation and the trade has progressed to be generally better than they were years ago. However, there are still black sheep. That is the reason why the EAA was set up in 1997 – to lead the trade on the right track for betterment. I am honored to participate in the process and contribute my knowledge to the EAA's growth.

Q: You are an experienced professional surveyor intensively involved in the public services, how do you allocate your time and achieve a work-life balance?

A: Nothing is better than contributing to the community and acquiring some new knowledge at the same time. The public services I participate in usually involve my professional knowledge and I very much enjoy it. The time spent on such public services took away some of my time I originally spent on my company business and some of my personal time. With the advancing communication technology and my company business getting on the right track, I can better balance my time for the participation in the public services and my own company business and personal life. After a long day, I will stay with my family at home and refresh my knowledge while accompanying my daughter to study.



有關額外印花稅及買家印花稅的新執業通告

監管局於2014年5月15日發出新執業通告(編號14-02 (CR))，提醒持牌人額外印花稅的新修訂內容及新推出的買家印花稅。通告已於同日生效。

隨着《2014印花稅(修訂)條例》於今年較早前刊憲，經修訂的額外印花稅以及買家印花稅的細節已經落實。因此，監管局發出新執業通告，以取代於2011年發出的有關額外印花稅的舊執業通告，提醒持牌人在處理住宅物業買賣時，如得知該物業須繳付額外印花稅或買家印花稅，應在買賣雙方訂立臨時買賣協議(「臨約」)之前，提醒客戶有關事實及其他應留意的事項。

新執業通告提醒持牌人，於24個月內(如物業是在2010年11月20日至2012年10月26日期間取得)或36個月內(如物業是在2012年10月27日或之後取得)處置(包括轉售或轉讓)住宅物業的交易，須繳納額外印花稅。在這些情況下，持牌人應在訂立任何臨約前提醒客戶，出售該物業將須繳納額外印花稅。持牌人也應注意按賣方或轉讓方在轉售或

轉讓前持有物業的不同持有期而定的額外印花稅稅率。

由於買賣雙方須共同及個別負上繳納額外印花稅的責任，持牌人應建議客戶協商由那一方繳付額外印花稅，並將有關的協議在臨約內訂明。

此外，新執業通告也提醒持牌人，除非獲豁免，於2012年10月27日或之後就住宅物業所簽立的「可予徵收印花稅的買賣協議」或售賣轉易契須繳納買家印花稅，但如買方或承讓人代表自己行事的香港永久性居民則除外。

新執業通告已上載至監管局網站，持牌人同時應參考在稅務局網站上的有關額外印花稅及買家印花稅的詳細資料。監管局較早前舉辦了相關的持續專業進修講座，講座的錄影已上載於監管局網站，持牌人可登入監管局網站重溫講座(「持續專業進修計劃」>「持續專業進修活動精選影片重溫」)。

Practice Circular on Special Stamp Duty and Buyer's Stamp Duty

The EAA issued a new Practice Circular (no. 14-02 (CR)) on 15 May 2014 to draw estate agents' attention to revisions made in respect of the Special Stamp Duty ("SSD") and introduction of the Buyer's Stamp Duty ("BSD"). The Circular came into effect on the same day.

As the Stamp Duty (Amendment) Ordinance 2014 was gazetted earlier this year, details of the revised SSD and BSD have been finalised. Hence, the EAA issued the new Circular to replace the old Circular issued on the SSD in 2011, reminding licensees that if it can be ascertained that the sale or purchase of the residential property being handled will be subject to SSD or BSD, they should draw their clients' attention to the fact before entering into any provisional agreement for sale ("PASP") and advise their clients appropriately.

The new Circular reminds licensees that disposal (which includes a resale or transfer) within 24 months of a residential property (if it was acquired

between 20 November 2010 and 26 October 2012) or within 36 months (if it was acquired on or after 27 October 2012) will be subject to SSD. In such cases, licensees should bring to the attention of their clients before entering into any PASP that the sale of the property will be subject to SSD. They should also pay attention to the applicable rates of SSD based on the holding periods of the property by the seller or transfer or before disposal.

As both vendor and purchaser are jointly and severally liable for payment of the SSD, licensees should advise their clients to agree on which party (i.e. the vendor or the purchaser) should pay the SSD and specify their agreement in the PASP.

In addition, the new Circular also reminds licensees that unless specifically exempted, BSD is payable on a chargeable agreement for sale or conveyance on sale for the acquisition of a residential property if the agreement for sale or conveyance on sale is executed on or after 27 October 2012, except where the purchaser or

transferee is a Hong Kong permanent resident acquiring the property on his/her own behalf.

The new Circular is available at the EAA's website. Licensees are also advised to refer to detailed information of the SSD and BSD on the website of the Inland Revenue Department. CPD seminars

were held to enhance licensees' understanding on the subject. They were videotaped and posted on the EAA's website. Licensees may view the videos at the EAA's website ("CPD Scheme" > "CPD Seminars Highlights").

《購買二手住宅物業須知》出版

為提醒置業人士在購買二手住宅物業時應注意的重要事項，協助他們掌握置業知識和資訊，以作出明智決定，監管局與消費者委員會（消委會）於今年4月聯合出版了一本名為《購買二手住宅物業須知》的全新小冊子。

監管局一直透過不同的渠道，向市民發放置業相關資訊。監管局相信，加強消費者對物業交易的了解有助他們保障自己的權益。

新出版的小冊子涵蓋多項重要事宜，例如提醒消費者在置業前要仔細視察物業及附近環境、詳細了解物業資料如物業用途、單位面積、地契年期、樓宇公契及產權負擔等。小冊子也扼要敘述消費者在簽署買賣合約、安排按揭及委託地產代理時應留意之處。

《購買二手住宅物業須知》已上載至監管局網站(www.eaa.org.hk)及消委會網站(www.consumer.org.hk)供市民閱覽，市民也可於監管局及消委會辦事處索取該小冊子的印刷本。



Publication of Guide to Purchasing Second-hand Residential Properties

To remind consumers of the important points to note when purchasing second-hand residential properties, thus better equipping them with the necessary knowledge to make informed decisions, the EAA and the Consumer Council jointly published a new booklet titled "Guide to Purchasing Second-hand Residential Properties" in April this year.

The EAA strives to promote information on home buying to the public through various channels. It believes that consumers' rights can be better protected by enhancing their understanding about property transactions.

The newly published booklet covers various important areas. For example, the booklet reminds consumers to carefully inspect the property and its neighbourhood before purchasing; learn in detail property information including property usage, property area, government lease, deed of mutual covenant and encumbrances. It also briefs consumers on the points to note when signing an agreement for sale and purchase, arranging mortgages and appointing an estate agent.

The online version of the *Guide to Purchasing Second-hand Residential Properties* is now available at the websites of the EAA (www.eaa.org.hk) and the Consumer Council (www.consumer.org.hk). The booklet is also available for collection at the offices of the EAA and the Consumer Council.



參與一手住宅物業銷售的操守

最近市場上推出多個一手住宅物業新盤，不少持牌人積極參與有關銷售活動。持牌人必須熟悉由監管局發出的相關執業指引，以及一切有關的法律、政府規例，以及地產市場的重要事實和發展。就此，監管局特別提醒各持牌人多加留意以下事項，以免違規。

(一) 不得向準買家提供貸款

監管局十分關注近日傳媒報道，有持牌人在推銷一手住宅物業時涉嫌向準買家提供貸款。根據有關一手住宅物業銷售的執業通告(編號 13-04(CR))，地產代理公司及其屬下的地產代理均不得向準買家提供或提出提供貸款，包括所謂「代客墊支」，即使該準買家表示沒有足夠金錢作即場交付訂金或由該準買家向地產代理提出有關要求，也不論是否用以游說準買家簽訂臨時買賣合約或作出其他用途。

(二) 行事身分

根據同一份執業通告，持牌人須在成功接觸準買家後，立刻清楚地向準買家說明他們所屬的地產代理公司是否(a)只代表賣方行事；或(b)只代表買方行事；或(c)同時代表賣方及買方行事；及(d)是否會於其後同時代表賣方及買方行事。持牌人須以書面形式將上述事項通知準買家，及向準買家提供一份該書面通知。

不論持牌人是以何種身分行事，他們均須以公平及公正的態度為交易各方行事。

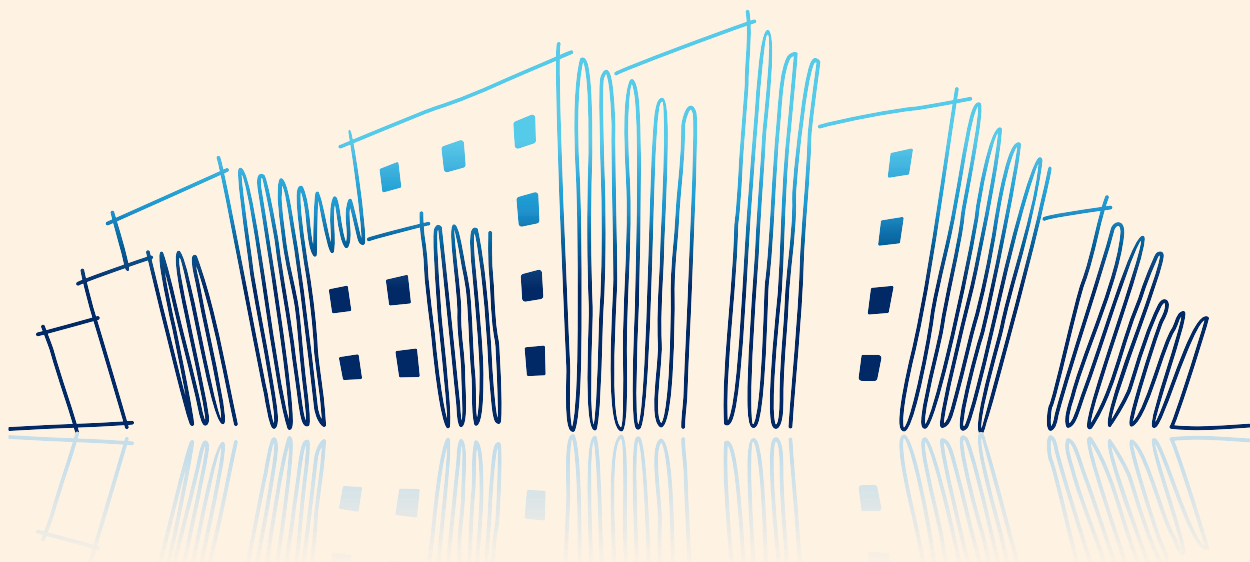
(三) 一手銷售的分銷事宜

視乎賣方與其委任的地產代理公司訂立的協議／委任書的內容，被賣方委任的地產代理公司在與其他並沒有被賣方委任的地產代理公司合作分銷物業之前，或須事先得到賣方的同意；而相關的「分銷」地產代理公司在發出廣告或宣傳物品時，亦須事先獲得被賣方委任的地產代理公司及賣方的同意。

(四) 購樓意向

根據同一份執業通告，持牌人(無論是賣方委託的銷售代理與否)在賣方向公眾提供有關住宅物業的價單之前，不得探求或接受任何無明確或有明確選擇的購樓意向；而在有關物業正式開售之前，持牌人也不得探求或接受任何有明確選擇的購樓意向。

因此，持牌人應注意倘若物業的價單尚未公布，或物業尚未開售(視乎屬何情況而定)，即使準買家向其表達意向(不論是否連同付款)，持牌人均不可接受或向賣方轉達其前述的意向，並須拒絕該有關的意向。



Conduct in the sale of first-hand residential properties

With more first-hand residential developments launched for sale recently, many licensees have actively participated in the promotional activities for such sales. They must be conversant with the relevant practice guidelines issued by the EAA, the laws, government regulations, essential facts and developments in the real estate market. In this connection, the EAA would like to remind licensees of the following in order to avoid any non-compliance.

(A) Do not offer loans to prospective purchasers

The EAA is very concerned about some licensees reportedly offering loans to prospective purchasers when promoting first-hand residential properties. According to the Practice Circular on the subject of first sale of residential properties (no. 13-04 (CR)), estate agency companies and frontline agents must not offer loans to a prospective purchaser of first sale units, even when the prospective purchaser states that he/she does not have sufficient money for the payment of the deposit on the spot and requests a loan. Licensees must not propose to make loans to a prospective purchaser, whether in order to persuade the latter to sign a preliminary agreement for sale and purchase or for any other purpose.

(B) Capacity to act

According to the aforementioned Practice Circular, licensees must, at the first opportunity after they have successfully established contact with a prospective purchaser, clearly explain to the prospective purchaser whether their estate agency company acts: (a) only for the vendor; or (b) only for the purchaser; or (c) for both the vendor and the purchaser; and (d) whether their estate agency company may act for both the purchaser and the vendor subsequently. Licensees must inform the prospective purchaser of the above matters in writing and supply a copy of the same to the prospective purchaser.

They must also act in an impartial and just manner to all parties involved in a transaction regardless of their capacity.

(C) Sub-listing of first sale

Depending on the content of the agreement/appointment letter entered into by the vendor and its appointed estate agency company, estate agency companies appointed by the vendor may need to obtain the vendor's approval before sub-listing. The "sub-agent" must also acquire the consent of the vendor and its appointed estate agency company prior to the issuance of any advertisement or promotional materials.

(D) Intent to purchase

Under the same Practice Circular, licensees (whether they are appointed by the vendor as its sale agent or otherwise) must not solicit or accept any general or specific expression of intent to purchase any residential property before the relevant price lists for such properties are made available to the general public. Moreover, licensees must not seek or accept any specific expression of intent to purchase a particular property before the relevant property is offered for sale.

Therefore, licensees should note that even if the purchaser gives any expression of intent to purchase a residential property (whether or not accompanied by a payment of money), they must not accept such expression of intent or relay to the vendor if neither the relevant price lists for such properties are have been made available nor the sale of the property has commenced (as the case may be), and licensees must reject such expression of intent.



新任行政總裁 韓婉萍女士

監管局新任行政總裁韓婉萍女士已於2014年6月1日上任。在此之前，韓女士已擔任監管局的服務總監八年，加上她的法律專業背景，將有助帶領監管局「穩中求進」。

在加入監管局之前，韓女士從事執業律師20年，擁有多元化的法律實務經驗，並曾管理一間有規模的律師事務所，主要範圍包括房地產、商業及信託策劃等事務。她表示，過往的律師工作經驗令她對地產代理行業十分熟悉，也了解代理們的行事方式。加上她在加入監管局之後，累積了不少公共行政經驗，這兩方面都對其擔任監管局行政總裁一職的未來工作有莫大幫助。

韓女士說：「雖然我的背景有別於過去的行政總裁，但監管局的大方向沒有改變，我們會繼續致力杜絕違規行為，並希望可以帶領監管局『穩中求進』。」

韓女士十分重視與業界溝通。她相信，如果雙方欠缺溝通，局方在制訂政策時，可能會與業界的執業情況脫節。但她強調，加強溝通不應被錯誤解讀為對監管力度有所妥協，在她領導下的監管局，會繼續嚴厲執法，致力杜絕違規行為，使行業邁向專業化。

New Chief Executive Officer Ms Ruby Hon

Ms Ruby Hon, the new Chief Executive Officer (CEO) of the EAA, has been on board since 1 June 2014. Before taking up the post, Ms Hon served as Director of Services of the EAA for eight years. Complemented by her legal professional background, she is going to lead the EAA to grow steadily.

Prior to her career with the EAA, Ms Hon spent 20 years as a practicing solicitor and had managed a sizeable legal firm. She has a background of diversified legal practice with emphasis on real estate, commercial and trust planning. Her work in the legal field has equipped her with extensive knowledge in the estate agency trade and the trade's practice. After joining the EAA, Ms Hon has also accumulated extensive public administration experiences. Such experiences will greatly benefit her work as the EAA's CEO in the future.

Ms Hon said, "Although my background is different from those of the previous Chief Executive Officers', the mission and vision of the EAA do not change. I will strive to prevent non-compliances among the trade and lead the EAA to grow steadily."

Ms Hon attaches great importance to communication with the trade. She believes that a lack of communication could lead to discrepancy between the policies formulated by the EAA and the trade's practices. She however emphasises that enhanced communication should not be misread as a compromise of the EAA's regulatory efforts. The EAA, under her leadership, will continue to enforce the law rigorously to prevent non-compliances while directing the trade towards professionalism.



紀律研訊個案一 在促成交易的過程中誤導準買家

持牌人參與物業銷售活動時，必須秉持誠實的態度向客戶提供服務，不可作出任何誤導準買家的陳述，否則可能會被監管局紀律處分。

一名準買家委託一名持牌人為其心儀的二手住宅單位進行洽購。不久後，該持牌人向準買家表示該單位已經售出，轉為向她推銷一個一手住宅樓盤。結果該準買家在該持牌人安排下簽署購買該一手住宅樓盤單位的臨時買賣合約。

其後，該準買家通過另一位持牌人得悉其本來心儀的二手住宅單位其實並未售出。該準買家遂向監管局投訴安排她購買一手樓的持牌人。

監管局紀律委員會認為，該持牌人未有秉持誠實的態度向客戶提供服務，因而沒有遵守《操守守則》第3.3.1段所述「地產代理和營業員在經營過程中，必須秉持誠實、忠誠和嚴正的態度向客戶提供服務。他們應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」的守則。紀律委員會決定譴責該名持牌人及吊銷其牌照兩個月，並在其牌照上附加條件，要求他在12個月內取得持續專業進修計劃下的12個核心科目學分。

Disciplinary hearing case – Making misrepresentation when procuring a transaction

When participating in property sales activities, licensees must provide services to clients in an honest manner. They must not make any misrepresentation that may mislead prospective purchasers. Otherwise they may be subject to disciplinary action by the EAA.

Interested in a second-hand residential unit, a prospective purchaser appointed a licensee to approach the vendor concerned. Later, the licensee told the prospective purchaser that the unit had been sold and recommended a first-hand residential development to her instead. The licensee also arranged for the prospective to sign a provisional agreement for sale and purchase of a property in the development.

The prospective purchaser later discovered through another licensee that the second-hand unit that she was originally interested in had never been sold. She then lodged a complaint with the EAA against the licensee who persuaded her to buy the first-hand residential property.

The EAA Disciplinary Committee was of the view that the licensee did not provide a service to his client in an honest manner. He therefore did not comply with paragraph 3.3.1 of the Code of Ethics, which states that “estate agents and salespersons shall, 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”. The Disciplinary Committee reprimanded the licensee and suspended his licence for two months. A condition was also attached to his licence, requiring the licensee to obtain 12 points in the core subjects of the CPD Scheme in 12 months.



紀律研訊個案－發放並非由賣方提供的一手住宅物業資料

有關銷售一手住宅物業的操守的執業通告(編號13-04(CR))載列持牌人向準買家提供物業資料的指引。持牌人必須留意並遵守指引，否則可能會被監管局紀律處分。

一名持牌人在社交網站上發出一則有關某一手住宅樓盤的廣告，並列出樓盤單位的價格，但賣方尚未公布該樓盤的價單。

監管局紀律委員會認為該持牌人違反了執業通告中的指引，包括：向準買家提供物業的相關資料時，須以由賣方提供的售樓說明書及文件所載的資料為準；採取一切合理步驟及盡一切應盡的努力核實有關資料；不得作出任何可能誤導準買家的陳述；以及除地產代理公司外，其他持牌人不得發出任何廣告或宣傳物品。

因此，該持牌人沒有遵守《操守守則》的第3.2.1段：地產代理和營業員應熟悉並必須在執業時遵守《地產代理條例》、其附屬法例、《操守守則》，以及由監管局不時發布的所有其他指引。該名持牌人被譴責及罰款港幣5,000元；同時其牌照亦被附加條件，要求他在12個月內取得持續專業進修計劃下核心科目的12個學分。



Disciplinary hearing case – Disseminating information of first-hand residential properties not provided by the vendor

The Practice Circular (No. 13-04 (CR)) on the conduct of licensees in the first sale of residential properties sets out guidelines regarding the provision of property information to prospective purchasers. Licensees must observe and comply with such guidelines. Failure to do so will be subject to disciplinary action by the EAA.

A licensee posted an advertisement on a social networking website, listing out prices of properties of a first-hand residential development before the vendor released the price list.

The EAA Disciplinary Committee was of the view that the licensee was in breach of the relevant Circular. The Circular stipulates that licensees must provide information to prospective purchasers only on the basis of the latest information contained in the sales brochure and documents prepared and provided by the vendor, and only after they have taken all reasonable steps and exercised all due diligence to verify the information. Licensees must not make any representation that may mislead prospective purchasers and no advertisement shall be issued by licensees other than estate agency companies.

Therefore, the licensee failed to comply with paragraph 3.2.1 of the Code of Ethics: estate agents and salespersons should be fully conversant with the Estate Agents Ordinance, its subsidiary legislation, Code of Ethics, and other guidelines issued by the EAA from time to time and shall observe and comply with them in the course of their practice. The licensee was reprimanded and fined HK\$5,000. A condition was also attached to his licence, requiring him to obtain 12 points in the core subjects of the CPD Scheme in 12 months.





在《專業天地》內，我們會解答與持牌人執業息息相關的一些常見提問。

In Horizons, we will list out the answers to selected enquiries commonly raised by licensees concerning estate agency practice.

問：差餉物業估價署（差估署）的「物業資訊網」有提供物業許可用途的資料，但差估署並非「物業資料表格」內有關物業用途限制的訂明來源。我可否根據差估署所提供的物業許可用途資料填寫表格？

答：差估署的「物業資訊網」發放的物業許可用途資料，來源為屋宇署發出的「佔用許可証」。因此，就符合《地產代理常規（一般責任及香港住宅物業）規例》下提供指定物業資料的目的而言，地產代理若從「物業資訊網」取得的住宅物業的許可用途資料，監管局會視之為來自訂明來源。

Q: The Property Information Online (PIO) service of the Rating and Valuation Department (RVD) provides information on user restrictions in respect of residential properties. However, RVD is not a “prescribed source” of “user restrictions” as specified in the Property Information Form. Can I fill in the form according to information on user restrictions provided by the RVD?

A: The information on permitted occupation purposes in respect of residential properties provided by the PIO of the RVD originates from the Occupation Permits issued by the Buildings Department. Hence, for the purpose of complying with the requirements on the provision of prescribed property information under the Estate Agents Practice (General Duties and Hong Kong Residential Properties) Regulation, the information on permitted occupation purposes in respect of residential properties obtained from the PIO will be regarded by the EAA as obtained from a prescribed source.

問：為了儘早給予準買家有關某一手住宅物業項目的有用資訊，我可否在賣方發出價單及售樓說明書之前，向準買家提供有關項目的宣傳品及「意向價」？

答：根據監管局發出相關的執業通告（編號 13-04(CR)），如持牌人向準買家提供任何一手住宅物業資料，須以賣方提供的售樓說明書及文件所載的資料為準；持牌人不得在賣方發出價單之前向準買家提供任何該項目的「意向價」。

此外，地產代理公司在為一手住宅樓盤銷售發出任何廣告或宣傳物品之前，必須先取得賣方的書面同意，並要採取一切合理步驟核實資料的準確性，以及在發出前取得賣方就所載資料的準確性及完整性的明確書面批署。

Q: In order to provide a prospective purchaser with useful information about a first-hand residential development as early as possible, can I provide promotional material and the “intended price” before the vendor releases the price list and sales brochure?

A: According to the relevant Practice Circular (no 13-04 (CR)), when providing information on any first-hand residential property to a prospective purchaser, licensees must do so only on the basis of the latest information contained in the sales brochure and documents prepared by the vendor. Licensees should not provide any “intended price” of the development before the release of the price list by the vendor.

Moreover, estate agency companies must obtain written consent from the vendor before they issue any advertisement or promotional material. They must also take all reasonable steps to verify the accuracy of the information contained in such material and obtain the vendor’s express endorsement in writing of the accuracy and completeness of the particulars contained therein before issuance.

持續專業進修講座－「更改土地用途」

為了有效運用土地資源，政府就每幅土地的用途都有特定的規劃及限制，要更改土地用途，就必須經過相關法例及政策所訂明的審批程序。為加深持牌人對更改土地用途的相關法例及要求的認識，監管局於2014年3月27日舉辦了「更改土地用途」講座。

是次講座由香港測量師學會產業測量組理事溫偉明測量師擔任演講嘉賓，為持牌人講解更改土地用途的基本原則、法例和程序，近300名持牌人出席講座。

講座上，溫先生向持牌人講述《城市規劃條例》、《建築物條例》及地契發展限制的基本概念，當中包括在《城市規劃條例》下更改土地用途之框架和程序、屋宇署對發展管制的作業備考、改動地契條款之形式及種類，以及相關補地價及豁免費之計算等等。溫先生並引用了一些實際例子，讓參加者更易掌握更改土地用途的流程。

溫先生提醒持牌人，有關法例和地契可能已訂明有關土地的許可用途，如欲更改土地用途，或須經有關政府部

門或法定機構如城市規劃委員會審批，而申請過程中所涉及的事宜可以非常複雜。故此，持牌人應建議客戶就更改土地用途的事宜諮詢測量師或建築師的專業意見，以保障客戶的利益。



溫偉明測量師向持牌人講解更改土地用途的相關法例和要求。
Sr Tony Wan briefs licensees on the relevant laws and requirements relating to the change of land use.

CPD Seminar – Change of Land Use

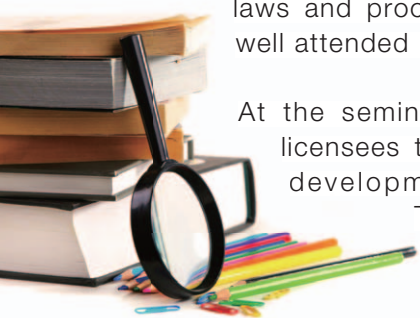
To ensure the effective use of land in the territories, the Government plans and restricts the use of each piece of land in Hong Kong and the approval for change of land use involves procedures prescribed under the relevant laws and policies. With a view to enhancing licensees' understanding on the subject, the EAA organised a CPD seminar on "Change of Land Use" on 27 March 2014.

Sr Tony Wan, Council Member of General Practice Divisional Council of the Hong Kong Institute of Surveyors, was invited to brief licensees on the basic principles of change of land use, the relevant laws and procedures. The seminar was well attended by about 300 licensees.

At the seminar, Sr Wan explained to licensees the basic concepts of the development controls under the Town Planning Ordinance, Buildings Ordinance and Government leases which include, inter

alia, the framework and procedures for change of land use under the Town Planning Ordinance and practice notes in respect of development control issued by the Buildings Department. He also talked about the different modes in altering the land grants, the bases of assessment of the land premium and the waiver fee for the change of land grant usage. Sr Wan quoted some real life examples in the seminar in order to facilitate participants' understanding of the procedures involved in the change of land use application.

Sr Wan had reminded licensees that the permitted land use might have been prescribed under the relevant laws and the Government leases. Application for change of land use might need to be approved by the relevant government departments or statutory bodies such as the Town Planning Board. The issues involved in it could therefore be complicated. Hence, licensees should advise their clients to seek professional advice from surveyors or architects on matters relating to the change of land use so as to protect their interests.





2014年5月5日

監管局牌照部經理張嘉賢先生(右一)會見來自泰國的地產代理業界訪問團。

5 May 2014

Mr Kevin Cheung, Manager (Licensing) of the EAA (first on right), receives a delegation from Thai Real Estate Broker Association.



2014年5月20日

監管局與業界代表舉行季度聯絡會議。

20 May 2014

The EAA holds a quarterly liaison meeting with the estate agency trade representatives.



2014年6月25日

監管局參與由僱員再培訓局服務中心(九龍東)舉辦的社區職業講座，向有意加入地產代理行業的人士講解監管局的職能及發牌條件。

25 June 2014

The EAA participates in a community career talk organised by the Employees Retraining Board Services Centre (Kowloon East) to explain the EAA's functions and licensing requirements to individuals interested in joining the real estate industry.



2014年6月27日

監管局舉辦第13次從業員「聚焦小組」會議，與持牌人就執業的情況交流意見。

27 June 2014

The EAA organises the thirteenth focus group meeting with licensees and exchanges views with them on their practice.



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 5/6/2014	934	41.5%
營業員資格考試 Salespersons Qualifying Examination 23/4/2014	542	43.9%
24/6/2014	727	49.0%

牌照數目 (截至 2014 年 6 月 30 日)

Number of licences (as at 30/6/2014)

營業員牌照 Salesperson's Licence:	18,842
地產代理 (個人) 牌照 Estate Agent's Licence (Individual):	16,633
個人牌照總和 Total no. of individual licences:	35,475
地產代理 (公司) 牌照 Estate Agent's Licence (Company):	3,109

營業詳情說明書 (截至 2014 年 6 月 30 日)

Number of statements of particulars of business (as at 30/6/2014)

合夥經營 Partnerships:	250
獨資經營 Sole proprietorships:	1,599
有限公司 Limited companies:	4,444
總數 Total:	6,293

接獲的投訴 (2014 年 1 月至 6 月) :

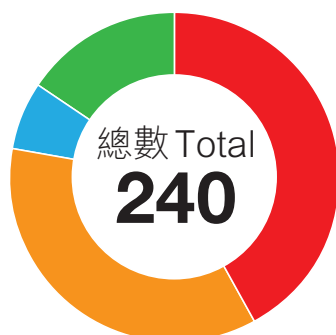
Number of complaint cases received (January to June 2014)

186



已處理的投訴個案結果* (2014年1月至6月)

Results of completed complaint cases* (January to June 2014)



● 指稱成立 Substantiated:	101
● 指稱不成立 Unsubstantiated:	86
● 資料不足 Insufficient information to pursue:	16
● 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 closed because of other reasons)	37

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

巡查次數(2014年1月至6月)

Number of compliance inspections (January to June 2014)

● 一手樓盤銷售處 First-sale sites:	603
● 代理商舖 Estate agency shops:	855
● 網上物業廣告 Online property advertisements:	302

巡查發現主動調查的個案(2014年1月至6月)

Number of cases arising from self-initiated investigations during inspections (January to June 2014)

● 主動調查的個案:	
Cases arising from self-initiated investigations	33
● 主動調查而指稱成立的個案*:	
Cases completed from self-initiated investigations and were substantiated*	17

* 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(2014年1月至6月)*

Actions taken against licensees or ex-licensees (January to June 2014)*

有關的持牌人或前持牌人人數 No of licensees or ex-licensees	235
行動	
Actions taken	
● 訓誡/譴責 Admonishment/reprimand	127
● 罰款 Fine	81
● 於牌照附加/更改條件 Attachment/alteration of conditions to licence	137
● 暫時吊銷牌照 Suspension	7
● 撤銷牌照 Revocation	30 [#]

* 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，包括在發牌時或在其他情況下於牌照上附加條件。

* 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.

[#] 這些個案由牌照委員會裁定。理由是持牌人不符合適當人選要求，因而不適合繼續持有牌照。

[#] These cases were decided by the Licensing Committee on the ground that the licensees concerned were considered not fit and proper to continue to hold a licence.