



樓宇維修 不容忽視

DO NOT IGNORE BUILDING MAINTENANCE

香港不少樓宇的樓齡達30年或以上，部分唐樓更建於超過50年前，若缺乏妥善保養，這些舊樓可能危及公眾安全。業主應定期安排檢查，並在必要時儘早進行維修工程，以確保居住環境安全。

樓宇的整體質素是影響樓價的其中一個因素。此外，如物業因違反《建築物條例》而附有未解除的建築命令，可能導致業權出現問題。因此，買賣雙方及地產代理都應注意買賣此類物業所涉及的相關風險。

樓宇安全

根據2012年全面實行的強制驗樓計劃，樓齡達30年或以上的私人樓宇(不高於三層的住用樓宇除外)的業主，在收到法定通知後須委任註冊檢驗人員，就樓宇的公用部分、外牆及伸出物或招牌進行檢驗。如需進行訂明的修葺工程，業主必須委任註冊承建商進行該些工程。

Buildings over 30 years old are common in Hong Kong. Some tenements were even built more than 50 years ago. The condition of old buildings without proper maintenance could threaten public safety. Property owners should arrange flat inspections regularly and carry out timely repair work when necessary to maintain a safe living environment.

One of the factors affecting the property price is the overall condition of the building. Moreover, properties subject to undischarged building orders due to non-compliance with the Buildings Ordinance ("BO") may involve defective titles. Therefore, vendors, purchasers and estate agents should always pay attention to the relevant risks in the sale and purchase of this type of property.

BUILDING SAFETY

Under the Mandatory Building Inspection Scheme launched in 2012, owners of buildings aged 30 years or above (except domestic buildings not exceeding three storeys) and served with statutory notices are required to appoint a registered inspector to carry out the inspection and supervise the repair work found necessary of the common parts, external walls and projections or signboards of the buildings. Where a prescribed repair is required, the owners concerned must appoint a registered contractor to carry out the repair works.



焦點話題 IN FOCUS

倘若樓宇日久失修，會對公眾安全、住戶的生命財產以及鄰近地區構成威脅，而因樓宇失修引致的意外，業主或須負擔法律責任及巨額賠償。為確保樓宇安全，業主應成立業主立案法團及聘用專業的物業管理公司管理和保養樓宇。當出現安全問題，應立即進行維修工程。假如樓宇的公用部分或外部出現損壞，每位業主有責任按契約規定的份數分擔修葺工程費用。同時，業主只可委任註冊承建商進行所有建築工程。

建築命令與產權負擔

凡涉及樓宇結構的建築工程，包括建造、拆卸、加建、改動等，均受《建築物條例》所監管，以確保私人樓宇的安全、衛生及環境方面皆合符標準。

建築事務監督可向違反《建築物條例》的業主發出法定命令，要求他們於指定期限內清除違例建築工程。有關命令會於土地註冊處登記，有可能導致該物業的業權出現問題。除此之外，如業主未能遵從相關命令，政府有可能行使收回土地的權利，並向業主追討費用。

注意相關風險

為保障客戶利益及避免買賣涉及附有建築命令的物業的風險，地產代理應就有關物業進行土地查冊並仔細查閱物業的查冊記錄，以確定該物業是否註有要求拆卸/改動違例建築工程的命令。除了告知客戶有關該命令的詳情，地產代理也應提醒客戶購買該物業可能涉及的風險，例如有機會未能取得足夠銀行按揭貸款以完成交易，以及政府有權收回土地等。

另一方面，地產代理亦須提醒賣方，除非買賣協議另有協定，否則，由於

A dilapidated building is a threat to public safety, the properties of its residents and its neighbourhood. Owners may have to bear legal liability and pay severe compensation if accidents happen because of improper maintenance of buildings. In order to ensure the safety of a building, owners should establish an Owners' Corporation and hire a professional property management company to manage and maintain the building's safety. When safety problems occur, repair work should be carried out immediately. If any deterioration is found in the common parts or on the exterior of the building, each owner will be responsible for their share of the cost of the repair work in accordance with the deed of mutual covenant. Moreover, owners should also appoint only registered contractors when carrying out building works.



BUILDING ORDERS AND ENCUMBRANCES

Building works, such as construction, demolition, addition and alteration involving the structure of the building, are regulated by the BO to ensure the safety, health and environmental standard of private buildings.

The Building Authority may serve a statutory order to owners of a property when there are breaches of the BO and regulations, requiring them to remove the unauthorised building works ("UBW") within a specified period. The order will be registered at the Land Registry, which may render the title defective. In addition, the government may exercise its right of re-entry and recovery of cost from the owners if they fail to comply with the order.

PAY ATTENTION TO THE RISKS INVOLVED

In order to protect clients from the risks involved in the transaction of properties with building orders, estate agents should conduct a land search against the properties concerned and check carefully to see if any orders requiring the demolition or alteration of UBW has been registered. Apart from informing clients about the existence of such an order, estate agents should also remind their clients of the relevant risks if purchasing the property, such as the possibility of

違建工程可能導致業權出現問題，買方可取消買賣並追討違約損失賠償。基於以上風險，地產代理應提醒買賣雙方在繼續有關買賣前諮詢法律意見；如客戶堅持繼續有關買賣(不論是否已經取得法律意見)，地產代理宜向客戶取得一份書面確認，說明代理已告知他們相關風險，並建議他們諮詢法律意見。

failing to get a sufficient bank mortgage loan to complete the deal and the government's right of re-entry to the property.

On the other hand, estate agents should remind the vendor that the purchaser is entitled to rescind the purchase and claim the loss from breach of contract on the grounds that UBW may render the title defective unless otherwise agreed in the agreement for sale and purchase of the property. Owing



此外，地產代理須注意，部份較早前發出的法定命令可能仍未在土地註冊處登記，故即使物業並未註有法定命令，亦不一定代表有關物業沒有違例建築工程。因此，地產代理在向客戶提供相關物業資料時，應提醒客戶以上事項，如客戶有疑問，則建議他們向屋宇署查詢或徵詢專業人士意見。

to the above risks, it is important to remind the client to seek legal advice before proceeding with the transaction. If the client insists on proceeding with the transaction, no matter whether legal advice has been sought, estate agents should obtain a written acknowledgement from the client stating that he is fully advised of the risks involved and of the need to seek legal advice.

總括而言，樓宇的安全及保養問題，不單影響物業的成交，更與我們的日常生活息息相關。業主有責任確保樓宇狀況良好，並遵從法定命令。而在處理附有建築命令的物業交易時，地產代理應遵守相關指引以保障客戶利益，否則有可能被監管局紀律處分。

In addition, estate agents should note that some statutory orders may not have been registered at the Land Registry and that a property with no statutory orders does not necessarily mean that it is free of UBW. Therefore, estate agents should alert their clients about this when providing the property information to the prospective purchasers or tenants, and advise them to check with the Buildings Department or seek professional advice if they are in doubt.

In conclusion, safety and maintenance of buildings not only affect the property transaction but are also closely related to our daily life. Owners have the responsibility to maintain their building in a good condition and comply with the statutory orders. When handling transactions of properties with building orders, estate agents should comply with the relevant guidelines to protect the interests of their clients. Otherwise, they may subject to disciplinary action by the EAA.

