

平等租住權利

Equal Right To Rent A Flat



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韓婉萍
Ruby Hon Yuen-ping
行政總裁
Chief Executive Officer

“監管局時刻提醒持牌人，在推銷非本地物業時要非常謹慎。倘若他們對該物業資料或相關法例有任何不確定，都不應隨便建議客戶。”

“The EAA always reminds licensees to be very careful when promoting non-local properties and not to advise their clients hastily if they are uncertain about any property information or relevant regulations.”

有關非本地物業的新執業通告 NEW PRACTICE CIRCULAR ON NON-LOCAL PROPERTIES

你們都可能知道，本港樓價持續高企，有更多香港人轉而購買能力較易負擔的非本地物業。然而，由於非本地物業交易受不同國家的法規及稅制所規限，更遑論在不熟悉地方購入未落成物業所帶來的風險，有關非本地物業的投訴近年已引起廣大市民的關注。

筆者明白愈來愈多的持牌地產代理參與非本地物業的銷售。近年，我們亦接獲不少相關投訴，部份更是涉及大量投訴人之複雜個案。處理非本地物業的銷售絕不容易，與處理本地物業的差異很大。這些物業位於遙遠他方，而買家及地產代理雙方均不熟悉遊戲規則。其實，倘若持牌人對物業發展商的背景認知不足，對當地的法制也不了解，又或者只是依賴網上資料行事的話，他們在介紹物業時作出誤導的機會是非常之大的。

監管局時刻提醒持牌人，在推銷非本地物業時要非常謹慎。倘若他們對該物業資料或相關法例有任何不確定，都不應隨便建議客戶。為此，局方已發出新執業通告，提供指引讓業界在處理非本地物業的銷售時有所依循。在這篇文章出版時，新執業通告經已發出。我強烈建議所有持牌人細閱及認真看待。

局方明白業界需要時間適應及了解新執業通告的要求。因此，我們將有三個月的時間讓業界好好準備。本人希望透過此執業通告的指引幫助下，持牌人在處理非本地物業時會更小心，令相關的投訴能有所減少。

As you may all know, with local property prices continuing to soar, more Hong Kong people are purchasing non-local properties as they are more affordable. However, as non-local property transactions are subject to different regulatory regimes and tax systems, not to mention the risks of purchasing uncompleted properties in an unfamiliar place, complaints concerning non-local properties have been arousing public attention in the past few years.

I appreciate that more and more licensed estate agents are now participating in the sale of non-local properties. In recent years, we have also received a number of related complaints, some of which have been quite complicated and concerned a large number of complainants. Handling the sale of non-local properties is not easy and is very different from handling local properties. These properties are located far away, and both the purchasers and estate agents are unfamiliar with the rules of the game. In fact, the chance of making misrepresentations when promoting non-local properties is high if our licensees do not have sufficient understanding of the background of the property developer, the related legal system of the country that the development is located, or if they simply rely on the information obtained from the Internet.

The EAA always reminds licensees to be very careful when promoting non-local properties and not to advise their clients hastily if they are uncertain about any property information or relevant regulations. Taking one step forward, the EAA has issued a new practice circular to provide guidelines for the trade to follow when handling the sale of non-local properties. By the time that this article is published, the new circular will have been issued and I strongly advise all licensees to read it carefully and take it seriously.

We understand that the trade will need time to fully comprehend and follow the requirements of this new practice circular. Hence, we will allow a 3-month period for the trade to get well-prepared. I truly hope that with the aid of the guidelines set out in this practice circular, licensees will be more careful when handling the sale of non-local properties and, as a result, the number of related complaints will decrease.

地產代理監管局成立二十周年誌慶 CELEBRATING THE EAA'S 20TH ANNIVERSARY

2017年適逢是《地產代理條例》頒布及地產代理監管局成立的二十周年紀念。為此，監管局於2017年11月2日假香港會議展覽中心君爵廳舉行二十周年慶祝酒會。

酒會由運輸及房屋局副局長蘇偉文博士BBS太平紳士及監管局主席梁永祥博士SBS太平紳士主禮。是次酒會共有約300名賓客出席，包括現任及前任監管局董事局成員及委任成員、立法會議員，以及多位來自不同政府部門、業界商會、公營機構，專上教育及培訓機構的代表，共證盛事。

梁主席表示：「二十周年只是一個新開始，監管局會繼續緊守崗位，令地產代理行業成為公眾信賴和尊重的行業，為香港社會作更多重要的貢獻。」

為慶祝二十周年紀念，監管局亦舉辦了兩項活動，包括傑出地產代理獎以及二十周年微電影比賽，兩項活動的賽果亦已於慶祝酒會上公布並進行頒獎。

The year 2017 marks the 20th anniversary of the enactment of the Estate Agents Ordinance and the establishment of the EAA. To celebrate the occasion, a cocktail reception was held on 2 November 2017 at the Chancellor Room of the Hong Kong Convention and Exhibition Centre.

The ceremony was officiated by Dr Raymond So Wai-man, BBS, JP, the Under Secretary for Transport and Housing and Dr William Leung Wing-cheung, SBS, JP, Chairman of the EAA. Around 300 guests attended the cocktail reception, including current and former EAA Board members and Board-appointed members, members of the Legislative Council, representatives of Government departments, estate agency trade associations, public bodies, and tertiary and training institutions.

Dr William Leung Wing-cheung said, "The 20th anniversary turns a new page for the EAA. The EAA will continue to spare no effort in elevating the trade to a profession worthy of public trust and respect, so that the profession can make greater contributions to Hong Kong."

On the occasion of its 20th anniversary, the EAA organised the Outstanding Estate Agent Award and the 20th Anniversary Micro Movie Competition. The results were announced at the cocktail reception and the awards were presented as well.



各嘉賓於監管局二十周年慶祝酒會上祝酒。
Guests toasting at the EAA's 20th Anniversary Cocktail Reception.

傑出地產代理獎

OUTSTANDING ESTATE AGENT AWARD

為進一步推廣地產代理業的專業化及肯定從業員的成就，監管局今年舉辦傑出地產代理獎，讓業界透過此平台進行交流，提升專業水平。

是次活動共收到近百份報名表格。初選小組由來自不同界別的專業人士及學者組成，並就責任感、誠信、優質服務及正面積極四方面評分，遴選入圍者，最後得獎者則由終選評審小組透過與入圍者面試而選出。

To further promote the professionalism of the estate agency trade and recognise the achievement of outstanding practitioners in the industry, the EAA introduced the Outstanding Estate Agent Award this year, which also serves as a platform for industry exchange and professionalism enhancement.

About 100 applications were received. Professionals from different sectors and academics were invited to join the Preliminary Selection Panel and Final Selection Panel. Judges evaluated the applications based on four criteria, namely, level of responsibility, level of integrity, service excellence and positiveness. Shortlisted candidates were also interviewed by the Final Selection Panel.

得獎者 AWARDEES



傑出地產代理獎

Outstanding Estate Agent Award

沈厚莉女士

Ms Lily Shum

卓越行業貢獻獎

Outstanding Trade Contribution Award

郭德亮先生

Mr Tony Kwok

卓越業務宗旨獎

Outstanding Business Philosophy Award

劉光耀博士

Dr Joseph Lau

監管局主席梁永祥博士SBS太平紳士(右二)頒獎予傑出地產代理獎得主。

EAA Chairman Dr William Leung Wing-cheung, SBS, JP (second from right), presents the awards to the winners of the Outstanding Estate Agent Award.



傑出新人獎 Outstanding Newcomer Award

冠軍 Champion

羅玉潔女士 Ms Candy Law

亞軍 First runner-up

曾偉榮先生 Mr Ackman Tsang

季軍 Second runner-up

周安東先生 Mr Anton Chow

優異獎 Merit

徐福成先生 Mr Sam Chin

監管局副主席廖玉玲太平紳士(中)頒獎予傑出新人獎得主。

EAA Vice-chairman Ms Elaine Liu Yuk-ling, JP (middle), presents the awards to the winners of the Outstanding Newcomer Award.

二十周年微電影比賽

THE 20TH ANNIVERSARY MICRO MOVIE COMPETITION

為了增進年輕人對地產代理行業的認識，從而建立對行業的信任，並提升地產代理行業的專業形象，監管局今年首次舉辦大專生微電影比賽。

近30個參賽者/隊伍從「置業安居 全賴有你」、「尋找對的中間人」及「誠信 • 安居 • 地產代理」三個主題中挑選其中一個拍攝。比賽評審團由來自監管局、地產業界、電影業界及學術界的代表組成。為了讓參賽者/隊伍對地產代理行業有更深入的了解，監管局邀請了在地產代理業界擁有豐富經驗的監管局成員擔任拍攝顧問。

The EAA organised its first micro movie competition for post-secondary students this year. The competition aims to promote young people's understanding of the estate agency trade so as to build up their trust in the industry and enhance the trade's professional image.

Around 30 participants/teams submitted their micro movies based on a choice of three themes, namely, "Acquiring a Dream Home with Your Devotion", "Finding the Right Middleman" and "Integrity, Home, Estate Agents". The judging panel consisted of EAA members and representatives from the real estate sector, film sector and academia. In order to increase participants'/teams' understanding of the estate agency industry, a team of coaches was formed, which included EAA members who are experienced industry practitioners.

得獎名單 Winners	參賽者/ 隊伍名稱 Name of Participant/Team	作品名稱 Name of Micro Movie
冠軍 Champion	Artillery Production	窩居 Warm Place
亞軍 First runner-up	莫曉晴 Mok Hiu Ching	地產新鮮人 The Real Estate Freshman
季軍 Second runner-up	家有一寶	你好嗎？婆婆 How are you, granny?



監管局主席梁永祥博士SBS太平紳士(中)頒獎予監管局二十周年微電影比賽得主。
EAA Chairman Dr William Leung, SBS, JP (middle), presents the awards to the winners of the EAA 20th Anniversary Micro Movie Competition.

三部得獎作品現已上載到監管局YouTube頻道
All winning micro movies are now on the EAA's YouTube Channel

www.youtube.com/estateagentsauthority



監管局職員獲頒發「2017申訴專員嘉許獎」 EAA'S STAFF RECEIVED "THE OMBUDSMAN'S AWARD" 2017

監管局兩名職員獲頒發「2017申訴專員嘉許獎——公職人員獎」，表揚他們處理查詢時的專業表現和積極態度。

申訴專員嘉許獎頒獎典禮已於2017年10月11日舉行。監管局牌照部李惠玲女士及投訴及行動部鄧漢勤女士，憑藉着處理查詢時的出色表現，分別獲頒發「公職人員獎」，成為以積極正面的態度服務大眾的好榜樣。

Two employees of the EAA received "The Ombudsman's Award" 2017 for "Officers of Public Organisations" in recognition of their professionalism and positive attitude in enquiries handling.

The Ombudsman's Awards Presentation Ceremony was held on 11 October 2017. Ms Candace Lee from the Licensing Section and Ms Moon Tang from the Complaints and Enforcement Section, received individual awards for their outstanding performance in handling enquiries. Both awardees had set good examples by adopting a positive attitude to serve the public.



李惠玲女士(右)從申訴專員劉燕卿女士手中接過獎座。
Ms Candace Lee (right) received the award from The Ombudsman, Ms Connie Lau.



申訴專員劉燕卿女士(左)頒贈獎座予鄧漢勤女士。
Ms Connie Lau (left), The Ombudsman, presented the trophy to Ms Moon Tang.

資格互認計劃課程及考試 COURSES AND EXAMINATION OF THE MUTUAL RECOGNITION SCHEME

監管局與中國房地產估價師與房地產經紀人學會(「中房學」)於2017年6月就資格互認計劃簽訂續約協議後，有關培訓課程及考試已於2017年12月7至8日於珠海舉行，共有138名香港持牌人及28名內地中介人參加。

是次課程的內容主要圍繞內地與香港在制度、法規及物業交易程序上的差異，而有關考試結果將於2018年1月公布。凡完成課程並通過考試的人士，可申請內地執業資格。詳情請瀏覽監管局網頁：www.eaa.org.hk/zh-hk/Licensing/Mutual-recognition

The renewal agreement for the mutual recognition of professional qualifications between the EAA and the China Institute of Real Estate Appraisers and Agents ("CIREA") was entered into in June 2017. The training courses and examination of the Scheme were held from 7 to 8 December 2017 in Zhuhai. A total of 138 Hong Kong licensees and 28 Mainland estate agents participated.

The courses focused on the differences of the regulatory regimes, relevant laws and procedures of property transactions between the Mainland and Hong Kong. The examination result will be released in January 2018. Those who have completed the courses and passed the examination may apply for the qualification to practice in the Mainland. For details, please visit the EAA website: www.eaa.org.hk/en-us/Licensing/Mutual-recognition

監管局實務證書課程(第二期) - 證書頒發典禮 EAA'S CERTIFICATE PROGRAMME IN PRACTICE (SECOND SERIES) - CERTIFICATE PRESENTATION CEREMONY

第二期證書課程的證書頒發典禮於2017年11月17日舉行，由監管局執行及專業發展總監方安妮女士頒發證書予有關的持牌人。儘管就完成此課程有嚴格的要求，獲頒證書的持牌人均認為課程值得參與，資深及新入行的持牌人均表示獲益良多。

監管局實務證書課程(第三期)已於2017年10月開辦，報名詳情請瀏覽監管局網頁：www.eaa.org.hk/zh-hk/CPD-Scheme/EAA-Certificate-Programme-in-Practice

(註：此課程現階段將以廣東話授課，監管局將在日後考慮以英語授課的可行性。)

A certificate presentation ceremony for the second series of the programme was held on 17 November 2017 at which Ms Annie Fonda, Director of Operations and Professional Development of the EAA, presented the certificates of the programme to the awardees. In spite of the stringent requirement of the programme, the certificate awardees reiterated that the programme was of great value and the knowledge gained in classes was useful for both new and experienced licensees.

The enrolment of the third intake of the EAA's Certificate Programme in Practice has started in October 2017. For details and enrolment, please visit the EAA website: www.eaa.org.hk/zh-hk/CPD-Scheme/EAA-Certificate-Programme-in-Practice

(Note: the programme will be conducted in Cantonese at this stage. The EAA will consider the feasibility of conducting the programme in English later.)

恐怖分子或與恐怖分子有聯繫者的更新名單 UPDATED LIST OF TERRORISTS AND TERRORIST ASSOCIATES

監管局不時接獲保安局通知，有關聯合國安全理事會委員會發出的恐怖分子或與恐怖分子有聯繫者的更新名單。持牌人應採取措施協助打擊洗黑錢活動及留意更新名單。

請留意，聯合國已於2017年12月1日發出恐怖分子或與恐怖分子有聯繫者的更新名單(www.gld.gov.hk/egazette/pdf/20172148/cgn201721488956.pdf)。

監管局提醒所有持牌人，如發現任何懷疑洗黑錢個案，應向政府的聯合財富情報組舉報。

The EAA is notified by the Security Bureau regularly on the updates of the list of terrorists and terrorist associates from the United Nations Security Council Committees. Licensees should adopt measures to help combat money laundering activities and pay attention to the updated list.

The United Nations has issued an updated list of terrorists and terrorist associates and a notice was published in the Government Gazette on 1 December 2017 (www.gld.gov.hk/egazette/pdf/20172148/egn201721488956.pdf).

The EAA would like to remind all licensees that any suspicious cases of money laundering should be reported to the Government's Joint Financial Intelligence Unit.



平等租住權利

EQUAL RIGHT TO RENT A FLAT

監管局早前舉辦了二十周年微電影比賽，其中亞軍得獎作品描述一位年青地產代理如何協助單親家庭尋找合適居所，過程中更成功消除業主對出租單位予單親家庭的疑慮。

故事中的地產代理是一個熱心助人的好榜樣。而事實上，地產代理在處理物業租賃時，不可以作出任何歧視或可能妨礙他人公平享受租住權利的行為，也應適當地提醒業主避免涉及歧視行為。

除故事中的單親家庭外，過去也有不少傳媒報道指少數族裔在物色物業租住時亦較常受到歧視，例如部分業主表示不想將物業租給少數族裔。作為專業的地產代理，必須小心處理這種情況，並要向業主客戶作出適當的提醒。

The 20th Anniversary Micro Movie Competition organised by the EAA has recently finished. Among the winning movies, the first-runner up story is about how a young estate agent assists a single parent family to find the right flat and in the process how he successfully persuaded the landlord to put aside his doubts and let the property to the single parent family.

The estate agent in the story sets a good example in helping others. In fact, when handling a tenancy of a property, estate agents should not act in any way that might discriminate against or hinder others' right to rent a flat and should also remind landlords of the same.

Apart from the single parent family showcased in the story, there have also been a number of media reports of ethnic minorities

being discriminated against when renting a property. For example, some landlords stated that they are not willing to lease their properties to ethnic minorities. Being a professional estate agent, one should handle similar situations carefully and remind his/her landlord clients appropriately.



專業服務不帶歧視

香港是一個多元共融的城市，不同性別、年齡、種族的人士應享有相同的權利，在生活各個範疇（如就業、教育、房屋、醫療等）上，亦應享有相同的待遇。他們不應因其婚姻狀況、家庭崗位或性傾向等而受到歧視。

自1996年起，香港先後實施《性別歧視條例》、《殘疾歧視條例》、《家庭崗位歧視條例》及《種族歧視條例》等。這些條例適用於向公眾提供服務的任何人士，以及處所的處置或管理，地產代理和業主均須遵守。其實，地產代理在履行法律責任之餘，也應為推動社會共融而出一分力，因為優質的服務絕對有助拓展其業務。

地產代理應留意

作為地產代理，他們不應基於準租客的種族或家庭崗位或患有殘疾而拒絕提供服務，例如拒絕安排某特定人士參觀出租單位；亦不應刊登帶有歧視性質的廣告（如「某特定種族人士免問」）；同時不應基於準租客的種族或家庭崗位或患有殘疾而作出較差待遇（如收取較高佣金、開價較高、或不提供物業查冊等），因為此等行為已有機會構成歧視。任何從業員如作出以上行為，有可能違反《操守守則》第3.1.1段而受到監管局紀律處分。

為違法行為負責

違反反歧視條例的地產代理有可能要承擔民事責任，而地產代理公司更可能要為員工的歧視行為負上轉承責任，除非地產代理公司能證明已採取合理的措施，例如已訂立公平機會政策、確立投訴機程序、制定措施監察員工遵守反歧視條例的情況，以及提供有關平等機會的培訓等，防止員工作出該等行為。

PROFESSIONAL SERVICES WITHOUT ANY DISCRIMINATION

Hong Kong is a diverse city. People of different sex, age and race should possess equal rights and enjoy equal treatment and opportunities in various aspects of daily life, such as employment, education, housing and medical care. Likewise, they should not be treated differently on grounds of marital status, family status or sexual orientation etc.

Since 1996, the *Sex Discrimination Ordinance*, the *Disability Discrimination Ordinance*, the *Family Status Discrimination Ordinance* and the *Race Discrimination Ordinance* has been implemented in Hong Kong respectively. These ordinances are applicable to service providers and the management of premises. Therefore, estate agents and landlords are bound by these ordinances. Estate agents should step forward to promote an inclusive society on top of complying with the law as quality service can definitely enhance business opportunities.

POINTS-TO-NOTE FOR ESTATE AGENTS

Estate agents should not refuse to provide estate agency services to any prospective tenants on the ground of their race, family status or disability, e.g. refusing to arrange for a visit to a flat. They should not publish advertisements containing discriminatory statements (such as “not letting to persons of a particular race”). Likewise, estate agents should not treat any prospective tenant less favourably (such as asking for a higher commission, quoting a higher price, or not providing a land search of a property) on the ground of their race, family status or disability, as such behaviour might constitute discrimination. Practitioners who have engaged in such behaviour may be in breach of paragraph 3.1.1 of the *Code of Ethics* and disciplined by the EAA.

BE RESPONSIBLE FOR ILLEGAL ACTS

Estate agents who have violated the anti-discrimination ordinances may need to bear civil liabilities. Moreover, the estate agency companies they work for may also be vicariously liable for its employees' act of unlawful discrimination or harassment unless the company can show that it has taken reasonable steps to prevent its employees from doing so, such as promulgating an equal opportunity policy, establishing a complaint mechanism, devising measures for monitoring staff compliance with the ordinances and providing training on equal opportunities etc.

值得注意的是，即使地產代理只是依照業主的指示而作出涉及歧視的行為，他們亦有可能要為協助業主作出歧視行為而負上法律責任。因此，持牌人不應盲目跟循業主的指令，並應提醒業主那些行為可能會觸犯反歧視條例。同樣地，作為業主，也應認識並遵守相關法例，切勿基於準租客的種族或家庭崗位而拒絕出租物業予他們，因為此舉有可能構成歧視及違法。

總結

專業的地產代理，應本着一視同仁的原則對待每位客戶。只要將心比己，多為客戶著想，便能達至多贏的局面。就像微電影中的主人翁，他不忍單親媽媽和女兒礙於業主的偏見而失去租住單位的機會，於是再三游說業主，結果不單促成交易，更成功改變業主的想法，不再歧視單親家庭。

A point to note, estate agents may also be liable for aiding a landlord's discriminatory act even if they act on the landlord's instructions. Hence, licensees should not blindly follow a landlord's instructions and should remind the landlord that those acts may violate the anti-discrimination ordinances. At the same time, the landlord should understand and adhere to the relevant ordinances and should not refuse to lease his/her property to any prospective tenants because of their race or family status, as it could be a discriminatory act and violates the law.

CONCLUSION

Professional estate agents should treat every client equally, put themselves into clients' shoes and reach a multi-win situation for their clients. Just like the main character of the micro movie, he didn't want the single mother and her daughter to lose the chance of renting a flat due to the prejudice of the landlord. Thus, he kept persuading the landlord who finally changed his mind and completed the deal.





余雅芳女士

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- 促進港台交流活動資助計劃評審委員會成員
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Member, Fisheries Development Loan Fund Advisory Committee
- 漁農自然護理署「內地過港漁工計劃」工作小組委員
Member, Mainland Fishermen Deckhands Scheme
- 獨立監察警方處理投訴委員會觀察員
Observer, Independent Police Complaints Council

專訪紀律委員會及牌照委員會成員余雅芳女士 INTERVIEW WITH MS AVON YUE NGA-FONG, MEMBER OF THE DISCIPLINARY COMMITTEE AND THE LICENSING COMMITTEE

本期《專業天地》專訪了身兼監管局紀律委員會及牌照委員會成員的余雅芳女士，了解一下她對委員會工作的看法及對業界如何滿足和處理日益提升的公眾期望的建議。

In this issue of *Horizons* we interview Ms Avon Yue Nga-fong, member of the EAA Disciplinary Committee and the Licensing Committee, about her feelings on the work of the committees and her advice for the trade on how to meet and manage the rising public expectations.

問：監管局剛剛慶祝成立二十周年。你對地產代理業界多年來的發展及表現有何看法？

Q： The EAA has just celebrated its establishment of 20 years. What are your views on the development and the performance of the estate agency trade over these years?

答：在加入監管局前，我都有過買賣及租賃物業的經驗，但沒有對地產代理有很強烈的觀感，但印象中他們是專業的。成為監管局成員之後，接觸和了解業界的機會多了很多，雖然，我發現有個別違規案例比較差，但其實都只是佔少數，因此，我覺得普遍來說，地產代理是專業的。這與監管局成立多年來，對業界監管及提升專業的工作成效顯著不無關係。展望未來，業界必須朝着更專業的方向發展，我希望所有從業員的操守都可以有所提升，絕大部份的地產代理不再有違規的情況。

A： Before joining the EAA, I had experience in property transactions and tenancy. I did not have a strong perception about estate agents but they were professional in my impression. After becoming a member of the EAA, I have had more opportunities to be in touch with and understand the trade. Although I have come across some serious non-compliant cases, they still constitute only a small number. Therefore, I think that in general the estate agency trade is professional. The credit should go to the effectiveness of the regulatory work and the professional enhancement of the trade over the years by the EAA. Looking forward, the trade must move in the direction of elevating professionalism. I hope that the standard of conduct of all practitioners will be enhanced and most estate agents will no longer be in breach of the rules.

問：你自從2014年11月起，獲委任成為監管局成員，並加入監管局不同委員會工作，包括紀律委員會及牌照委員會。你對這些工作有何感受？

答：坦白說，委員會的工作量比我想像中更為繁重，而且責任極為重大。在紀律委員會及牌照委員會的工作中，我都需要不時審視很多不同個案，不論是紀律研訊個案抑或是申請牌照個案，當中我都需要作出小心謹慎的判斷，才可作出最終的決定。例如，我需要衡量有關決定是否正確及一貫，判決會否被挑戰等等，因此，每個判斷都絕不容易。同時，因為有關決定會直接影響到持牌人或牌照申請人的生計、以至他們的家庭，我所作出的每個決定和每個簽名都十分重要。因此，不論是懲處抑或發牌，在考慮和判斷的過程當中，我需要保持專業、運用法例賦予的權力做出公平公正的判決。總而言之，有關工作可說是事關重大、肩負重任。

問：你積極參與不少公共服務，相信對如何處理公眾期望十分熟悉。可否和持牌人分享一下你的建議，持牌人如何可滿足及處理公眾對他們服務的日益提升的期望？

答：其實，要做到滿足公眾期望並不難，我希望給予持牌人兩句簡單建議，就是「設身處地」和「將心比己」。相信所有持牌人都會容易理解這兩句說話。只要能做到這兩點，很大程度上已符合了公眾期望。簡單來說，就是把自己代入想置業或租樓人士的處境，先想想自己希望地產代理能提供怎樣的服務，然後自己就盡量做同一樣的事。例如，自己也希望地產代理能清楚解釋土地查冊文本給自己的話，自己也就應該認真學識如何解讀土地查冊文本並告知客戶。還有，若自己希望地產代理會兌現回贈的承諾，自己就該切實執行執業通告的要求，在客戶簽訂臨時買賣合約前，就已協助該客戶取得其公司所要求的批准，並以書面確認。否則就應如實告知客戶。

Q：You have been appointed an EAA Member since November 2014 and have participated in different committees, including the Disciplinary Committee and the Licensing Committee. What are your feelings on their work?

A：Frankly speaking, the workload of the committees is heavier than I thought and the duties are extremely great. In the work of the Disciplinary Committee and the Licensing Committee, I need to review many different cases from time to time. No matter if it is a disciplinary inquiry case or a licence application case, I need to make a cautious judgement before making a final decision. For example, I need to assess whether the decisions are correct and consistent, whether the judgements will be challenged, and so on. Hence, every judgement is by no means easy. At the same time, every decision and every signature that I make is very important because the relevant decision will directly affect the livelihood of the licensees or licence applicants as well as their families. Therefore, whether it is a sanction or granting a licence, in the process of consideration and judgement, I need to maintain professionalism and apply the powers conferred by the law to make a fair and just decision. All in all, the work of both committees is of great importance and responsibility.

Q：We believe that you are experienced in dealing with public expectations as you are actively involved in a number of different public services. Could you share your advice with our licensees on how to meet and manage the rising public expectations on their services?

A：In fact it is not difficult to meet public expectations. I would like to give two simple suggestions to licensees: "put yourself in others' shoes" and "feel for others". I believe all licensees will understand these two points easily. As long as our licensees can act on these two points, they can meet the public expectations at large. To put it simply, licensees should first put themselves into the shoes of property purchasers or tenants, and think about the kind of services they would want from their estate agents. They should then try offering the same kind of services to their clients. For example, if I hope that my estate agent can clearly explain the land search record to me, I should learn to interpret the land search record myself so as to be able to inform my clients accordingly. Furthermore, if they expect estate agents to honour the promise of a rebate to themselves, they should duly follow the requirements of the practice circular and assist their clients to obtain the necessary approval from their companies and confirm it in writing, before their clients enter into the provisional agreement for sale and purchase. Otherwise, they should truthfully inform their clients about it.

紀律研訊個案：提供誤導性物業資料予客戶 DISCIPLINARY HEARING CASE: PROVIDING MISLEADING PROPERTY INFORMATION TO CLIENT

引言

持牌人不得向客戶提供有關任何可能屬於違例建築工程的誤導性資料，並應建議客戶尋求法律及專業意見，否則有可能被監管局紀律處分。

INTRODUCTION

Licensees must not provide misleading information to their clients about any possible unauthorised building works and should advise their clients to seek legal and professional advice. Otherwise, they may be subject to disciplinary action by the EAA.

事件經過

一名地產代理於一宗物業的租賃交易中，為業主及租客雙方行事。租客在視察物業期間，曾向該地產代理查詢，該物業內的閣樓是否已獲批「入則」，該代理表示該物業並沒有任何違例建築工程。然而，在訂立正式租約後，該客戶發現從屋宇署取得該物業的圖則內並沒有顯示物業內存有閣樓，及該閣樓是僭建物。該客戶最終取消交易，並向監管局作出投訴。

INCIDENT

An estate agent acted for both the tenant and the landlord in a leasing transaction. During the inspection of the property, the tenant client asked the estate agent whether the cockloft inside the property was duly authorised. The agent replied that the property did not have any illegal structure. After entering into the formal tenancy agreement, the client found out that the floor plan of the property retrieved from the Buildings Department did not reveal the existence of the cockloft and the cockloft was an illegal structure. The client cancelled the transaction finally and lodged a complaint with the EAA.

研訊結果

監管局紀律委員會認為，該地產代理沒有正確告知客戶該物業內存有僭建物，亦沒有提醒客戶就該物業的違例建築工程所涉及的風險及建議其客戶在繼續進行交易之前，先尋求法律意見。

另外，在調查期間，紀律委員會也發現該地產代理並沒有採取任何步驟，以確認公司租客的代辦已獲妥善授權以簽署正式租約，因而違反了《操守守則》第3.4.1段：「作為代理或受委託為代理的地產代理和營業員，應保障和促進客戶的利益」。

考慮到個案的性質、持牌人的違規紀錄及同類個案的罰則，紀律委員會決定譴責該地產代理及罰款1,000元、暫時吊銷其牌照七天，並在其牌照上附加條件，要求她在24個月內取得持續專業進修計劃下的24個學分。

RESULT

The EAA Disciplinary Committee was of the view that the estate agent misrepresented to the client that the property did not have any illegal structure and failed to inform the client to seek legal advice about the risk of unauthorised building works of the property before arranging the client to proceed with the transaction.

Also, during the investigation of the case, the Committee found out that the estate agent failed to ensure that the representative of the corporate tenant was duly authorised to sign the Tenancy Agreement on behalf of the corporate tenant. Hence she failed to comply with paragraph 3.4.1 of the *Code of Ethics*: “estate agents and salespersons, in engaging and accepting an appointment as an agent, should protect and promote the interests of their clients”.

Having considered the nature and gravity of the case, the sanctions for similar cases and the disciplinary record of the estate agent, the Committee reprimanded the estate agent and fined her \$1,000, suspended her licence for seven days and attached a condition to her licence requiring her to obtain 24 points under the EAA's Continuing Professional Development Scheme in 24 months.



地產代理(從業員)
總公會主席吳元興先生
Mr Evan Ng Yuen-hing
Chairman of Estate
Agent Association

業界回應 COMMENT FROM TRADE

地產代理接受客戶的放盤委託後，必須查閱土地查冊，查清物業資料；當買家客戶視察物業時，我們必須披露物業資料及單位現有狀況，如是否有僭建物的存在及其相關的風險，並提醒客戶在決定購買前先向專業人士諮詢購買物業的法律意見。

After being appointed to handle the sale of the property, estate agents should conduct a land search and verify the property information. During purchaser client's inspection of the property, we should inform the client of the property information and the current situation of the property, such as whether there is any unauthorised building works and the risks involved, and remind the client to seek legal advice before purchasing that property.

紀律研訊個案：銷售一手住宅物業時作出失實陳述 DISCIPLINARY HEARING CASE: MISREPRESENTATION IN FIRST SALE OF RESIDENTIAL PROPERTY

引言

持牌人在銷售一手住宅物業時，不得向客戶作出任何失實陳述，否則有可能被監管局紀律處分。

INTRODUCTION

Licensees should not make any misrepresentation to clients in the sale of first-hand residential properties. Otherwise, they may be subject to disciplinary action by the EAA.

事件經過

一名營業員安排一位準買家及其未婚夫視察一個一手住宅物業的示範單位。當商討有關遞交該樓盤的購樓意向登記事宜時，該營業員向準買家表示，因她與其未婚夫仍未結婚，他們必須各自遞交購樓意向登記。同時，他們也不能聯名購買有關單位。

其後，該買家於律師樓訂立正式買賣協議時，要求律師加入其未婚夫的名字。經律師提醒，買家才發現該營業員的陳述並不正確。該樓盤的賣方沒有限制一對未婚夫婦不能以聯名方式遞交該樓盤的購樓意向登記。該準買家不滿被營業員誤導，遂向監管局作出投訴。

INCIDENT

A salesperson arranged for a prospective purchaser and her fiancé to inspect a show flat of a first-hand residential development. When discussing the submission of registrations of intent of that development, the salesperson told the purchaser that she and her fiancé had to submit separate registrations of intent since they had not yet married. Also, she said that they could not purchase the property in joint names.

Later, when the purchaser entered into an agreement of sale and purchase of a property of that development, she requested the solicitor to include the name of her fiancé into the formal agreement. Through the solicitor, she discovered that the representation made by the salesperson was not true. According to the vendor of the development, there was no restriction on unmarried couples submitting registrations of intent in joint names. Feeling misled by the salesperson, the purchaser lodged a complaint with the EAA.

研訊結果

監管局紀律委員會認為，該營業員就遞交購樓意向登記一事上對客戶作出失實陳述，違反了《操守守則》第3.7.2段：「地產代理和營業員應避免做出可能令地產代理行業信譽及/或名聲受損的行為。」

考慮到個案的性質、該營業員的違規紀錄及同類個案的罰則，委員會決定譴責該名營業員，罰款3,000元，並在其牌照上附加條件，要求她在12個月內取得持續專業進修計劃下的12個學分。

RESULT

The EAA Disciplinary Committee found that the salesperson had made a misrepresentation to the client on the submission of registration of intent. Thus, she was in breach of paragraph 3.7.2 of the *Code of Ethics* issued by the EAA, which stipulates: “estate agents and salespersons should avoid any practice which may bring discredit and/or dispute to the estate agency trade”.

Having considered the nature and gravity of the case and the disciplinary record of the salesperson, the Committee decided to reprimand the salesperson, fine her \$3,000 and attach conditions to her licence requiring her to obtain 12 points under the EAA's Continuing Professional Development Scheme in 12 months.

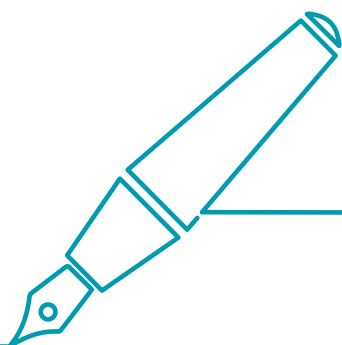


地產代理人協會主席
何潔芝女士
Ms Rosanna Ho
Chairman of Property
Agents Association

業界回應 COMMENT FROM TRADE

作為專業地產代理，除了要有一定的專業知識外，亦要持守着嚴謹的專業操守。地產代理即使在行內如何經驗豐富或知識廣博，亦總有遇上自己不懂解決的難題的時候，遇到不懂回答的問題時，若是不知道或不懂的，就直言不諱，然後向人虛心下問。不論是新入行或是有經驗的同業們，應該持續報讀由地產代理監管局或公司內部舉辦的各種持續進修課程。因為時代不斷進步，要不斷為自己增值，才不會被社會所淘汰。

Being a professional estate agent, he should uphold high moral standards as well as possessing professional knowledge and competence. Even when estate agents are experienced or knowledgeable, they will encounter difficult problems or issues. When they do not have the answers to the questions, they should be honest and humbly ask others for advice. Both newcomers and experienced practitioners should participate in training programmes organised by the EAA or their estate agency company in order to cope with the ever changing market.



持續專業進修講座 CPD SEMINAR

僭建物及分間樓宇單位

UNAUTHORISED BUILDING WORKS AND SUBDIVIDED FLATS

僭建物及分間樓宇單位可能涉及違例建築工程(違建工程)，而違建工程構成的危險，是社會人士極為關注的事情。在處理物業出售或租賃時，地產代理應留意物業存在違建工程可能產生的風險，並採取適當措施保障客戶利益。就此，監管局於2017年8月31日及9月27日舉辦了兩場研討會，每場均以中英文進行，共有380名持牌人出席。

研討會期間，屋宇署代表向持牌人以多項個案研究為例，解釋僭建物的定義、建築工程的有關監管機制、以及僭建物的處理。另外，講者還向持牌人介紹分間樓宇單位常見的安全問題，包括消防安全、衛生和環境標準以及建築安全。就違建工程可能涉及的風險而言，持牌人應提醒其客戶尋求認可人士的專業意見，以保障客戶的利益。

Buildings and subdivided units may involve unauthorised building works (UBW). The danger posed by unauthorised works is a matter of great concern to the community. In dealing with the sale or lease of properties, estate agents should be mindful of the risks that may arise from the unauthorised construction of the properties and take appropriate measures to protect the interests of their clients. In this connection, the EAA held two seminars on 31 August and 27 September 2017, each of which was conducted in Chinese and English. A total of 380 licensees attended the seminar.

During the seminars, the Buildings Department representatives used a number of case studies to explain to the licensees the definition of UBW, the relevant regulatory mechanism and treatment of such unauthorised building works. In addition, the speakers also briefed licensees on the safety issues common to subdivided units, including fire safety, hygiene and environmental standards, as well as building safety. In respect of the possible risks involved in UBWs, the licensees should remind their clients to seek the professional advice of the authorised person to protect the interests of the client.

一手住宅物業銷售

FIRST SALE OF RESIDENTIAL PROPERTIES

地產代理在進行有關一手住宅物業銷售和推廣活動時，須遵守《一手住宅物業銷售條例》(一手銷售條例)。為提升持牌人對一手銷售條例的認識和了解，監管局在2017年11月30日舉辦了相關講座。

監管局邀請了一手住宅物業銷售監管局的代表擔任是次講座的主講嘉賓，為持牌人簡介條例的主要條文，並就發布廣告和向準買家提供資料的要求舉例說明，讓參加者更容易瞭解有關法例的內容及促使他們跟循相關法例行事。

是次講座共有106名持牌人出席，參加者均對講座給予正面的評價和支持。

Estate agents are required to comply with the Residential Properties (First-hand Sales) Ordinance when carrying out first-hand residential property sales and promotional activities. To enhance licensees' understanding of the first-hand sales regulations, the EAA held a seminar on 30 November 2017.

The EAA invited representatives from the Sales of First-hand Residential Properties Authority to speak at the seminar where they introduced the key provisions of the Ordinance to the licensees. They also gave examples on the requirements for advertisements and provision of information to prospective purchasers.

A total of 106 licensees attended the seminar and gave positive comments.



執業問與答

PRACTICE Q&A

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： 在向買方或租客客戶提供非住宅物業的樓面面積時，可否包括物業內的閣樓或閣仔的面積？

Q： Can I include the floor area of the cockloft or mezzanine floor in the floor area of a non-residential property when providing the information to the purchaser or tenant client?

答： 根據有關非住宅物業的買賣或租賃的執業通告（編號17-02(CR)），倘若有關的非住宅物業有閣樓或閣仔但其入伙紙沒有顯示有閣樓或閣仔，地產代理在未能核實該閣樓或閣仔的合法性的情況下，向買方或租客客戶提供該非住宅物業的樓面面積資料時，不得包含閣樓或閣仔的面積。

此外，地產代理應告知客戶該非住宅物業的閣仔或閣樓的合法性無法核實，購買或租賃該物業而其閣樓或閣仔可能屬違例建築工程的風險，並建議客戶在作出購買或租賃決定前，應就該閣樓或閣仔的合法性尋求法律及/或專業意見。

另外，為免發生糾紛，地產代理宜在買方或租客客戶作出購買或租賃有關物業的決定前，取得其書面確認，述明他們已知悉上述事項。

然而，倘若持牌人已核實該物業現有的閣樓或閣仔屬合法（例如已徵詢專業人士的意見或向屋宇署查證），持牌人則可將相關事實告知買方或租客客戶，而在計算該物業的總樓面面積時，亦可包括該閣樓或閣仔的面積。但為求清晰及避免任何誤會，持牌人應向客戶分別提供閣樓或閣仔的面積資料以及該物業（不包括閣仔或閣樓）的面積資料。



A： According to the Practice Circular (No. 17-02(CR)) on Sale and Purchase or Leasing of Non-residential Properties, if the relevant occupation permit does not reveal that there is such a cockloft or mezzanine floor, estate agents must not include the floor area of the cockloft or mezzanine floor when providing the floor area information of the relevant non-residential property to the purchaser or tenant client since the legality of the cockloft or mezzanine floor pertaining to the non-residential property cannot be verified.

In addition, estate agents should inform the client that the legality of the cockloft or mezzanine floor pertaining to the non-residential property cannot be verified, the risks of purchasing or renting that property where the cockloft or mezzanine floor might be unauthorised building works and advise them to seek legal and/or professional advice on the legality of the cockloft or mezzanine floor before making any purchase or renting decision.

In order to avoid any disputes, estate agents are also advised to obtain a written acknowledgement from the purchaser or tenant client that they are aware of the matters mentioned above before making the purchase or renting decision.

However, estate agents may include the floor area of the cockloft or mezzanine floor when calculating the total floor area of the relevant non-residential property if they have verified the legality of the concerned cockloft or mezzanine floor (e.g. after consulting professional advice or verifying with the Buildings Department). Yet, for the sake of clarity and to avoid any misunderstanding, estate agents should provide the floor area of the relevant cockloft or mezzanine floor and the floor area of the non-residential property concerned (exclusive of the cockloft or mezzanine floor) separately to their clients.

何謂「建築令」？

“B” FOR “BUILDING ORDER”

倘若物業違反《建築物條例》的相關條文，建築事務監督可發出相關的命令，而該「建築令」會註冊於該物業的土地登記冊上。建築事務監督可要求業主採取有關命令中規定的補救措施，糾正違例的行為。這類命令是物業的產權負擔，在業主履行命令後，建築事務監督會發出「完成規定事項證明書」或「滿意函」，並註於有關物業的土地登記冊上。

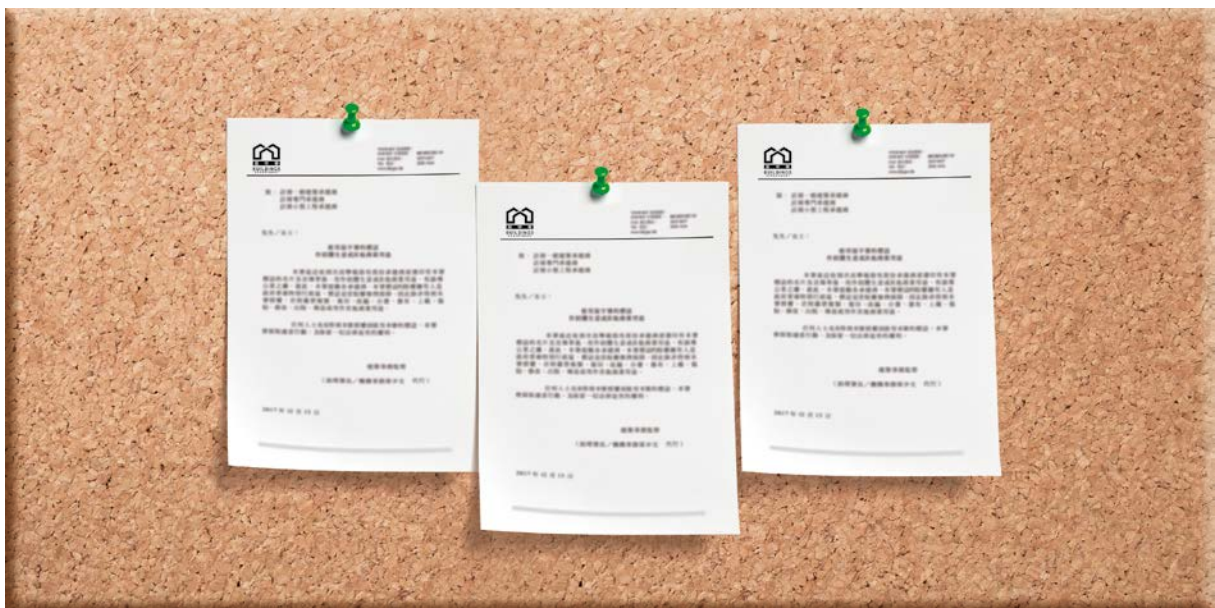
倘若有關建築令要求進行的工程涉及建築物的公用地方或設施，所有業主須共同負起履行有關建築令的責任，並按大廈公契規定分擔有關費用。如建築令只涉及個別單位，則該單位的業主須獨力承擔履行該建築令所需的費用。

倘若物業受制於建築令，地產代理應提醒客戶在簽署臨時買賣合約前先諮詢法律或其他專業意見。

A building order may be issued by the Building Authority (“BA”) and registered in the Land Register of the property when the property is in breach of the relevant provisions of the Buildings Ordinance. The owner is required by the BA to take remedial actions as specified in the order to rectify the breach. The order is an encumbrance on the property. Once an order has been complied with, a letter of compliance or satisfaction letter will be issued by the BA and registered in the Land Register of the relevant property.

If an order concerns works relating to the common areas or facilities of a building, generally, all owners of the building will be jointly liable for complying with the order and each owner will be responsible for the costs (apportioned in accordance with the deed of mutual covenant) required to discharge the order/notice. If an order is made against the owner of an individual unit, only the owner of such unit is liable for the cost and expenses for its discharge.

When the property is subject to a building order, the estate agent should advise his/her clients to seek legal and if necessary other professional advice before entering into a provisional agreement for sale and purchase.



活動紀要

EVENTS AND ACTIVITIES

2017-10-24

監管局主席梁永祥博士接受無綫電視節目「樓市點睇」訪問。

EAA Chairman Dr William Leung Wing-cheung attends an interview by TVB programme "Closer Look at Property".



2017-11-22

監管局行政總裁韓婉萍女士（左）聯同規管及法律總監梁德麗女士（右）與ARELLO基金會董事及前會長Wayne Thorburn先生會面。ARELLO為一個國際組織，推動地產代理業規管及政策制定機構的溝通與交流。

EAA Chief Executive Officer Ms Ruby Hon Yuen-ping (left) and Director of Regulatory Affairs & General Counsel Ms Juliet Leung Tak-lai (right) meet with Mr Wayne Thorburn, Director and former President of Association of Real Estate License Law Officials Foundation ("ARELLO"), an international organisation facilitating the exchange of ideas and cooperation among real estate regulatory agencies and policy makers.



2017-12-07

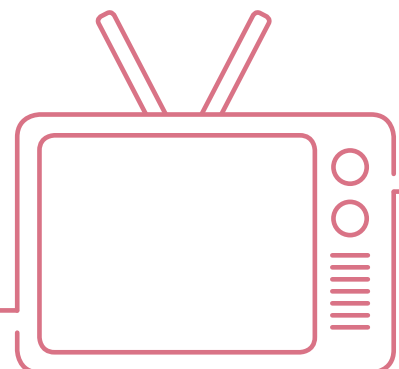
監管局規管及法律總監梁德麗女士向參與內地與香港地產代理專業資格互認計劃的地產代理致辭。
(攝於中國珠海)

EAA Director of Regulatory Affairs & General Counsel Ms Juliet Leung Tak-lai delivers a speech to the attendees of the scheme of mutual recognition of professional qualifications for estate agents in the Mainland and Hong Kong. (at Zhuhai, China)



內地講師向香港地產代理介紹內地房地產市場概況。(攝於中國珠海)

A lecturer from the Mainland introduces the Mainland property market situation to Hong Kong estate agents. (at Zhuhai, China)



統計數字

STATISTICS

考試 EXAMINATIONS

地產代理資格考試 ESTATE AGENTS QUALIFYING EXAMINATION

考試日期
Examination date
15/9/2017

應考人數
No. of candidates
1,359

合格率
Pass rate
19%

營業員資格考試 SALESPERSONS QUALIFYING EXAMINATION

考試日期
Examination date
18/10/2017

應考人數
No. of candidates
1,081

合格率
Pass rate
27.5%

牌照數目 (截至2017年11月30日) NUMBER OF LICENCES (AS AT 30/11/2017)



營業員牌照
Salesperson's Licence
20,745



地產代理(個人)牌照
Estate Agent's Licence (Individual)
17,570

個人牌照總和
Total no. of individual licences

38,315

地產代理(公司)牌照
Estate Agent's Licence (Company)

3,561

營業詳情說明書 (截至2017年11月30日) NUMBER OF STATEMENTS OF PARTICULARS OF BUSINESS (AS AT 30/11/2017)



合夥經營
Partnerships
202



獨資經營
Sole proprietorships
1,637



有限公司
Limited companies
4,953



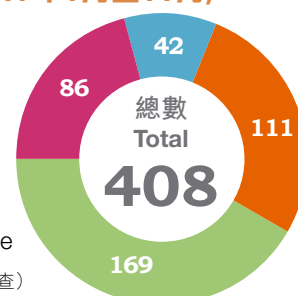
總數 Total
6,792

開立的投訴 (2017年1月至11月) NUMBER OF COMPLAINT CASES OPENED (JANUARY TO NOVEMBER 2017)

400

已處理的投訴個案結果* (2017年1月至11月) RESULTS OF COMPLETED COMPLAINT CASES* (JANUARY TO NOVEMBER 2017)

- 指稱成立 Substantiated
- 指稱不成立 Unsubstantiated
- 資料不足 Insufficient information to pursue
- 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)



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

巡查次數 (2017年1月至11月)

NUMBER OF COMPLIANCE INSPECTIONS (JANUARY TO NOVEMBER 2017)



巡查發現主動調查的個案 (2017年1月至11月)

NUMBER OF CASES ARISING FROM SELF-INITIATED INVESTIGATIONS DURING INSPECTIONS (JANUARY TO NOVEMBER 2017)

74 主動調查的個案
Cases arising from self-initiated investigations

65 主動調查而指稱成立的個案*
Cases completed from self-initiated investigations and were substantiated*

* 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* (2017年1月至11月)

ACTIONS TAKEN AGAINST LICENSEES OR EX-LICENSEES* (JANUARY TO NOVEMBER 2017)

有關的持牌人或前持牌人人數
No of licensees or ex-licensees



行動 ACTIONS TAKEN

訓誡/譴責
Admonishment/
reprimand
201

罰款
Fine
142

於牌照附加/更改條件
Attachment/ alteration of
conditions to licence
156

暫時吊銷牌照
Suspension
23

撤銷牌照
Revocation
19[#]

* 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 Estate Agents Ordinance. 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。理由是持牌人不再符合相關發牌條件。

These cases were decided by the Licensing Committee on the ground that the licensees concerned no longer meet the relevant licensing requirements.



地產代理監管局 Estate Agents Authority

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