

網上自行放盤搵樓
**背後風險
可大可小**



**Risk of consumers' listing or
seeking properties through
online platforms on their own**

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監管局行政總裁韓婉萍

Ruby Hon

Chief Executive Officer of the EAA

“假如業內人人都做好本份，
行業的形象必然就會改善。”

"If everyone is doing their best
at work, the trade's esteem will
certainly improve."

「做盛行？」

WHAT DO YOU DO FOR A LIVING?

早前從新聞得知有議員提出，為了吸引新人入行，建議把一般人俗稱為「豬肉佬」的職業，改名為「肉類分割技術員」，希望能提升從業員形象。這段新聞引來不少話題，也值得令人深思，究竟一個行業的形象，是否可以透過從業員名稱的改變，便可以大大提高呢？

對地產代理行業來說，「地產代理」和「營業員」是法例上對持牌從業員的名稱，只不過坊間對後者較為少用。筆者和同事隱約記得，曾經有人發表過意見，覺得一般市民稱呼從業員為「經紀」或「地產佬」，名稱似乎並不優雅，於是有人想過，究竟從業員可否被「正名」，變成類似「測量師」或「建築師」之類的名稱。

其實，在意自己職業的稱謂或銜頭，是一件好事，代表對工作投入，希望得到外界認同。然而，稱呼以外，工作本身的內在更為重要。筆者接觸過無數地產代理業界人士，絕大部份都給予我一種朝氣勃勃的感覺，尤其是那些經歷過地產市道起伏風浪的，更有一種「打不死」的魄力；這些特徵，又豈是一個銜頭可以反映出來？

最近，筆者與一班業界代表舉行定期會議，席間大家談到如何鼓勵更多從業員參與持續專業進修，多位業界代表即席發揮創意，提出不少新穎的想法。縱使當中有很多構思未必合適或可行，但那些靈活想法正正反映了地產代理的靈活本色。

在意外界的眼光，實屬無可厚非。但若不好做自己，一個銜頭只能換來自我良好的感覺，未必能贏取大眾真正的認同。筆者認識不少對行業充滿熱誠的地產代理，不但對客戶落力服務，也對提升業界專業水平十分著緊。假如業內人人都做好本份，行業的形象必然就會改善。筆者期待透過與業界朋友的努力，有一天見到從業員可被「正名」。

I recently learnt that a legislator had proposed that butchers could go by a different name to improve their public image and attract newcomers to their industry. This news was hotly discussed and raised the question: can the image of an industry be greatly improved by changing its name?

In the estate agency industry, “estate agent” and “salesperson” are the names of licensed practitioners under the law, albeit the latter term is rarely used publicly. Colleagues and I vaguely remember that someone expressed an opinion before that the general public often addresses practitioners as “brokers” or “real estate guys”, and such descriptions do not seem graceful enough. Hence, it was thought whether changing the title of the practitioners to something similar to “surveyor” or “architect” could help improve their image.

After all, caring about the name or title of your own occupation is a positive thing. It connotes enthusiasm in one’s work and the yearning for recognition. Nevertheless, apart from how the name sounds, what counts more is the intrinsic quality of the work itself. I have encountered numerous estate agency trade practitioners and the majority have given me a sense of vigor and vitality, especially those who have experienced the ups and downs of the property market and have an “unbeatable” boldness. Can these traits be reflected in a graceful title?

Recently, I had a meeting with some trade representatives, during which we talked about how to encourage more practitioners to participate in continuing professional development. The representatives were creative and raised a number of innovative ideas. Though many of the ideas might not be appropriate or feasible, such creativity precisely reflected the flexible characteristics of the trade.

It is understandable to care about one’s outward look. A title can give oneself a good feeling but it does not necessarily mean that you could earn real public recognition, unless one puts in effort to perform his duties well. I know a lot of estate agents who are full of enthusiasm. They do not only provide dedicated services to clients but also care about enhancing their own professionalism. If everyone is doing their best at work, the trade’s esteem will certainly improve. I look forward, through our concerted efforts with the trade, to the day when practitioners will be properly recognised.



小心處理業權欠妥善的物業交易 BE CAREFUL IN HANDLING TRANSACTIONS OF PROPERTIES WITH DEFECTIVE TITLES

The EAA has noticed from some media reports that while the property market has been dominated by first-hand residential properties recently, some consumers are attracted by certain “special properties” whose prices are substantially lower than the market price. Apart from “haunted flats”, such “special properties” might involve defective titles and therefore licensees should pay extra attention when promoting such properties to their clients and advise them appropriately to protect their interests.

監管局留意到某些媒體報道，雖然現時物業市場以一手樓盤主導，也有部份消費者被一些大幅低於市價的「另類物業」所吸引。除「凶宅」外，這些「另類物業」還包括一些業權欠妥的物業。因此，持牌人向客戶介紹這類物業時要特別留意，及向客戶提供適當意見，以保障他們的利益。

透過為物業進行過往及現時的土地查冊，或可得悉該物業是否註有遺失契據聲明書、送讓契或無償轉讓契。在處理這些物業交易時，持牌人應如實告知客戶購買該等物業的風險，包括買方可能無法取得足夠的按揭貸款以完成購買該物業及/或在轉售該物業時無法證明其良好業權。同時，持牌人也應建議客戶在簽訂任何買賣協議前，先徵詢法律意見，以了解清楚購買/出售該物業所涉及的風險。

根據監管局發出的《操守守則》第3.4.1段，持牌人必須保障和促進客戶的利益。因此，持牌人在處理此類物業的買賣時，務必提高警覺及謹記以上要點。

A historical and current land search of the property may reveal that there are registrations of declaration of loss of title deeds, deed of gift or assignment at nil consideration. When handling transactions of such properties, licensees should inform the potential purchaser that there is a risk that the purchaser may not be able to obtain a sufficient mortgage loan to complete the purchase of the property and/or to prove good title in the resale of the property. Licensees should also advise their clients to seek legal advice on the risk of selling/purchasing the property before they enter into any agreement for sale and purchase of the property.

Licensees are reminded that under paragraph 3.4.1 of the *Code of Ethics* issued by the EAA, they should protect and promote the interests of their clients. Hence, licensees should be alerted to and bear in mind the above when handling the sale and purchase of these properties.

有關「持牌地產代理有效地控制其地產代理業務的責任」的新執業通告

NEW PRACTICE CIRCULAR ON “DUTIES OF LICENSED ESTATE AGENTS IN ENSURING EFFECTIVE CONTROL OF ESTATE AGENCY BUSINESS”

監管局於2015年3月26日發出名為「持牌地產代理有效地控制其地產代理業務的責任」的新執業通告(編號15-01 (CR))，就如何遵守《地產代理常規(一般責任及香港住宅物業)規例》第15條的規定，提供更詳細及具體的指引讓業界依循。

根據該通告，所有持牌地產代理，包括地產代理公司的僱主、董事、經理或高層管理人員，應設立妥善的程序和清晰的指引讓員工遵循，提供妥善和足夠的培訓，持續及有效地監察其員工的行為，並制定制裁措施以懲處違規的員工，以預防及制止違規或不當行為的發生。

新通告將於2015年9月1日生效。所有地產代理公司應在這數月內檢視、更新或建立相關業務系統，以符合新通告內的要求。監管局已把相關的「問與答」及「持牌地產代理的清單」上載於監管局網頁 www.eaa.org.hk，供業界參考。

在新執業通告生效前，監管局已舉辦及將會再舉辦相關的持續專業進修講座，歡迎業界密切留意及踴躍參加。

The EAA issued a new Practice Circular (No.15-01 (CR)) on “Duties of Licensed Estate Agents in Ensuring Effective Control of Estate Agency Business” on 26 March 2015 to provide more detailed and substantial guidelines for the trade to follow in compliance with section 15 of the Estate Agents Practice (General Duties and Hong Kong Residential Properties) Regulation.

According to the Circular, all licensed estate agents, including owners, directors, managers or supervisors of an estate agency company, should establish proper procedures and clear guidelines for staff to follow, provide sufficient and proper training to staff, monitor staff conduct continuously and effectively and set up sanctioning measures to sanction non-compliant staff to prevent and deter non-compliance or misconduct.

The new Circular will come into effect on 1 September 2015. All estate agency companies should review, update or set up their system of business in the next few months in order to comply with the requirements. The EAA has uploaded a set of relevant “Questions and Answers” and “Checklist for Licensed Estate Agents” on the EAA’s website: www.eaa.org.hk for the trade’s reference.

The EAA has held a series of related CPD seminars and will hold a few more related seminars before the new Circular comes into effect. Practitioners are encouraged to stay tuned and attend the seminars.



有關物業按揭貸款的審慎措施

PRUDENTIAL MEASURES ON PROPERTY MORTGAGE LOANS

香港金融管理局及香港按揭證券有限公司於2015年2月27日推出的新一輪有關物業按揭措施經已生效。為提醒持牌人充分了解新措施內容，以便向客戶作出適當建議，監管局於2015年3月6日發出一封「致持牌人函件」，並已電郵給所有持牌人。持牌人可於監管局網頁(持牌人>致持牌人函件)閱讀該函件。

The Hong Kong Monetary Authority and the Hong Kong Mortgage Corporation Limited introduced new measures on property mortgage loans on 27 February 2015 and the measures have taken effect already. To remind licensees that they should be fully conversant with the new measures, so as to be able to advise their clients appropriately, the EAA has issued a "Letter to Licensees" and emailed to all licensees on 6 March 2015. Licensees are encouraged to read the Letter which is also available at the EAA's website (Licensees > Letter to Licensees).

關於業主繳納差餉及/或地租須注意的事項

ADVICE TO PROPERTY OWNERS ON RATES AND/OR GOVERNMENT RENT LIABILITY

差餉物業估價署(「估價署」)發出了一篇文章，提醒各持牌人在協助買賣雙方促成物業交易時，應提醒業主如期繳交差餉及/或地租的責任，以保障買方的利益。為鼓勵持牌人參閱估價署的文章，有關文章已於2015年5月21日上載至監管局網頁(持牌人>其他有用資訊)。

The Rating and Valuation Department ("RVD") has issued an article to remind all licensees to raise property owners' awareness of their responsibility of making timely payment of rates and/or Government rent and to protect the purchasers' interest when assisting the vendor and purchaser in completing a property transaction. To encourage licensees to read the article, the RVD's article has been posted on the EAA's website on 21 May 2015 (Licensees > Other Useful Information).



監管局推出新消費者教育短片及宣傳活動 THE EAA LAUNCHES NEW CONSUMER EDUCATION VIDEOS AND PUBLICITY CAMPAIGN



In order to protect the rights of consumers and promote related information in property transactions to the public, the EAA launched two new consumer education videos namely “Appoint licensed estate agent to avoid disputes” and “Fill in all the blanks in the provisional agreement for sale and purchase before signing to avoid loss” in March 2015.

為保障消費者權益及向公眾推廣置業的相關資訊，監管局於2015年3月推出兩段新消費者教育短片，分別為：「為免買賣有爭拗、持牌代理更可靠」及「臨約簽前填清楚、漏空必定損失多」。

短片透過生動有趣的故事形式，提醒消費者在進行物業交易時，切勿委託無牌地產代理，及切勿在漏空重要條款的臨時買賣合約上簽署。

為加深公眾的認識，短片除已上載於監管局網頁外，也於2015年3月在城巴及新巴內的電視上，及巡迴展覽中播放。此外，巴士車身上也張貼了相關廣告。

如欲重溫兩段短片，可瀏覽監管局網頁（「消費者專區」>「短片」）及Youtube頻道：<http://youtube.com/theeaacc>。



Through an interesting way of storytelling, the two new videos remind consumers not to appoint unlicensed estate agents and

not to sign the provisional agreement for sale and purchase with important terms left blank during property transactions.

In order to raise public awareness, the videos were not only uploaded onto the EAA's website, but also broadcasted on the bus fleets of Citybus and New World First Bus, and showcased at roving exhibitions in March 2015. In addition, advertisement banners were also placed on the bus bodies.

The two videos are available at the EAA's website (“Consumer Corner” > “Videos”) and on Youtube: <http://youtube.com/theeaacc>.

持續專業進修計劃的新鼓勵措施 NEW INCENTIVES OF THE CONTINUING PROFESSIONAL DEVELOPMENT (“CPD”) SCHEME

為鼓勵業界參與持續專業進修計劃，監管局早前推出一系列新措施，提供更多選擇及更大彈性，讓持牌人得以透過終身學習來提升專業水平。

To encourage licensees' participation in the CPD Scheme, the EAA introduced a new series of incentives which allow more choices and greater flexibility for licensees to raise their professional standards through life-long learning.



在新鼓勵措施下，凡於2014年10月1日至2015年9月30日的持續專業進修時段期間參加監管局的網上學習活動課程並成功取得每3個核心學分的從業員，即可額外獲取1個核心學分。此外，為鼓勵從業員更積極參與不同的網上進修活動，從2014年10月1日開始直至另行檢視，在計算每一持續專業進修時段所得的學分時，凡透過網上遙距學習活動所得的學分，將不再設有學分上限。

有關更多網上課程的詳情，可瀏覽監管局網頁www.eaa.org.hk（持續專業進修計劃>即將舉行的持續專業進修計劃活動>網上學習活動）。

Under the new incentive measures, within the CPD period commencing 1 October 2014 and ending 30 September 2015, one bonus core CPD point will be awarded to practitioners who have successfully accumulated every three core CPD points from their participation in the EAA's e-Learning programmes. Moreover, to encourage practitioners to participate in various web-based learning activities, starting from 1 October 2014, the number

of CPD points earned by taking web-based distance learning activities is no longer capped when calculating the CPD attainment for each CPD period until further review.

For more details about the e-Learning programmes, please visit the EAA's website: www.eaa.org.hk (CPD Scheme > Upcoming CPD Activities > e-Learning programmes).

網上自行放盤搵樓 背後風險可大可小

RISK OF CONSUMERS' LISTING OR SEEKING PROPERTIES THROUGH ONLINE PLATFORMS ON THEIR OWN

近年流行網上交易，一些網上物業平台應運而生，有些市民為求方便，會在這些網站放售或放租物業，又或透過網站找業主交易。由於監管局僅依法規管地產代理執業，業主或買家（或租客）並不是其監管對象，故他們在這些平台發放的資訊不受監管局規管；除非有關資訊是由持牌代理發放，否則監管局亦愛莫能助。

倘若選擇不經持牌地產代理，自行在網上放盤或搵樓會涉及風險，今期《專業天地》就特別探討一下這個問題。

缺乏監管

有別於地產代理受監管局所規管，這些網上交易平台缺乏監管，盤源和業主身份隨時難辨真偽。細心留意下，不少這些網上平台更附有免責聲明，對於一切因網站內容出現延誤、遺漏或失準一概不負責。市民如透過網上放盤搵樓而導致損失，隨時可能無從追究。

As e-commerce has grown in popularity in recent years, there has been a corresponding rise of online property platforms. For convenience, some people sell or lease their properties on these platforms, or contact owners directly for any transactions. Since the EAA was established to regulate the practice of the estate agency trade in Hong Kong, property owners, purchasers (or tenants) are not under its purview. Thus, unless the information published on these platforms is issued by licensed estate agents, the EAA is not in a position to regulate them or take any action.

There are potential risks in listing or seeking properties online on their own and not appointing licensed estate agents. In this issue, *Horizons* will look into this subject.

LACK OF SUPERVISION

Unlike estate agents who are regulated by the EAA, online platforms lack supervision and it is difficult to verify the source of property information and the identities of the owners published. On some of these websites, there are also disclaimers that they have no liability for any loss arising from any use or misuse of or reliance on any information from their websites. If the public suffers from a loss incurred from using these online platforms, they might not be able to pursue their claim.



網上放盤搵樓的部份風險：

POTENTIAL RISKS OF LISTING OR SEEKING PROPERTIES ONLINE:



1. 沒有齊全或準確的物業資料

物業買賣或租賃涉複雜程序，當中以物業資料(如物業的業權及產權負擔等)尤其重要，因此監管局對地產代理在這方面的要求非常嚴謹，為賣方行事的代理必須取得並管有有關住宅物業的訂明資料，填寫相關的資料表格及向客戶提供該填妥的表格。反之，若消費者自行交易，而沒有查清物業資料的話，即使節省了代理佣金，也可能得不償失。

2. 公開個人資料

由於這些網上平台聲稱可以讓買賣雙方自由交易，市民難免須向對方提供部份的個人資料，如手提電話或電郵等聯絡方法，因而有機會受到不必要的滋擾。

3. 成為不法之徒的目標

準買家、租客或業主在沒有地產代理陪同下，單獨前往視察物業或在物業內與對方會面，容易讓歹徒有機可乘，人身安全缺乏保障。

1. Incomplete or inaccurate property information

Property transaction involves complicated procedures. Property information (such as the property ownership and encumbrances) is especially important. On this, the EAA has strict requirements for estate agents: they have to obtain and possess certain prescribed property information for residential properties, complete relevant properties information forms and provide the same to their clients. Consumers may suffer a loss if they do not have such property information. The loss could be much bigger than the commission saved from not appointing an estate agent.

2. Disclosing personal data

As these online platforms encourage vendors and purchasers to deal directly, consumers may receive unwanted nuisance calls or messages as they have to disclose to other parties some personal data, such as phone numbers and email addresses on these online platforms.

3. Becoming a potential criminal target

It is risky for prospective buyers, tenants or owners to view the property or meet the other party alone without the company of an estate agent. Criminals may take advantage of them on such occasions.

委託持牌地產代理 APPOINT LICENSED ESTATE AGENTS

有見及此，監管局最近曾多番透過報章專欄提醒市民，選擇自行網上放盤搵樓，有機會承受不必要的風險。反之，委託持牌地產代理，一方面他們受監管局規管，另外他們也有一定的經驗和專業知識，並必須依照法例和監管局的指引行事。監管局最近也在巴士車身廣告上宣傳同一訊息：「為免買賣有爭拗，持牌代理更可靠」。希望市民能夠加倍小心，置業便可稱心又放心。

In light of the above risks, the EAA has published a number of articles in newspaper columns to remind the public of the risks of using online platforms to list or seek properties. Consumers are advised to appoint licensed estate agents as their practice and conduct are regulated by the EAA and they have experience and professional knowledge. In addition, the EAA has launched a bus body advertisement, "Appoint licensed estate agents to avoid disputes", to publicise the same message. We hope consumers will take extra precautions during property transactions to avoid any risks.





牌照委員會主席劉振江測量師

Sr Lau Chun-kong

Chairman of the Licensing Committee

- 仲量聯行國際董事
International Director, Jones Lang LaSalle Limited
- 香港測量師學會產業測量組理事會副主席(專業基準)
Vice-chairman (Professional Standards), General Practice Divisional Council of the Hong Kong Institute of Surveyors
- 英國皇家特許測量師學會亞洲區估價專業理事會成員
RICS Asia Valuation Professional Group Board Member

牌照委員會主席 劉振江先生

本期《專業天地》專訪了監管局牌照委員會主席劉振江先生，了解一下牌照委員會的工作及他對地產代理業界質素的看法。

問：你自2014年11月起出任牌照委員會主席，可否和《專業天地》的讀者分享一下委員會的工作及你對其印象如何？

答：我很榮幸去年底獲委任為牌照委員會主席。審批牌照申請是監管局的主要職能之一，而牌照委員會的其中一項重任，就是審閱、批准或拒絕由監管局行政部門提交予委員會之牌照申請。至為重要的是，委員會必須確保只有那些符合「適當人選」及所有發牌要求的申請者才可加入或繼續在行內執業。我們在審批每宗個案時都十分嚴謹，而我很幸運能與一班極為專業的委員會成員及監管局行政部門同事一同工作。

MR LAU CHUN-KONG, CHAIRMAN OF THE LICENSING COMMITTEE

In this issue of *Horizons*, we interviewed Mr Lau Chun-kong, Chairman of the EAA Licensing Committee, about the work of the Committee and his views on the professional standard of the estate agency trade.

Q: You have been the Chairman of the Licensing Committee since November 2014. Could you share with the readers of *Horizons* the work of the Committee and your impressions about it?

A: It was my honour to be appointed as the Chairman of the Licensing Committee late last year. Scrutinising licence applications is one of the EAA's major functions. The Licensing Committee, amongst its other functions, has been tasked with the responsibility to consider, and to approve or refuse licence applications brought before the Committee by the EAA Administration. It is vital for the Committee to ensure that only those applicants who are "fit and proper" and who meet all the licensing requirements could enter or continue to practise in the trade. We are very serious in processing each case and I have the fortune to work with a group of highly professional fellow Committee members and colleagues of the EAA Administration.

問：2014年有53個牌照被撤銷，是歷來最多，全部都是基於它們不再是「適當人選」而被牌照委員會所撤銷，當中有些個案與曾被刑事定罪或使用虛假學歷證明文件有關。現在情況是否仍然嚴重？

答：我們只可容許那些被認為是「適當人選」的人士繼續持有牌照。在決定一名人士是否「適當人選」時，監管局會考慮所有相關因素，包括該人士是否曾因任何罪行而被定罪。監管局行政部門自2014年引入了一些簡化措施以加快審視持牌人資料，這可能是其中一個原因令撤銷牌照的數字上升。至於使用虛假/偽造文件作學歷證明的情況，我知道監管局行政部門已致力向牌照申請人強調，這是一項可被判監的嚴重刑事罪行。我衷心希望這些個案的數字在未來會減少。

問：你對現時地產代理業界的專業水準有何看法？撤銷牌照數目之高，是否反映從業員的專業水準下降了？

答：我不認為地產代理業界的專業水準有所下降。去年撤銷牌照的數字上升有早前提到之成因。自從我於2010年被委任為監管局董事局成員至今，我留意到業界一直穩步邁向專業化，亦很高興見到越來越多持牌人具備大專或以上學歷，由1999年佔整體持牌人數的21%增至2015年3月底的31.5%。作為牌照委員會主席，我期望能見到持牌人數繼續上升，儘管市場交投情況充滿變數。地產代理資格在市場上越來越受歡迎。符合發牌條件只是滿足了入行的基本要求，我鼓勵所有持牌人繼續專業發展，提升專業技能，更好地服務香港。

Q: There were 53 licences revoked by the EAA in 2014, which was a record high. All of them were revoked by the Licensing Committee because those licensees were no longer “fit and proper” persons. Some were related to criminal convictions or the use of false documents for educational attainment. Is the situation still serious now?

A: We could only allow those who are considered as “fit and proper” to continue to hold their licences. In deciding whether an individual is a “fit and proper” person, the EAA considers all relevant factors including whether the individual has any criminal conviction for any offence. The EAA Administration has introduced certain streamlining measures to speed up the process of reviewing licensees’ information since 2014 and that may be one of the reasons for the increase in number of licence revocation. As to the use of false/forged documents for proof of educational attainment in licence applications, I understand that the EAA Administration has been stressing to licence applicants that forgery is a serious criminal offence. I sincerely hope that the number of such cases will decrease in the future.

Q: What do you think of the professional standard of the estate agency trade nowadays? Does the high number of revocations reflect a decline in the professional standard of practitioners?

A: I do not think there is a decline in the professional standard of practitioners. The increase in number of licence revocations last year has its reason as mentioned above. Since I was appointed as an EAA Member in 2010, I have observed that the trade has been growing steadily towards professionalism. I am glad to see that the percentage of licensees with tertiary educational level or above has been raised from 21% in year 1999 to 31.5% as of end of March 2015. As the Chairman of the Licensing Committee, I would like to see further increase in number of licensees despite fluctuations in the market trading conditions. Estate agent qualification has become more sought after in the market. Meeting the licensing requirements is only fulfilling the basic criteria for entering the estate agency profession. I encourage all licensees to continue their professional development and enhance their professional skills so as to serve Hong Kong better.



紀律研訊個案： 發出具誤導性或虛假廣告

DISCIPLINARY HEARING CASE: ISSUING MISLEADING OR FALSE ADVERTISEMENTS

持牌人從事時必須秉持誠實的態度，不可發放虛假或具誤導性陳述的廣告，否則有可能被監管局紀律處分。

一間地產代理公司發出一則住宅物業的放售及放租廣告，資料包括該物業的座數、實用面積及建築面積，並附有數張展示單位景觀及內部間隔的照片。

然而，那些照片並不屬於該廣告中的物業，而是屬於同座較低層的另一物業，但兩者皆享有相同座向及景觀。該地產代理

Licensees must act in an honest manner and must not issue any advertisements with misleading or wrong information. Otherwise, they may be subject to disciplinary action by the EAA.

An estate agency company posted an advertisement of a residential property for sale or rent with information of its block number, saleable area and gross floor area. Several photos showing the view of the property and its interior were also included.

However, the photos did not belong to the advertised property but belonged to another property located in the same block on a lower floor which shared the same direction and view. The staff



公司的員工在公司電腦資料庫中找出這些照片使用。其後，照片所屬的單位業主發現該廣告，遂向監管局作出投訴。

監管局經調查後展開紀律研訊。監管局紀律委員會認為，該地產代理公司在刊登廣告前，未有查核清楚資料便使用其他物業照片，違反《地產代理常規(一般責任及香港住宅物業)規例》第9(1)條，即「持牌地產代理不應就其地產代理業務發出在要項上屬虛假並具誤導性陳述的廣告」的規定。

考慮到個案的性質、持牌人的違規紀錄及同類個案的罰則，該地產代理公司結果被譴責及罰款11,500元。

of the estate agency company found the photos in the company computer database and used them. Later on, when the owner of the other property discovered the advertisement, she lodged a complaint with the EAA.

An inquiry hearing was conducted after an investigation. The EAA Disciplinary Committee was of the view that the estate agency company adopted the photos of another flat without carefully verifying the information when issuing the advertisement and thus was in breach of section 9(1) of the Estate Agents Practice (General Duties and Hong Kong Residential Properties) Regulation, which stipulates that “a licensed estate agent shall not cause or permit to be issued an advertisement wholly or partly relating to his estate agency business which includes any statement or particular that is false or misleading in a material particular”.

Having considered the nature and gravity of the case, the disciplinary record of the licensee and the sanctions imposed in similar cases, the estate agency company was reprimanded and fined \$11,500.

紀律研訊個案： 提供錯誤的物業資料

DISCIPLINARY HEARING CASE: PROVIDING FALSE PROPERTY INFORMATION

持牌人在履行職務時，必須盡量小心和盡一切應盡的努力，包括先核實物業資料才向買方作出有關陳述，否則有可能被監管局紀律處分。

一名營業員在一宗住宅物業交易中為買賣雙方行事。他安排一名買家前往視察物業。該單位景觀開揚，享有海景。由於物業前方尚有兩幅待發展的地皮，該買家擔心將來海景會被遮擋，遂向營業員查問有關地皮的高度限制。該營業員向買家表示，上述兩幅地皮的高度限制為50米，應可保留部份海景。於是，該買家便決定購入該單位並簽署臨時買賣合約。

其後，該買家從網上得知，該兩幅地皮的高度限制已由50米放寬至65米。買家大感不悅，遂向監管局作出投訴。

監管局紀律委員會認為，該營業員在安排買方簽署臨時買賣合約前，沒有盡量小心和盡一切應盡的努力先核實地皮的高度限制，便向買方作出有關陳述。該營業員違反了《操守守則》第3.5.1段，即「地產代理和營業員在履行職務時必須盡量小心和盡一切應盡的努力」的規定。考慮到個案性質及類似個案的罰則後，紀律委員會決定暫時吊銷其牌照7天，並在其牌照上附加條件，要求他在12個月內取得持續專業進修計劃下的12個核心科目學分。

Licensees must exercise due care and due diligence in fulfilling their duties, including verifying the information of a property before presenting it to the purchaser. Otherwise, they may be subject to disciplinary action by the EAA.

A salesperson represented both the purchaser and the vendor in a residential property transaction. He arranged a site check of a property with an open sea view with the purchaser. As there were two building sites in front of that property, the purchaser asked the salesperson about the height restriction of these building sites as he was worried that the sea view would be blocked in the future. The salesperson told the purchaser that a part of the sea view could be retained as the height restriction of the sites was 50 metres. The purchaser then signed the Provisional Agreement for Sale and Purchase.

Later on, the purchaser learnt from the Internet that the height restriction of the two building sites had been relaxed from 50 metres to 65 metres. Feeling aggrieved, he lodged a complaint with the EAA.

The EAA Disciplinary Committee was of the view that the salesperson failed to exercise due care and due diligence in verifying the height restriction of the building sites, and made a false presentation to the purchaser. He was in breach of paragraph 3.5.1 of the *Code of Ethics*, which provides: “estate agents and salespersons shall, in fulfilling their duties, exercise due care and due diligence”. Having considered the nature of the case and the sanctions imposed in similar cases, the Disciplinary Committee suspended his licence for seven days. A condition was also attached to his licence, requiring him to obtain 12 points in the core subjects of the CPD Scheme in 12 months.

持續專業進修講座

CPD SEMINAR

一手住宅物業銷售

SALES OF FIRST-HAND RESIDENTIAL PROPERTIES

為加強持牌人對《一手住宅物業銷售條例》及監管局就有關一手銷售所發出的指引的認識，監管局分別於2015年3月19日和25日舉辦了兩場講座。

一手住宅物業銷售監管局代表於講座向持牌人講解參考售樓說明書時須特別留意的事項，而監管局代表則講解了局方有關一手住宅物業銷售及推廣的指引，期望增進持牌人在這方面的認識及促使他們跟循指引。

In order to enhance licensees' understanding of the Residential Properties (First-hand Sales) Ordinance and the EAA's guidelines related to the sale of first-hand residential properties, the EAA organised two CPD seminars on 19 and 25 March 2015 respectively.

At the seminars, the representative of the Sales of First-hand Residential Properties Authority drew licensees' attention to various aspects in a sales brochure which deserved special attention. At the same time, the EAA's representative explained the EAA's guidelines on the promotion of first-hand residential properties, in order to enhance their understanding and compliance in this respect.

有關平等機會的法例

LAWS RELATING TO EQUAL OPPORTUNITIES

目前本港有四條與反歧視相關的法例，持牌人若對反歧視條例的主要概念和就有關違法行為須負的法律責任有相關的認識，將有助他們日常執業。就此，監管局於2015年5月14日舉辦一個以「有關平等機會的法例」為題的講座。

席間，平等機會委員會代表向持牌人講解了認識反歧視條例的重要性及在提供服務或在處置物業時可能因觸犯反歧視條例而須要負上的法律責任。平機會代表並用了一些實際例子，讓持牌人更容易了解有關法例的要求。

Currently there are four ordinances in Hong Kong dealing with anti-discrimination. Understanding key concepts under the anti-discrimination laws and legal liability for the unlawful acts would be helpful to licensees in their daily practice. In this connection, the EAA organised a CPD seminar on "Laws relating to equal opportunities" on 14 May 2015.

At the seminar, the representative of the Equal Opportunities Commission explained to licensees the importance of understanding the anti-discrimination ordinances as estate agents would be liable if they violate the anti-discrimination ordinances in the provision of services or in the disposal of properties. She quoted some illustrative real life examples in order to facilitate licensees' understanding of the requirements under the laws.

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：客人沒有銀行本票，但想參與認購一手住宅單位，地產代理公司可否提供本票讓其入票抽籤，然後向客人收取以信用卡繳付之同等金額？

Q: A client wants to participate in the lot drawing for purchasing a first-hand residential property but doesn't have a cashier order. Can the estate agency company offer him a cashier order and charge his credit card for the same amount?

答：倘若準買家因沒有銀行本票參與抽籤買樓，要求地產代理公司為他提供本票，並以信用卡向該地產代理公司繳付同等金額的話，則持牌人絕不可向客戶表示其信用卡將不會被「過數」，反而應在接受客戶以信用卡付款後即日「清機過數」，否則可被視為向準買家貸款，違反監管局指引。

A: Licensees should note that if a prospective purchaser does not have a cashier order to participate in the lot drawing for purchasing the property and thus requests the estate agency company to offer him a cashier order in return for his payment of the same amount of money to the estate agency company by credit card, licensees must not express to the prospective purchaser that they will not debit the latter's credit card. On the contrary, licensees should debit the prospective purchaser's credit card on the same day after accepting the credit card payment. Otherwise, it might be construed that the licensee has offered a loan to a prospective purchaser and thus might violate the EAA's guidelines.

問：地產代理公司必須先取得賣方同意才可刊登一手住宅樓盤銷售廣告。但如果代理公司收到該新樓盤單位的二手交易委託，在宣傳時可否張貼該新樓盤的海報？

Q: An estate agency company is required to obtain written consent from the vendor before issuing any promotional material for first-hand residential properties. If an estate agency company was appointed to handle a second-hand transaction of this new development, can it display the poster of the new development?

答：根據監管局發出的執業通告(編號13-04 (CR))，地產代理公司在發出任何一手住宅物業的廣告或宣傳品之前，須事先取得賣方的書面同意。倘若宣傳的單位是二手交易，而不屬於一手銷售，則以上要求並不適用。然而，使用一手樓盤的宣傳品來宣傳同一樓盤的二手單位的話，可能會令買家產生混淆。無論宣傳的單位是一手還是二手，持牌人均應小心處理，不可發出虛假或具誤導性陳述的廣告。

A: According to the Practice Circular (No. 13-04 (CR)) issued by the EAA, estate agency companies must obtain the written consent of the vendor before they issue any advertisement or promotional material for first-hand residential properties. If the advertised flat is not first-hand but second-hand, the above requirement is not applicable. However, using the promotional material of a first-hand development to promote a second-hand flat in the same development may be confusing to purchasers. Licensees should be careful and note that they must not issue any false or misleading advertisement no matter if the advertised flat is first-hand or second-hand.

何謂「釘契」?

E FOR “ENCUMBRANCE”

「釘契」是指因為物業的土地登記冊上載錄了某些註冊文件(例如法庭命令、押記令、欠交管理費備忘錄等)，使物業的業主難以放售有關物業。由於這類物業的業權欠妥，交易有可能被取消，故持牌人在處理這些被「釘契」的物業的交易時，應該格外小心，在客戶決定交易前，向其解釋清楚物業被「釘契」的詳情及有關風險，避免發生無謂爭拗。

物業被「釘契」的原因有很多，其中較為常見的，包括因業主拖欠銀行、財務公司、管理公司或其他私人債務而被債權人循法律途徑追討及凍結資產；或因物業違反《建築物條例》如附有僭建物或未有遵循維修令；又或因物業違反大廈公契條款而被業主立案法團或其他業主提出申索等等。

持牌人須知道，代表賣方的持牌人，要在緊接物業的買賣合約訂立之前，就該物業進行土地查冊及向該物業的買方提供該份土地查冊的文本。倘若持牌人在土地查冊中發現該物業被「釘契」，必須如實告知客戶。不論該客戶是賣方或買方，也應提醒有關買賣該物業所涉及的風險，並建議客戶在繼續有關買賣前，先尋求法律意見。

Certain encumbrances might be registered against a property. For example, when certain kinds of documents such as Court Orders, Charging Orders, Memorandum of outstanding management fees, etc., have been registered against the property, the sale of the property could be difficult. Due to the defective title of this kind of properties, their transactions might be cancelled by the purchaser. Therefore, in order to avoid any disputes, licensees should be very careful when handling the transaction of properties with subsisting encumbrances, and they should inform their clients of the details of encumbrances and the related risks before the transaction.

Common causes for registering encumbrances against a property include the property owner's failure to make repayments to a bank, financial institution, management company or other personal debts and thus being sued by creditors; breaches against the Buildings Ordinance due to the existence of unauthorised building works or not complying with any building orders; violating the deed of mutual covenant and being sued by the incorporated owners or other owners of the building etc.

Licensees should bear in mind that the licensee who acts for the vendor must conduct a land search and provide a copy of the land search of the relevant property to the purchaser immediately before an agreement for sale and purchase is entered into. If licensees discover the above mentioned encumbrances registered against the property through a land search, licensees should inform clients honestly, reminding them (no matter whether they are vendors or purchasers) of the related risk in that property transaction and advise them to seek legal advice before proceeding with the transaction.



活動紀要

EVENTS AND ACTIVITIES

2015年3月5日 5 MARCH 2015

監管局於元宵節當日舉行春茗，梁永祥主席向傳媒朋友送贈「金磚」朱古力，寓意業界提升專業水平。



The EAA holds a media lunch on Lantern Festival. Chairman Mr William Leung Wing-cheung presents a chocolate “gold bullion” with the meaning of encouraging the trade to enhance their professional standard.



2015年3月10日 10 MARCH 2015

監管局接待來自美國亞洲房地產協會的代表團，他們對監管局的發牌及紀律處分機制甚感興趣。



The EAA receives a delegation from the Asian Real Estate Association of America. The guests show a great interest in the licensing and disciplinary functions of the EAA.

2015年3月13至29日 13 - 29 MARCH 2015

監管局於一連三個周末，分別在三個商場舉行巡迴展覽。場內播放一系列消費者教育短片，並提供刊物讓公眾取閱。



The EAA holds roving exhibitions at three shopping centres on three consecutive weekends. A series of consumer education videos are showcased and a number of publications are available for the public's collection.

2015年3月18日 18 MARCH 2015

監管局於粉嶺區舉辦持牌人「聚焦小組」會議，與出席的持牌人就執業的情況交流意見。



The EAA organises a focus group meeting with licensees at Fanling District and exchanges views with the attending licensees on their practice.

統計數字

STATISTICS

考試 EXAMINATIONS

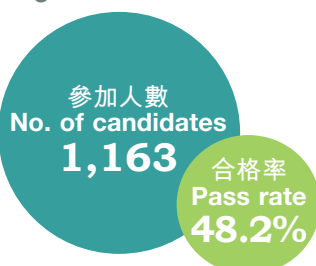
地產代理資格考試

ESTATE AGENTS QUALIFYING EXAMINATION

考試日期

Examination date

20/03/2015



營業員資格考試

SALESPERSONS QUALIFYING EXAMINATION

考試日期

Examination date

22/04/2015



牌照數目 (截至2015年5月31日)

NUMBER OF LICENCES (AS AT 31/05/2015)

營業員牌照

Salesperson's Licence

19,348

地產代理(個人)牌照

Estate Agent's Licence (Individual)

16,787

個人牌照總和

Total no. of individual licences



36,135

地產代理(公司)牌照

Estate Agent's Licence (Company)

3,175

接獲的投訴

(2015年1月至5月)

NUMBER OF COMPLAINT CASES RECEIVED (JANUARY TO MAY 2015)

133

營業詳情說明書 (截至2015年5月31日)

NUMBER OF STATEMENTS OF PARTICULARS OF BUSINESS (AS AT 31/05/2015)

合夥經營

Partnerships

237

獨資經營

Sole proprietorships

1,609

有限公司

Limited companies

4,479

總數

Total



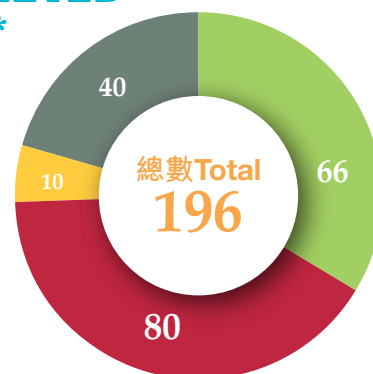
6,325

已處理的投訴個案結果* (2015年1月至5月)

RESULTS OF COMPLETED COMPLAINT CASES* (JANUARY TO MAY 2015)

- 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 (2015年1月至5月)

NUMBER OF COMPLIANCE INSPECTIONS (JANUARY TO MAY 2015)



巡查發現主動調查的個案 (2015年1月至5月)

NUMBER OF CASES ARISING FROM SELF-INITIATED INVESTIGATIONS DURING INSPECTIONS (JANUARY TO MAY 2015)

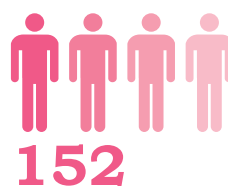


* 部分是往年展開調查的個案 some cases were carried over from previous years

向持牌人或前持牌人採取的行動 (2015年1月至5月)*

ACTIONS TAKEN AGAINST LICENSEES OR EX-LICENSEES (JANUARY TO MAY 2015)*

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



作出的處分或行動 ACTIONS TAKEN

訓誡/譴責
Admonishment/
reprimand
96

罰款
Fine
61

於牌照附加/更改條件
Attachment/alteration of
conditions to licence
105

暫時吊銷牌照
Suspension
7

撤銷牌照
Revocation
8[#]

* 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 EAO. 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。理由是持牌人不符合適當人選要求，因而不適合繼續持有牌照。

These cases were decided by the Licensing Committee on the ground that the licensees concerned were considered not fit and proper to continue to hold a licence.



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