

地產代理監管局
ESTATE AGENTS AUTHORITY

專業
天地

HORIZONS

www.eaa.org.hk

2018

09月
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工業樓宇不宜作居住用途

Industrial buildings not suitable for domestic use

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韓婉萍
Ruby Hon Yuen-ping

行政總裁
Chief Executive Officer

“筆者希望一眾前線地產代理及其公司的管理層均以此為鑑，切勿在一手住宅物業銷售處作出任何不守規矩的事情，否則只會得不償失。”

“I hope that frontline estate agents and the management of estate agency companies will take this as a lesson. It is not worth engaging in any unruly behaviour at the sale-sites of first-hand residential properties.”

破壞秩序的後果

Consequences of disrupting order

上一篇文章中，筆者提到在一手住宅銷售處發生打架事件後，監管局與多間發展商取得共識，禁止地產代理公司的無牌員工參與推銷，同時會向不守規矩的地產代理及其公司採取懲罰性措施。結果，最近便有發展商向在其一手住宅銷售處破壞秩序的地產代理公司作出行動。

今年七月，監管局與 32 家物業發展商訂立了一手住宅物業銷售約章，在約章推出之後，可見一手住宅物業銷售處的秩序，比以前明顯有所改善。

然而，到了八月，監管局卻發現在某新盤銷售處有兩間地產代理公司的無牌員工參與推廣該樓盤的活動。監管局隨即聯絡有關的發展商，結果有關發展商即時向涉事的兩間地產代理公司罰款。而監管局亦正在跟進個案，如證實有關地產代理公司的管理層違反監管局指引，會對其作出紀律處分。

這次事件表明，約章雖然沒有法律約束力，但參與的發展商是會執行約章的承諾。約章的理念就是不論監管局或發展商均不會容忍地產代理在推廣一手住宅物業時作出任何不守規矩的行為。發展商與監管局有同樣的願景，就是共同維持一手住宅物業銷售處的良好秩序。

筆者希望一眾前線地產代理及其公司的管理層均以此為鑑，切勿在一手住宅物業銷售處作出任何不守規矩的事情，否則只會得不償失。

In the last article, I mentioned that after the fighting incidents at the sale-sites of first-hand residential properties, the EAA reached consensus with a number of property developers to prohibit unlicensed employees of estate agency companies from participating in first-sale promotion, and to take punitive measures against the estate agents and their companies for any unruly behaviour. As a result, a developer has recently taken action against estate agency companies for disrupting order at the sale-sites of its first-hand residential properties.

In July this year, the EAA and 32 property developers issued a Charter on the sales of first-hand residential properties. After the launch of the Charter, the order at the sale-sites of first-hand residential properties significantly improved.

However, in August, the EAA discovered that there were a number of unlicensed employees of two estate agency companies outside a first-sale site engaging in the promotion of the development. The EAA immediately contacted the relevant developer, and as a result, the developer immediately fined the two estate agency companies concerned. The EAA is also following up on the two cases and will sanction the management of the relevant estate agency companies if it is established they have breached the EAA's guidelines.

This incident shows that although the Charter is not legally binding, the participating developers are committed to honouring their promises in the Charter. The idea of the Charter is that neither the EAA nor developers will tolerate any unruly behaviour of estate agents when promoting first-hand residential properties. Developers and the EAA share the same vision in jointly maintaining good order at the sale-sites of first-hand residential properties.

I hope that frontline estate agents and the management of estate agency companies will take this as a lesson. It is not worth engaging in any unruly behaviour at the sale-sites of first-hand residential properties.

一手住宅物業銷售約章

Charter on the sales of first-hand residential properties

為改善地產代理於一手住宅物業銷售處、示範單位及其附近的銷售秩序，地產代理監管局（「監管局」）與發展商達成共識，並於7月訂立一手住宅物業銷售約章（「約章」）。超過20名參與約章的發展商代表出席於2018年7月11日舉行的約章公布儀式。截至2018年7月27日，共有32家發展商簽署了約章。

In order to improve the sales order of estate agents at the sale-sites and show flats of first-hand residential properties and their vicinity, the Estate Agents Authority ("EAA") has reached an agreement with developers and issued a charter on the sales of first-hand residential properties in July. Over 20 representatives of participating developers attended the announcement ceremony held on 11 July 2018 at the EAA office. As of 27 July 2018, a total of 32 developers have signed the Charter.



一眾發展商代表與地產代理監管局主席梁永祥教授 SBS 太平紳士（前排左六）及行政總裁韓婉萍女士（前排右六）於一手住宅物業銷售約章公布儀式上合照。

EAA Chairman Prof. William LEUNG Wing-cheung, SBS, JP (sixth from left of front row) and Chief Executive Officer Ms Ruby HON Yuen-ping (sixth from right of front row) with the representatives of developers at the announcement ceremony for the Charter.

根據該約章，參與的發展商承諾將為消費者提供理想的銷售環境，不准許地產代理公司的無牌員工到銷售處附近從事任何宣傳、推廣或銷售活動，並會嚴厲譴責任何不守規矩、沒有禮貌、滋擾、不當或暴力行為，同時會向涉事的地產代理公司及相關員工採取嚴懲措施。

除推出上述約章，監管局亦採取了一系列行動，包括加強巡查以改善一手住宅物業銷售處的秩序。此外，監管局已著手研究加重對涉及相關違規的代理及其公司的處分。

According to the Charter, participating developers pledge to provide consumers with a desirable sales environment. They will not allow any unlicensed employees of estate agency companies to participate in any promotional or sales activities nearby the sale-sites. They will also strongly condemn any unruly, impolite, harassing, improper or violent behaviours and will take strong punitive actions against the estate agency company(ies) involved and its/their concerned employee(s).

As well as launching the Charter, the EAA has also stepped up inspections to improve the order at the sale-sites. Moreover, the EAA has started to study increasing its sanctions imposed on agents and their companies on relevant non-compliances.

監管局回顧 2018 年上半年工作 EAA's half year review 2018

監管局於 2018 年 7 月 30 日舉行新聞發布會，回顧監管局在 2018 年上半年的工作，並簡介下半年的工作重點。

監管局在 2018 年上半年共接獲 169 宗投訴個案，比去年同期減少 8%。部分常見投訴類別錄得改善，例如「提供不準確或具誤導性的物業資料」及「發出違規廣告」。然而，有關「誤導按揭資料」及「未有履行有關回贈承諾」的投訴數字則有所增加。

監管局在 2018 年上半年共對 162 名持牌人採取行動或作出處分，包括撤銷了 26 個牌照及暫時吊銷 13 個牌照。

另一方面，2018 年上半年參加營業員資格考試的考生人數減少 21%，而參加地產代理資格考試的考生人數則微升 4%。至於個人牌照及公司牌照數字，截至 2018 年 6 月 30 日，分別錄得新高至 39,298 及 3,709 個。

The EAA held a press conference on 30 July 2018 to review its work in the first half of 2018 and introduce initiatives for the second half.

The EAA received a total of 169 complaints in the first half of 2018, a decrease of 8% compared to the same period of last year. Improvements were found in some of the most common categories of complaints such as “providing inaccurate or misleading property information” and “issuing non-compliant advertisements”. However, complaints regarding “misleading information on mortgage” and “failing to honour the promise of offering incentives” had increased.

The EAA has taken action or imposed sanctions on a total of 162 licensees in the first half of 2018. A total of 26 licences were revoked and 13 licences were suspended.

Separately, a decrease of 21% in the number of candidates sitting the Salespersons Qualifying Examination and a rise of 4% in the number of candidates sitting the Estate Agents Qualifying Examination were recorded in the first half of 2018, whereas the number of individual licences and company licences both reached new record highs of 39,298 and 3,709 as of 30 June 2018 respectively.

新聞速遞 News Flash

踏入 2018 年下半年，監管局會繼續密切監察地產代理銷售一手住宅物業的情況，同時將會收緊相關指引，及加重對違規代理及其公司的處分。

至於有關地產代理未有履行有關回贈承諾的問題，局方將考慮於 2018 年下半年推出一份新執業通告，以提供更詳盡指引供業界遵循。

此外，監管局會加強對業界就反洗錢及反恐怖分子資金籌集方面、尤其是對客戶進行盡職審查及備存紀錄方面的教育工作。監管局也會加深資格考試的難度，以提升加入地產代理業人士的質素。

Stepping into the second half of 2018, the EAA will continue to monitor closely the practice of estate agents in the sale of first-hand residential properties. The EAA will strengthen the relevant guidelines and impose heavier sanctions on non-compliant agents and their companies.

On the issue of estate agents' failing to honour the promise of offering incentives, the EAA will consider issuing a new practice circular in the second half of 2018 to provide more detailed guidelines for the trade to follow.

In addition, the EAA will strengthen education for the estate agency trade on the subject of anti-money laundering and counter-terrorist financing, especially the procedures on performing customer due diligence for their clients and record keeping. The EAA will also raise the level of difficulty for qualifying examinations to enhance the quality of newcomers to the estate agency trade.



監管局主席梁永祥教授 SBS 太平紳士及行政總裁韓婉萍女士於新聞發布會上回顧局方在 2018 年上半年的工作，並簡介下半年的工作重點。

EAA Chairman Prof. William Leung Wing-cheung, SBS, JP and Chief Executive Officer Ms Ruby Hon Yuen-ping review the EAA's work in the first half of 2018 and introduce its initiatives for the second half at the press conference.

監管局於柴灣購置新辦公室 EAA acquires new office in Chai Wan

監管局於柴灣購入首個自置辦公室，約有一半的後勤員工於 2018 年 8 月遷往柴灣辦事處，其他前線部門員工則留於灣仔辦事處為公眾及持牌人提供服務。而灣仔辦事處的租用面積將於十月底完成復修工程後相對應減少。是次購買辦公室能減少監管局目前的租金開支及降低未來租金上升對整體營運成本所帶來的壓力。

The EAA has acquired for the first time an office in Chai Wan. Around 50% of EAA back office staff moved to the office in Chai Wan in August 2018 while the other staff that provide frontline services to the public and licensees remain at the Wan Chai office of which the rental space will be reduced accordingly by end of October 2018 after reinstatement. The acquisition of a permanent office will help reduce EAA's current rental expenses and the pressure of future rental increase on the overall operation costs.

有關反洗錢執業通告的更新「問與答」及聯絡會議 Updated "Questions and Answers" related to Practice Circular on anti-money laundering and related liaison meetings

監管局已於 2018 年 8 月 22 日更新與「有關地產代理業遵守反洗錢及反恐怖分子資金籌集規定的指引」執業通告（編號 18-01(CR)）相關的「問與答」。

The EAA has updated the "Questions and Answers" related to Practice Circular No. 18-01 (CR) titled "Guidelines on Compliance of Anti-Money Laundering ("AML") and Counter-Terrorist Financing Requirements for the Estate Agency Sector" on 22 August 2018.

監管局建議持牌人透過本局網站閱讀已更新的「問與答」：www.eaa.org.hk/Portals/0/Sections/LGA/Circular/18-01_CRC_QA.pdf

Licensees are advised to read the updated "Questions and Answers" available on the EAA website: www.eaa.org.hk/Portals/0/Sections/LGA/Circular/18-01_CRE_QA.pdf

監管局同時鼓勵持牌人經常閱覽本局網站內的「反洗錢資訊專區」，以獲取有關反洗錢的最新資訊：www.eaa.org.hk/zh-hk/Licensees/Anti-Money-Laundering-AML-Corner

Licensees are also encouraged to visit the "AML corner" at the EAA website frequently to receive the most updated news about AML: www.eaa.org.hk/en-us/Licensees/Anti-Money-Laundering-AML-Corner

監管局也就反洗錢議題定期與業界舉行聯絡會議。此外，監管局與業界商會代表也於 2018 年 9 月 13 日出席由政府舉辦的財務行動特別組織相互評估簡介會。

Liaison meetings with the trade on the subject of AML have also been held regularly. In addition, both the EAA and trade representatives attended the FATF Mutual Evaluation briefing session organised by the Government on 13 September 2018.

一手住宅物業銷售監管局的更新資料

Update from the Sales of First-hand Residential Properties Authority

一手住宅物業銷售監管局（「銷售監管局」）已於 2018 年 7 月 25 日就售樓說明書須提供開放式廚房的消防裝置及設備的資料發出新的售樓說明書常見問答，即常見問答第 16.7 題。

根據銷售監管局資料，由 2018 年 11 月 1 日起，賣方須在售樓說明書內「裝置、裝修物料及設備」的章節，描述安裝在開放式廚房內或附近的消防裝置及設備，包括煙霧探測器及消防花灑頭。

地產代理監管局建議各持牌人瀏覽該局網頁 (www.srpa.gov.hk) 閱讀上述新增的常見問答。

The Sales of First-hand Residential Properties Authority ("SRPA") has issued a new frequently asked question and answer ("FAQ") on sales brochure regarding the requirement of setting out information in respect of fire service installations and equipment for open kitchen, i.e. FAQ 16.7 on 25 July 2018.

According to the SRPA, with effect from 1 November 2018, vendors are required to set out under the section of "Fittings, Finishes and Appliances" in a sales brochure the description of the fire service installations and equipment fitted in or near open kitchen, including smoke detector and sprinkler head.

Licensees are advised to read the abovementioned new FAQ at the SRPA's website (www.srpa.gov.hk).

地政總署有關涉及寮屋交易之提醒

Reminder from Lands Department on transactions involving squatter structures

地政總署早前發信予監管局，提醒持牌人有關購買或租賃登記寮屋或非法寮屋之土地的風險。

地政總署表示，登記寮屋並不享有土地的業權，它們只是暫時被允許。購買或租賃登記寮屋或非法寮屋不受法例保障，其佔用人亦不會被賦予任何權利。

因此，持牌人應建議客戶在作出購買／租賃決定前，先徵詢獨立專業人士意見，以了解清楚有關土地及其構築物的法律地位，及倘若政府就有關非法構築物進行執法行動時將可能面對的風險或法律責任。

The Lands Department has recently issued a letter to the EAA reminding licensees on the risks of purchasing or renting land involving surveyed squatter structures or unauthorised squatter structures.

According to the Lands Department, surveyed squatter structures carry no legal title to the land. They are temporarily tolerated. The purchase or renting of surveyed squatter structures or unauthorised squatter structures is not protected by law nor does it confer any right on the persons occupying therein.

Hence, licensees are reminded to advise their clients, before making a purchase/renting decision, to seek independent professional advice on legal status of the land and the structures thereon and on their exposure to risk or liabilities in the event of enforcement action by the Government against unauthorised or unlawful structures.

工業樓宇不宜作居住用途 Industrial buildings not suitable for domestic use

工業樓宇（工廈）單位在任何時間均可用作工業活動或儲存危險及易燃物品，因此工廈並不適宜作居住用途。把工廈處所違規改作居住用途對住戶構成重大風險，亦違反《建築物條例》（第 123 章）（《條例》）。

今期《專業天地》會就屋宇署針對工廈被非法用作居住用途所採取的執法行動及預防措施，提醒持牌人在處理工廈物業交易時應注意的事項。

Industrial buildings (IBs) are not suitable for domestic use, given that units in an IB can be used for industrial activities or storage of dangerous and inflammable goods at any time. Unauthorised conversion of industrial premises for domestic use could pose high risks to the residents. Such unauthorised change in use also contravenes the Buildings Ordinance (Cap 123) (BO).

In this issue of *Horizons*, we will remind licensees the points-to-note when handling the transactions of industrial properties with regard to the enforcement action and preventive measures of the Buildings Department against illegal domestic use of IBs.



屋宇署針對工廈作非法居住用途的執法行動

Buildings Department's enforcement action against illegal domestic use in IBs

為加強取締非法以工廈作居住用途的執法工作，屋宇署除根據《條例》處理舉報外，亦進行一系列的大規模執法行動。就此，屋宇署會向將工廈單位作非法居住用途的業主或佔用人發出法定命令，要求中止非法住用用途以及糾正危險情況。如有關人士沒有遵從該法定命令的要求，屋宇署會提出檢控，一經定罪，可處罰款 5 萬元及監禁 1 年，並在未有遵從命令期間，每天另處罰款 5 千元。屋宇署亦會就有關處所的僭建物發出清拆令，著令業主拆除僭建物。如業主沒有遵從清拆命令，屋宇署亦會採取檢控行動，一經定罪，可處罰款 20 萬元及監禁 1 年，並在未有遵從命令期間，每天另處罰款 2 萬元。

屋宇署亦可安排政府承建商代失責業主進行命令所規定的工程，並於完工後向有關業主追討工程費用，另加監督費及附加費。



Apart from handling public reports, the Buildings Department (BD) also mounts a series of large scale operations to step up enforcement action to eradicate illegal domestic use in IBs in accordance with the BO. In this connection, BD will issue statutory orders to owners or occupiers of illegal domestic premises in IBs requiring discontinuation of the illegal domestic use and rectification of the dangerous situation. Failure to comply with these statutory orders will be subject to prosecution by the BD and the persons concerned may be liable on conviction to a fine of \$50,000 and imprisonment for one year, as well as a further fine of \$5,000 for each day that the offence has continued. BD will also issue removal orders to the owners requiring the removal of unauthorised building works (UBWs) identified in the subject premises. Failure to comply with a removal order will also be subject to prosecution liable on conviction to a fine of \$200,000 and imprisonment for one year, as well as a further fine of \$20,000 for each day that the offence has continued.

BD may also arrange the government contractor to carry out the required works of the orders in default of the owner and then recover the cost of works plus a supervision charge and a surcharge from the owner.

防止濫用工廈作非法居住用途的措施

Measures to deter misuse of IBs for illegal domestic use

為了在樓宇設計的階段防止工廈將來被濫用作非法居住用途，屋宇署已向《條例》下註冊的建築專業人士及承建商發出作業備考及通告函件，公布屋宇署在審批新工廈（包括改動及加建工程）的圖則時，不會批准與工業用途不相稱的設計及設施，以及將工廈處所分間為設有獨立洗手間設施的「小型」工廈單位。

To prevent the future misuse of IBs for illegal domestic use at the building design stage, BD has issued a practice note and a circular letter to building professionals and contractors registered under the BO, announcing that BD will not approve new proposals for IBs (including alteration and addition works) which involve designs and facilities that are not commensurate with industrial use or subdivision of industrial premises into “small” industrial units with en-suite toilet facilities.

同樣，在小型工程監管制度下，屋宇署亦不會接受進行設有獨立洗手間設施的「小型」工廈單位的建築工程。屋宇署亦會對這些小型工程呈交資料採取執法行動，包括就「小型」工廈單位非法加建獨立洗手間設施的違規情況採取適當的執法行動，以及考慮對有關的訂明建築專業人士和訂明註冊承建商展開紀律行動。

Similarly, building works resulting in “small” industrial units with en-suite toilet facilities will not be accepted under the Minor Works Control System. BD will also take enforcement actions against such minor works submissions, including initiating appropriate enforcement action against illegal addition of en-suite toilet facilities in “small” industrial units and instigating disciplinary action against the prescribed building professional and prescribed registered contractor concerned.

地產代理須知 Notes for estate agents

地產代理在處理工廈單位的買賣或租賃時，須提醒客戶居住於工廈單位將面對非常高的消防安全風險；而將工廈單位作非法居住用途的業主或佔用人也會違反《條例》，屋宇署會根據《條例》採取嚴厲執法行動。

When handling the sale and purchase or leasing of industrial units, estate agents should remind clients that residing in industrial units will be exposed to a very high fire risk; owners or occupants using industrial units for illegal domestic use are also in contravention of the BO which is subject to rigorous enforcement action by BD.

此外，地產代理及客戶可透過查核「小型」工廈單位的樓宇記錄和小型工程記錄，以確定單位內的獨立洗手間設施是否已獲屋宇署批准。如欲查詢相關記錄，可到訪屋宇署樓宇資訊中心（九龍旺角彌敦道 750 號始創中心 13 樓），或透過屋宇署的「百樓圖網」系統（須登記），經繳費後查閱及申請索取複印本。

In addition, estate agents and clients may view the relevant building and minor works records to check whether en-suite toilet facilities in “small” industrial units are approved by BD. Relevant records can be viewed and copied at BD’s Building Information Centre (13/F, Pioneer Centre, 750 Nathan Road, Mongkok, Kowloon) or through the online “BRAVO” System (registration required) upon payment of fees.

持牌人如懷疑有工廈單位作非法居住用途，也可循以下途徑向屋宇署作出舉報：

- 屋宇署熱線：2626 1616；
- 郵遞（九龍旺角彌敦道 750 號始創中心 12 樓）；
- 電郵 (enquiry@bd.gov.hk)；或
- 電子舉報 (www.bd.gov.hk/chineseT/services/enquiries.html)

Licencees may also report any suspected illegal domestic use of industrial unit to BD via the following means:

- BD Hotline 2626 1616;
- By post (12/F, Pioneer Centre, 750 Nathan Road, Mongkok, Kowloon);
- By email (enquiry@bd.gov.hk); or
- By electronic reporting form (www.bd.gov.hk/english/services/enquiries.html)



凌潔心女士

Ms Imma LING Kit-sum

羅兵咸永道會計師事務所前審計合夥人
Retired Assurance Partner, PricewaterhouseCoopers
遊樂互動集團有限公司獨立非執行董事兼審核委員會主席
Independent Non-executive Director and Audit Committee Chairperson,
Digital Hollywood Interactive Limited
香港教育大學校董會成員兼審計委員會主席
Council Member and Audit Committee Chairperson, The Education
University of Hong Kong
醫院管理局廣華醫院及東華三院黃大仙醫院管治委員會成員
Hospital Governance Committee Member, Kwong Wah Hospital &
TWGHs Wong Tai Sin Hospital, Hospital Authority
城市規劃上訴委員團成員
Appeal Board Panel Member, Town Planning

監管局成員凌潔心女士 Ms Imma LING Kit-sum Member of the EAA

本期《專業天地》專訪了監管局成員凌潔心女士，了解一下她對監管局工作及業界專業水平的看法。
In this issue of *Horizons*, we interview Ms Imma LING Kit-sum, member of the EAA, about her views on the EAA's work and the trade's professional standard.

問：自 2015 年 11 月被委任為監管局董事局成員以來，你加入了不同的委員會，包括牌照委員會、執業和考試委員會以及專業發展委員會。你對這些工作有甚麼感受？

答：我很高興和榮幸成為監管局董事局成員之一。通過參與這些委員會的工作，我可以更了解地產代理行業的生態，以及業界面對的挑戰和機遇。這數年來，我感受到局方及業界有着一個共同目標，就是提升地產代理行業的專業水平。例如專業發展委員會透過持續專業進修計劃加強對從業員的持續培訓，提供與地產代理工作相關、以至人際關係及客戶服務方面等培訓，令從業員有更全面化的發展。執業和考試委員會則就着新法例和及時的情況發出執業通告，配以持續專業進修講座讓業界熟習相關規定。至於牌照委員會的工

Q: Since you were appointed as an EAA Board Member from November 2015, you have been participating in different committees, including the Licensing Committee, the Practice and Examination Committee and the Professional Development Committee. What are your feelings on the work of these committees?

A: It is my pleasure and honour to be one of the EAA's Board Members. Through participating in the work of the various committees, I understand more about the eco-system of the estate agency industry, and the challenges and opportunities that the trade faces. Over the past few years, I have found that both the EAA and the trade share the same goal in improving the trade's professional standard. For example, the Professional Development Committee enhances practitioners' all-round development by providing continuous professional development seminars on estate agency work, interpersonal skills and customer service. The Practice and Examination Committee issues practice circulars following the enactment of new laws and to address timely situations, which are then supported by continuing professional development seminars to help the trade familiarise themselves with the relevant requirements. As regards the work of the Licensing Committee, since the

作，由於發牌是一個嚴肅的決定，成員都十分小心審視每宗申請個案，以作出最持平及一致性的決定。

問：監管局會進一步提高資格考試的難度。你對監管局作為行業把關者的工作有何看法？你認為持牌人應具備的最重要品質是什麼？

答：監管局的目標之一是將地產代理行業發展成一個專業的行業，因此，提高資格考試難度實屬無可厚非。然而，除了靠外在的「金剛圈」規管之外，提升從業員本身的誠信及操守也同樣重要。置業是人生重要投資，從業員應待客以誠，從客戶的角度出發，聆聽他們的需要及關注點，給予專業及持平的意見，協助客戶作出一個最合適的決定。同時，從業員應對工作抱有熱誠，多參加培訓以增進知識。在資格考試中作弊或在申請牌照時作虛假陳述，是非常不智及不可接受的行為，會令他們的前途蒙上污點。

問：你從事會計專業一段很長的時間。在你看來，地產代理行業應如何提升其社會地位？你認為當今地產代理行業的專業水平如何？

答：現在的地產代理行業比以前專業得多。然而，時代不斷變遷，行業需要長遠發展，與時並進。監管局與業界保持溝通是非常重要的，例如最近有關反洗錢的指引，就制定出務實的指引。又例如發生打架事件後發佈的一手銷售約章，局方透過與業界及發展商的緊密溝通，將危機變成契機，向公眾帶出強而有力的正面訊息。另外，我認為地產代理公司的經營者應多給予員工關懷及支持，讓他們可長遠發展，以培育出業內更多人才。不論監管局、地產代理公司及從業員都各司其職，才可合力提升行業的專業水平，給予消費者更大信心。

granting of a licence is a serious decision, committee members scrutinise each application carefully so as to make fair and consistent decisions.

Q: The EAA will raise the difficulty level of qualifying examinations. What are your views on the EAA's work as the industry gatekeeper? What do you think are the most important qualities that a licensee should possess?

A: One of the goals of the EAA is to develop the estate agency trade into a professional industry. Therefore, it is understandable that we need to raise the difficulty level of the qualification examinations. However, on top of regulating the trade, raising the integrity and ethics of the practitioners are equally important. Home buying is a major lifetime investment. Practitioners should treat their customers with sincerity, think from their perspective, understand their needs and concerns, and provide professional and objective advice, to assist customers in making the most appropriate decisions. Moreover, practitioners should be passionate about their work and participate in more training to enrich their knowledge. Cheating in a qualifying examination or making a false statement when applying for a licence is foolish and unacceptable, and can tarnish an applicant's future.

Q: You have been in the accounting profession for a long time. In your opinion, what will it take to elevate the social status of the estate agency trade? How do you find the professional standard of the estate agency trade nowadays?

A: The estate agency industry is now much more professional than before. However, times change fast and the trade needs long-term development to keep pace with the times. It is very important for the EAA to maintain communication with the trade. For example, the EAA formulated pragmatic guidelines on anti-money laundering recently. Another example is the promulgation of the first-sale charter following the fighting incidents at first-sale sites. Through close communication with the trade and developers, the EAA turned the crisis into an opportunity for improvement which brought out a strong and positive message to the public. On the other hand, I think the owners of estate agency companies should be more caring and supportive of their employees so that they can sustain a long term development and ultimately more practitioners can advance in the trade. The EAA, estate agency companies and practitioners all have a role to play and their concerted efforts can enhance the professional standard of the trade and give consumers greater confidence.

誠信與你

Integrity in Focus

紀律研訊個案 Disciplinary hearing case

避免做出令地產代理行業信譽受損的行為 Avoid any practice which may bring discredit to the estate agency trade

引言

持牌人應避免做出令地產代理行業信譽受損的行為，否則有可能被監管局紀律處分。

Introduction

Licensees should avoid any practice which may bring discredit to the estate agency trade. Otherwise, they may be subject to disciplinary action by the EAA.

事件經過

一名營業員在一屋苑物業租賃中代表業主及租客雙方行事。在訂立租約後，該營業員請求租客協助申請該屋苑的智能咭，並告訴租客不用知會業主。她更要求租客向業主報銷申請該智能咭的費用，並建議租客向業主聲稱該智能咭是供其祖母使用。最後，業主發現該智能咭實為營業員使用，故取消了該智能咭的申請，並向監管局作出投訴。

Incident

A salesperson represented both a landlord and a tenant in a tenancy of a property in a residential estate. After the tenancy had been entered into, the salesperson asked the tenant to apply for an access card to the residential estate for her, and asked the tenant not to tell the landlord. She further asked the tenant to reimburse the access card application fee from the landlord and suggested him tell the landlord that the access card user was his grandmother. Soon after the landlord discovered that the access card was for the salesperson's use, he cancelled it and lodged a complaint with the EAA.

研訊結果

監管局紀律委員會認為該營業員做出了令地產代理行業信譽受損的行為，違反了監管局發出的《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。」

考慮到個案的性質及該營業員的違規紀錄，委員會決定譴責她、罰款 1,000 元、暫時吊銷其牌照 7 日，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's conduct had brought discredit to the estate agency trade, and failed to comply with 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 disrepute 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 her, impose a fine of \$1,000 on her and suspend her licence for seven days. A condition was also attached to her licence requiring her to obtain 12 points of the CPD in 12 months.



黃健基先生
香港地產代理商總會秘書長
Mr Andy Wong
Chief Secretary of Hong Kong Real Estate
Agencies General Association

業界意見 Comment from trade

不少從業員在工作上可能會向客戶提供額外服務，業主基於信任才委託地產代理協助新租客，而代理在接受業主委託後，便應盡己所能履行及提供忠誠服務。從業員不應像個案中的代理，因其行為已違反《操守守則》。

Many practitioners may offer clients with additional services in the course of their work. The estate agent should do her best to assist the new tenant and be loyal to the landlord who trusted her. Practitioners should not behave like the estate agent in this case as her action has violated the *Code of Ethics*.

紀律研訊個案 Disciplinary hearing case

就物業的水電供應作出失實陳述

Misrepresentation on the provision of public utilities of a property

引言

持牌人不得就物業相關的任何資訊作出失實陳述，否則有可能被監管局紀律處分。

Introduction

Licensees must not make any misrepresentation to clients on any information related to a property. Otherwise, they may be subject to disciplinary action by the EAA.

事件經過

一名地產代理在一項地舖租賃中被委任為雙邊代理。在視察該物業時，準租客查詢地舖內是否有供水，該地產代理向準租客確認物業內設有水電供應。

Incident

An estate agent was appointed as the dual agent in the tenancy of a street shop. During the property inspection, the potential tenant asked the estate agent whether there was any water supply in the property. He replied that there was both water and electricity supply.

及後，該地產代理安排該租客訂立臨時租約。租客後來才發現該物業並沒有設置水錶，他須自行向水務署申請水錶。

Later, the estate agent arranged for the tenant to enter into a provisional tenancy agreement. After signing, the tenant discovered that the property did not have a water meter and he needed to apply one from the Water Supplies Department.

此外，租客發現該地產代理修改了臨時租約的條款，卻沒有取得他的書面同意或安排他就已修改的條款簽名作實。租客對此深感不滿，遂向監管局投訴。

In addition, the tenant discovered that the estate agent had amended the provisional tenancy agreement without seeking his written consent or arranged for him to initial against the relevant amendment. Feeling aggrieved, the tenant lodged a complaint with the EAA.

誠信與你

Integrity in Focus

研訊結果

該地產代理在回覆租客的查詢前沒有核實相關物業是否設有水錶，監管局紀律委員會認為該地產代理向客戶作出失實陳述，沒有保障及促進客戶利益，因而違反了監管局發出的《操守守則》第 3.4.1 段。

另外，上文提及他沒有妥善處理有關修改臨時租約的條款，因此，他亦違反了《操守守則》第 3.2.1 段。

考慮到個案的性質及該地產代理的違規紀錄，委員會就上述兩項違規決定譴責該名地產代理、暫時吊銷其牌照七日，並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的 24 個學分。

Result

The estate agent did not verify whether there was a water meter installed for the property before he replied to the tenant. The EAA Disciplinary Committee found that the estate agent made a misrepresentation to the client and failed to protect and promote his interests. Therefore, he was in breach of paragraph 3.4.1 of the *Code of Ethics* issued by the EAA.

He was also in breach of paragraph 3.2.1 of the *Code of Ethics* regarding the improper handling of an amendment of a term of the provisional tenancy agreement mentioned above.

With regard to the above two breaches and having considered the nature and gravity of the case and the disciplinary record of the estate agent, the Committee decided to reprimand him, suspend his licence for seven days, and attach conditions to his licence requiring him to obtain a total of 24 points under the Continuing Professional Development Scheme in 24 months.



古昊展先生
香港專業地產顧問商會榮譽會長
Mr Mike Koo
Honorary President of Hong Kong Chamber of Professional Property Consultants Limited

業界意見 Comment from trade

該地產代理在回覆租客前沒有核實相關物業是否設有水錶，租客可能因水源問題面對爭拗或訴訟，因此他沒有保障客戶利益。

另外，他並未就已修改的條款給雙方簽名作實，這是相當嚴重的失當行為。因租約上任何修改的條款，一定要租客與業主雙方確認並簽名作實，合約方能生效。

As the estate agent did not verify whether there was any water meter in the property before reverting to the tenant, he failed to protect his client's interest as the tenant might face disputes or lawsuits arising from the issue of water supply.

In addition, after revising the terms in the provisional tenancy agreement, he failed to arrange for both parties to sign the revised agreement, which is a severe malpractice. A valid tenancy agreement should have the signature of both parties regarding any amendments made.

持續專業進修講座一

地產代理業遵守反洗錢及反恐怖分子資金籌集的規定

CPD Seminars on Anti-Money Laundering (“AML”) and Counter-Terrorist Financing (“CTF”)

為加強持牌人對監管局就「有關地產代理業遵守反洗錢及反恐怖分子資金籌集規定的指引」而發出的執業通告 18-01(CR) 的認識，並了解他們在打擊洗錢及 / 或打擊恐怖分子資金籌集方面的責任及相關規定，監管局舉辦了一系列持續專業進修講座。

監管局於 2018 年 5 月 28 日、6 月 22 日和 7 月 31 日分別於香港、九龍和新界舉辦了題為「填寫身分核實表格 – 執業通告 18-01(CR) 有關地產代理業遵守反洗錢及反恐怖分子資金籌集規定的指引」的講座，並於 2018 年 7 月 13 日及 8 月 22 日舉辦了兩場以放映預錄影片形式進行的同類講座。席間，監管局代表向持牌人詳細講解執業通告 18-01(CR) 的內容、有關地產代理就符合《打擊洗錢及恐怖分子資金籌集條例》的客戶盡職審查和備存紀錄的規定及於舉報可疑交易上的法律責任。

監管局於 2018 年 8 月 29 日再舉辦了一個以「有問有答 – 執業通告 18-01(CR) 有關地產代理業遵守反洗錢及反恐怖分子資金籌集規定的指引」為題的講座。監管局代表分享及回答持牌人就符合執業通告 18-01(CR) 相關要求提出的問題，以協助持牌人加深對相關指引的理解。

以上六場持續專業進修講座合共有 440 人次參加。監管局未來會繼續舉辦相關講座，務求令更多持牌人明白相關法例的規定和要求。

To enhance licensees' understanding of the latest EAA's practice circular on the compliance of anti-money laundering and counter-terrorist financing requirements for the estate agency sector and estate agents' responsibilities relating to anti-money laundering and counter-terrorist financing, the EAA organised a series of AML/CTF CPD Seminars.

Three CPD Seminars titled “Complete the Identity Verification Form – Circular No. 18-01 (CR) – Guidelines on Compliance of Anti-Money Laundering and Counter-Terrorist Financing Requirements for the Estate Agency Sector” were held on 28 May 2018, 22 June 2018 and 31 July 2018 in Hong Kong Island, Kowloon and the New Territories. In addition, two video recording sessions of the same seminar were held on 13 July and 22 August 2018 at the EAA. During these seminars, representative of the EAA explained in detail the relevant guidelines on customer due diligence and record-keeping requirements under the Anti-Money Laundering and Counter-Terrorist Financing Ordinance as well as the legal obligations of estate agents to report suspicious transactions.

Another CPD seminar titled “All You Can Ask – Circular No. 18-01 (CR) – Guidelines on Compliance of Anti-Money Laundering and Counter-Terrorist Financing Requirements for the Estate Agency Sector” was held on 29 August 2018. Representative of the EAA answered licensees' questions on practicing issues related to the said circular, in a bid to strengthening their understanding of the relevant guidelines.

These AML CPD seminars attracted a total of 440 enrolments. Similar AML seminars will continue to be conducted to ensure all licensees are conversant with the AML/CTF requirements.



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：在執行有關反洗錢的客戶盡職審查時，倘若客戶不願意提供其身分證副本，地產代理應該怎樣做？

答：根據《打擊洗錢及恐怖分子資金籌集條例》（「《打擊洗錢條例》」）及監管局的指引，持牌人必須採取所有合理措施，以減低處理物業買賣時可能涉及洗錢或恐怖分子資金籌集的風險。這些措施之一是進行客戶盡職審查，持牌人因而需收集物業賣方及買方客戶的個人資料以識別及核實他們的身分，同時亦須取得他們的身分證明文件副本以作備存。



倘若客戶不願意提供其身分證副本，持牌人應向客戶解釋，是因應《打擊洗錢條例》的要求而收集其身分證明文件的副本。持牌人亦可在收集客戶的身分證明文件副本時，在客戶面前，於影印本上的相片位置加上「副本」或「只用作反洗錢用途」字眼（或蓋印），以增加客戶對持牌人如此備存該文件副本的信心。

倘若客戶堅拒合作，持牌人應考慮有關的拒絕舉動是否已構成懷疑的依據，並考慮向聯合財富情報組提交有關可疑交易的報告。

Q: In conducting the customer due diligence under AML, what should estate agents do if the client refuses to provide a copy of his/her identity card?

A: According to the Anti-Money Laundering and Counter-Terrorist Financing Ordinance (“AMLO”) and the guidelines of the EAA, licensees must take all reasonable steps to mitigate the risk of money-laundering and terrorist financing in handling transactions involving sale and purchase of properties. One of the measures is to conduct customer due diligence. Hence, licensees are required to collect the personal information of the purchaser and vendor client in order to identify and verify their identities. Also, licensees need to retain copies of their identification documents for record.

If the client is unwilling to provide a copy of his/her identity card, licensees should explain to him/her that the collection of a copy of his/her identification document is required for the purpose of complying with the AMLO. Licensees may also, in the presence of their clients, mark (or chop) the word “COPY” or “FOR AML PURPOSE ONLY” across the photo on the copy identification document to enhance clients’ confidence of licensees’ keeping his copy identification document for record as such.

If the client is adamant not to cooperate, licensees should consider whether such refusal amounts to a ground for suspicion and should consider lodging a suspicious transaction report with the Joint Financial Intelligence Unit.

何謂「預計關鍵日期」？ “E” for “Estimated material date”



一手住宅發展項目的預計關鍵日期是指住宅項目遵照經批准的建築圖則的預計完成日期，或預計符合批地文件內條件的日期。

倘若樓盤尚未落成，或已落成但尚待地政總署署長發出合格證明書或轉讓同意，售樓說明書內的「發展項目的資料」便會列出「預計關鍵日期」。

持牌人及一手住宅物業的買家應注意，預計關鍵日期可能會由於認可人士因工人罷工或封閉工地、暴動或內亂、不可抗力或天災等原因而批准發展商將原定的預計關鍵日期延後。此外，持牌人及買家不應把預計關鍵日期視為收樓日期。買家同時應預留足夠時間以避免出現交接的「空窗期」（即倘若需如期遷出舊單位時，仍未可入住新單位）。

Estimated material date of a first-hand residential development refers to the estimated date on which the development is completed in compliance with the approved building plans or the estimated date on which the conditions of the land grant are complied with.

If a development is an uncompleted development or is a completed development pending a certificate of compliance or a consent to assign issued by the Director of Lands, the sales brochure must state the “estimated material date” in the “Information on the development” section.

Licensees and purchasers of first-hand residential properties should note that the estimated material date may change due to the granting of an extension of time for completion of the development by the Authorised Person because of strike or lock-out of workmen; riots or civil commotion; force majeure or Act of God etc. Licensees and purchasers should not perceive the estimated material date to be the handover date of a property. Purchasers are also advised to reserve enough time to avoid a “window period” during which the purchaser may have moved out from the existing residence while the new property is not yet ready to occupy.

活動紀要

Events and activities

2018-06-06

地產代理監管局主席梁永祥教授（中）與行政總裁韓婉萍女士（左一）出席由香港地產代理商總會、僱員再培訓局及香港城市大學合辦的「地產代理愛增值」計劃啓動禮。

Chairman of the EAA, Prof. William Leung Wing-cheung (middle) and Chief Executive Officer, Ms Ruby Hon Yuen-ping (first from left) attend the kick-off ceremony of a self-advancement programme co-organised by Hong Kong Real Estate Agencies General Association, Employees Retraining Board and City University of Hong Kong.



2018-06-29

監管局副主席廖玉玲女士（前排左七）、董事局成員謝小玲女士（前排右三）及行政總裁韓婉萍女士（前排左三）出席由香港專業地產顧問商會舉辦的慶祝香港回歸晚宴。

Ms Elaine Liu Yuk-ling, Vice-chairman of the EAA (seventh from left, front row), Ms Phoebe Tse Siu-ling, EAA Board member (third from right, front row) and Ms Ruby Hon Yuen-ping, Chief Executive Officer (third from left, front row), attend the Celebration Dinner for the Establishment of the HKSAR held by the Hong Kong Chamber of Professional Property Consultants Limited.



2018-07-30

監管局主席梁永祥教授（左）接受無線電視台訪問，談及一手住宅物業銷售約章及有關買賣一手住宅物業的相關事宜。

EAA Chairman Prof. William Leung Wing-cheung (left) attends an interview by TVB, to talk about the first sale Charter and related issues when purchasing first hand residential properties.



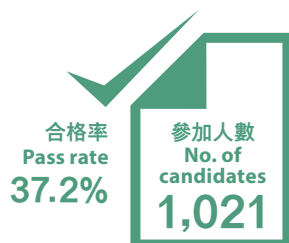
2018-08-24

監管局於深水埗區舉辦「聚焦小組」會議，向前線持牌人介紹有關反洗錢規定及了解其日常執業遇到的問題。

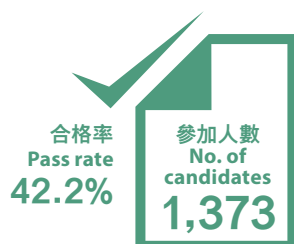
The EAA introduces the AML guidelines to frontline licensees and listens to issues of their daily practice at a focus group meeting in Sham Shui Po District.

統計數字 Statistics

考試 EXAMINATIONS



營業員資格考試
SALESPERSONS
QUALIFYING
EXAMINATION
考試日期
Examination date
8/6/2018



營業員資格考試
SALESPERSONS
QUALIFYING
EXAMINATION
考試日期
Examination date
6/8/2018

牌照數目 (截至2018年8月31日) (AS AT 31/8/2018) NUMBER OF LICENCES



營業員牌照
Salesperson's Licence
21,450



地產代理(個人)牌照
Estate Agent's Licence (Individual)
18,141



個人牌照總和
Total no. of individual licences
39,591



地產代理(公司)牌照
Estate Agent's Licence (Company)
3,736

營業詳情說明書 (截至2018年8月31日) NUMBER OF STATEMENTS OF PARTICULARS OF BUSINESS (AS AT 31/8/2018)

合夥經營
Partnerships

196



獨資經營
Sole proprietorships

1,650



總數 Total
7,048

有限公司
Limited companies

5,202



開立的投訴 (2018年1月至8月) NUMBER OF COMPLAINT CASES OPENED (January to August 2018)

214

已處理的投訴個案結果* (2018年1月至8月) RESULTS OF COMPLETED COMPLAINT CASES* (January to August 2018)

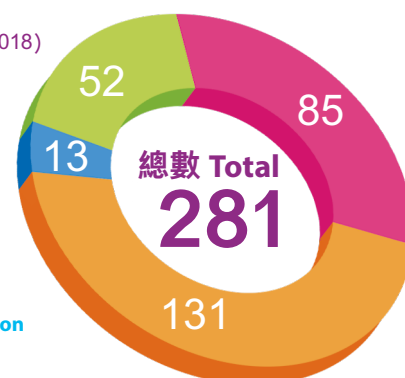
指稱成立
Substantiated

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 (2018年1月至8月)

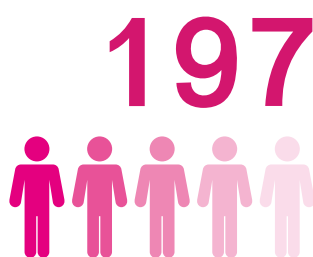
NUMBER OF COMPLIANCE INSPECTIONS
(January to August 2018)



向持牌人或前持牌人採取的行動*

(2018年1月至8月)
ACTIONS TAKEN AGAINST LICENSEES
OR EX-LICENSEES*
(January to August 2018)

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



巡查發現主動調查的個案 (2018年1月至8月)

NUMBER OF CASES ARISING FROM
SELF-INITIATED INVESTIGATIONS DURING
INSPECTIONS (January to August 2018)

62

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

47

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

行動

Actions Taken

訓誡 / 譴責
Admonishment/ reprimand

124

罰款
Fine

81

於牌照附加 / 更改條件

Attachment/ alteration of conditions to licence

103

暫時吊銷牌照

Suspension

18

撤銷牌照

Revocation

26[#]


* 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.



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