



## Circular

Circular No. 18-02 (CR)

- **Comply with the relevant requirements in the Estate Agents Ordinance and its subsidiary legislation, the Code of Ethics and all applicable guidelines issued by the EAA when issuing advertisements.**
- **Obtain prior written consent of the vendors / landlords before issuing property advertisements for them.**
- **Do not issue an advertisement which includes any statement or particular that is false or misleading in a material particular.**
- **Take all reasonable steps to verify the accuracy of the information contained in the advertisements before issuance.**
- **Do not advertise a property at a price or rental or on such terms different from that instructed by the client.**
- **Assign a unique identification number (“Property Number”) to each property to be advertised.**
- **State clearly and legibly the Property Number and the Advertisement Date on the advertisement.**
- **Ensure that all information contained in the advertisements is accurate and valid as at the Advertisement Date / date of the newspaper.**
- **Do not engage in, or allow employees to engage in advertising tactics which may mislead consumers.**

### Property Advertisements

There has been increasing queries from the public that the

advertisements for properties issued by estate agents may contain false or misleading particulars, thereby jeopardising the interests of consumers. The Estate Agents Authority (“EAA”) has over the years issued four practice circulars setting out guidelines relating to advertising<sup>1</sup>. This Circular sets out further guidelines for licensees when issuing advertisements for properties, and shall take effect on 1 December 2018, when paragraphs 4(b) and 7 of Circular No. 09-05 (CR) which provides advice on good practices will then be deemed deleted and replaced by mandatory requirements under this circular.

## General

(2) Licensees are reminded that when they issue advertisements for properties, they must observe and comply with the relevant provisions in the Estate Agents Ordinance (“EAO”), the Estate Agents Practice (General Duties and Hong Kong Residential Properties) Regulation, the Estate Agents (Licensing) Regulation, the Code of Ethics and all applicable guidelines issued by the EAA.

(3) All relevant requirements relating to advertising stipulated in the EAO and its subsidiary legislation, the Code of Ethics and all guidelines issued by the EAA from time to time are also applicable to online advertising.

(4) Licensees are further reminded that, pursuant to paragraph 3.4.1 of the Code of Ethics, they should protect and promote the interests of their clients. Moreover, pursuant to paragraph 3.5.1 of the Code of Ethics, licensees shall, in fulfilling their duties, exercise due care and diligence.

(5) In particular, licensees must not make any representation that may mislead prospective purchasers or tenants when they issue advertisements (e.g. posting photographs or images belonging to other properties, providing incorrect information on property prices that are not instructed by the client, and property particulars such as the number of rooms, the view or the direction of the property etc.).

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<sup>1</sup> Please refer to Circular No. 00-09 (CR), 02-05 (CR), 09-04 (CR) and 09-05 (CR) for details.

(6) Estate agency companies<sup>2</sup> are required to establish proper and effective procedures and systems to ensure that their employees or other persons under their control comply with the provisions of the EAO and its subsidiary legislation, the Code of Ethics and the relevant guidelines issued by the EAA from time to time when such employees or other persons issue advertisements on behalf of their estate agency company.

(7) All advertisements are the assets of the estate agency companies. Estate agency companies are primarily liable for any misleading or inaccurate property advertisements issued by them and may also be held responsible for the wrongful acts of their employees or other persons under their control when such employees or other persons, in the course of carrying out their work, issue advertisements for properties which the company is acting as agent for the vendor / landlord.

(8) Licensees must act professionally and avoid any practice which may bring discredit and/or disrepute to the estate agency trade.

## **Specifics**

### Vendor/Landlord's Consent etc.

(9) Estate agency companies must obtain written consent of the vendor / landlord before they issue any advertisement in respect of the vendor / landlord's property.

(10) Estate agency companies shall not issue an advertisement wholly or partly relating to their estate agency business which includes any statement or particular that is false or misleading in a material particular.

(11) Estate agency companies must, before issuance, take all reasonable steps to verify the accuracy of the information contained in the advertisements.

(12) Estate agency companies shall not cause or permit to be

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<sup>2</sup> The term "estate agency company" or "estate agency companies" refer to those firms or companies which are licensed estate agents under the Estate Agents Ordinance.

advertised a property in respect of which they are acting as agent for the vendor / landlord at a price or rental or on such terms different from that instructed by the client concerned.

*Property Number and Advertisement Date*

(13) 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 clients. That is, each such property must have a Property Number which is exclusive to that particular property. For a property that is listed for both sale and leasing, one Property Number shall be assigned to that property.

(14) To enhance transparency so as to better safeguard the interests of consumers, estate agency companies must state clearly and legibly or ensure that it is stated clearly and legibly the following in the advertisements prepared or issued by them:

(a) the Property Number(s) of the property / properties advertised;  
and

(b) the date on which the advertisement is issued or updated  
 (“**Advertisement Date**”).

(15) With regard to advertisements published in the newspapers, estate agency companies may, notwithstanding paragraph (14)(b) above, choose not to state the Advertisement Date in the advertisements in which case, the date of the newspaper shall be deemed to be the Advertisement Date for property/properties concerned.

(16) Estate agency companies must ensure that all the information contained in the advertisements prepared or issued by them is accurate and valid as at the Advertisement Date.

(17) If more than one advertisement, regardless of the form it takes and whether published in print, online or other modes, is put up for a property, estate agency companies must ensure that the same Property Number be

stated clearly and legibly in all the advertisements for that property. Where a property is listed for both sale and leasing, the same Property Number must be clearly and legibly stated in all the advertisements of that property.

(18) Likewise, if the estate agency company concerned conducts its business through branch offices, the company must ensure that the same Property Number is stated clearly and legibly in all the advertisements for that property prepared or issued by any and all of its branch offices.

#### Removal of Advertisements

(19) Estate agency companies shall remove all advertisements issued or caused to be issued by them as soon as is practicable after the property concerned is no longer available for sale or leasing, or the termination of the estate agency agreement concerned (whichever is the earlier).

#### Misleading Advertising Tactics

(20) It is the responsibility of the estate agency companies and their management to ensure that all the advertisements prepared or issued or caused or permitted to be issued by them are genuine and not misleading. Estate agency companies must not engage in, or allow their employees to engage in, advertising tactics which may mislead consumers, such as:

- (a) using sham listings or fake listing price to lure consumers;
- (b) advertising a property which is no longer available for sale / lease with the intention of persuading potential purchasers / tenants to purchase / rent a more expensive property; and
- (c) allowing obsolete listing information to float around cyberspace or remain on shop windows or other advertising channels for months or years without removing them or instructing the relevant service provider to remove them.

## **Offences / Disciplinary Action**

Estate agency companies and their management who fail to comply with the above guidelines may be disciplined by the EAA. They may also be disciplined for failing to establish proper and effective procedures and systems to manage their business. Licensees who fail to comply with the above guidelines may also be disciplined.

October 2018

Holders of Statements of Particulars of Business  
 should bring this Circular to the attention of all staff  
 engaged in estate agency work