



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.

