

在《專業天地》內，我們會解答持牌人的一些常見提問。

In *Horizons*, we will answer questions commonly asked by licensees.

**問** 業主與租客之間出現糾紛，希望提前取消租約，並要求我聯絡租客處理。作為代表業主的持牌地產代理，是否有責任處理一些後續的工作，例如協助業主解除租約或處理雙方之間的租務糾紛？

**答** 根據《地產代理條例》（「《條例》」），持牌地產代理受客戶委託處理住宅物業的租賃時，須與其客人簽立訂明的「地產代理協議」。「出租香港住宅物業用的地產代理協議」（「表格5」）內清楚列明地產代理對業主的責任，包括為業主安排租客視察物業；進行商議，並向業主提交所有有關於物業的要約；及協助業主與租客訂立具約束力的租契。

當地產代理安排有關物業訂立具約束力的租賃協議後，其他向業主客戶提供的服務如代業主收租、在租約完結時代業主收樓，或其他租務管理事宜，一般而言並不屬於《條例》下的「地產代理工作」。有關業主與租客的糾紛事宜，並不在監管局的規管範圍之內。持牌人可建議有關客戶另行徵詢法律意見或向負責執行《業主與租客（綜合）條例》的差餉物業估價署尋求協助。

**Q** A landlord is having disputes with his tenant and would like me to contact the tenant to cancel the tenancy agreement earlier than agreed. Being a licensed estate agent acting for the landlord, do I have the responsibility to handle these duties, such as assisting the landlord to cancel the tenancy agreement or handling the disputes between both parties?

**A** According to the Estate Agents Ordinance (“EAO”), licensed estate agents are required to sign the prescribed estate agency agreement with their client when dealing with the leasing of residential properties in Hong Kong. The Estate Agency Agreement for Leasing of Residential Properties in Hong Kong (Form 5) has clearly set out the duties of agent towards the landlord, which includes arranging for tenants to inspect the property; conduct negotiation and submit all offers in relation to the property to the landlord; and assist the landlord in entering into a binding lease with a tenant.

After arranging the enter into of a binding tenancy agreement, other services provided by the estate agent for his landlord client, such as receiving rental for the landlord, taking possession of the property for the landlord after the tenancy expires, or other tenancy management issues, are generally not “estate agency work” under the EAO. Matters regarding disputes between the landlord and his/her tenant are outside the EAA’s purview. Licensees should advise clients to seek legal advice or contact the Tenancy Services Section of the Rating and Valuation Department, which is responsible for implementing the Landlord and Tenant Ordinance, for assistance.

