

以電子方式簽立 地產代理協議要留神

Be careful when entering into estate agency agreement
by electronic means

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“「君子愛財、取之有道」，無論競爭如何激烈，作為專業的地產代理，依足規矩辦事是十分重要的。”

“Make your fortune in a proper way. No matter how fierce the competition is, as a professional estate agent, it is very important to work by the rules.”

君子愛財 取之有道 Make your fortune in a proper way

春回大地，近期傳媒亦報道樓市出現「小陽春」，筆者首先在此祝願今年香港樓市交投暢旺，大家無論買樓、賣樓或租樓都順順利利，各位地產代理越來越專業，為客人提供優質稱心的服務，開單自然無往而不利。

近期，監管局錄得的持牌人數有持續回落的情況。根據2月底的數字，總持牌人數共有39,927人，比2018年底減少196人，比起1月底則減少96人。筆者認為，數字在短期內維持窄幅上落問題不大，仍有待觀察跌勢會否持續，才能實際反映業內的情況。無論如何，筆者希望勉勵一下仍然留在行業內的持牌人，在加緊努力工作之餘，也要謹慎行事，萬勿為求開單而冒險違規。

「君子愛財、取之有道」，無論競爭如何激烈，作為專業的地產代理，依足規矩辦事是十分重要的。對於損害客戶利益及破壞行業聲譽的行為，監管局絕對不會寬鬆處理。近期，持牌人可能亦有透過傳媒報道留意到，有部分紀律研訊個案的處分罰則較以往有所提高，尤其是對於屢次違規或未有做到妥善管理的個別地產代理公司，罰款金額比過去同類案例為高。希望各持牌人明白，這絕對不是為了針對業界，而是為了對循規蹈矩的持牌人及蒙受損失的消費者公平，同時希望藉着加重處分以提醒違規人士或公司，不可一錯再錯。

不論是監管局主席抑或筆者，過去都曾多次公開表示過，監管局並不希望處分持牌人，持牌人所繳交的罰款也不會成為監管局的收入，而是繳交往政府庫房。監管局在調查個案時一向以秉持公正為原則，不會偏幫消費者或持牌人任何一方。而事實上，局方去年接獲逾七千宗查詢，最後只有三百多宗為投訴個案需要跟進，反映局方只會實事求是，處理有充分證據的個案。希望業界明白，同時做好專業代理應有的本份。

Spring has returned and the media has reported that the property market has gained its vitality recently. I would like to wish that the Hong Kong property market will boom this year with everyone having a smooth and successful property buying, selling or renting experience; and professional estate agents are becoming more and more professional, providing quality and satisfactory services to clients which will naturally lead to successful business.

Recently, the number of licensees recorded by the EAA has continued to fall. According to the figures at the end of February, the total number of licensees was 39,927, which was 196 fewer than that at the end of 2018, and also a drop of 96 compared with the end of January. In my opinion, a narrow range of fluctuation in the figures in the short term is not a big issue but it remains to be seen if the downtrend will continue such that the actual situation in the industry could be accurately reflected. In any case, I would like to encourage the licensees who remain in the industry that in addition to stepping up their hard work, they must also be cautious in their practice and not commit any violations while doing business.

Make your fortune in a proper way. No matter how fierce the competition is, as a professional estate agent, it is very important to work by the rules. The EAA will not be lenient with any behaviour that damages the interests of customers and undermines the reputation of the trade. Recently, licensees may also have noticed through media reports that heavier sanctions have been imposed in some disciplinary inquiry hearing cases than in the past. In particular, the fines are higher for those estate agency companies that have repeated violations or lacked proper management, as compared with similar cases in the past. I hope licensees appreciate that it is definitely not our intention to work against the trade, but for the sake of maintaining fairness to those compliant licensees and consumers who suffered losses. Through imposing heavier sanctions, we also hope to remind the non-compliant individuals or companies that they must not repeat their mistakes again.

The EAA Chairman and I have publicly commented many times that the EAA does not wish to sanction licensees and the fines paid by licensees will not become the EAA's income but are received by the Government Treasury. The EAA always adheres to the principle of impartiality in case investigation and we will not take side with either consumers or licensees. In fact, the EAA received more than 7,000 enquiries last year but only some 300 turned out to be complaint cases that required further investigation. This shows that the EAA is pragmatic and will only deal with cases with sufficient evidence. I hope that the trade will understand and continue to do a good job as professional estate agents at the same time.

新聞速遞 News Flash

監管局推廣地產代理的專業形象

The EAA promotes estate agents' professional image

為了向公眾推廣持牌人的專業素質及形象，監管局於2019年3月展開宣傳計劃，在電車、巴士車身、巴士站及網上推出廣告，帶出專業地產代理具備的「三言兩與」品質：包括「言出必行」、「言之有物」、「言而有信」、「與時並進」及「與客同行」。監管局希望透過此宣傳計劃，鼓勵消費者委託優質的地產代理，同時提醒前線代理應要努力達到這個優質水平。監管局亦製作了載有相同訊息的海報，並將派發予各地產代理商舖。

To promote the professional qualities and image of licensees to the public, a publicity campaign has been launched by the EAA in March 2019 through advertising on trams, buses and bus shelters, as well as the Internet. The publicity campaign promotes the "5A" qualities that a professional estate agent possesses; namely, "Adherence", "Ability", "Accountability", "Advancement" and "Affinity". Through the campaign, consumers are encouraged to appoint estate agents of high calibre, while frontline estate agents are reminded of attaining such standards. Posters with the same message were also produced and would be distributed to all estate agency shops.



巴士車身上的監管局廣告
The EAA's advertisement on a bus



監管局主席梁永祥教授 SBS 太平紳士及印有監管局宣傳計劃主題的電車
EAA Chairman Prof. William Leung Wing-cheung, SBS, JP and the tram with the theme of the EAA's publicity campaign.



位於巴士站的監管局廣告
The EAA's advertisement at a bus shelter

除上述提及的廣告，監管局亦推出了一段短片，透過輕鬆的故事，展示委託專業地產代理的重要性。該短片現已上載至監管局消費者教育網站 (<http://smart.eaa.org.hk>) 及 YouTube 頻道 (<http://www.youtube.com/EstateAgentsAuthority>)。

In addition to the advertisements, the EAA also produced a short video in Cantonese, showcasing the importance of appointing a professional estate agent through an interesting story. The video is now available on the EAA's consumer education website (<http://smart.eaa.org.hk>) and YouTube channel (<http://www.youtube.com/EstateAgentsAuthority>).



短片《老友，上車了》經已上載到監管局消費者教育網站及 YouTube 頻道
The short video in Cantonese is now available on the EAA's consumer education website and YouTube channel

監管局 YouTube 頻道
EAA's YouTube Channel



監管局回顧 2018 年工作及簡介 2019 年工作重點

The EAA reviews its work in 2018 and introduces its initiatives for 2019

監管局於 2019 年 1 月 29 日舉行新聞發布會，由主席梁永祥教授 SBS 太平紳士及行政總裁韓婉萍女士回顧局方在 2018 年的工作，及簡介 2019 年的工作重點。

梁教授指出，監管局在 2018 年共接獲 306 宗投訴個案，較 2017 年減少 28%。最常見的投訴性質包括「不妥善地處理臨時買賣合約（或臨時租約）」、「提供不準確或具誤導性的物業資料」及「未有與客戶訂立或解釋《地產代理協議》」，以及「未有履行有關回贈的承諾」。

踏入 2019 年，監管局將致力提升業界的形象，並協助他們實踐企業社會責任。此外，局方將於下半年推出有關電腦化營業員資格考試的試行計劃，詳情將於稍後公布。

有關新聞發布會的更多詳情，請參閱監管局網站內的相關新聞稿。

The EAA held a press conference on 29 January 2019 at which its Chairman, Professor William Leung Wing-cheung, SBS, JP, and Chief Executive Officer, Ms Ruby Hon Yuen-ping, reviewed the EAA's work in 2018 and introduced its initiatives for 2019.

Prof. Leung pointed out that the EAA received a total of 306 complaints in 2018, a decrease of 28% compared to 2017. The common complaint categories included mishandling the provisional agreement for sale and purchase (or provisional tenancy agreement), providing inaccurate or misleading property information, failing to enter into an estate agency agreement with clients or to explain the agreement to clients, and failing to honour the promise of offering rebate.

Stepping into 2019, the EAA will spare no effort in enhancing the image of the trade and its corporate social responsibility. In addition, the EAA will launch a new pilot scheme of computerised qualifying examinations for salespersons in the second half of 2019 and details will be announced in due course.

For more details of the press conference, please read the related press release at the EAA's website.



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 年的工作及簡介 2019 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 2018 and introduce its initiatives for 2019 at the press conference.

香港永久性居民的定義影響買方所繳納之印花稅

Definition of Hong Kong Permanent Resident which affects purchaser's payment of stamp duty

監管局獲運輸及房屋局通知，政府希望提醒持牌人要留意香港永久性居民在法例下的定義是指該人持有香港永久性居民身份證的重要性，因有可能影響其買方客戶所繳納的相關印花稅金額。

政府曾接獲一些成功申請「優秀人才入境計劃」人士的查詢或投訴，指曾在香港購買物業時遇到不愉快經歷。

以近期一宗針對印花稅署署長拒絕批予上訴人為其新購入的物業所繳納之印花稅退款的上訴案件為例，政府指出物業買方須明白香港永久性居民的定義並非指一個身份或核實的過程。

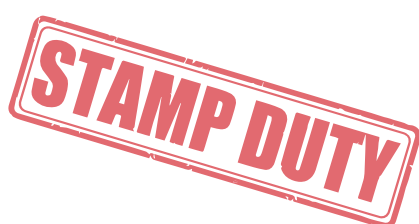
為此，監管局希望提醒持牌人，不應輕率就準買方客戶是否香港永久性居民作出建議，而應在客戶訂立任何臨時買賣合約前，建議他們就有關繳納印花稅的責任諮詢法律意見（如需要的話）。

The EAA was notified by the Transport and Housing Bureau that the Government would like to alert licensees to the importance of the statutory definition of “Hong Kong permanent resident” (“HKPR”) that it refers to someone who holds a Hong Kong permanent identity card, as this might affect the amount of related stamp duty to be paid by their purchaser clients.

The Government has received enquiries/complaints from some successful applicants under the “Quality Migrant Admissions Scheme” who encountered unpleasant experiences in the purchase of property in Hong Kong.

By referring to a recent appeal case against the Collector of Stamp Revenue for the refusal to grant an ad valorem stamp duty refund on the appellant's newly purchased property, the Government pointed out the importance of understanding the definition of HKPR by property purchasers that HKPR does not refer to a status or a process of verification.

On this, the EAA would like to remind licensees that they should not hastily advise their prospective purchaser clients on whether they are HKPR and should, before their clients enter into any provisional agreement for sale and purchase, advise them to seek legal advice on their liability for payment of stamp duty, if necessary.



英國皇家稅務及海關總署發出的指南

Guidance note issued by Her Majesty's Revenue & Customs

英國皇家稅務及海關總署就非英國居民在購買英國住宅房地產時有可能被徵收的主要稅種向香港地產代理發出一份指南。監管局建議參與銷售英國住宅房地產之持牌人閱讀該指南，並告知其客戶該指南中提及的繳稅義務。**該指南並非要求香港地產代理向其客戶提供稅務諮詢。**請瀏覽本局網頁（進入「持牌人」>「最新消息及提醒」>「04/03/2019」）詳細閱讀該指南。持牌人亦可告知客戶瀏覽英國皇家稅務及海關總署的網站 (www.gov.uk/government/organisations/hm-revenue-customs) 以獲得最新消息及資訊。上述資訊由英國皇家稅務及海關總署提供，持牌人可聯絡該署 (HMRCOffice.HongKong@fco.gov.uk) 查詢。

Her Majesty's Revenue & Customs ("HMRC") issued a guidance note for the estate agents in Hong Kong about the main taxes which may be levied on non-residents investing in UK residential property. Licensees participating in the sale of UK residential properties are advised to read the note and notify their clients of their tax obligations described in the note. **The note is not intended to place any obligation upon estate agents in Hong Kong to provide tax advice to their clients.** Please visit the EAA's website: "Licensees" > "News and Reminders" > "04/03/2019" to read the notice in detail. Licensees may also notify their clients to visit the website of HMRC (www.gov.uk/government/organisations/hm-revenue-customs) for any updates and information. The above information is provided by the HMRC and licensees may contact HMRC (HMRCOffice.HongKong@fco.gov.uk) for any queries.

土地註冊處推出「物業把關易」

Property Alert Service launched by the Land Registry

監管局接獲土地註冊處通知，該處最近優化其為業主而設的電子提示服務，並重新命名為「物業把關易」（該服務）。

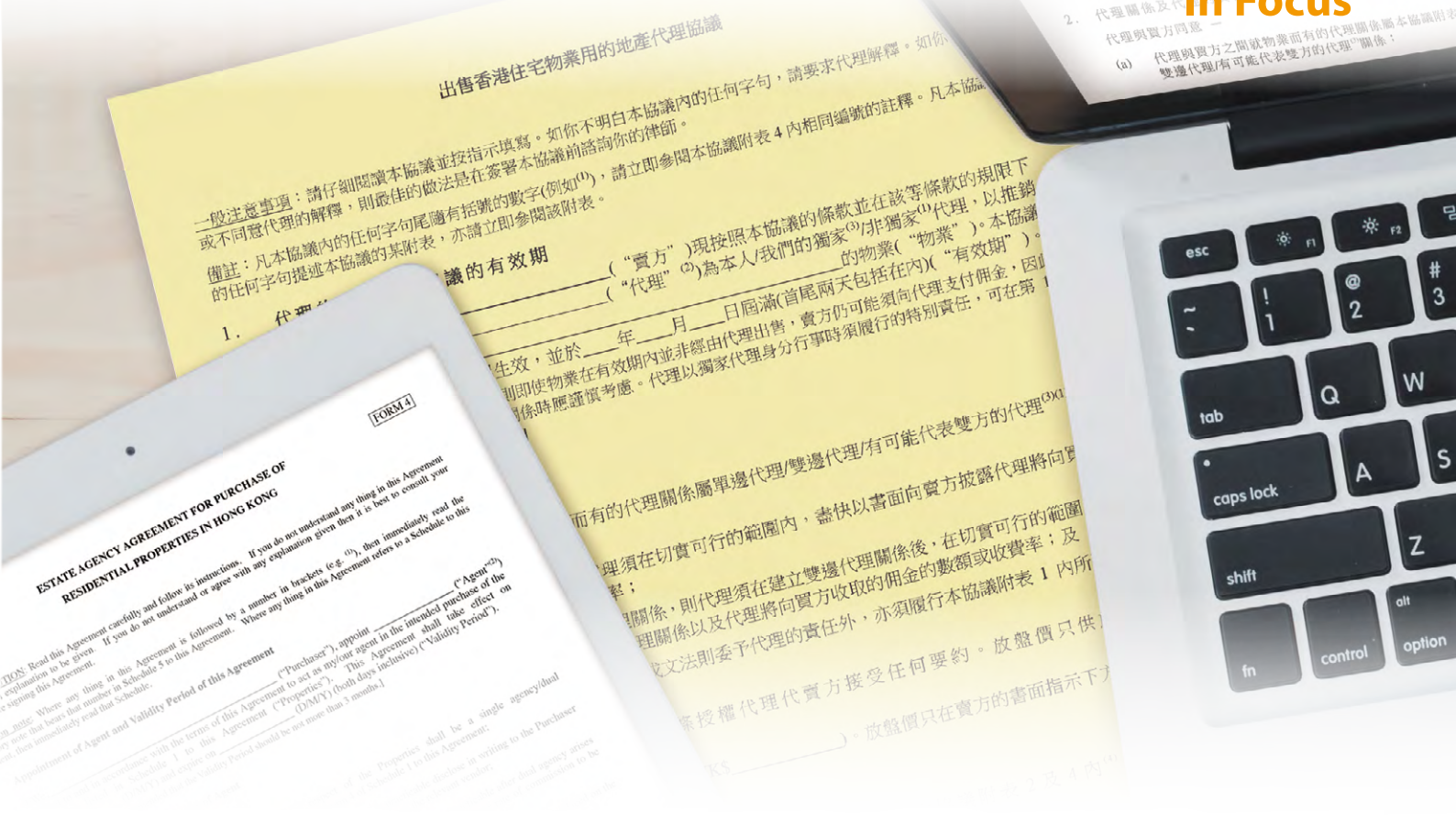
該服務為香港物業業主提供了一種簡易的方法，讓他們可對其物業的狀況保持警覺。該服務有助業主及早發現任何交付土地註冊處在其物業上註冊的預期以外或可疑的文書，繼而迅速採取跟進行動及／或諮詢他們的律師。

土地註冊處建議持牌人向業主客戶介紹該服務，尤其是長期在香港以外地方逗留的業主。有關詳情，可瀏覽土地註冊處網站 (www.landreg.gov.hk) 致電其客戶服務熱線3105 0000。

The EAA was notified by the Land Registry that the e-Alert Service for property owners had been recently renamed as "Property Alert" (the Service) with service enhancements introduced.

The Service provides the owners of Hong Kong properties with an easy way to remain vigilant of their properties. It helps property owners detect unexpected or suspicious instruments delivered for registration against their properties early to enable them to take prompt follow-up actions and/or consult their lawyers.

The Land Registry suggested licensees introduce the Service to their property owner clients especially those staying outside Hong Kong for extended periods of time. For details, please visit the website of the Land Registry (www.landreg.gov.hk) or call their Customer Service Hotline at 3105 0000.



以電子方式簽立 地產代理協議要留神

Be careful when entering into an estate agency agreement by electronic means

監管局一向關注市場最新動向，最近留意到市面上推出了一些網上平台及智能電話應用程式，聲稱可協助地產代理以電子方式與客戶簽立地產代理協議。對不少人而言，這看來既可減少用紙又方便；然而，監管局提醒持牌人，以電子方式簽立地產代理協議時不可掉以輕心，以免違反法例或規例。

The EAA always keeps an eye on the latest market trends and noticed that some online platforms and mobile apps recently launched in the market claimed to help estate agents and clients enter into estate agency agreements by electronic means. Whilst using less paper and being more convenient sounds good to many of us, the EAA would like to remind licensees to be very careful when using electronic means to enter into estate agency agreements to avoid breaching any laws and regulations.

不應貪快而忽略重要步驟

Not to skip important steps for the purpose of saving time

首先，持牌人應緊記，無論是以紙張形式還是電子方式與客戶簽立地產代理協議，都必須遵守《地產代理條例》及其附屬法例，特別是《地產代理常規（一般責任及香港住宅物業）規例》（簡稱《常規規例》）及監管局發出的相關指引。

根據《常規規例》，持牌人須向並非由律師代表的客戶解釋地產代理協議的條款及條件。即使持牌人以電子方式與客戶簽立地產代理協議時可能無法與客戶會面，他們仍須遵守相關的規定。

此外，持牌人不可將額外條款預印在訂明的地產代理協議內（不論是紙張還是電子形式），並須確保客戶可分辨由持牌人加入的資料與法律訂明的內容；任何額外條款必須先向客戶解釋清楚，並獲得客戶同意才可加上。

First of all, licensees should remember that whether they use paper format or electronic format to enter into an estate agency agreement with clients, they need to comply with the Estate Agents Ordinance, its subsidiary legislation, in particular the Estate Agents Practice (General Duties and Hong Kong Residential Properties) Regulation (“Practice Regulation”) and other relevant guidelines issued by the EAA.

According to the Practice Regulation, licensees should explain to their clients the terms and conditions of the estate agency agreement when their clients are not legally represented. Even though licensees and their clients may not be meeting face-to-face when they enter into the estate agency agreement by electronic means, licensees must bear in mind that they are still required to comply with the relevant requirement.

Moreover, licensees must not pre-print any extra terms on the prescribed estate agency agreement (whether in paper or electronic format) and they need to ensure that their clients are able to distinguish any additional information inserted by licensees in the agreement from the contents prescribed by the law. Any extra terms, in the agreement must also be clearly explained to and accepted by clients.

小心行事以保障雙方利益

Play safe to protect the interests of both parties

倘若持牌人以傳真或電郵形式向客戶傳送地產代理協議，以便客戶可列印該協議於紙張上，然後簽署並傳真或電郵該份已簽名的協議予持牌人，局方建議他們在隨後與客戶見面時（但無論如何在訂立物業買賣／租賃協議前），安排客戶在該協議的印刷版本上加簽，以確認其傳真或電郵版本上的簽署，這可避免客戶的簽署因以前述簽署形式傳送而產生其真確性的爭議。

If licensees transmit the estate agency agreement to their clients through fax or email so that the agreement may be printed on paper, signed physically by their clients and faxed or emailed back to the licensees first before they meet, licensees are advised to arrange for their clients to countersign on the hard copy of the agreement to endorse the scanned signature as soon as they meet and in any event, before any agreement for sale and purchase/lease of the property is entered into. This can help prevent disputes on the authenticity of the client's signature sent through the aforementioned means.

另外，持牌人也要小心處理客戶的個人資料。持牌人以電子形式向客戶傳送協議或其他電子檔案前，應採取適當的保安措施（例如設定密碼或加密），以減低客戶個人資料外洩或被更改的風險。他們亦應採取預防措施，以保障所收集的個人資料免遭遺失、受未獲授權或意外的查閱、處理或刪除。同時，持牌人亦要留意，載有個人資料的文件／紀錄於使用後必須妥善處理。



Separately, licensees must also be vigilant when handling client's personal data. Licensees are advised to impose security measures (e.g. password protection or encryption) on the agreement and other electronic files before transmitting them to clients through electronic means to reduce the risk of alteration or leakage of data. They should also take precautionary measures to ensure that the personal data collected is protected against any loss, unauthorised or accidental access, processing or erasure. Licensees are also reminded to dispose of the documents/records containing personal data properly after use.



沒有百分百保證 No 100% guarantee

在閱讀此文章後，持牌人不難發現，對於以電子方式與客戶簽立地產代理協議是否妥當或安全這個問題，沒有一個簡單而直接的答案。就如傳統紙張形式一樣，倘若持牌人在處理地產代理協議時不夠小心，便有機會出現欠妥的情況。作為規管香港地產代理行業的法定機構，監管局是不會評論或認可任何由個別地產代理公司或商會推出的商業產品或服務。因此，持牌人及消費者均應注意，市面上並沒有任何所謂獲監管局批准、認可或接受的产品（包括電子服務）。

無可否認，電子商貿是各行各業的大勢所趨，監管局亦明白，電子應用能為持牌人及其客戶帶來便利。然而，物業交易所涉及的金額通常鉅大，值得持牌人與消費者花多些時間留意細節，以策萬全。

After reading this article, licensees should understand that there is no simple or straightforward answer as to whether it is proper or safe in using electronic means to enter into an estate agency agreement. Just like the traditional paper format, there is always a chance of mishandling an estate agency agreement if licensees are not careful enough. Being a statutory body tasked to regulate the estate agency practice in Hong Kong, the EAA will not comment on, or even endorse, any commercial product or service launched by individual estate agency companies or trade associations. Hence, both licensees and consumers should note that there is no such product (including electronic service) in the market which is so called approved, recognised or accepted by the EAA.

That said, as e-commerce is the major trend in various sectors of business, the EAA understands that the use of electronic applications will certainly provide licensees and their clients more convenience. However, licensees and consumers should bear in mind that since property transactions usually involve a large sum of money, it deserves spending more time on paying extra attention to the details to play safe.



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上訴審裁團（建築物）主席
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上訴委員會（房屋）主席（2019年4月1日起）
Chairman, Appeals Panel (Housing) (from 1 April 2019)
漁民特惠津貼上訴委員會（禁拖措施）主席
Chairman, Fishermen Claims Appeal Board (Trawl Ban)
獨立監察警方處理投訴委員會觀察員（2019年4月1日起）
Observer, Independent Police Complaints Council (from 1 April 2019)

監管局成員張呂寶兒太平紳士 Mrs Peggy Cheung Po-yee, JP Member of the EAA

本期《專業天地》專訪了監管局成員張呂寶兒太平紳士，分享她在監管局不同委員會的工作及對業界的看法。

In this issue of *Horizons*, we interview Mrs Peggy Cheung Po-yee, JP, member of the EAA, about her work on different committees of the EAA and her views on the trade.

問：自2016年你被委任為監管局成員之後，你對地產代理行業的看法有否轉變？

Q: After you were appointed as a member of the EAA in 2016, did you change your views towards the estate agency industry?

答：加入監管局之前，對行業和監管局的認識不深，但成為監管局成員之後，我對局方及地產代理行業的認識增加了不少，了解到它們的實際運作情況。最大的轉變是來自我出任紀律委員會成員的經驗，在進行紀律研訊的過程中，我看到從業員的問題所在，亦體會到他們也有其工作難處。而監管局的工作就是要提升行業的水平，堵塞執業問題的漏洞，令業界行事更為妥當。在監管局主席的領導之下，我見到監管局在不同範疇例如培訓或考試方面都下了不少功夫，務求令業界變得更加專業，從業員能夠對自己工作引以為傲。

A: Before joining the EAA, I did not know much about the industry and the EAA. However, after becoming an EAA member, I have a deeper understanding of the EAA and the estate agency industry, and learned about their operation in practice. The biggest change came from my experience as a member of the Disciplinary Committee. In the course of conducting inquiry hearings, I saw the issues associated with practitioners and realised that they had their own difficulties in their work as well. The EAA's work is to raise the trade's standard and plug the loopholes in their practice to make the trade act more properly. Under the leadership of the Board Chairman, the EAA has put a lot of effort into different areas such as training and examinations, with a view to raising the trade's professionalism so that practitioners can be proud of their work.

問：你是紀律委員會和牌照委員會的成員。可否分享一下你覺得最難忘的個案，又或者你想和讀者分享的地方？

答：從我處理紀律研訊個案的經驗來說，我最想提醒業界的，就是不要因為心急想盡快完成交易，貪一時之快而忽略或跳過一些重要細節。否則，除了客戶可能有所損失之外，從業員本身也可能為自己製造了麻煩。舉例，在處理地產代理協議及物業買賣合約時，必須要小心做足基本功夫，切勿有所遺漏，例如不要漏填空格（尤其是重要條文如物業成交價），或要緊記取得代客戶簽訂協議的人士的授權書等。而在整個處理交易的過程中，從業員宜就每一個步驟備有完整的記錄，當中包括所有文件、甚至是與客戶以手機短訊對話的記錄，才能好好保障自己。凡事有根有據，便可大大減少日後發生爭拗的機會。即使假如個案最終來到紀律研訊，也能向我們提出相關證據。

問：你同時也是執業及考試委員會的成員。在監管局最近發出的指引當中，有一些你認為最重要持牌人特別留意的？

答：我認為，跟循有關銷售一手住宅物業秩序的指引，對業界來說十分重要。買新樓本是一件開心的事，從業員不應在銷售處作出任何滋擾行為，尤其是在公眾地方推擁搶客甚至打架，會大大打擊業界的形象。其實，監管局的其他指引，例如有關發出物業廣告的指引，同樣都是希望業界能秉持專業，不應看待自己只是一般的銷售員，而應是擁有很多知識的專業地產代理。我希望勉勵一下從業員，記着要首先尊重自己的工作，才可以贏取別人的尊重。

Q: You are a member of both the Disciplinary Committee and Licensing Committee. Could you share with our readers a case which you found unforgettable?

A: Through my experience in conducting inquiry hearings, I would like to remind the trade that it is of utmost importance not to ignore or skip important details for rushing to close a deal. Otherwise, not only their clients may suffer a loss, they may also generate troubles for themselves. For instance, practitioners must be careful and thorough in doing their ground work when handling estate agency agreements and sale and purchase agreements for property transactions, such as not to leave out any blanks (especially important terms like the transaction price of a property), and remember to obtain the power of attorney from those who sign the agreement on behalf of their principals. During the whole process of handling transactions, practitioners should keep a complete record of the communication in each step to better protect themselves, including keeping all documentations and even mobile text messages exchanged between themselves and their clients. This can greatly reduce the possibility of disputes in the future, and if a case comes to an inquiry hearing, the relevant evidence can be presented to the panel members.

Q: You are also a member of the Practice and Examination Committee. Amongst the latest guidelines issued by the EAA, which one should our licensees pay most attention to?

A: I think it is very important for the trade to comply with the guidelines on the order of the sale of first-hand residential properties. Buying a new home is per se a happy experience. Practitioners should not create any nuisance at the sale sites, in particular, pushing or even fighting in public places will greatly tarnish the image of the trade. As a matter of fact, other guidelines issued by the EAA, such as the one about issuing property advertisements, share the same goal of steering the trade towards professionalism. Practitioners should not see themselves as ordinary salespersons but as knowledgeable and professional estate agents. They are advised to respect their own work before they can win the respect of others.

誠信與你

Integrity in Focus

紀律研訊個案 Disciplinary hearing case

香港境外未建成物業的違規廣告

Non-compliant advertisement of uncompleted properties situated outside Hong Kong

引言

持牌人就香港境外未建成物業發出廣告時，須遵守監管局發出的相關指引，否則有可能被監管局紀律處分。

Introduction

Licensees are required to comply with the relevant guidelines issued by the EAA when issuing advertisements for uncompleted properties situated outside Hong Kong. Otherwise, they may be subject to disciplinary action by the EAA.

事件經過

監管局職員在進行報刊廣告巡查時，發現一則由持牌地產代理公司發出、關於英國一個未建成物業發展項目的廣告。該廣告沒有符合執業通告（編號 17-03(CR)）的其中兩項要求，清楚述明發展許可證或批文編號、發出以上文件的有關當局的名稱；以及買方是否將取得土地權益、建於該土地上的樓宇權益及/或使用和佔用樓宇內的物業的權利。

該持牌地產代理公司承認，因在發出該廣告時疏忽及未有仔細閱讀有關執業通告而違規，表示往後會遵守相關指引。

Incident

During an inspection on printed advertisements, the EAA staff discovered that an advertisement of an uncompleted property development in the United Kingdom issued by a licensed estate agency company did not comply with the requirements under the practice circular (No. 17-03(CR)). It did not state clearly the development permit or approval numbers, name of the relevant authority which issued such documents, and whether or not purchasers are acquiring an interest in the land, the building to be erected, and/or a right to use and occupy the properties in the building.

The licensed estate agency company admitted their negligence and that they did not read the related practice circular carefully. They said that they would comply with the relevant guidelines in the future.

研訊結果

監管局紀律委員會認為，該地產代理公司在發出物業廣告時沒有遵守執業通告（編號 17-03(CR)）的指引，因而違反監管局制訂的《操守守則》第 3.2.1 段：「地產代理和營業員應熟悉並必須在執業時遵守《地產代理條例》、其附屬法例、本操守守則，以及由監管局不時發布的所有其他指引。」

Result

The EAA Disciplinary Committee found that the estate agency company failed to comply with the guidelines of practice circular (No. 17-03(CR)). Hence, it was in breach of paragraph 3.2.1 of the *Code of Ethics* issued by the EAA, which stipulates: "Estate agents and salespersons should be fully conversant with the Estate Agents Ordinance, its subsidiary legislation, this Code of Ethics, and other guidelines issued by the EAA."

考慮到個案性質及該地產代理公司的違規紀錄，紀律委員會決定譴責該地產代理公司及罰款 3,000 元。

Having considered the nature and gravity of the case and the disciplinary record of the estate agency company, the Committee decided to reprimand the estate agency company and imposed a fine of \$3,000 on it.



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業界意見 Comment from trade

各處鄉村各處例，地產代理在處理境外物業銷售時要份外小心，並應採取一切合理步驟了解樓盤資料，對客戶的財務安排作出妥善提醒，要留意有沒有涉及證券及期貨條例下的集體投資計劃，並應取得相關盡職審查報告及諮詢當地執業律師的意見。

Since regulatory regimes of other locations are different from Hong Kong, estate agents should take extra caution when handling the sales of properties situated outside Hong Kong. They should take all reasonable steps to study the information of the developments and remind their clients of their financial arrangement appropriately. They should also be careful whether any Collective Investment Scheme under the Securities and Futures Ordinance is involved, obtain a due diligence report, and legal opinion by a lawyer practising in the place where the property is located.

紀律研訊個案 Disciplinary hearing case

處理不可出租的牌照屋

Handling licensed squatter structures which cannot be leased

引言

持牌人在處理位於鄉郊土地的物業交易時，必須小心查證有關物業的業權及是否可供轉讓或出租，否則有可能令客戶蒙受損失，因而被監管局紀律處分。

Introduction

When handling property transactions on rural land, licensees should verify the ownership of the property carefully and check whether it is allowed to be resold or leased. Otherwise, their clients may suffer loss and they may be subject to disciplinary action by the EAA.

事件經過

一名地產代理在處理一棟位於新界鄉郊的搭建物的租賃事宜中代表租客行事。她安排一名自稱為該搭建物的業主與租客簽訂臨時租約及正式租約，並向租客聲稱搭建物位處私人土地上。事實上，該搭建物屬於不能出租予他人的政府牌照屋，而那位

Incident

An estate agent acted for a tenant in renting a squatter structure located on rural land in the New Territories. She arranged for a man who claimed to be the landlord of the structure to enter into the provisional and formal tenancy agreements with the tenant. She informed the tenant that the structure was located on private land. In fact it was a Government licensed structure which cannot be leased

誠信與你

Integrity in Focus

自稱為該物業的業主的人，只是物業所位處政府土地的牌照持牌人。租客其後接獲寮屋管制組的人員通知，指該搭建物位處於政府土地上，並不可以出租，租客遂向監管局作出投訴。

and the man who claimed to be the landlord was only the licensee of the land. Later, the tenant was informed by officials of the Squatter Control and Clearance Office that the structure was located on Government land and could not be leased. The tenant then lodged a complaint with the EAA.

研訊結果

監管局紀律委員會認為，該名地產代理沒有事先核實該搭建物的業權，也沒有確保該物業是一個可以被租用作住宅用途的物業，便安排其客戶簽訂租約，違反了《操守守則》第 3.4.1 段，即「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、按照地產代理協議執行客戶的指示，並對交易各方公平公正」。

考慮到個案的性質及該地產代理的違規紀錄，紀律委員會決定譴責該名地產代理，罰款 \$5,000、暫時吊銷其牌照 14 天及附加條件於其牌照上，要求她於 12 個月內取得持續專業進修計劃下有關「合規及有效管理」類別的講座或研討會共 12 個學分。

Result

The EAA Disciplinary Committee was of the view that the estate agent had failed to verify the ownership of the structure and whether the structure could be leased as a residential property before arranging for her client to enter into a tenancy agreement. Therefore, she was in breach of paragraph 3.4.1 of the *Code of Ethics*, which stipulates: "estate agents and salespersons, in engaging and accepting an appointment as an agent, should protect and promote the interests of their clients, carry out the instructions of their clients in accordance with the estate agency agreement and act in an impartial and just manner to all parties involved in the transaction."

Having considered the nature and gravity of the case and the disciplinary record of the estate agent, the Committee decided to reprimand the estate agent, impose a fine of \$5,000 and suspend her licence for 14 days. A condition was also attached to her licence requiring her to obtain 12 points of the "Compliance and Effective Management" courses/seminars under the Continuing Professional Development Scheme in 12 months.



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Ms Sze Ming-yu
Chairman of Hong Kong Real Estate Agencies General Association

業界意見 Comment from trade

牌照屋出租很有可能涉及非法利用官地，有關部門會作出適當的管制甚至乎清拆及檢控有關人士。作為地產代理應盡力向業主及有關署方確認物業資料，處理牌照屋的交易時如有疑問，應諮詢法律意見以保障各方權益。

Leasing of licensed squatter structures may involve unlawful occupation of Government land, relevant departments may take enforcement action and clearance exercise of the structures. Persons involved may also be prosecuted.

When handling the transaction of licensed squatter structures, estate agents should seek legal advice for any query in order to protect the interests of all parties.

持續專業進修計劃優越嘉許獎章 Premium CPD Attainment Symbols

在持續專業進修計劃下，監管局鼓勵持牌人參加不同的持續專業進修活動，例如講座、研討會、學術資格課程及網上遙距學習活動，以取得持續專業進修學分。於持續專業進修時段內達到學分要求的持牌人將獲頒發持續專業進修嘉許獎章。自 2013 年 10 月 1 日的持續專業進修時段開始計算，連續三個或五個持續專業進修時段達到學分要求的持牌人，將進一步分別獲頒發持續專業進修計劃優越嘉許銀章（「銀章」）或持續專業進修計劃優越嘉許金章（「金章」）。

在 2018 年，首批獲「金章」的持牌人名單已誕生。共有 275 名持牌人於截至 2014、2015、2016、2017 及 2018 年 9 月 30 日止的持續專業進修時段，連續達到持續專業進修計劃的學分要求，並已獲頒發「金章」。同年，共有 98 名持牌人獲頒發「銀章」。

得獎者除獲頒發證書外，亦同時獲頒發「金章」或「銀章」襟針，以表揚其努力進修的成績。他們也可在其地產代理證及個人名片印上優越嘉許獎章，以表揚其努力不懈學習的成果。

監管局鼓勵終生學習和邀請持牌人積極參與持續專業進修計劃以增進其知識和技能，以提升其專業水平。

Under the Continuing Professional Development ("CPD") Scheme, licensees are encouraged to take part in a wide range of CPD activities such as attending seminars, lectures, award-bearing courses and web-based distance learning to earn CPD points. Licensees who achieved the CPD attainment target in a CPD period will be awarded the CPD Attainment Symbol. Since 1 October 2013, licensees who have achieved their CPD attainment targets for three or five consecutive CPD periods will also be awarded the Premium CPD Attainment Symbol – Silver ("Silver Symbol") or Premium CPD Attainment Symbol – Gold ("Gold Symbol") respectively.

In 2018, 275 licensees, being the first batch of the CPD activity participants who had achieved the CPD attainment target consecutively in the CPD periods ending 30 September 2014, 2015, 2016, 2017 and 2018, were awarded the Gold Symbol while another batch of 98 licensees were awarded the Silver Symbol in 2018.

Apart from presenting a certificate, a badge of the Gold or Silver Symbol was also granted to the CPD Premium Attainment Symbol awardees as recognition of their learning efforts. In addition, the awardees can print the Gold or Silver Symbol on their estate agent card and business card to signify their effort and persistence in continuous learning.

The EAA encourages life-long learning and invites licensees to actively participate in the CPD Scheme to keep their knowledge and skills up-to-date to ensure their professional standard is maintained.



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：地產代理公司在不同網站為同一物業發出廣告時，可否編配及使用不同的物業編號？

答：根據監管局發出的執業通告編號（18-02 (CR)），地產代理公司必須就每個為賣方／業主客戶發出廣告的物業編配一個獨有的識別編號（「物業編號」）。此外，地產代理公司必須在該廣告中清楚及可閱地述明物業編號及廣告日期。

物業編號的作用是為了讓消費者識別廣告中所涉及的物業，因此，就同一個物業而言，地產代理公司須確保在同一時間就某特定物業發出的廣告均只被編配一個相同的物業編號，不論該特定物業的廣告是否於相同或不同的渠道／平台上發出。

然而，由於物業編號是由地產代理公司自行編配，故即使是同一個物業，由不同地產代理公司發出的廣告中為該物業編配的物業編號亦可能不同。

Q: Could an estate agency company assign and use different property numbers when issuing advertisements for the same property on different websites?

A: According to the practice circular (No. 18-02(CR)) issued by the EAA, estate agency companies must assign a unique identification number ("Property Number") to each property which they will issue an advertisement(s) for their vendor/landlord client. Besides, they must state clearly and legibly the Property Number and the Advertisement Date on the advertisement.

The purpose of the Property Number is to enable the consumers to identify the property involved in the advertisement. Hence, as far as the same property is concerned, the estate agency company is required to ensure that only one property number is assigned for that particular property at any one time, irrespective of whether the advertisements of that particular property are issued on the same or different channels/platforms.

However, as property numbers are assigned by estate agency companies themselves, the Property Number in respect of the same property stated on advertisements issued by different estate agency companies could be different.

何謂「總樓盤監督」？ “C” for “Commander-in-Chief”



根據監管局發出的執業通告（編號 18-03(CR)），倘若地產代理公司調派員工前往一手樓盤銷售點，包括樓盤地盤、銷售辦事處及附近一帶（以下統稱為「一手樓盤銷售點」）進行有關一手樓盤銷售的任何推廣活動，該公司必須就每一樓盤（倘樓盤分期數銷售，則為該樓盤的每一期）委任一名總樓盤監督以監督和監察所有被調派往一手樓盤銷售點工作員工的秩序及行為。

總樓盤監督必須為地產代理（個人）牌照持有人。他必須持有地產代理（個人）牌照最少十年並已擔任管理職位最少五年；或為地產代理公司的獨資經營者／合夥人／董事，此外，他必須沒有在獲委任為總樓盤監督前的最後三年內被監管局紀律處分。

地產代理公司亦需在每個樓盤銷售開始前最少一天，向監管局提供被調派往一手樓盤銷售點的所有員工的名單；指揮系統圖表；及就員工調派及如何於一手樓盤銷售點藉總樓盤監督管理員工行為以維持良好秩序的內部政策。

持牌人應留意，如地產代理公司在參與一手住宅樓盤的銷售時並沒有調派員工前往該樓盤的銷售點進行任何推廣活動，它則不須為推廣該樓盤委任總樓盤監督。

According to the practice circular (No.18-03(CR)) issued by the EAA, if an estate agency company deploys staff to locations relating to the sale of first-hand units in a residential development, including the sales site of the development, and the sales office and its vicinity (hereinafter collectively referred to as "first-sale sites") for any promotional activities in respect of the sale of first-hand residential properties, then it must, for each development, and where the development is to be sold in phases, for each phase of the development, appoint a Commander-in-Chief ("CIC") to monitor and oversee the overall order and conduct of all staff deployed to the first-sale sites.

A CIC must be a holder of an estate agent's licence (individual). He must either has been a holder of an estate agent's licence (individual) for a period of at least 10 years and has been working in a managerial role for at least five years immediately prior to his appointment as the CIC for the development; OR is a sole-proprietor/partner/director of the estate agency company. Furthermore, he must not have been subject to any disciplinary action by the EAA within the last three years prior to his appointment as CIC.

Estate agency companies must also provide to the EAA, at least one day before the launch of each development for sale, a list of all staff to be deployed to the first-sale sites; a chain of command chart; and an internal policy on staff deployment and how to manage staff's conduct for maintaining good order at the first-sale sites through the CIC.

Licensees should note that estate agency companies are not required to appoint a CIC for a development if they do not deploy staff to the first-sale sites for any promotional activities when participating in the sale of the first-hand residential properties in that development.

活動紀要

Events and Activities

2019-01-08 & 2019-01-23

監管局分別與香港地產代理商總會及香港房地產代理業聯會新一屆執行委員會成員舉行會議，討論關於業界執業問題及交換意見。

The EAA held liaison meetings with the Hong Kong Real Estate Agencies General Association and the members of the new Executive Committee of the Hong Kong Property Agencies Association respectively. Issues of trade practices were discussed and views were exchanged at the meetings.



活動紀要 Events and Activities

2019-02-01

監管局主席梁永祥教授（右）出席新城財經台節目接受主持人香樹輝先生（左）訪問，回顧局方 2018 年的工作。

EAA Chairman Professor William Leung Wing-cheung (right) attends Metro Finance Radio programme hosted by Mr Heung Shu-fai (left), reviewing the EAA's work in 2018.



2019-02-13

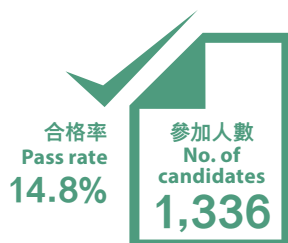
監管局舉行傳媒春茗，主席梁永祥教授（中）、行政總裁韓婉萍女士（右二）、執行及專業發展總監方安妮女士（左一）、規管及法律總監梁德麗女士（左二）及服務總監王頌恩先生（右一）向傳媒朋友拜年。

The EAA holds a luncheon to celebrate Chinese New Year with journalists. Chairman Professor William Leung Wing-cheung (middle), Chief Executive Officer Ms Ruby Hon (second from right), Director of Operations and Professional Development Ms Annie Fonda (first from left), Director of Regulatory Affairs and General Counsel Ms Juliet Leung (second from left) and Director of Services Mr Ivan Wong (first from right) wish the press a happy New Year of the Pig.

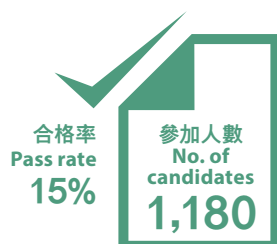


統計數字 Statistics

考試 EXAMINATIONS



地產代理資格考試
ESTATE AGENTS
QUALIFYING
EXAMINATION
考試日期
Examination date
19/11/2018



營業員資格考試
SALESPERSONS
QUALIFYING
EXAMINATION
考試日期
Examination date
6/12/2018

牌照數目 (截至2019年2月28日) (AS AT 28/2/2019) NUMBER OF LICENCES



營業員牌照
Salesperson's Licence
21,643



地產代理(個人)牌照
Estate Agent's Licence (Individual)
18,284



個人牌照總和
Total no. of individual licences
39,927



地產代理(公司)牌照
Estate Agent's Licence (Company)
3,796

營業詳情說明書 (截至2019年2月28日) NUMBER OF STATEMENTS OF PARTICULARS OF BUSINESS (AS AT 28/2/2019)

合夥經營
Partnerships

196



獨資經營
Sole proprietorships

1,596



總數 Total
7,073

有限公司
Limited companies

5,281



開立的投訴 (2019年1月至2月) NUMBER OF COMPLAINT CASES OPENED (January to February 2019)

42

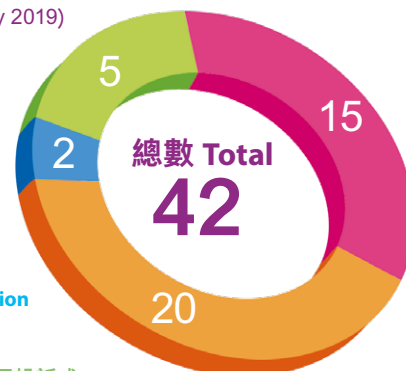
已處理的投訴個案結果* (2019年1月至2月) RESULTS OF COMPLETED COMPLAINT CASES* (January to February 2019)

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 (2019 年1月至2月)

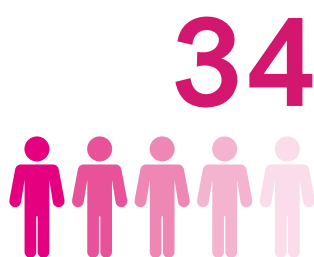
NUMBER OF COMPLIANCE INSPECTIONS
(January to February 2019)



向持牌人或前持牌人採取的行動*

(2019 年1月至2月)
ACTIONS TAKEN AGAINST LICENSEES
OR EX-LICENSEES*
(January to February 2019)

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 (2019 年1月至2月)

NUMBER OF CASES ARISING FROM
SELF-INITIATED INVESTIGATIONS DURING
INSPECTIONS (January to February 2019)

5

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

18

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

22

罰款
Fine

15

於牌照附加 / 更改條件

Attachment/ alteration of conditions to licence

22

暫時吊銷牌照

Suspension

3

撤銷牌照

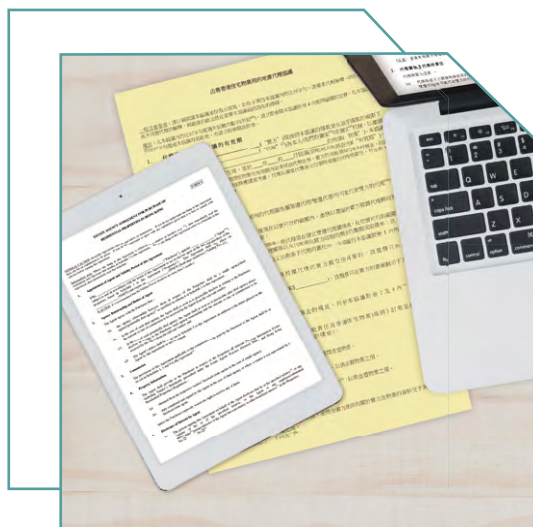
Revocation

5[#]

* 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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