



Practice Circular on Property Advertisements

Questions and Answers (Q&As)

Notes:

1. All references to:
 - a. “EAA” shall mean the Estate Agents Authority.
 - b. “EAO” shall mean the Estate Agents Ordinance.
 - c. “Practice Circular” shall mean Circular No. 18-02 (CR) issued by the EAA on Property Advertisements.

The words and expressions used in these Q&As shall have, unless the context otherwise requires, the same meaning as those words and expressions have in the Practice Circular.

2. These Q&As are for general reference only. The answers/solutions suggested in the Q&As are not exhaustive and they do not constitute legal or professional advice. In considering whether a licensee has breached the Practice Circular, the EAA will consider each case on its own merits. You should seek legal or professional advice as and when necessary, especially on the interpretation of relevant legal provisions and specific advice on any individual case. The EAA makes no warranty as to the completeness of the information set out in these Q&As, or the appropriateness for its use in any particular circumstances. The EAA will not accept any liability or responsibility whatsoever for any loss or damage caused to any person howsoever arising from any use, misuse of, or reliance on the contents of these Q&As.



Q&As

Q1. Are the guidelines set out in the Practice Circular applicable to all property advertisements, such as those relating to first-hand properties, second-hand properties, non-residential properties and properties situated outside Hong Kong?

Answer: Yes.

The guidelines set out in the Practice Circular are applicable to advertisements of all types of properties, including but not limited to first-hand properties, second-hand properties, non-residential properties and properties situated outside Hong Kong, regardless of the use or intended use of such properties, and whether or not such properties have been completed.

Q2. Are the guidelines set out in the Practice Circular applicable only to advertisements posted at the shops of estate agency companies and property advertisements published in newspapers?

Answer: No.

According to section 2(1) of the Estate Agents Ordinance, “advertisement” includes every form of advertisement, whether to the public or not, and whether:

- (a) in a newspaper or other publication;
- (b) by television or radio;
- (c) by the display of posters, notices, signs, labels, showcards or goods;
- (d) by the distribution of circulars, brochures, catalogues, price lists or any other material;
- (e) by the exhibition of pictures, models or films; or



(f) in any other way

Hence, estate agency companies, when issuing any form of property advertisements (including but not limited to advertisements posted at shops, published in newspapers or magazines, and online advertisements) must comply with the guidelines set out in the Practice Circular, where applicable.

For the avoidance of doubt, estate agency companies must ensure that all advertisements issued for the same property (in whatever form) state the same Property Number of that particular property.

Please refer to paragraphs 13 and 17 of the Practice Circular.

Q3. According to paragraph 13 of the Practice Circular, estate agency companies must assign a Property Number for each advertised property. Is this requirement applicable to all materials or information (such as records of property transactions or company profiles) issued by estate agency companies?

Answer: 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 client.

If the contents of the materials or information only contain records of property transactions or company profiles of estate agency companies without involving the promotion of any property for their client, the guidelines regarding property advertisements set out in the Practice Circular are not applicable.



Q4. How should estate agency companies assign a Property Number(s) to a first-hand property development for the purpose of issuing advertisements?

Answer: According to paragraph 13 of the Practice Circular, 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. The requirement to assign a unique Property Number aims at enhancing transparency so that consumers can clearly identify the property being listed for sale in an advertisement.

Generally speaking, units available for sale in first-hand property developments will be clearly set out in the price list of such developments. Hence, if the relevant advertisement is for the purpose of promoting a first-hand property development, estate agency companies are only required to assign one Property Number to that first-hand property development. They are not required to assign a unique Property Number to each individual unit available for sale.

Q5. In order to comply with the requirements of the Practice Circular, how should estate agency companies assign a Property Number(s) to duplex or adjoining units for the purpose of issuing advertisements?

Answer: According to paragraph 13 of the Practice Circular, 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 client. The requirement to assign a unique Property Number aims at enhancing transparency so that consumers can clearly identify the property being listed for sale in an



advertisement.

Generally speaking, if the client's instruction is to list the duplex or adjoining units for sale/letting as a whole, then estate agency companies should assign only one property number to such duplex or adjoining units for sale/letting as a whole for the purpose of issuing advertisements.

If the client subsequently changes his/her mind and sells/lets one of the units first (assuming that such duplex or adjoining units can legally be sold/let separately), then estate agency companies should assign a new property number to the remaining unit for the purpose of issuing advertisements. Estate agency companies are reminded that if photograph(s) is/are included in such advertisements, only photograph(s) belonging to the remaining unit (instead of those belonging to the duplex or adjoining units as a whole) should be posted.

Q6. An estate agency company has already assigned a Property Number for the property that has been advertised. When the vendor client subsequently decides to list the property for sale and letting at the same time, how should the estate agency company assign the Property Number(s) to the property for the purpose of issuing the advertisement?

Answer: For a property that is listed for sale and letting at the same time, only one property number should be assigned to the property. Hence, the Property Number stated in the advertisement for letting should be the same as that in the advertisement for sale.

Please refer to paragraph 13 of the Practice Circular.



Q7. When an estate agency company sub-lists a property with another estate agency company for promoting the property, does the sub-listing agent have to use the same Property Number when issuing advertisements for the property?

Answer: No.

As the principal agent and the sub-listing agent are two independent licensed estate agents, they can assign different Property Numbers when issuing advertisements for the same property.

Q8. An estate agency company has assigned a Property Number to a property when issuing an advertisement on behalf of its vendor/owner client. If the vendor/owner appoints the estate agency company to list the same property for sale two years later, is it necessary to assign the same Property Number to the same property?

Answer: No.

The purpose of the Property Number is to enable the consumers to identify the property involved in the advertisement. Hence, as far as the same property is concerned, the estate agency company is required to ensure that only one property number is assigned for that particular property at any one time.

Q9. According to paragraph 14 of the Practice Circular, estate agency companies must state clearly and legibly in the advertisements prepared or issued by them the Property Number(s) of the property/properties



advertised and the date on which the advertisement is issued or updated. How does this requirement apply to advertisements that are broadcast by video or audio means?

Answer: If the advertisement is broadcast in a video format, estate agency companies may clearly and legibly project the image of the Property Number(s) of the property / properties advertised and the date on which the advertisement is issued or updated in the advertisement. If the advertisement is broadcast in audio format, estate agency companies may cause the Property Number(s) of the property / properties advertised and the date on which the advertisement is issued or updated to be read out clearly and audibly in the audio advertisement.

Q10. According to paragraph 9 of the Practice Circular, estate agency companies must obtain written consent of the vendor / landlord before they issue any advertisement in respect of the vendor / landlord's property. What are the wordings that need to be used for obtaining such consent? Is there any example?

Answer: With regard to residential properties, the prescribed estate agency agreement for sale of residential properties in Hong Kong (Form 3) and estate agency agreement for leasing of residential properties in Hong Kong (Form 5) both contain a standard provision for the estate agency company to obtain the consent of vendor / landlord for issuing advertisement in respect of the property concerned. Please refer to clause 8(a) of the Form 3 / Form 5.

As for non-residential properties, estate agency companies may consider adopting similar wordings used in clause 8(a) of the Form 3 / Form 5 for obtaining clients' consent for



issuing advertisements in respect of their properties. Two examples of which are given below for reference: -

“I/We, [name of vendor(s)/landlord(s)], hereby authorise [name of estate agency company] to issue advertisements in respect of the my/our property situated at [description of property][through various means] [from (date) to (date).]”

Or

*“ To: [name of estate agency company]
Property: [description of property]
Authorisation Period:[from (date) to (date)]
I/We hereby authorise your company to issue advertisements in respect of my/our above Property [through various means] during the above Authorisation Period.*

Name and Signature of vendor(s)/ landlord (s)”

Q11. Referring to Q10 above, does the requirement for obtaining written consent of the landlord for issuing advertisements apply to subletting?

Answer: Yes.

Generally speaking and subject to the terms of the tenancy agreement entered into between the owner of the property and his tenant (“the principal tenant”), such as whether the property is allowed to be sublet and the conditions for subletting (if any), written consent should be obtained from the principal tenant for advertising the subletting of the property for the principal tenant.



Q12. Referring to the requirement to state the Advertisement Date on the advertisements mentioned in paragraph 14 of the Practice Circular, are wordings such as “2 days ago” and “18 hours ago” acceptable as being the Advertisement Date on the advertisements?

Answer: No.

According to paragraph 14 of the Practice Circular, estate agency companies must state clearly and legibly or ensure that it is stated clearly and legibly the Advertisement Date in all property advertisements prepared or issued by them.

Stating the number of days or hours that had lapsed on a property advertisement as the Advertisement Date would create uncertainty and is not acceptable. To comply with above requirement regarding the Advertisement Date, the information provided must clearly set out the day, month and year in respect of which the advertisement was issued, such as “1/12/2018” and “1-12-2018”.

Q13. Are the guidelines set out in the Practice Circular applicable to property advertisements already issued by estate agency companies prior to 1st December 2018?

Answer: The Practice Circular shall take effect on 1st December 2018 (“effective date”). All property advertisements issued by estate agency companies prior to the effective date, so long as they are still valid and subsisting, must also comply with the applicable guidelines set out in the Practice Circular.

Q14. According to paragraph 15 of the Practice Circular and with regard to newspaper advertisements, estate agency



companies may choose not to state the Advertisement Date in the advertisement in which case, the date of the newspaper shall be deemed to be the Advertisement Date for the property/properties concerned. Does this guideline apply to property advertisements published in magazines?

Answer: No.

The guideline set out in paragraph 15 of the Practice Circular only applies to property advertisements published in newspapers. With regard to property advertisements published in magazines, as they are not published on a daily basis, estate agency companies must state clearly and legibly or ensure that it is stated clearly and legibly the Advertisement Date in such advertisements prepared or issued by them.

Please refer to paragraph 14 of the Practice Circular.

30 November 2018