

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支付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.