



地產代理監管局
ESTATE AGENTS AUTHORITY

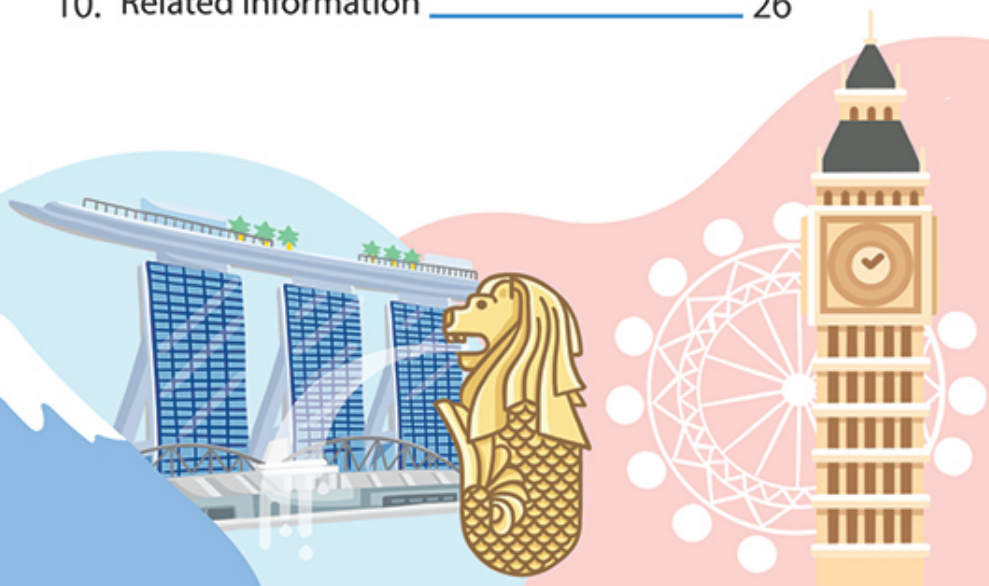
Purchasing Non-local Properties Be **SMART**





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Disclaimer

The content, information and links contained in this booklet are for reference only and should not be construed as a source of legal or professional advice. The Estate Agents Authority ("EAA") strongly advises the readers to seek legal or professional advice on matters encountered in specific situations. The EAA shall not be held liable for any loss or damage incurred or suffered in connection with, arising from, or in reliance on, the whole or any part of this booklet.

About the EAA

The EAA is a statutory body established in 1997 under the Estate Agents Ordinance. Its principal functions are to regulate the practice of estate agency in Hong Kong, promote integrity and competence within the industry, and facilitate training for estate agency practitioners to enhance their standards and status.



Foreword

Purchasing properties situated outside Hong Kong, especially uncompleted ones, is very complicated. Consumers should stay vigilant and study all related information before making a purchase decision so that their own interests can be protected. In this connection, the EAA publishes this booklet to provide some information for consumers' reference.

The EAA reminds consumers that there is no legal requirement that the transactions of properties situated outside Hong Kong be handled by licensed estate agents. Even if the transactions are handled by licensed estate agents who are regulated by the EAA, the EAA's functions do not include representing or assisting purchasers to recover any losses suffered from the transactions. Consumers may have to bear extra risk for purchasing uncompleted properties situated outside Hong Kong, as estate agents cannot guarantee whether the developer is able to complete the construction on schedule. Consumers may need to negotiate with the developer themselves if the property fails to be completed on time. Consumers will need to seek their own legal advice as to whether they can recover losses from the respective estate agents.



**SMART
consumers'**

**Considerations
at a glance**



1. Select property location

Before making your decision,
you should consider:

- ✓ local economy, exchange rate fluctuation,
current property price and property market outlook
- ✓ culture and language
- ✓ investment restrictions on foreigners



1. Select property location

»»»»»» You should consider:

- ✓ local regulations related to property purchasing, reselling and tenancy
- ✓ Your purpose? For investment?
For migration? Your goal and requirement?



2. Mindful of property details

You should consider:

- ✓ Completed or uncompleted property?
- ✓ Developer's financial ability and background (be aware that the scale of property developers may differ from those in Hong Kong)
- ✓ Property ownership – whole or shared
- ✓ Term of lease
- ✓ Whether the project is under "Collective Investment Scheme" regulated by the Securities and Futures Ordinance ("SFO") and whether it complies with the requirements of the SFO

2. Mindful of property details



You should consider:

- ✓ The quality of the property, construction materials, facilities inside and outside the property, etc.
- ✓ The infrastructure and ancillary facilities in the vicinity areas
- ✓ Neighbourhood and surrounding community
- ✓ Better pay a site visit in person



2. Mindful of property details



»»»» You should consider:

- ✓ Any recurrent expenses after purchasing the property (e.g. regular maintenance and management fee, government rent, property tax)
- ✓ Local laws relating to the property management (regulations on a house and a condominium may differ)



3. Aware of the purchase methods

➤➤➤ You should consider:



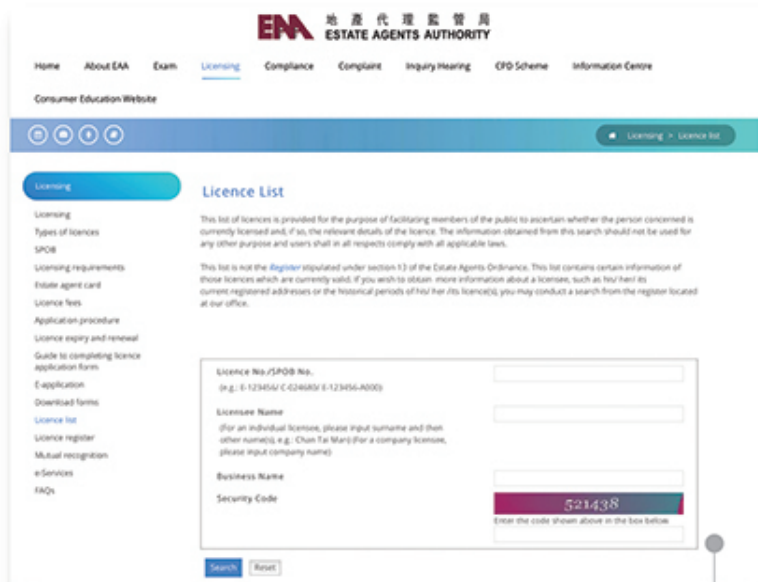
To visit the place in person and purchase from the seller directly; or



Purchase through a licensed estate agent in Hong Kong? or



Through a non-licensed agent representing the seller?



The screenshot shows the EAA (Estate Agents Authority) website. The header includes the EAA logo and the text '地產代理監管局 ESTATE AGENTS AUTHORITY'. Below the header is a navigation menu with links: Home, About EAA, Exam, Licensing, Compliance, Complaint, Inquiry/Hearing, CPO Scheme, and Information Centre. The 'Licensing' link is highlighted. Below the navigation menu is a 'Consumer Education Website' section. The main content area is titled 'Licence List' and contains a search form. The search form has four input fields: 'Licence No./SPDB No.' (with a hint: e.g.: E-123456/C-024680/E-123456-A000), 'Licence Name' (with a hint: for an individual licensee, please input surname and then other name(s); e.g.: Chan Tai Man for a company licensee, please input company name), 'Business Name', and 'Security Code' (with a hint: Enter the code shown above in the box below). The 'Security Code' field is currently displaying '521438'. There are 'Search' and 'Reset' buttons at the bottom of the search form.

Licence list: www.eaa.org.hk/en-us/licence-list



3. Aware of the purchase methods

You should consider:

- ✓ The EAA only regulates the conduct of licensed estate agents and cannot represent purchasers to recover their losses
- ✓ Non-licensees selling properties situated outside Hong Kong are not regulated by the EAA
- ✓ How to know if an agent is a licensee of the EAA? Please make use of the "Licence List" at the EAA's website
- ✓ Please remain vigilant even if the property is purchased through a licensed estate agent, otherwise it is buying a pig in a poke



3. Aware of the purchase methods

»»»»» You should consider:



The practice circular (No. 23-02(CR)) stipulated by the EAA sets out extensive guidelines on the sale of uncompleted properties situated outside Hong Kong, including requiring licensees to obtain a legal opinion issued by a lawyer practising in the place where the properties are situated, as well as comply with the requirements on the issuance of advertisements and sales information sheets

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Even if licensed estate agents have complied with the practice circular, there is no guarantee that the property developer can assign the property on schedule. If the developer fails to complete the construction, the EAA will not be able to assist purchasers to recover damages



Practice Circular No. 23 - 02(CR):



4. Review your financing arrangement



You should consider:

- Be aware of the payment method designated by the developer
- The conditions for releasing the deposit paid to the developer
- As purchasers may not be granted mortgage loans in Hong Kong for their properties situated outside the territories, need to find out more about the requirements and restrictions imposed by local financial institutions and the related regulations on mortgage applications by non-local purchasers
- The impact of exchange rate



5. Think about return of investment

You should consider:

- Restrictions on investors or non-residents' capital liquidity (e.g. foreign exchange control) imposed by the local government
- Local property-related tax system (e.g. property tax, property appreciation tax, profit tax or even estate duty)
- Fees payable for attorney and other professional services (including agent's commission)
- Whether the guaranteed return on investment offered by the developer is legally protected and note the developer's ability to fulfill its promise



5. Think about return of investment



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>>> You should consider:

- The rental income may differ from what is promoted. Need to study the local tenancy market as well as the supply and demand of properties
- Pay attention to the transaction data of local properties in the secondary market if your plan is to invest or resell the property
- Take the reselling cost into consideration also, e.g. tax, other professional fees, and also restrictions on reselling



6. Cases sharing

Case 1: Who is the real vendor?

1

Please fill in the reservation form and pay the "reservation fee".

OK

Sales Exhibition

Reservation Form

Developer A

Staff

2

A few days later...

Solicitor

Agreement for Sale and Purchase
Developer B

3

Two different developers?
Non-related?
Have I been deceived?

Developer A
Developer B

4

Cancel the deal and ask for a refund!!

NO!

Staff

Agreement for Sale and Purchase

6. Cases sharing

Case 2: Long-term expense?

1

How much ground rent will I have to pay for this property each year?



Sales Exhibition



2

Salesperson



The developer will collect £300 for ground rent each year.



Good. I will pay the "reservation fee" first to purchase the property.

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3

A few days later...

Solicitor



The ground rent of £300 is only applicable for the first 10 years. Thereafter, the amount of rent will then be increased proportionately every 10 years.



4

I would like to cancel the deal and have my "reservation fee" back!



NO!



6. Cases sharing

Case 3: Where is the deposit?

1



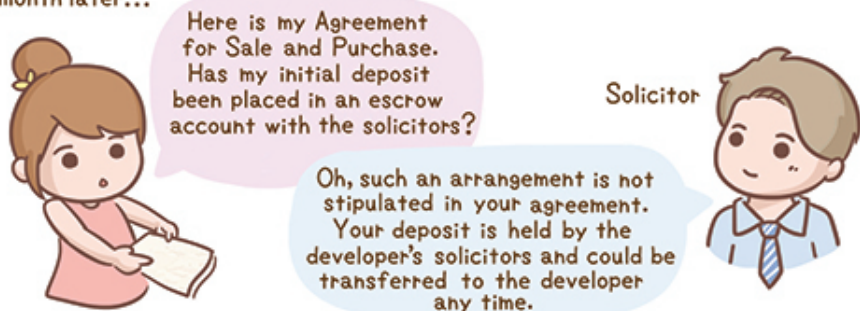
2

20



3

A month later...



4



6. Cases sharing

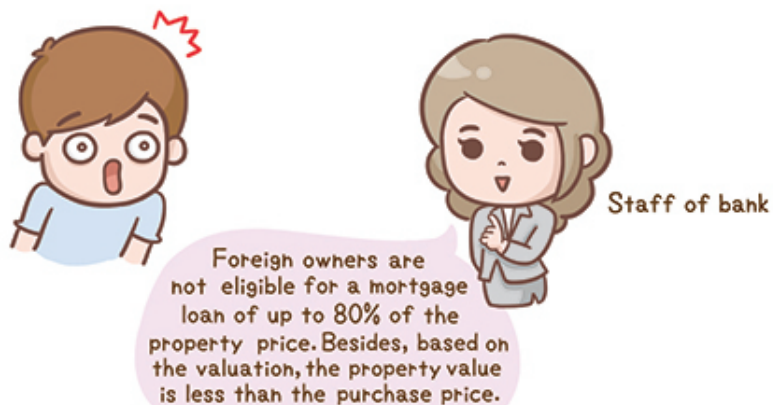
Case 4: Loan-to-value ratio?

1



21

2



3



The deal was cancelled due to an insufficient loan amount; only part of the deposit was refunded.

6. Cases sharing

Case 5: Completed or Uncompleted?

1

Agent

I strongly recommend that you buy this newly completed property in the US. The location is good and the return is high.



2

You only need to pay US\$7,500 in advance as the "pre-purchase fee" and it could be handed over very soon. There are just some interior decoration works to be completed.

That's good! Here is my cheque.



3

A month later...

Hm...The property is not yet completed!

When will the property be handed over?



4

Sorry, no cancellation or refund is allowed.

I want to cancel the deal and get back my "pre-purchase fee" !!!



6. Cases sharing

Case 6: Group buying fee?



A month later...



6. Cases sharing

Case 7: Guaranteed return really guaranteed?

- 1 Mr. A purchased a shop in an uncompleted shopping mall in the Mainland and concurrently signed a "rent-back agreement" with the management company .



According to the agreement, the management company would handle the leasing of the shop for Mr.A and pay him the interest and the rent regularly.

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A few months later...

2



What is happening with the management company?
I have not yet received the remittance for this month.



- 3 Mr. A went to the shopping mall site and found that the management company had closed down and the construction of the shopping mall had not yet started.



6. Cases sharing



The cases contained in this booklet involved different countries or places but were all complicated in nature. The descriptions of the cases have been simplified and they do not cover the whole case. Readers should note that the function of the EAA is to regulate the practice and conduct of licensed estate agents but only some of the above cases involved licensed estate agents. Therefore, the EAA is unable to handle or follow up on all the above cases. Moreover, it is outside the EAA's purview to represent or assist purchasers in recovering losses and damages suffered by them in their transactions.

Related information

EAA consumer education website:
<http://outsidehk.eaa.org.hk>



The website contains related articles, highlight videos of public seminars, commonly seen risks in cases and some useful links about purchasing properties in different regions.





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