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專訪 Feature Interview

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有關一手住宅物業銷售的操守問題

置業是不少市民的人生大事，尤其是購買未落成新樓，近期更是成為市場關注熱點，不少地產代理都有參與銷售。而較早前，消費者委員會就發表了一份「一手住宅物業銷售研究報告」，當中發現有地產代理涉嫌違規。地產代理監管局（「監管局」）對此極度關注，希望再次提醒各持牌人，必須遵守監管局指引行事；同時，監管局正研究稍後發出新指引，以提高地產代理公司在這方面的企業管治。

不可「代客墊支」

根據監管局就地產代理參與一手住宅物業銷售而發出的執業通告（編號13-04(CR)），持牌人在銷售一手住宅物業時，不得向準買家提供或提出提供貸款，即使該準買家表示沒有足夠金錢作即場交付訂金，不論是否用以游說準買家簽訂臨時買賣合約或作任何其他用途，即使該準買家向持牌人提出有關要求。

上述規定能讓準買家在作出決定前，冷靜審慎考慮清楚，避免一時衝動購入物業，或在其後才發覺超出負擔能力；這項規定能減少買家日後因後悔而引起的爭拗或巨大的金錢損失（例如「撻訂」），對代理和消費者都有好處。

必須「清機過數」

倘若準買家因沒有銀行本票參與抽籤買樓，要求地產代理公司為他提供本票，並以信用卡向該地產代理公司繳付同等金額的話，則持牌人絕不可向客戶表示其信用卡將不會被「過數」，反而應在接受客戶以信用卡付款後即日「清機過數」，否則便有可能構成「代客墊支」，違反監管局指引。

申報入票

另外，監管局早前亦與社會關注團體會面，討論到有關地產代理在參與銷售一手樓盤的同時，入票參與抽籤該樓盤的情況。監管局認為，雖然個別地產代理對有興趣的樓盤入票抽籤屬無可厚非，但倘若地產代理公司有份參與該樓盤的銷售，而其僱員又參與入票的話，則難免令人覺得有利益衝突。

根據監管局發出的執業通告（編號08-03(CR)），持牌人應避免利益衝突的情況，及須向客戶披露涉及物業的個人利益。因此，基於同一原則，同時為了提升地產代理公司的企業管治，監管局正研究要求有份入票的地產代理作出申報，但有關細節須留待監管局執業及考試委員會詳細討論再作決定。而監管局在2015年1月6日舉行的與業界聯絡會議中，亦已將此構思與各主要業界商會分享，商會代表都普遍認同。稍後當有關指引內容落實後，監管局會再作公布。

最後，監管局再次提醒持牌人，如被證實違反執業通告內的指引，有機會被監管局紀律處分，最嚴重的處分為撤銷牌照。另外，如違反《一手住宅物業銷售條例》的規定，則屬刑事罪行，可處的最高刑罰為罰款五百萬元及監禁七年。持牌人應細閱執業通告及《一手住宅物業銷售條例》全文，以進一步了解及遵守相關規定。



Conduct in the sale of first-hand residential properties

To most people, home buying is one of the biggest decisions in life. Buying first-hand residential properties is especially a focus of public concern and many estate agents participate in the sale of such properties. Recently, the Consumer Council issued a report on “Study on the Sales of First-hand Residential Properties” which revealed suspected malpractice of estate agents. The Estate Agents Authority (“EAA”) is concerned about the issue and would like to remind licensees that they must comply with all the guidelines issued by the EAA. The EAA is considering issuing new guidelines to enhance the corporate governance of estate agency companies.

Do not offer loans to prospective purchasers

According to the Practice Circular on the subject of First Sale Of Residential Properties (No. 13-04(CR)), licensees must not offer or make loans to a prospective purchaser, even if the prospective purchaser states that he does not have sufficient money for the payment of the deposit on the spot, whether in order to persuade a prospective purchaser to sign a Provisional Agreement for Sale and Purchase, or for any other purpose, and even if a prospective purchaser requests licensees to do so.

The above requirement enables prospective purchasers to think carefully before making any purchase decision. It is beneficial to both the estate agents and the consumers as it could reduce disputes due to purchasers’ subsequent regret over their purchase decision or due to substantial monetary loss (such as forfeiture of their deposit) and prevents them from making impulsive purchase which they may not be able to afford.

Must debit the prospective purchaser’s credit card on the same day

Licensees should note that if a prospective purchaser does not have a cashier order to participate in the lot drawing for purchasing the property and thus requests the estate agency company to offer him a cashier order in return for his payment of the same amount of money to the estate agency company by credit card, licensees must not express to the prospective purchaser that they will not debit the latter’s credit card. On the contrary, licensees should debit the prospective purchaser’s credit card on the same day after accepting the credit card payment. Otherwise, it might be construed that the licensee has offered a loan to a prospective purchaser and thus might violate the EAA’s guidelines.

Declare when submitting registration of intent

The EAA has recently met with representatives of a concerned group and discussed the issue of licensees who are involved in the sales of the first-hand residential properties, and at the same time submit registration of intent of purchasing such properties themselves. The EAA understands that licensees may submit registration of intent if they themselves are interested in buying that property, but nevertheless it may give people an impression that there may be a possible conflict of interest if that licensee works for an estate agency company which is also involved in the sale of such property.

According to the Practice Circular (No. 08-03(CR)) issued by the EAA, licensees are under a duty to avoid conflict of interest and they must make a disclosure of interests in the property concerned to their clients. Therefore, based on the same principle and also in a bid to enhancing the corporate governance of estate agency companies, the EAA is currently studying on requiring licensees who are involved in the sales of first-hand residential properties, and who at the same time submit registration of intent themselves to make a declaration. However, details and the feasibility of such a requirement are pending for discussion at the EAA’s Practice and Examination Committee before any conclusion could be reached. In fact, the EAA had conveyed such a proposal at the liaison meeting with estate agency trade representatives on 6 January 2015 and the trade representatives were supportive of the proposed requirement generally. The EAA will announce details of such requirement upon confirmation in due course.

Last but not the least, the EAA would like to remind licensees again that they may be subject to disciplinary actions by the EAA if they fail to comply with the guidelines set out in the Practice Circular on first sale of residential properties. The most severe sanction will be licence revocation. Also, contravention of the Residential Properties (First-hand Sales) Ordinance is a criminal offence and is liable to a maximum penalty of a fine of \$5,000,000 and imprisonment for seven years. Licensees should read the related Practice Circular and the full version of the Residential Properties (First-hand Sales) Ordinance carefully for a better understanding of and compliance with the requirements.

與監管局主席梁永祥先生，BBS，JP 訪談

監管局新任主席梁永祥先生，BBS，JP 剛於2014年11月正式上任。梁主席自2004年加入監管局董事局至今已逾十年，今期《專業天地》特地專訪梁主席，了解他對業界及監管局工作的看法及期望。



監管局主席
梁永祥先生，BBS，JP
Mr William Leung Wing-cheung, BBS, JP
Chairman of the EAA

問：編者 答：梁永祥先生

問：首先恭喜梁先生你出任新一屆監管局主席。你對未來工作有甚麼期望？

答：我很榮幸能擔當監管局的第四任主席。監管局成立已十多年，歷任主席皆是業界翹楚，任內建樹良多，為業界及監管局帶來長足進步。我希望能盡我本份，幫助改善業界整體水平。我在金融服務界工作多年，其實這行業的工作和地產代理業也有不少相似的地方，大家都是本着以客為先的精神，為客戶提供優質和專業的服務，這使我可以理解業界的角度。我期望未來和業界有更多溝通，一同為提升業界專業水平而努力。

問：你對業界的印象如何？認為他們還有那些地方可以做得更好？

答：多得監管局和業界過去多年來的共同努力，現時業界的水平比以往已提升了不少，但在形象方面仍須多下功夫。舉例說，偶然還會發生代理在新盤售樓處現場因爭客而打架的事件，這些行為實在是很不智的。這不但大大打擊行業的聲譽及形象，打架本來也就是違法的，可能會被警察檢控，有機會留有案底，最後被監管局處分，甚至被公司解僱，完全是不值得的。從業員在勤力工作之餘，守法循規才是最重要的，我希望他們不要拿自己的生計來冒險。

問：可否透露一下監管局在來年的工作重點？

答：監管局未來會繼續集中在兩個主要範疇內加倍工作，分別是教育消費者和地產代理，提升業界的專業水平。後者是監管局的一貫重要工作，業界多年來已有不少進步，但在專業水平上仍有改善空間。至於消費者教育，我一向認為是十分重要的，如果所有置業人士可以協助我們一同監察代理的執業水平，比起單靠監管局巡查，相信會來得更有效。

問：業界競爭激烈，從業員的工作一點也不輕易。主席可否給予他們一些寄語？

答：套用我工作多年來的數句心得，我希望業界能做到對客戶「老老實實、公公道道」，切忌抱有任何鋌而走險的心態。必須坦誠對待客人，絕不能信口開河。最重要是看長遠一些，不要只顧「跑數」或「賺快錢」，一宗生意做不成，下一宗便加倍努力，但如果對客戶不誠實，便可能因此永遠失去這位客戶，甚至被懲處而影響事業。

An interview with Mr William Leung, BBS, JP, Chairman of the EAA

Mr William Leung, the new Chairman of the EAA Board, took up his chairmanship in November 2014. Mr Leung has been an EAA Board Member for over ten years since 2004. In this issue, *Horizons* interviewed Mr Leung to learn more about his views and expectations towards the trade and the EAA's work.

Q: The editor A: Mr William Leung

Q: First of all, congratulations on your appointment as the EAA's new Chairman. What do you expect to achieve in your new position?

A: I am honoured to become the fourth Chairman of the EAA Board. Since the establishment of the EAA more than ten years ago, all former Chairmen of the EAA Board have contributed enormously to the progression of the trade and the EAA. I hope to do my part to the EAA and help improve the overall standard of the trade. I have been working in the banking and financial industry for a long time. I found that the nature of this industry is similar to the estate agency industry in a way that both are customer-oriented and dedicated to providing quality and professional services to clients. Such similarity enables me to think in the angle of the trade. I look forward to communicating more with the trade and together we make a concerted effort to enhance the professional standard of this industry.

Q: What is your impression towards the estate agency trade? Are there any aspects that you think the trade can do better at?

A: The standard of the trade has substantially improved, owing to the hard work of both the trade and the EAA. However, more efforts should be devoted to improve the image of estate agents. For example, there are still cases of agents fighting for clients at first-sale sites. It is extremely unwise of them to do so. Not only does the fighting tarnish the image and the reputation of the trade, but the fighting itself is a crime. The agents concerned may be prosecuted by the police, leading to a permanent criminal record. They

may also face disciplinary action by the EAA and may eventually lose their jobs. It does not pay to bear all these consequences. While working hard to solicit business, licensees should also ensure that they comply with the law and never put their own livelihood at risk.

Q: Can you tell us about the EAA's plan in the coming year?

A: The EAA will continue to dedicate its efforts in two key priority areas: educating the consumers and the trade, and enhancing the trade's professional standard. In fact, the latter has always been a priority of the EAA. The trade has progressed a lot over these years but there is still room for improvement in their professional standard. Consumer education is of paramount importance as well. In addition to the inspections conducted by the EAA, it will be more effective if prospective purchasers and tenants can also monitor the practice standard of estate agents.

Q: Competition in the trade is fierce and practitioner's work is not always easy. What would you like to convey to the trade?

A: I would like to share my motto with the trade. I hope that licensees always remember the importance of honesty (老老實實) and equity (公公道道) when dealing with their clients. They should be sincere and never make random promises to clients. Always aim at a long-term estate agent career and lasting relationships with clients. Do not focus on meeting sales target only or earning quick money. If you lose a deal, you can double up the effort next time to make up for the loss. However, if you are dishonest to a customer, you will lose that customer forever and will possibly receive penalties which can cost your career.

監管局董事局委任常設委員會及專責小組主席及成員

監管局董事局轄下設有五個常設委員會和一個專責小組，負責處理不同範疇的工作。新一屆董事局於2014年11月25日舉行的首次會議上，委任了該五個委員會和專責小組的主席和成員。

新一屆董事局共有18名成員，由主席梁永祥先生，BBS，JP及副主席廖玉玲女士，JP領導。董事局轄下的常設委員會和一個專責小組，分別為財務及策略發展委員會、紀律委員會、牌照委員會、執業及考試委員會、

專業發展委員會及第28條調查小組。董事局可不時就處理特別事宜，成立其他專責小組，也可以委任非監管局的成員（即委任成員）參與委員會、專責小組或工作小組的工作。

另外，監管局董事局於2014年12月12日舉行午餐聚會，歡迎新任成員及向離任成員頒發紀念座，以答謝他們過去對監管局的貢獻。

監管局常設委員會／專責小組* EAA Committees and Panel*

常設委員會／專責小組

Standing Committee/Panel

財務及策略發展委員會

Finance and Strategic Development Committee

紀律委員會

Disciplinary Committee

牌照委員會

Licensing Committee

執業及考試委員會

Practice and Examination Committee

專業發展委員會

Professional Development Committee

第28條調查小組

Section 28 Investigation Panel

主席

Chairman

梁永祥先生，BBS，JP

Mr William Leung Wing-cheung, BBS, JP

廖玉玲女士，JP

Ms Elaine Liu Yuk-ling, JP

劉振江先生

Mr Lau Chun-kong

張國鈞先生，JP

Mr Horace Cheung Kwok-kwan, JP

余惠偉先生，JP

Mr Yu Wai-wai, JP

陳超國先生

Mr Charles Chan Chiu-kwok

* 有關常設委員會／專責小組的全部成員名單，請瀏覽監管局網頁。

* Please visit the EAA's website for the full list of membership of the committees and panel.



監管局董事局新任成員與離任成員及行政部門管理人員合照留念。

A group photo of the EAA Board's new members and retiring members with the management of Administration.

The EAA Board Appoints the Chairmen and Membership of Standing Committees and Panel

There are five standing committees and one panel under the EAA Board to oversee the various aspects of work. The new EAA Board held its first meeting on 25 November 2014 and appointed the chairmen and membership of these committees and panel.

The new EAA Board, led by Chairman Mr William Leung Wing-cheung, BBS, JP, and Vice-chairman Ms Elaine Liu Yuk-ling, JP has a total of 18 members. The committees and panel under the Board include Finance and Strategic Development Committee, Disciplinary Committee, Licensing Committee, Practice and Examination Committee,

Professional Development Committee and Section 28 Investigation Panel. The Board may also from time to time set up other working parties or groups to deal with specific issues and may appoint to the committees, panels or working groups, other persons (Board-appointed Members) who are not members of the EAA Board.

Separately, the EAA Board held a luncheon on 12 December 2014 to welcome its new members and bid farewell to its retiring members. Souvenirs were also presented to the retiring members as a token of appreciation to their past contribution to the EAA.



新任服務總監張秀成先生 New Director of Services, Mr Cavan Cheung

監管局的新任服務總監張秀成先生已於2015年1月2日上任。張先生擁有超過25年會計及財務、企業事務、企業管治及公司秘書事務等經驗，加入監管局前曾於香港數碼港管理有限公司擔任財務總監及公司秘書。張先生現為香港會計師公會及英國特許公認會計師公會資深會員，以及香港特許秘書公會與英國特許秘書及行政人員公會會員，並持有行政人員工商管理碩士及文學士榮譽學位。

The new Director of Services of the EAA, Mr Cavan Cheung, has been on board since 2 January 2015. Mr Cheung has over 25 years of extensive experience in accounting and finance, corporate affairs, corporate governance and company secretarial functions. Before joining the EAA, Mr Cheung was previously the Chief Financial Officer and Company Secretary of Hong Kong Cyberport Management Company Limited. He is a Fellow of the Hong Kong Institute of Certified Public Accountants (HKICPA) and a Fellow of the Association of Chartered Certified Accountants (ACCA). Mr Cheung is also a member of the Hong Kong Institute of Chartered Secretaries (HKICS) and the Institute of Chartered Secretaries and Administrators (ICSA). He holds an Executive Master of Business Administration degree and a Bachelor of Arts with Honours degree.

監管局回顧2014年工作及簡介2015年工作重點

監管局於2015年1月28日舉行新聞發布會，由主席梁永祥先生及行政總裁韓婉萍女士回顧監管局在2014年的工作，及簡介2015年的工作重點。

梁永祥主席指出，監管局非常重視持牌人在推銷一手住宅時的操守，過去曾發出多份相關的執業通告，要求業界遵守指引。監管局去年合共接獲56宗有關一手住宅買賣的投訴，比前年為多；個案主要涉及未有履行有關回贈的承諾、誤導按揭申請資料及「代客墊支」等。去年，監管局共巡查一手住宅樓盤銷售處1,141次，發現12宗違規個案，較前一年的3宗大幅增加。另外，監管局去年共巡查地產代理商舖1,676次，並抽查網上物業廣告610次。其他工作方面，2014年資格考試的整體考生人數按年下跌約19%，持牌人數則全年保持於3萬5千多人的水平。

踏入2015年，監管局會加強巡查一手樓盤及舉辦有關一手住宅物業銷售的持續專業進修講座，確保持牌人在參與一手樓銷售時的秩序及操守都合乎指引。此外，監管局正研究要求有份入票參與一手樓銷售的持牌人作出申報，但相關細節仍有待討論。此外，監管局會優化網上學習平台，讓持牌人更靈活進修。新的消費者教育短片也會於稍後時間在巴士上播放，向市民推廣實用資訊。

另外，監管局將會研究資格考試的難度是否需要提高及檢討去年實施的「紀律處分新計劃」的成效。監管局也會在現行地產代理條例的框架下，研究紀律研訊中常見的個案及罰則，以檢討其阻嚇力。如有需要，會就一些較嚴重的違規情況，向紀律委員會提議施行較重的罰則。



監管局主席梁永祥先生(左)及行政總裁韓婉萍女士於新聞發布會上回顧局方2014年工作，並簡介2015年的工作重點。

At the press conference, EAA's Chairman Mr William Leung (left) and Chief Executive Officer Ms Ruby Hon review the EAA's work in 2014 and introduce its initiatives for 2015.

EAA reviews its work in 2014 and introduces its initiatives for 2015

The Estate Agents Authority (EAA) held a press conference on 28 January 2015 at which EAA Chairman, Mr William Leung Wing-cheung, and Chief Executive Officer, Ms Ruby Hon, reviewed the EAA's work in 2014 and introduced the key initiatives for 2015.

Mr William Leung pointed out that the EAA is very concerned about the conduct of estate agents in promoting first-hand residential properties and has issued relevant practice circulars in the past for the trade to comply with. The EAA received 56 complaint cases about the sale of first-hand residential properties last year, more than the year before. Most cases were about the failure to honour the promise of a rebate, providing misleading information on a mortgage loan and making loans to prospective purchasers. Last year, the EAA conducted 1,141 checks at first sale sites and discovered 12 suspected non-compliant cases, which is a sharp increase from the three cases in 2013. The EAA also conducted 1,676 visits to estate agency shops last year and screened online property advertisements 610 times. Regarding the EAA's other work, the overall number of qualifying examinations candidates in 2014 showed a year-on-year decrease of about 19%, while the number of licensees maintained at a level of about 35,000 throughout last year.

Stepping into 2015, the EAA will strengthen compliance checks at first sale sites and organise seminars on first-hand sales under the Continuing Professional Development Scheme, in a bid to ensure the order and conduct of estate agents in first sales are compliant with the guidelines. Meanwhile, the EAA is currently studying on requiring licensees who are involved in the sales of first-hand residential properties and who at the same time submit a registration of intent for purchasing such properties themselves, to make a declaration. Details are pending for discussion. Moreover, the EAA will optimise the e-learning platform to allow more flexibility for licensees in continuous learning. New consumer videos will also be launched soon on buses to promote useful information to the public.

The EAA will study on whether there is a need to raise the level of difficulty of the qualifying examinations and review the effectiveness of the New Scheme for Disciplinary Cases which took effect last year. Also, under the existing framework of the Estate Agents Ordinance, the EAA will review the level of sanctions and their effectiveness by studying the common breaches and sanctions of inquiry hearings, and will propose heavier sanctions on serious breaches to the Disciplinary Committee, if necessary.

監管局新增三個「網上學習活動」

為進一步配合從業員的學習需要及鼓勵持牌人參加持續專業進修活動，監管局剛於2015年1月就「網上學習活動」新增三個課程。參加者完成觀看課程影片後，需進行相關的課後測驗，若取得合格分數（即答對一半或以上的題目），將可獲取一個核心學分。

新推出的「網上學習活動」：

課程名稱	課程概要
標準文件 — 如何填寫物業資料表格	<ul style="list-style-type: none"> 簡介相關法例及規例 如何填寫物業資料表格 — 表格1 如何填寫出租資料表格 — 表格2
有關《一手住宅物業銷售 — 進行推廣活動及提供物業資料的操守》的執業指引	<ul style="list-style-type: none"> 簡介《一手住宅物業銷售條例》中與地產代理實務有關的部分主要條文 簡介執業通告《一手住宅物業銷售 — 進行推廣活動及提供物業資料的操守》的內容 闡述從業員在執業上或會遇到的提問及解答
勞工法例簡介	<ul style="list-style-type: none"> 《僱傭條例》 強制性公積金 《最低工資條例》 在僱傭範疇提供平等機會的法例

優越嘉許獎章

另外，為表揚持牌人不斷透過參與進修活動提升自己的專業知識，自**2013年10月1日至2014年9月30日**的進修時段開始計算，若持牌人**連續**在三個進修時段達到學分要求，將會獲頒發優越嘉許獎章「銀章」，而在**連續**五個進修時段達到學分要求則獲頒「金章」。此等優越嘉許獎章有別於在每個進修時段達到學分要求而頒發的嘉許獎章，詳情請參閱《持續專業進修計劃指引》第9章。

Three new e-Learning programmes

To meet the learning needs of practitioners and encourage licensees to participate in CPD activities, the EAA has recently launched three new e-Learning programmes in January 2015. After watching the video-taped course, participants will be asked to do a course-end exercise. One CPD (core) point will be awarded to licensees who attain the pass mark (i.e. scored 50% or above) of that particular e-Learning programme.

The three new e-Learning programmes:

Programme name	Programme Highlights
Standard Form – How to complete property information form	<ul style="list-style-type: none"> Briefly introduce the relevant ordinances and regulations How to complete Property Information Form – Form 1 How to complete Leasing Information Form – Form 2
Guidelines on the conduct of promotional activities and the provision of property information for the first sale of residential properties	<ul style="list-style-type: none"> Briefly introduce the key provisions in the Residential Properties (First-hand Sales) Ordinance relating to the estate agency practice Briefly introduce the Practice Circular – First Sale of Residential Properties – Conduct in Promotional Activities and Provision of Property Information Illustration to practice related Q&A
A brief on employment laws	<ul style="list-style-type: none"> Employment Ordinance Mandatory Provident Fund Schemes Minimum Wage Ordinance Laws relating to equal opportunities

Premium CPD Attainment Symbols

To recognise licensees' continuous effort in enhancing professional knowledge through participation in CPD activities, **with effect from the CPD period commencing 1 October 2013 and ending 30 September 2014**, a Silver Symbol will be presented to licensees achieving the CPD attainment target in three **consecutive** CPD periods, and a Gold Symbol for five **consecutive** CPD periods.

These premium Symbols are different from the standard Symbol for one CPD period. Please refer to Section 9 of the CPD Guidelines for details.

紀律研訊個案：在行車道上截車招攬生意

就着持牌人在一手樓盤銷售地點的秩序事宜，監管局曾發出執業通告（編號 10-02(CR)），為業界提供詳細指引。持牌人必須遵守相關指引，否則可能會被監管局紀律處分。

一名營業員在某新盤銷售處外的行車道上向行人招攬生意，並攔截一輛正前往該樓盤銷售處的計程車，向車上乘客推銷該一手樓盤。

監管局紀律委員會就該個案進行紀律研訊。委員會認為該營業員未有遵循執業通告中的指引，站在行車道上或攔截車輛，對駕駛人士和其他道路使用者構成危險，即

沒有遵守《操守守則》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」的守則。因此，委員會決定訓誡該名營業員及罰款1,000元；同時在其牌照上附加條件，要求他在24個月內取得持續專業進修計劃下核心科目的18個學分。

至於負責監督該營業員的地產代理員工監督，以及僱用該營業員及員工監督的地產代理公司，因為未有妥善監督其前線員工，違反了《地產代理常規（一般責任及香港住宅物業）規例》第15條的規定，結果亦被譴責及分別罰款10,000元及35,000元。

Disciplinary hearing case: Intercepting cars on the road to solicit business

The EAA has issued a Practice Circular (No. 10-02(CR)) setting out detailed guidelines on maintaining good order at first sale sites. Licensees must comply with them or they might be subject to disciplinary action by the EAA.

A salesperson solicited business on the road outside a first sale site. He intercepted a taxi heading to the site and approached the passengers to market the property.

The EAA Disciplinary Committee conducted an inquiry hearing into the case. The Committee was of the view that the salesperson had not complied with the guidelines in the Practice Circular, as he stood on the carriageway to intercept vehicles, endangering his own safety and the safety of drivers and other road users. He failed to comply with paragraph 3.2.1 of the *Code of Ethics*: “estate agents and salesperson 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”. As a result, the salesperson was admonished and fined \$1,000. A condition was also attached to his licence, requiring him to obtain 18 points in the core subjects of the CPD Scheme in 24 months.

As to the controller, who was responsible for overseeing the salesperson concerned at the first sale site, as well as the estate agency company employing both the salesperson and the controller, they did not supervise their frontline staff properly and thus were in breach of section 15 of the Estate Agents Practice (General Duties and Hong Kong Residential Properties) Regulation. They were reprimanded and fined \$10,000 and \$35,000 respectively.

紀律研訊個案：誤導賣方有關物業成交價的資料

持牌人必須秉持誠實的態度向客人提供服務，不可作出任何誤導客人的陳述，包括有關其他物業成交價的參考資料，否則有可能被監管局紀律處分。

一名營業員在處理一宗商舖交易中為買賣雙方行事。賣家向該名營業員表示，從街坊口中得知其店舖附近的另一個舖位剛以1,000多萬元售出。但該營業員向賣方稱該舖位交易是經由她促成，賣出價僅為800多萬元。

稍後，該營業員再次致電賣方，表示有客人願意出價900萬元購買其物業，並安排買賣雙方簽署臨時買賣合約。然而，一個月後，賣方知悉其店舖附近由該營業員促成

交易的舖位實際上是以1,000萬售出，而非其所指的800多萬元。賣方覺得被該營業員誤導，遂向監管局投訴。

監管局紀律委員會認為，該名營業員在安排賣方簽署臨時買賣合約前，誤導賣方另一宗物業成交的資料，違反了監管局發出的《操守守則》第3.4.1段，即持牌人應保障和促進客戶的利益、按照地產代理協議執行客戶的指示，並對交易各方公平公正。因此，委員會決定譴責該營業員及吊銷其牌照14天，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: Misleading the vendor about relevant property transaction price

Licensees must provide services to clients in an honest manner and must not make any misrepresentation that may mislead their clients, including information on the transaction prices of other properties. Otherwise they may be subject to disciplinary action by the EAA.

A salesperson acted for both the vendor and purchaser in a shop transaction. The vendor told the salesperson that he learnt from his neighbour that a shop near his was sold for more than \$10 million. The salesperson denied this and claimed the selling price was just over \$8 million, as the transaction was handled by her.

After that, the salesperson called the vendor, telling him that someone would like to buy his property for \$9 million and arranged for both parties to sign the Provisional Agreement for Sale and Purchase (PASP) later on. However, a month later, the vendor discovered that the shop nearby was actually sold for \$10 million, but not for just

over \$8 million as the salesperson had previously claimed. Feeling aggrieved, the vendor lodged a complaint with the EAA.

The EAA Disciplinary Committee was of the view that the salesperson made a misrepresentation to the vendor about the transaction price of the other property before arranging for the vendor to sign the PASP, not complying with paragraph 3.4.1 of the *Code of Ethics*, which states that “estate agents and salespersons, in engaging and accepting an appointment as an agent, should protect and promote the interests of their clients, carry out the instructions of their clients in accordance with the estate agency agreement and act in an impartial and just manner to all parties involved in the transaction”. The Disciplinary Committee thus reprimanded the salesperson and suspended her licence for fourteen days. A condition was also attached to her licence, requiring her 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 answer selected enquiries commonly raised by licensees concerning estate agency practice.

問：本公司收到業主指示放盤出租其住宅物業，業主沒有簽署地產代理協議，但以書面授權本公司發出該物業廣告，請問我可否為其物業作廣告宣傳？

答：雖然《地產代理常規（一般責任及香港住宅物業）規例》（《常規規例》）並沒有對地產代理在就賣方（或業主）的住宅物業發出廣告之前，須取得該賣方（或業主）的書面同意的格式作任何訂明，但持牌人須留意，根據《常規規例》第6(1)條，為賣方（或業主）行事的持牌地產代理須在(a)接受出售或出租有關的住宅物業的指示後7個工作日內；或(b)就該物業的出售或出租而作廣告宣傳之前；或(c)就該物業簽署買賣協議或租契之前（三者之中以最早者為準）與該賣方（或業主）訂立地產代理協議。

地產代理協議是法例訂明的表格，能釐清消費者與地產代理的權責，對雙方都有保障。因此，持牌人在處理住宅物業交易時，應與客戶訂立地產代理協議。

Q: My estate agency company received instructions from a vendor for leasing his residential property but he did not sign the estate agency agreement. Instead, he gives me his written consent for issuing an advertisement for his property. Am I allowed to issue an advertisement for his property?

A: Although there is no stipulation in the Estate Agents Practice (General Duties and Hong Kong Residential Properties) Regulation ("Practice Regulation") on the format of the written consent prior to the issue of an advertisement in respect of the vendor's (or landlord's) residential property, the licensee must note that under section 6(1) of the Practice Regulation, a licensed estate agent who acts for a vendor (or landlord) shall enter into an estate agency agreement with the vendor (or landlord) (a) within seven working days after accepting an instruction to sell or lease the residential property concerned; or (b) prior to advertising the property for sale or lease; or (c) prior to signing an agreement for sale and purchase or a lease of the property, whichever is the earlier.

Estate agency agreements are prescribed forms under the Estate Agents Ordinance. They clarify the rights and duties of consumers and estate agents, and help protect the interests of both parties. Therefore, licensees should enter into an estate agency agreement with their clients when they deal with residential properties.

問：本人參與一手住宅物業銷售時，可否向買家提供「回佣」？如可以的話，有甚麼要特別留意？

答：《地產代理條例》及其附屬法例並沒有就地產代理可否在參與一手住宅交易時將賣方付予的部分佣金回贈給買家有任何訂明。然而，根據監管局發出的執業通告(編號13-04 (CR))，持牌人在銷售一手住宅物業時，假若有任何優惠計劃，須將有關詳情告知準買家，並說明該優惠是由賣方提供，抑或是由其所屬的地產代理公司提供。持牌人亦須將其提供予準買家的任何優惠(包括任何送贈、折扣或回贈)以書面形式向準買家作出，並具體列明提供優惠的條款及形式。

Q: Can I offer cash rebates to prospective purchasers when participating in the sale of first-hand residential properties? If yes, what do I need to pay attention to when doing so?

A: There is no stipulation in the Estate Agents Ordinance and its subsidiary legislation on whether an estate agent can provide part of the commission from the vendor as a cash rebate to prospective purchasers in the sale of first-hand residential properties. However, according to Practice Circular (No. 13-04 (CR)) issued by the EAA, when providing incentives, licensees must inform the prospective purchasers of the details and state clearly whether the incentives are offered by the vendors or their estate agency companies. Licensees must also set out in writing any incentives that they have offered to prospective purchasers, and stipulate clearly the terms and format of the incentives so offered.

持續專業進修講座 — 「住宅物業驗樓及視察指南」

對很多香港市民來說，置業可能是一生中最大的投資。所以，準業主十分重視他們所計劃購買的單位是否有瑕疵。為了協助業界在處理客戶就驗收一手及二手住宅物業的常見問題和需注意的事項，監管局於2015年1月15日舉辦了相關的持續專業進修講座。

是次講座由皇家特許測量師學會代表楊文佳測量師擔任主講嘉賓，為持牌人講解住宅物業驗樓及視察的一般程序。當天有近300名持牌人出席講座。

在講座當天，楊測量師為持牌人詳細解釋驗收一手及二手住宅物業前需準備的工作及視察單位內的狀況及設備的檢視指引。楊測量師並用了一些實際例子讓參加者更容易了解一般驗收及視察物業的細節。

楊測量師建議準業主可向物業的發展商及/或管理處查詢有關物業的資料。他提及物業若附有增建或改建對有關物業的潛在風險，包括可能構成物業的產權負擔，影響該物業的業權等。楊測量師建議代理及準買家可參考有關物業的大廈公契或轉讓契等文件，以進一步了解有關物業。在有需要時，持牌人應建議客戶諮詢測量師或律師的專業意見，以保障客戶的利益。



楊文佳測量師為持牌人講解住宅物業驗樓及視察的一般程序。
Sr Gary M. K. Yeung briefs licensees on the course of action to inspect residential properties.

CPD Seminar – Guide to Inspection of Residential Properties

To many people in Hong Kong, the purchase of their own residential properties might be the biggest investment in their lifetime. Therefore, the quality of properties they are about to purchase concerns most prospective purchasers. To facilitate estate agents' responses to their clients' frequently asked questions with regard to inspection of first-hand and second-hand properties and the important points to note, the EAA organised a related CPD seminar on 15 January 2015.

Sr Gary M. K. Yeung, representative of the Royal Institution of Chartered Surveyors, was invited to brief licensees on the course of action to inspect residential properties. The seminar was well received by about 300 licensees.

At the seminar, Sr Yeung detailed the preparation work needed for inspecting first-hand residential properties and second-hand residential properties. He explained the guidelines for inspecting the conditions and facilities of the properties. During the seminar, he also quoted some illustrative real life examples in order to help participants' understand the details involved in inspection of properties.

Sr Yeung advised prospective purchasers to consult the developer and/or the management office of the property for information about the concerned property. He also pointed out the potential risks of addition or alteration of any part of the property, that it may become encumbrances on the property and render the title defective. He recommended prospective purchasers and estate agents to check the Deed of Mutual Covenant or assignments etc of the property for further details. If necessary, to protect their clients' interests, licensees should advise their clients to seek professional advice from surveyors or lawyers.

活動紀要 Events and Activities



2014年12月3日

監管局舉行傳媒茶聚，監管局主席梁永祥先生，BBS，JP與行政總裁韓婉萍女士與一眾傳媒朋友會面。

3 December 2014

The EAA Chairman, Mr William Leung Wing-cheung, BBS, JP and Chief Executive Officer, Ms Ruby Hon, host a tea gathering with the media.



2014年12月17日

監管局在尖沙咀區舉辦從業員「聚焦小組」，就執業的情況與從業員交流意見。

17 December 2014

The EAA organises a focus group meeting with licensees at Tsim Sha Tsui 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 3/12/2014	1,053	47%
營業員資格考試 Salespersons Qualifying Examination 19/12/2014	996	53%

牌照數目 (截至 2014 年 12 月 31 日) Number of licences (as at 31/12/2014)

營業員牌照 Salesperson's Licence:	18,852
地產代理 (個人) 牌照 Estate Agent's Licence (Individual):	16,650
個人牌照總和 Total no. of individual licences:	35,502
地產代理 (公司) 牌照 Estate Agent's Licence (Company):	3,176

營業詳情說明書 (截至 2014 年 12 月 31 日) Number of statements of particulars of business (as at 31/12/2014)

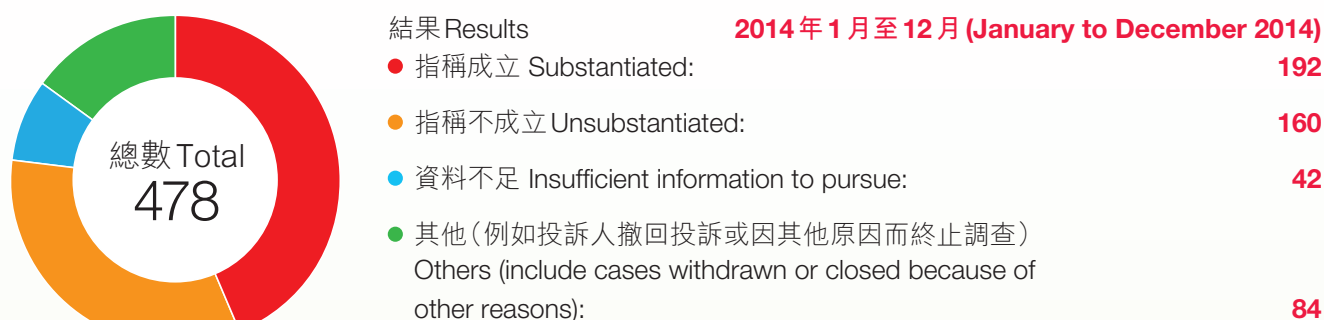
合夥經營 Partnerships:	262
獨資經營 Sole proprietorships:	1,629
有限公司 Limited companies:	4,467
總數 Total:	6,358

接獲的投訴 (2014 年 1 月至 12 月) Number of complaint cases received (January to December 2014):

399

已處理的投訴個案結果* (2014年1月至12月)

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



* 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12月)

Number of compliance inspections (January to December 2014)

● 一手樓盤銷售處 First-sale sites:	1,141
● 代理商舖 Estate agency shops:	1,676
● 網上物業廣告 Online property advertisements:	610

巡查發現主動調查的個案 (2014年1月至12月)

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

● 主動調查的個案:	
Cases arising from self-initiated investigations:	61
● 主動調查而指稱成立的個案*:	
Cases completed from self-initiated investigations and were substantiated*:	45

* 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12月)*

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

有關的持牌人或前持牌人人數 No of licensees or ex-licensees		457
行動 Actions taken	訓誡／譴責 Admonishment/reprimand	260
	罰款 Fine	174
	於牌照附加／更改條件 Attachment/alteration of conditions to licence	254
	暫時吊銷牌照 Suspension	12
	撤銷牌照 Revocation	53 [#]

* 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.