



地產代理良好處理 劏房租賃約章

Charter on Good Practices of
Estate Agents in Handling
Subdivided Unit Tenancy

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韓婉萍
行政總裁

Ruby HON Yuen-ping
Chief Executive Officer

“

我們仍希望地產代理業界能繼續保持良好作業，而監管局亦會繼續協助業界提升專業。

We hope that the estate agency trade will uphold its good practice and the EAA will continue to assist the trade to enhance its professionalism.

”

回顧2023年上半年

Reviewing the first half of 2023

時光飛逝，轉眼間2023年已經過了四分之三。早前監管局向傳媒回顧了2023年上半年的工作概況，並簡介下半年的工作重點，筆者希望在此也和各位持牌人分享當中一些主要數字和重點。

監管局於2023年上半年共開立71宗投訴個案，較去年同期大幅減少33%，當中有7宗涉及一手住宅物業。整體投訴中最常見的性質類別包括：「發出違規廣告」、「不妥善地處理臨時買賣合約（或臨時租約）」及「提供不準確或具誤導性的物業資料」。另外，有關香港境外物業的投訴則僅有1宗，較去年同期的11宗大幅減少。

鑑於疫情已逐漸緩和，監管局的實體巡查工作得以回復正常，2023年上半年合共巡查一手樓盤銷售點486次，另巡查地產代理商舖465次，分別比去年同期增加28%及106%。同時，局方亦繼續加強網上巡查，今年上半年共抽查網上物業廣告936次，比去年同期增加40%。

雖然投訴數字大幅減少，監管局會繼續加強巡查網上物業廣告，採用先進的電腦系統監察分析，以提升局方的工作效率。在巡查之餘，局方亦會繼續為業界提供外展教育的工作。

我們明白，雖然2023年新冠疫情緩和，但物業市場仍然相對較為淡靜，樓市交投仍未回復疫情前的狀況，地產代理的經營環境自然也受影響。儘管如此，我們仍希望地產代理業界能繼續保持良好作業，而監管局亦會繼續協助業界提升專業。

Time flies as three quarters of the year 2023 have passed already. Earlier the EAA reviewed its work in the first half of 2023 and introduced its initiatives for the second half to the media. I would like to share some of the key figures and highlights with all licensees here.

In the first half of 2023, the EAA opened 71 complaint cases, a significant decrease of 33% compared to the same period of last year, seven of which involved first-hand residential properties. The most common categories of the overall complaints included "issuing non-compliant advertisements", "mishandling provisional agreements for sale and purchase (or provisional tenancy agreements)", and "providing inaccurate or misleading property information". On the other hand, there was only one case relating to a property situated outside Hong Kong, much less than the 11 cases in the same period of last year.

As the pandemic has gradually eased, the physical inspections conducted by the EAA have resumed to normal. In the first half of 2023, the EAA conducted 486 inspections at the sale-sites of first-hand residential properties and 465 inspections at estate agency shops, representing a year-on-year increase of 28% and 106% respectively. At the same time, the EAA continued to strengthen its online inspections by conducting 936 spot checks on online property advertisements in the first half of this year, 40% more than the same period of last year.

Although the number of complaints dropped significantly, the EAA will continue to strengthen inspections of online property advertisements by utilising advanced computer systems for monitoring and analysis to improve its operational efficiency. Besides inspections, the EAA will also continue to carry out outreach educational visits to the trade.

It is noted that despite the easing of the COVID-19 pandemic in 2023, the property market remained subdued and has not yet recovered to its pre-pandemic level. As such, the business environment for estate agents was inevitably affected. Notwithstanding, we hope that the estate agency trade will uphold its good practice and the EAA will continue to assist the trade to enhance its professionalism.

地產代理良好處理劏房租賃約章

Charter on Good Practices of Estate Agents in Handling Subdivided Unit Tenancy



房屋局副局長戴尚誠先生，JP（左六）；監管局主席蕭澤宇先生，BBS，JP（左七）；監管局行政總裁韓婉萍女士（左五）以及簽署《約章》的地產代理商舖代表出席簽署儀式。

The Under Secretary for Housing, Mr Victor TAI Sheung-shing, JP (sixth from left), the EAA Chairman Mr Simon SIU Chak-yu, BBS, JP (seventh from left) and the Chief Executive Officer of the EAA Ms Ruby HON (fifth from left) with the representatives of the participating estate agency shops at the signing ceremony of the Charter.

地產代理監管局（「監管局」）深信以良好作業模式處理劏房租賃，能保障租賃雙方的利益，並符合地產代理的專業操守和水平。有見及此，監管局協助地產代理業界推出《地產代理良好處理劏房租賃約章》（「《約章》」），並於2023年9月12日舉行簽署儀式。

《約章》簽署儀式由房屋局副局長戴尚誠先生，JP及監管局主席蕭澤宇先生，BBS，JP擔任主禮嘉賓。簽署《約章》的地產代理商舖來自五個地產代理商會，由各商會主席/副主席代表出席簽署儀式。

The Estate Agents Authority (“EAA”) firmly believes that good practices in handling the tenancies of subdivided units (“SDU”) can safeguard the interests of both the tenants and the landlords, which is also in line with the professional ethics and standards of estate agents. Hence, the EAA assisted the estate agency trade to roll out the Charter on Good Practice of Estate Agents in Handling Subdivided Unit Tenancy (“the Charter”). A signing ceremony of the Charter was held on 12 September 2023.

The signing ceremony was officiated by Mr Victor TAI Sheung-shing, JP, the Under Secretary for Housing, and Mr Simon SIU Chak-yu, BBS, JP, Chairman of the EAA. The participating estate agency shops come from five trade associations which were represented by their chairmen/vice chairmen of the associations at the signing ceremony.



房屋局副局長戴尚誠先生，JP 在《約章》簽署儀式上致辭。
Under Secretary for Housing, Mr Victor TAI Sheung-shing, JP, delivers a speech at the signing ceremony of the Charter.



監管局主席蕭澤宇先生，BBS，JP 在《約章》簽署儀式上致辭。
EAA Chairman Mr Simon SIU Chak-yu, BBS, JP, delivers a speech at the signing ceremony of the Charter.

兩個「不會」及六個「必會」

截至2023年9月12日，已有62間地產代理商舖簽署了《約章》。簽署《約章》的地產代理商舖承諾良好處理劏房租賃，做到兩個「不會」及六個「必會」。

Two "wont's" and six "wills"

A total of 62 estate agency shops have already signed the Charter as of 12 September 2023. Participating estate agency shops are committed to adhere to two "wont's" and six "wills" regarding the good practices of handling SDU tenancies.



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兩個「不會」：

- 一、 不會協助業主濫收公用設施及服務的費用
- 二、 不會協助業主違反租住權保障的要求

六個「必會」：

- 一、 必會向業主講解為劏房租賃協議打釐印的法律責任
- 二、 必會書面提醒業主7天內向租客提供租金收據及60天內遞交表格AR2
- 三、 必會向租客提供表格AR3
- 四、 必會採用政府或監管局建議的劏房租賃協議範本
- 五、 必會向租客清楚解釋劏房租賃協議的條款
- 六、 必會安排員工接受培訓

簽署《約章》的地產代理商舖名稱已在監管局網頁內的參與名單中顯示，而這些商舖可於櫥窗上張貼《約章》標誌及於店內展示相關宣傳物品。監管局鼓勵更多地產代理商舖簽署《約章》，向公眾展示良好處理劏房租賃的做法及專業的一面，以及對社會基層的關心。詳情請參閱監管局網頁 (www.eaa.org.hk/zh-hk/SDU-Charter)。

The two “won’ts”:

1. We **won’t** assist the landlord to overcharge for public utilities and services
2. We **won’t** assist the landlord to contravene the requirements for security of tenure

The six “wills”:

1. We **will** explain to the landlord the legal responsibility for stamping an SDU tenancy agreement
2. We **will** remind the landlord in writing to provide the tenant with rent receipts within seven days and submit Form AR2 within 60 days
3. We **will** provide Form AR3 to the tenant
4. We **will** adopt the SDU tenancy agreement template recommended by the Government or the EAA
5. We **will** explain the terms of the SDU tenancy agreement to the tenant clearly
6. We **will** arrange training for our employees

The names of the participating estate agency shops have been included in the online list on the EAA’s website and these shops can post the Charter logo sticker on their shop windows and display promotional collaterals inside their shops. The EAA encourages more estate agency shops to sign the Charter and demonstrate to the public their good practice in handling SDU tenancies and their professionalism, and show their care for the grassroots of the society. For more details, please visit the EAA’s website (www.eaa.org.hk/en-us/SDU-Charter).



簽署《約章》的地產代理商舖可於櫥窗上張貼《約章》標誌及於其營業地點展示相關宣傳物品。

The participating estate agency shops can post the Charter logo sticker on shop windows and display promotional collaterals inside the shops.



香港地產代理商總會代表出席簽署儀式。
The representatives of Hong Kong Real Estate Agencies General Association at the signing ceremony of the Charter.



香港房地產代理業聯會代表出席簽署儀式。
The representatives of Hong Kong Property Agencies Association at the signing ceremony of the Charter.



地產代理（從業員）總工會代表出席簽署儀式。
The representatives of Estate Agent Association at the signing ceremony of the Charter.



香港新界地產代理商聯會代表出席簽署儀式。
The representatives of H.K.N.T. Estate Agents & Merchants Association at the signing ceremony of the Charter.



地產代理人員協會代表出席簽署儀式。
The representative of Property Agents Association at the signing ceremony of the Charter.

解決滲水問題

Resolving Water Seepage Problems

屋宇署希望透過監管局提醒持牌人有關滲水問題。屋宇署指出，業主及住戶均有責任妥善管理和保養樓宇，包括解決滲水問題。如物業出現滲水，業主一般應先自行查明滲水原因，並按需要與其他業主/有關住戶協調。

在二手物業交易方面，準買方應親自了解物業實況，特別留意單位是否有水漬或滲水情況，並詢問賣方曾於何時更換或維修水管、排水渠等設施。如有需要，亦應在購買前委聘專業人士檢驗和評估物業狀況，並查詢有關大廈在短期內會否有維修保養的計劃或需要，例如修葺外牆。

此外，經賣方同意後，可詢問管理處有關物業的過往資料，如擬購單位有否受滲水妨擾影響或對下層單位構成滲水妨擾，而源頭是否已確定或仍在調查中。準買方應明白解決滲水問題耗時費力，故應另行估算所需的維修費用，並與賣方協議費用誰付。

持牌人宜協助準買方在交易前確定物業狀況，以免日後出現爭議，此舉亦可為代理服務增值。如欲了解如何解決滲水問題，包括徵詢專業及法律意見，或如何循調解、民事訴訟等其他途徑處理糾紛，請掃描二維碼瀏覽滲水事宜專題網頁。



Through the EAA, the Buildings Department (“BD”) would like to remind licensees of the issues regarding water seepage problems. BD advised that it is the responsibility of building owners and occupants to properly manage and maintain their buildings, including resolving water seepage problems. In general, if water seepage occurs, owners should first arrange their own investigation of the cause of seepage and co-ordinate with other owners/occupants concerned as necessary.

In relation to second-hand property transactions, a prospective purchaser is advised to visit the site of the property to learn about its actual environment. This includes paying particular attention to see if there is any water stain, or water leakages and to ask the vendor when facilities such as water pipes, drains, etc. were last replaced or repaired. If necessary, the purchaser should ask professionals to inspect and assess the property's condition before making any decision to buy, and to enquire whether the building has any plan or need for repairs and/or maintenance, such as repair of external walls, in the near future.

In addition to the above, it is advisable to approach the property management office, with the consent from the vendor, for obtaining useful information concerning the history of the property e.g. whether it is subject to nuisance from water seepage, or is causing nuisance to the premises below, and whether the source has been identified or being investigated. Prospective purchaser should be advised that such water seepage problems will take time and effort to resolve. If repair works are required, purchaser may separately ask for an estimate of the cost involved and negotiate with the vendor as to who will be responsible for these charges.

Ascertaining the condition of the property will prevent future dispute in a transaction, and add value to the estate agent's service. More information on how to resolve water seepage problems, including seeking professional and legal advice, as well as alternative dispute resolution approaches, such as mediation services or civil proceedings, to resolve the water seepage problem, are available at the Water Seepage Thematic website (please scan the QR code).



搜尋屋宇署發出的命令的遵從狀況

Searching for Compliance Status of Orders issued by the Buildings Department

持牌人在從事地產代理工作時，經常需要在土地註冊處查閱物業記錄，包括屋宇署有沒有就物業發出法定命令。監管局獲屋宇署通知，該署現於其網站推出新的搜尋服務，讓公眾可免費搜尋屋宇署所發出的命令的遵從狀況。第一階段的搜尋服務涵蓋屋宇署於2021年及之後根據《建築物條例》第24條、第26條、第26A條及第28條發出的命令的遵從狀況。

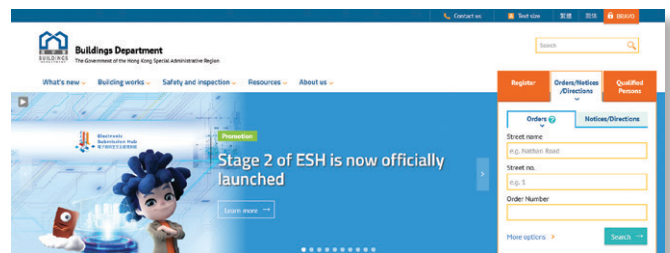
由於屋宇署會對未獲遵從命令的業主採取執法行動，該署建議持牌人提醒賣家其責任，應盡快跟進未獲遵從的命令，進行相關的清拆/糾正/修葺工程；並提醒準買家物業有未獲遵從的命令所引伸的後果。

持牌人可瀏覽屋宇署網頁（www.bd.gov.hk）了解更多相關資訊。

When practising estate agency work, it is very often for licensees to check against the records kept by the Land Registry, including whether the Buildings Department (“BD”) has issued an order in respect of the property concerned. The EAA was informed by BD that BD is making provision on its website free of charge to facilitate public searching of the compliance status of orders issued by BD. As the first stage, compliance status of orders issued under section 24, section 26, section 26A and section 28 of the Buildings Ordinance from 2021 onwards can be searched on the BD's website.

As BD will take enforcement action against owners of non-compliant orders, BD advises licensees to remind vendors that they have a responsibility of following up the outstanding orders and carrying out removal/rectification/repair works promptly; and remind prospective purchasers of the consequence arising from an outstanding order.

For any further information, please visit BD's website at www.bd.gov.hk



屋宇署網頁首頁提供搜尋器捷徑，方便公眾進行搜尋

A shortcut searching engine at BD's website front page to facilitate public to carry out the search

s.24 removal order (Total 2 search results)	
Order no.	C/TD/004425/20/K
	Completed
Address	10/F FLAT A & FLAT B COHFORT BUILDING 88 NATHAN RD
Issued date	25 May 2021
Order type	s.24 removal order
BD Reference No.	EB/4124/57/W015
Compliance Date	24 June 2022

s.24 removal order (Total 1 search results)	
Order no.	UDR00385/K/21/AEF/TC(SQJ121)
	Outstanding
Address	APARTMENT A ON 6TH FLOOR COHFORT BUILDING NOS.86, 88 & 88A NATHAN ROAD KOWLOON
Issued date	21 October 2022
Order type	s.24 removal order
BD Reference No.	EB/4124/57/W015(SQR-AEF)

已獲遵從及未獲遵從命令的搜尋結果例子

Examples of searching result of a complied order and an outstanding order



屋宇署網站 - 搜尋命令



BD's website – Orders Search

種族平等的物業租賃

Racial Equality in Tenancy

獲得適切居所是基本人權。但是，香港仍然有很多人面對住屋問題，其中少數族裔經常反映租賃住宅單位時遇到困難，尤以低收入群組為甚。

物業租賃的種族歧視是其中一個受《種族歧視條例》涵蓋的主要範疇。《種族歧視條例》禁止任何人（包括地產代理和業主）在處所的處置或管理方面基於種族歧視他人。

為此，平等機會委員會（「平機會」）分別在2021和2023年推出「稱心租客 無分種族」和「開明業主 無分種族」為主題的港鐵車廂和巴士車身宣傳廣告，引起社會關注物業租賃方面的種族歧視，向廣大市民特別是地產代理和業主傳遞種族平等共融的正面信息。

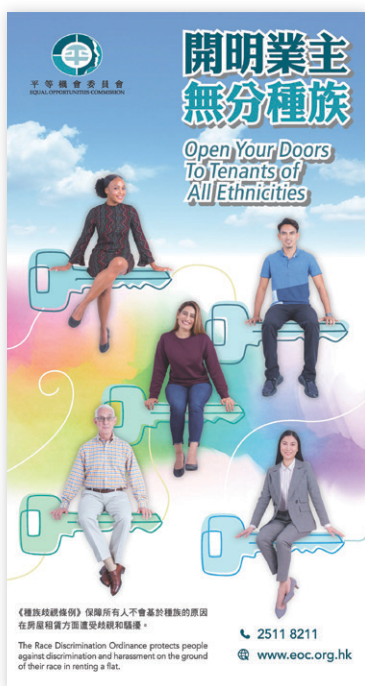
多年來，監管局與平機會一直保持緊密合作，安排地產代理接受培訓，確保他們在提供專業服務時不會做出歧視行為，並適當地提醒業主守法循規。監管局與平機會期望在各持份者共同努力下，香港繼續成為不同種族、膚色和族裔人士安居樂業之地。

Access to adequate housing is a fundamental human right. Yet in Hong Kong, many people are still struggling with housing problems. Among these are members of ethnic minority communities, particularly those from lower income groups, who often report difficulties in renting residential apartments.

Racial discrimination in tenancy is a major area covered by the Race Discrimination Ordinance. The Ordinance prohibits discrimination against a person on the grounds of race in the disposal or management of premises. Estate agents and landlords are bound by the Ordinance.

In this light, the Equal Opportunities Commission ("EOC") launched MTR and bus body advertising campaigns under the taglines "Good Tenants Come in All Colours" and "Open Your Doors to Tenants of All Ethnicities" in 2021 and 2023 respectively. The campaigns aimed to raise public awareness of racial discrimination in tenancy and to promote a positive message of inclusion and equality to the public, especially estate agents and landlords.

For years, the EAA and the EOC have been working closely to provide training to estate agents on preventing discrimination in the provision of professional services and to remind landlords about the need to comply with laws and regulations. The EAA and the EOC hope that with the concerted efforts of all stakeholders, Hong Kong will continue to be a welcoming place for people of all races, colours and ethnicities.



向合資格外來人才退還印花稅 Stamp Duty Refund for Eligible Incoming Talents

監管局已於2023年7月6日就《2023年印花稅（修訂）（第3號）條例》刊憲的事宜向各持牌人發出一封致持牌人函件。

監管局建議持牌人前往監管局網頁參閱有關函件（持牌人專區 > 致持牌人函件 > 06-07-2023）。更多有關向合資格外來人才退還印花稅的詳情，包括相關的常見問題和應用及計算方法，請瀏覽稅務局網頁（www.ird.gov.hk/chi/faq/index.htm#et）。

持牌人如就上述事宜有任何疑問，可向稅務局印花稅署查詢（電話：2594 3202，電郵地址 taxsdo@ird.gov.hk）。

The EAA issued a Letter to Licensees on 6 July 2023 regarding the Stamp Duty (Amendment) (No. 3) Ordinance 2023 that was published in the Gazette on 30 June 2023.

Licensees should read the Letter to Licensees at the EAA's website (Licensees Corner > Letter to Licensees > 06-07-2023). For more details on the stamp duty refund for eligible incoming talents including the related FAQs and illustrative examples, please visit the Inland Revenue Department website (www.ird.gov.hk/eng/faq/index.htm#et).

In case of any queries on the subject, licensees may contact the Stamp Office of the Inland Revenue Department at 2594 3202 or email to its designated email address: taxsdo@ird.gov.hk

有關劏房租賃的執業通告的新「問與答」 New Q&A on Practice Circular about Letting of Subdivided Units

有關政府推出針對分間單位（俗稱「劏房」）「規管租賃」的《業主與租客（綜合）條例》第IVA部，監管局已於2022年1月發出執業通告（編號22-01（CR））以提供指引讓持牌人遵從。

就該執業通告，監管局最近上載了一套更新的「問與答」，當中新增了第九題以解答持牌人就處理劏房租賃的常見問題。

監管局鼓勵持牌人瀏覽監管局網頁閱覽該份新的「問與答」（規管>執業通告）以了解詳情。

In relation to the government's implementation of "regulated tenancies" in respect of subdivided units ("SDU") under Part IVA of the Landlord and Tenant (Consolidation) Ordinance, the EAA issued a Practice Circular (No. 22-01 (CR)) in January 2022 to provide guidelines for licensees to follow.

Regarding this Practice Circular, the EAA has recently uploaded a new set of Questions and Answers for licensees' reference, which includes a new Question No. 9 to address the issue frequently encountered by licensees on handling tenancies of subdivided units.

Licensees are encouraged to read the new set of Questions and Answers at the EAA's website (Compliance > Practice circulars) for details.

舞動人生 自製長糧 Rock Your New Chapter

為了讓持牌人有更全面的退休金融策劃知識，以及對「HKMC退休3寶」有更深入的认识，監管局與香港按揭證券有限公司（按揭證券公司）於2023年9月4日合辦一個題為「舞動人生、自製長糧」的實體講座。

席間，「HKMC退休3寶」顧問梁芳文先生擔任講者，向持牌人深入介紹由按揭證券公司推出的「HKMC退休3寶」，包括安老按揭計劃（安老按揭）、保單逆按計劃（保單逆按）及香港年金計劃，能讓退休人士將資產轉化成為即時、穩定和終身的現金流，自製長糧。而當中的安老按揭及保單逆按，更可讓55歲或以上的人士利用他們在香港的住宅物業或壽險保單作為抵押品，輕鬆自製穩定收入，同時亦可申請一筆過貸款以滿足個人需要，享受精彩無憂的退休生活。

是次講座吸引了192位持牌人參加，反應熱烈。欲了解更多有關安老按揭及保單逆按詳情，請掃描下方的二維碼或致電「HKMC退休3寶」熱線 2536 0833。



To provide licensees with comprehensive knowledge of retirement and financial planning, and a more in-depth understanding of “HKMC Retire 3” products, the EAA and The Hong Kong Mortgage Corporation Limited (HKMC) jointly organised an on-site seminar - “Rock Your New Chapter” - on 4 September 2023.

During the seminar “HKMC Retire 3” consultant, Mr Foreman Fong-man Leung, the keynote speaker, provided a detailed introduction on “HKMC Retire 3” products offered by the HKMC, including the Reverse Mortgage Programme (RMP), the Policy Reverse Mortgage Programme (PRMP), and the HKMC Annuity Plan. These products enable retirees to create a self-made pension by turning their assets into immediate, stable and lifelong streams of income. In particular, RMP and PRMP enable people aged 55 or above to create their own steady income by using their residential properties in Hong Kong or life insurance policies as collaterals. They may also apply for lump-sum payouts to suit their personal needs, allowing them to enjoy a wonderful and worry-free retirement life.

The seminar attracted 192 licensees and was very well received. For more details on RMP and PRMP, please scan the QR code below or call the “HKMC Retire 3” hotline at 2536 0833.



緊記「三言兩與」 — 「與客同行」 Always be a “5A” agent – “A” for “Affinity”

監管局於2019年推出「5A」代理宣傳計劃，推廣專業地產代理應具備的「三言兩與」特質，提醒消費者委託具備該等特質的地產代理。自計劃推出以來，具代表性的「5A」代理廣受業界歡迎。

監管局會於《專業天地》中，提醒持牌人如何成為消費者尋求的「5A」代理。在今期的《專業天地》中，我們會談談「三言兩與」中的「與客同行」，亦即是英文「5A」代理中的第五個特質（Affinity）。

地產代理「與客同行」，不單止代表地產代理需要陪同客戶視察物業，亦泛指地產代理應向各式各樣的客戶提供同樣的優質服務，不應因客戶的性別、婚姻狀況、懷孕或傷殘、家庭崗位及種族而有所差別。

根據監管局發出的執業通告（編號09-07（CR）），地產代理不得基於種族而拒絕向準買家/租客提供地產代理服務，例如，他們不應因準買家/租客是某特定種族而拒絕安排他視察單位。

此外，地產代理也不應刊登帶有歧視內容的廣告，例如包含「特定種族的人士免問」的字眼；他們亦不應對任何準買家/租客作出較差待遇，例如向他們收取較高佣金、開價較高、或不向他們提供物業查冊等。

作為一個專業的「5A代理」，應時刻緊記「與客同行」的特質，對社會不同階層人士提供同樣專業的地產代理服務。這不但能令地產代理與社區有更緊密的關係，亦有助提升行業的公眾形象。



The EAA launched the publicity campaign of the “5A” agent in 2019 to promote the important “5A” qualities that a professional licensed estate agent should possess, and which consumers should focus on when appointing an estate agent. The iconic “5A” agent has gained popularity among the trade since then.

Here in *Horizons*, we will remind licensees how to become this “5A” agent whom every consumer will look for. In this issue, we will talk about the fifth “A-level” attribute – “Affinity”.

Estate Agents’ affinity with clients does not only mean that estate agents accompany their clients during property inspections, but it also means that they should provide the same quality service to all kinds of clients irrespective of their sex, marital status, pregnancy, disability, family status and race.

According to Practice Circular (No.09-07(CR)) issued by the EAA, estate agents should not refuse to provide estate agency services to any prospective purchasers/tenants on the grounds of race. For example, they should not refuse to arrange a visit to a flat for a prospective purchaser/tenant of a particular race.

In addition, they should not publish advertisements containing discriminatory statements, such as “not letting to persons of a particular race” and they should not discriminate against prospective purchasers or tenants of a different race by treating them less favourably, for example, asking them to pay a higher commission, quoting a higher price to them, or not providing them with a land search of a property on the grounds of their race etc.

A professional “5A agent” should always remember the quality of “Affinity” and provide professional estate agency services to persons from all walks of life equally. It will not only tighten the bond between estate agents and their communities but will also enhance the public’s image of the industry.



紀律研訊個案 Disciplinary hearing case

未能有效監管員工遵從規定 Failure to monitor employees' compliance effectively

引言

地產代理公司須設立妥善的程序及制度，以確保其員工或其轄下的人遵守《地產代理條例》及其附屬法例、《操守守則》、執業通告及由監管局不時發布的指引（「該等條例及指引」）。否則，有可能被監管局紀律處分。

Introduction

Estate agency companies should establish proper procedures and systems to ensure that their employees and persons under their control comply with the Estate Agents Ordinance and its subsidiary legislation, the Code of Ethics, practice circulars and guidelines from time to time issued by the EAA ("Ordinance and Guidelines"). Otherwise, they may be subject to disciplinary action by the EAA.

事件經過

一間地產代理公司在16個月內接連發生10宗涉及其12名員工在網上平台發布19個違規物業廣告的違規個案。監管局因此懷疑該公司沒有設立妥善的程序及制度，以確保其員工遵守該等條例及指引，於是展開調查。調查發現，該地產代理公司僅透過發出內部通告及提供培訓班的方式，提醒員工遵守物業廣告的規定。儘管該公司辯稱已有規定員工必須於發放網上廣告前向公司作出申請並取得管理層的有關批核，亦曾懲處涉及違規事件的員工，但該規定明顯沒有效用及懲處欠缺阻嚇性。此外，該公司涉及違規的員工來自不同的職級，由分行經理以至非持牌員工不等，反映該公司員工發布違規廣告的情況十分普遍，並非只是個別員工的違規事件。

Incident

An estate agency company was involved in 10 non-compliant cases where its 12 employees issued 19 online non-compliant advertisements within 16 months. Therefore, the EAA suspected that the company has not established proper procedures and systems to ensure its employees' compliance with the Ordinance and Guidelines, and initiated an investigation. During the investigation, the EAA found that the estate agency company only relied on internal notices and training courses to remind employees of the regulations regarding the issuance of property advertisements. Even though the company alleged that the sales employees are required to obtain approval from the managerial level staff before any online advertisement could be issued, and it also had previously sanctioned non-compliant employees; nevertheless, such requirement was ineffective and the sanctioning measures were not a deterrent. Furthermore, the non-compliant employees are at different levels in the company, ranging from branch managers to unlicensed trainees, indicating that the issuance of non-compliant advertisements was prevalent in the company and not merely isolated incidents of individual employees.

研訊結果

Result

監管局紀律委員會認為，該地產代理公司沒有設立妥善的監管制度及措施有效地遏止及預防其員工違規，導致違規事件持續發生。該公司違反了《地產代理常規（一般責任及香港住宅物業）規例》第15條，即：「持牌地產代理須設立妥善的程序或制度以監督和管理其地產代理工作的業務，以確保其僱員或其轄下的人遵守本條例的條文。」

考慮到該地產代理公司承認指稱、個案的性質及其違規紀錄，委員會決定譴責該公司及罰款80,000港元。

The EAA Disciplinary Committee was of the view that the estate agency company failed to implement an adequate monitoring system and measures to deter and prevent its employee's malpractice effectively, hence there were non-compliant cases occurring continuously. The company was in breach of Section 15 of the *Estate Agents Practice (General Duties and Hong Kong Residential Properties) Regulation*, which states that, "A licensed estate agent shall establish proper procedures or systems to supervise and manage his business of doing estate agency work to ensure that his employees or persons under his control comply with the provisions of the Ordinance."

Having considered the estate agency company's admission to the allegation, nature and gravity of the case, as well as the disciplinary record of the company, the disciplinary committee decided to reprimand the company and impose a fine of HK\$80,000.



汪敦敬博士 MH
香港專業地產顧問商會榮譽會長兼秘書長
Dr Lawrence WONG Dun-king, MH
Honorary President and Chief
Secretary of Hong Kong Chamber of
Professional Property Consultants

● 業界意見 Comment from trade

地產代理公司應設立完善的制度確保員工守規，透過不同的平台發放物業廣告前，管理層應有責任檢視，確保內容真確，如有員工證實違規亦應檢討工作流程，並訂立有效改善方案作出跟進，避免同類事件再發生。假如地產代理公司疏於管治，違規事件接連出現，會影響業界聲譽及消費者的信心。

Estate agency companies should establish a proper system to ensure compliance among all staff members. Prior to advertising a property, the management team of estate agency companies is responsible for verifying the accuracy of the information contained in the advertisement. In case of any malpractice by staff, the company should review the workflow and implement an improvement plan to prevent any recurrence of malpractice. Continuous non-compliances and failure to demonstrate proper governance of estate agency companies will significantly damage the trade's reputation and diminish the consumers' confidence in the trade.

紀律研訊個案 Disciplinary hearing case

以電話及載有粗言穢語的訊息滋擾準買家 Harassing prospective purchaser with phone calls and abusive messages

引言

Introduction

持牌人應時刻保持有禮及尊重他人，避免做出令地產代理行業信譽及/或名聲受損的行為，否則有可能被監管局紀律處分。

Licensees should always behave in a polite and respectful manner and must not bring discredit and/or disrepute to the estate agency trade in their practice. Otherwise, they may be subject to disciplinary action by the EAA.

事件經過

一名持牌營業員安排準買家參觀一個一手住宅物業樓盤，其後該名營業員多次致電準買家推銷該樓盤，並游說準買家購買該樓盤的物業。準買家向他明確表示，不會透過他購買物業，並表明不希望該營業員再次聯絡他。然而，該名營業員仍然以不同的電話號碼致電準買家，並向準買家發出載有粗言穢語的WhatsApp貼圖，該名準買家遂向監管局作出投訴。

Incident

A salesperson arranged for a prospective purchaser to visit a first-hand residential property development. After the visit, the salesperson persistently made phone calls to the prospective purchaser to promote the property of the development and persuade him to make a purchase. The prospective purchaser clearly stated that he would not purchase any property through the salesperson and requested him to stop contacting him. However, the salesperson continued to call him by using different phone numbers and even sent him a WhatsApp sticker containing words of abusive and foul language. Hence, the prospective purchaser lodged a complaint with the EAA.

研訊結果

監管局紀律委員會認為，雖然該營業員並沒有向準買家傳送載有粗言穢語的文字訊息，但他傳送的WhatsApp貼圖明顯載有粗言穢語及具有辱罵對方的意思。再者，該營業員以不同的電話號碼滋擾對方。因此，他違反了《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。」

考慮到該名營業員承認指稱、個案的性質及其違規紀錄，委員會決定譴責他，並暫時吊銷其牌照一個月。

Result

The EAA Disciplinary Committee pointed out that although the salesperson did not literally send messages with abusive and foul language to the prospective purchaser, the WhatsApp sticker he sent obviously contained offensive and vulgar wording. Furthermore, the salesperson had used different phone numbers to harass the prospective purchaser. Hence, the salesperson was in breach of paragraph 3.7.2 of the *Code of Ethics*, which states that “Estate agents and salespersons should avoid any practice which may bring discredit and/or disrepute to the estate agency trade”.

Having considered the salesperson's admission to the allegation, nature and gravity of the case, as well as the disciplinary record of the salesperson, the Disciplinary Committee decided to reprimand him and suspend his licence for one month.



郭昶先生
香港地產代理專業協會會長
Mr Anthony KWOK
President of the Society of
Hong Kong Real Estate Agents

● 業界意見 Comment from trade

地產代理應尊重客戶的意願，在推銷的過程中不要太進取，並且應注意言行，保持專業有禮，既然客戶已明確表示不希望代理繼續聯絡，代理便應停止推銷，不應滋擾客戶，更不應使用粗言穢語。這不但影響地產代理專業的形象，損害與客戶的關係，更加因違反守則而被處分，後果嚴重。

Estate agents should respect their clients and avoid being over-aggressive when promoting properties. They should be mindful of their conduct and behaviour and uphold a professional manner. If clients have expressly indicated they do not want to have any more contact, the estate agents should stop engaging in further promotional activities and should never harass clients by using abusive or foul language. Otherwise, it will not only tarnish the image of the estate agency trade and damage the relationship with clients, but could also result in serious sanctions.

反洗錢

為加深持牌人對反洗錢及反恐怖分子資金籌集（「反洗錢」）議題的認知，我們會在《專業天地》這個「反洗錢專區」為大家提供有關反洗錢的不同資訊及最新消息。

To enhance licensees' knowledge on the subject of anti-money laundering ("AML") and counter-terrorist financing ("CTF"), we will provide various information and updates about AML in the "AML Corner".



鑒於《2022年打擊洗錢及恐怖分子資金籌集（修訂）條例》（「《修訂條例》」）已於2023年6月1日生效，監管局就此《修訂條例》於同日發出一份新執業通告（編號23-01(CR)）提供最新的指引予業界遵從。為協助持牌人了解《修訂條例》中與地產代理業有關的修訂及遵從新執業通告的要求，監管局分別於2023年6月15日及6月27日舉辦了兩場分別以中文及英文講解的網絡研討會。

此外，監管局聯同保安局禁毒處及聯合財富情報組於2023年7月21日合辦了一場「打擊清洗黑錢及恐怖分子資金籌集講座」的網絡研討會。席間，保安局禁毒處及聯合財富情報組的兩位嘉賓講者，以及監管局代表向持牌人詳細講解最新的《修訂條例》規定、舉報可疑交易的法律責任以及新執業通告的內容及規定。

監管局已就上述《修訂條例》推出了四個網上學習活動，以協助持牌人能夠隨時隨地學習相關內容及規定。監管局亦將會推出更多的有關《修訂條例》的網上學習活動，以加強持牌人對新規定的了解。詳情請瀏覽監管局網頁：<http://www.eaa.org.hk/zh-hk/CPD-Scheme/e-Learning-programmes>

In light of the Anti-Money Laundering ("AML") and Counter-Terrorist Financing ("CTF") (Amendment) Ordinance 2022 ("Amended AMLO"), which took effect on 1 June 2023, the EAA issued a new Practice Circular (No. 23-01(CR)) to provide licensees with up-to-date guidelines to follow. To assist licensees in understanding the amendments related to the estate agency sector under the Amended AMLO and complying with the requirements of the new Practice Circular, the EAA held two CPD webinars on 15 June and 27 June 2023 respectively in Chinese and English.

In addition, the EAA, in collaboration with the Narcotics Division (ND) of Security Bureau and the Joint Financial Intelligence Unit (JFIU), conducted a webinar on 21 July 2023, entitled "Anti-Money Laundering/Counter-Financing of Terrorism Webinar for Estate Agents". During the webinar, 2 guest speakers from ND and JFIU and the EAA representative explained to the licensees the latest provisions of the Amended AMLO, statutory obligations for suspicious transaction reporting, as well as the requirements of the new Practice Circular.

To facilitate licensees to understand the Amended AMLO and the new Practice Circular through self-learning at their own pace, the EAA launched four e-Learning programmes for the Amended AMLO. Furthermore, the EAA will continue to produce more AMLO related e-Learning programmes to further enhance licensees' understanding of and adherence to the latest AML/CTF requirements. For details, please visit the EAA website (www.eaa.org.hk/en-us/CPD-Scheme/e-Learning-programmes).

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.

? 持牌人是否必須在安排客戶訂立臨時買賣協議（「臨約」）之前完成盡職審查程序？

✓ 根據《打擊洗錢及恐怖分子資金籌集條例》附表2第3(1)(a)條規定，除該附表的其他條款另有規定外，地產代理須在與客戶建立業務關係之前執行客戶盡職審查措施，因此，持牌人在安排客戶訂立臨約之前完成盡職審查程序，乃審慎做法。

然而，在以下的情況下，持牌人可在訂立臨約之後才核實客戶及任何實益擁有人的身分，如果(a)為就客戶的業務正常運作不造成干擾，如此行事是必需的；及(b)延遲核實客戶或實益擁有人的身分而可能引致的任何洗錢/恐怖分子資金籌集風險已獲有效管理。無論如何，其後持牌人必須在合理切實可行的情況下盡快完成該盡職審查程序。

請參閱監管局發出的有關地產代理業遵守反洗錢及反恐怖分子資金籌集規的指引（執業通告編號23-01（CR））第4.6段、第4.12段及第4.13段。

? **Must the customer due diligence (“CDD”) process be completed by a licensee before arranging for his/her client to enter into a provisional agreement for sale and purchase (“PASP”)?**

✓ As stipulated in section 3(1)(a) of Schedule 2 to the Anti-Money Laundering and Counter-Terrorist Financing Ordinance, subject to other provision of the Schedule, an estate agent must carry out the CDD measures before establishing a business relationship with the customer, it is prudent for a licensee to complete the CDD process before arranging for his/her client to enter into a PASP.

However, a licensee may complete the CDD process after arranging for his/her client to enter into a PASP if (a) this is necessary not to interrupt the normal conduct of business with regard to the client; and (b) any risk of money laundering and/or terrorist financing arising from the delayed verification of the client's or beneficial owner's identity is effectively managed. In any case, the licensee must complete the CDD process as soon as reasonably practicable thereafter.

For details, please refer to paragraphs 4.6, 4.12 and 4.13 of the Guidelines on Compliance of Anti-Money Laundering and Counter-Terrorist Financing Requirements for the Estate Agency Sector (Practice Circular No. 23-01 (CR)) issued by the EAA.



監管局即將推出的持續專業進修計劃活動 Upcoming CPD activities offered by EAA

詳情請瀏覽《持續專業進修計劃》的網頁：

Please visit the webpage of the CPD Scheme for details:



講座

日期 (月/年) Date (Month/Year)	課程名稱 Course title	學分 CPD Points	語言 Language	類別 Category
10/2023	物業處置的稅務案例分享	1.5	英語	合規及有效管理
	租賃「劏房」的規管與指引	1.5	廣東話	

網絡研討會

日期 (月/年) Date (Month/Year)	課程名稱 Course title	學分 CPD Points	語言 Language	類別 Category
10/2023	地產代理的責任 — 恰當及誠信行為	3	廣東話	合規及有效管理
	《優質執業手冊》講座 — 法規與行業指引，誠信管理及良好管治與內部監控	1.5		
	地產代理業防貪講座 (管理人員)	3		全面提升發展
	優質客戶服務與正向思維			
11/2023	違規的可能後果	3	廣東話	合規及有效管理
	強制檢驗計劃	1.5		全面提升發展
12/2023	《地產代理條例》及其附屬法例	3	英語	合規及有效管理
	地產代理業防貪講座 (管理人員)	1.5		
	監管局《操守守則》及執業通告	3		

其他活動

香港個人資料私隱專員公署主辦活動

條例簡介講座 (*以視像形式進行)

日期	時間	語言	課程費用
19/10/2023	15:00-16:30	廣東話	免費
23/11/2023		英語	

查詢電郵：training@pcpd.org.hk
查詢電話：3423 6654 (汪小姐)

7-9-2023



監管局行政總裁韓婉萍女士（前排右六）出席香港地產代理商總會東九龍分會的就職典禮。

The EAA's Chief Executive Officer Ms Ruby HON (sixth from right, front row) attends the inauguration ceremony of the East Kowloon Branch of the Hong Kong Real Estate Agencies General Association.

4-8-2023

監管局主席蕭澤宇，BBS，JP（中）出席新城電台訪問節目，回顧局方於2023上半年的工作及介紹2023年下半年的工作展望。

The EAA Chairman Mr Simon SIU, BBS, JP (middle) is interviewed on Metro Radio. He reviews the work of the EAA in the first half of 2023 and introduces the initiatives of the EAA in the second half of 2023.



26-6-2023



監管局與業界主要代表舉行聯絡會議，會上討論多個議題，包括有關反洗錢新執業通告、常見違規問題及近期涉及地產代理的負面新聞等。

The EAA holds a liaison meeting with major trade representatives. The new Practice Circular about anti-money laundering, common non-compliances and recent negative news concerning the estate agency trade are discussed during the meeting.



10/2015

監管局員工首次獲頒發「申訴專員嘉許獎」，以表揚他們處理投訴時的專業表現和積極態度。

The EAA for the first time had its staff awarded "The Ombudsman's Award" for their outstanding performance in providing quality customer service.

5/2013

監管局接待澳門房屋局及勞工事務局的代表團。

The EAA receives a delegation from Macau Housing Bureau and Labour Affairs Bureau.



8/2011

監管局首次舉行與前線持牌人的聚焦小組會議。

The EAA conducts the first focus group meeting with frontline licensees.

考試 Examination

營業員資格考試（電腦應考模式） Salespersons Qualifying Examination (Computer-based)

參加人數 No. of candidates	合格率 Pass rate
考試日期 Examination date 07/2023	
326	35%
考試日期 Examination date 08/2023	
173	34%

營業員資格考試（筆試應考模式） Salespersons Qualifying Examination (Paper-based)

參加人數 No. of candidates	合格率 Pass rate
考試日期 Examination date 06/2023	
602	37%

地產代理資格考試（筆試應考模式） Estate Agents Qualifying Examination (Paper-based)

參加人數 No. of candidates	合格率 Pass rate
考試日期 Examination date 08/2023	
760	41%

牌照數目 (截至2023年8月31日)

Number of licences (As at 31/8/2023)

營業員牌照
Salesperson's Licence



21,791

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



18,639

個人牌照總和
Total no. of
Individual Licences



40,430

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



3,986

營業詳情說明書 (截至2023年8月31日)

Number of statements of particulars of business (As at 31/8/2023)

合夥經營
Partnerships



162

獨資經營
Sole proprietorships



1,483

有限公司
Limited companies



5,403

總數 Total



7,048

開立的投訴個案宗數 (2023年1月至8月)

Number of complaint cases opened (January to August 2023)

118



已處理的投訴個案結果* (2023年1月至8月)

Results of completed complaint cases* (January to August 2023)



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)

資料不足
Insufficient
information to
pursue

指稱不成立
Unsubstantiated

指稱成立
Substantiated



* 部分是往年接獲的個案
Some cases were carried over from previous years

巡查次數 (2023年1月至8月)
Number of compliance inspections
(January to August 2023)



巡查發現主動調查的個案 (2023年1月至8月)
Number of cases arising from self-initiated investigations during inspections
(January to August 2023)

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

73

主動調查而指稱成立的個案*
Cases completed from self-initiated investigations and were substantiated*

85

* 部分是往年展開調查的個案
Some cases were carried over from previous years



向持牌人或前持牌人採取的行動* (2023年1月至8月)
Actions taken against licensees or ex-licensees* (January to August 2023)

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

285

行動
Actions Taken



訓誡/譴責
Admonishment/ reprimand
206

罰款
Fine
169

於牌照附加/更改條件
Attachment/ alteration of conditions to licence
116

暫時吊銷牌照
Suspension
10

撤銷牌照
Revocation
23#

* 以上行動是根據《地產代理條例》所賦予的權力而採取的。當中部分行動屬紀律性質，其他則是由牌照委員會裁定的，包括在批出牌照時在牌照上附加條件。部分是往年接獲的個案。

These actions were taken pursuant to powers under the Estate Agents Ordinance. Some actions were disciplinary in nature whereas others were decided by the Licensing Committee which actions included the attachment of conditions to licences upon issuance. Some cases were carried over from previous years.

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 met the relevant licensing requirements.





地產代理良好處理
劏房租賃約章

Charter on Good Practices of
Estate Agents in Handling
Subdivided Unit Tenancy



EAA 地產代理監管局
ESTATE AGENTS AUTHORITY

 (852) 2111 2777

 www.eaa.org.hk

