

June 2020 e-Quiz

Notes to candidates:

1. *Most of the contents of this e-Quiz are adopted from June 2018 e-Quiz.*
2. *Please read the scenario before attempting the questions. The subject matter and names of parties are fictitious.*
3. *Clause 5.2 of the CPD Scheme Guidelines provides that, for the purpose of the award of the Certificate of Attainment, the following limitation applies in calculating CPD points:
To encourage practitioners to diversify their modes of learning, certain modes may be capped. For example, the cap for EAA e-Quiz is four CPD points per a 12-month CPD period. Therefore, even if a participant completes more than four e-Quizzes (one CPD point each) during a 12-month CPD period, only four CPD points can be earned.*

Pass Mark: You will have 10 questions in this e-Quiz. You will earn one CPD point if you can score not less than 5 correct answers.

Remarks: In the following questions, the following words have the following corresponding meanings:

- “the Authority” means the Estate Agents Authority;
- “the Ordinance” means the Estate Agents Ordinance;
- “the Practice Regulation” means the Estate Agents Practice (General Duties and Hong Kong Residential Properties) Regulation;
- “the Licensing Regulation” means the Estate Agents (Licensing) Regulation;
- “the Code of Ethics” means the Code of Ethics issued by the Estate Agents Authority; and
- “the Practice Circular” means the practice circulars issued by the Estate Agents Authority.

Case

Ms. Gold is reading the newspaper when she is having breakfast. There is an advertisement on the newspaper introducing the launching of units in a new residential development - Project Water.

Ms. Gold wants to know more about Project Water. She recalls that she bought a small flat in the early 2019 through Mr. Wood, a licensed salesperson working for Tai Tai Estate Agency Company (“Tai Tai Agency”). Ms. Gold goes to the branch office of Tai Tai Agency nearby and notices that Mr. Wood is there. Mr. Wood is delighted to hear that Ms. Gold is interested in Project Water and proposes to go to the first sales site with her immediately.

On their way to the sales site of Project Water, Ms. Gold tells Mr. Wood about the small flat which she acquired a year ago and that the tenancy term is going to expire very soon at the end of July 2020. Mr. Wood remembers that he is the one to conclude the transaction for her. Ms. Gold says she is worried that the tenant, Mrs. Fire, will not vacate the premises. The monthly rental paid by Mrs. Fire is far below the market rental. Ms. Gold also thinks she can sell the small flat at a better price if it is to be sold with vacant possession.

They finally arrive at the sales site and there are already lots of people. Mr. Wood seems to know many people but Ms. Gold has no clue whether those people are agents or potential buyers. Mr. Wood passes the sale brochures of Project Water prepared by the developer to Ms. Gold and introduces to her the facilities, the surrounding areas, etc. They then proceed to see the show flats and Ms. Gold says she will be interested in buying a unit but she really wants to know what will be the mortgage arrangements. She needs to apply for a mortgage loans to finance the purchase from a bank. Ms. Gold asks Mr. Wood whether it is possible for her to obtain a second loan as well. It is shown on the developer's advertisement that purchasers will get a further loan from them.

Mr. Wood assures Ms. Gold that she needs not worry about financing. Mr. Wood has a very good relationship with Bank Band and will be able to secure a bank loan for her at a very favourable interest rate. Mr. Wood then shows Ms. Gold the leaflet issued by a finance company which is to provide financing to purchasers of units in Project Water in addition to the bank loan. Mr. Wood tells Ms. Gold that this finance company is a wholly owned subsidiary of the developer and will be more than happy to grant the further loan to the buyers.

Ms. Gold finally makes up her mind to purchase a flat in Project Water. Through the arrangement of Mr. Wood, Ms. Gold signs up an offer to purchase and to pay the initial deposit to the developer. Ms. Gold would like to purchase the unit in the name of a limited company. Mr. Wood then says he will definitely find a buyer for her if she desires to sell the unit later. Mr. Wood says to Ms. Gold "I think it is a good idea. You may sell your unit by selling the shares of the company. Your purchaser will save a substantial amount of stamp duty and will be able to offer you a higher price. I will not charge you any additional commission".

Ms. Gold's mobile phone starts to ring. It is her tenant, Mrs. Fire. Mrs. Fire says to Ms. Gold that she realises her tenancy is going to expire soon. Mrs. Fire says she would like to have a further fixed term of two years. Mrs. Fire is prepared to pay a 30% increase in the monthly rental but Ms. Gold must grant to her an option to renew for another further term of two years in the new tenancy. Ms. Gold is happy to hear that. She would like to accept the proposal right away.

Ms. Gold asks if Mr. Wood can take care of the renewal of the tenancy agreement for her because she simply has no idea what to do. Mr. Wood says to Ms. Gold the agreement can be very simple. Mr. Wood advises Ms. Gold to copy the current tenancy agreement and add an option to renew. Ms. Gold agrees.

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Answer Guide for e-Quiz – June 2020

Note :

1. This answer guide is prepared by the Professional Development Section of the Estate Agents Authority and provides the correct answers to the questions of the June 2020 e-Quiz.
2. In this answer guide, the following words have the following corresponding meanings:
 - “the Authority” means the Estate Agents Authority;
 - “the Ordinance” means the Estate Agents Ordinance;
 - “the Practice Regulation” means the Estate Agents Practice (General Duties and Hong Kong Residential Properties) Regulation;
 - “the Licensing Regulation” means the Estate Agents (Licensing) Regulation;
 - “the Code of Ethics” means the Code of Ethics issued by the Estate Agents Authority; and
 - “the Practice Circular” means the practice circulars issued by the Estate Agents Authority.
3. The copyright of the e-Quiz, this answer guide and all supporting materials (collectively “the materials”) belongs to the Authority, and the materials may be reproduced by candidates for the purpose of attempting the questions only. No reproduction of the materials for any other purpose is allowed without the prior written consent of the Authority.

Question 1

Which of the following statements regarding individuals/estate agency companies carrying out estate agency work at first-sales sites are correct?

- (i) Estate agency companies must appoint a Commander-in-Chief to oversee its staff deployed to first-sale sites and their conduct in promotional activities.
 - (ii) All staff of estate agency companies who are deployed to the first-sales sites must wear an Estate Agent card and/or staff card.
 - (iii) Estate agency companies and/or Commander-in-Chief must, for each development, provide or cause to be provided a pre-sale briefing(s) to staff to be involved in promotional activities for the development prior to their conducting any such activities.
 - (iv) Only licensees who have attended pre-sale briefing(s) may engage themselves in promotional activities for the development.
- A. (i), (ii) and (iii) only
 - B. (i), (ii) and (iv) only
 - C. (i), (iii) and (iv) only
 - D. (ii), (iii) and (iv) only
 - E. (i), (ii), (iii) and (iv)**

Answer to Question 1:

According to Practice Circular No. 18-03(CR), each estate agency company must appoint a Commander-in-Chief to oversee its staff deployed to first-sale sites and their conduct in promotional activities. Moreover, estate agency companies and/or Commander-in-Chief must, for each development, provide or cause to be provided a pre-sale briefing(s) to staff to be involved in promotional activities for the development prior to their conducting any such activities. Only licensees who have attended such pre-sale briefing(s) may engage themselves in promotional activities for the development. The Authority requires that all staff of estate agency companies who are deployed to the first-sale site must wear an Estate Agent card and/or staff card.

All the above four options are correct. Therefore, the answer is E.

Question 2

In conducting promotional activities for the sale of first-hand residential developments, licensees must:

- (i) inform prospective purchasers whether their estate agency company acts for the vendor and/or the purchaser.
- (ii) inform the prospective purchaser of their capacity to act in the transaction in writing and supply a copy of the same to the prospective purchaser.
- (iii) act in an impartial and just manner to all parties involved in a transaction regardless of their capacity.

- A. (i) only
- B. (i) and (ii) only
- C. (i) and (iii) only
- D. (i), (ii) and (iii)**
- E. None of the above (i), (ii) and (iii)

Answer to Question 2:

Practice Circular No.13-04(CR) provides that in the provision of information to prospective purchaser, licensees must, at the first opportunity after they have successfully established contact with a prospective purchaser, clearly explain to the prospective purchaser whether their estate agency company acts:

- (a) only for the vendor; or
- (b) only for the purchaser; or
- (c) for both the vendor and the purchaser; and
- (d) whether their estate agency company may act for both the purchaser and the vendor subsequently.

Licensees must inform the prospective purchaser of the above matters in writing and supply a copy of the same to the prospective purchaser.

The above practice circular also requires that licensees must act in an impartial and just manner to all parties involved in a transaction regardless of their capacity.

The answer is D.

Question 3

Under the Practice Regulation, a licensed estate agent in acting for vendor, purchaser, landlord or tenant is required to enter into the relevant prescribed forms of estate agency agreements with the respective clients unless : -

- (i) it is a first sale of a residential flat.
- (ii) it is a leasing of a car parking space alone.
- (iii) it is a leasing of a property that is not a self-contained unit.
- (iv) it is a sale and purchase of a car parking space carried out together with the sale and purchase of a residential property.

- A. (i), (ii) and (iii) only
- B. (i), (ii) and (iv) only
- C. (i), (iii) and (iv) only
- D. (ii), (iii) and (iv) only
- E. (i), (ii), (iii) and (iv)

Answer to Question 3:

Under Section 3(4) of the Practice Regulation, the forms are not prescribed for the purposes of the Ordinance in the case of-

- (a) the sale and purchase or leasing of a car parking space carried out separately from the sale and purchase or leasing of a residential property;
- (b) the leasing of a residential property that is not a self-contained unit; or
- (c) subject to section 7(1), a first sale of an undivided share in land in which a residential property forms part.

A self-contained unit is defined under Section 2(1) of the Practice Regulation to mean an independent dwelling with separate cooking facilities and bathroom with or without lavatory.

The exception in the case of first sale of an undivided share in land in which a residential property forms part is subject to Section 7(1) of the Practice Regulation. A licensed estate agent will enter into written agreement with the vendor in a first sale of an undivided share in land in which a residential property forms part in accordance with the requirement under this sub-section.

The answer is A.

Question 4

When Mr. Wood introduced Ms. Gold to obtain a mortgage from Bank Band and explained to Ms. Gold the financing schemes concerning the second mortgage loans provided by the developer of Project Water, Mr. Wood should:

- (i) produce proper written authorisations from Bank Band and the developer of Project Water showing that he has the authority to do so.
- (ii) remind Ms. Gold to seek information directly from Bank Band and the developer of Project Water.
- (iii) collect all relevant financial information from Ms. Gold and deliver to Bank Band and the developer of Project Water within 30 days of the signing of the Provisional Agreement for Sale and Purchase.
- (iv) assure Ms Gold that she will successfully obtain mortgage loans to finance her purchase of a unit in Project Water.

- A. (ii) only
- B. (iv) only
- C. (i) and (ii) only
- D. (i) and (iv) only
- E. (ii) and (iii) only

Answer to Question 4:

As per the guidelines provided in Practice Circular No. 13-04(CR), in handling transactions of first-sale residential properties, licensees are not obliged to explain information about mortgage plans and financing schemes to prospective purchasers. If, however, licensees take the initiative to do so, the explanation must be based solely on the information provided by the banks and finance companies, or the vendor concerned. Furthermore, licensees must not make any statement to assure prospective purchasers that they will successfully obtain a mortgage loan or the desired terms to finance their purchase. They should advise prospective purchasers to make enquiries directly with the banks and finance companies, or the vendor concerned.

In this connection, only option (ii) is correct. The answer is A.

Question 5

According to the guidelines in the Practice Circular regarding the conduct in the first sales of residential properties, licensed estate agents or salespersons must:

- (i) not provide information concerning floor area and price per square foot or metre other than by reference to the saleable area of the property.
 - (ii) advise prospective purchasers to refer to the “Notes to Purchasers of First-hand Residential Properties” (available on the Sales of First-hand Residential Properties Authority website) before they make a purchase decision.
 - (iii) advise prospective purchasers that, under the Residential Properties (First-hand Sales) Ordinance, the sales brochure prepared by the vendor must contain all information required under the Ordinance and that any other promotional materials do not form part of the sales brochure.
- A. (i) only
 - B. (ii) only
 - C. (i) and (iii) only
 - D. (ii) and (iii) only
 - E. (i), (ii) and (iii)**

Answer to Question 5:

According to the requirements under the Residential Properties (First-hand Sales) Ordinance, saleable area will be the only basis that can be used to provide information on floor areas and unit prices in sales brochures, price lists and advertisements. Therefore, Practice Circular No. 13-04(CR) requires that licensees must not provide information concerning floor area and price per square foot or metre other than by reference to the saleable area of the property.

Regarding sales brochures and price lists, the Practice Circular requires that licensees must advise prospective purchasers that, under the Residential Properties (First-hand Sales) Ordinance, the sales brochure prepared by the vendor must contain all information required under that ordinance and that any other promotional materials do not form part of the sales brochure. Also, licensees must advise prospective purchasers to refer to the “Note to Purchasers of First-hand Residential Properties” before they make a purchase decision. This Note may be downloaded from the website of the Sales of First-hand Residential Properties Authority.

All options are correct, therefore, the answer is E.

Question 6

Which of the following statements regarding advertisements of the sale of first-hand residential developments are correct?

- (i) The Residential Properties (First-hand Sales) Ordinance provides that if an advertisement is published by the vendor or by another person with the consent of the vendor, the advertisement needs not state that fact.
 - (ii) Estate agency companies must obtain written consent of the vendor before issue any advertisement or promotional material.
 - (iii) Under the Residential Properties (First-hand Sales) Ordinance, an advertisement must not give information on the size or unit price other than by reference to the saleable area of the property.
 - (iv) Estate agency companies should not misrepresent the surroundings of a development.
- A. (i) and (ii) only
 - B. (ii) and (iii) only
 - C. (ii), (iii) and (iv) only**
 - D. (i), (ii), (iii) and (iv)
 - E. None of the above (i), (ii), (iii) and (iv)

Answer to Question 6:

According to the Practice Circular No. 13-04(CR), estate agency companies must note the following guidelines when they issue any advertisement in relation to the first sale of residential properties:

1. Licensees must note that under the Consent Scheme, unless permission to commence promotional activities for the sale of units in a development has been given by the Lands Department, and all conditions pertaining to such permission have been fully complied with, no publicising or advertising shall be launched prior to the Lands Department's issue of consent to sell. If the permission is given, any such promotional publicity or advertisement must specify that the consent to sell has not yet been obtained.
2. The Residential Properties (First-hand Sales) Ordinance requires that if an advertisement is published by the vendor or by another person with the consent of the vendor, the advertisement must state that fact.
3. No advertisement or promotional material shall be issued by licensees other than estate agency companies. Estate agency companies must obtain written consent of the vendor before they issue any advertisement or promotional material.
4. When preparing materials to assist vendors to promote a development, estate agency companies must take all reasonable steps to verify the accuracy of the information contained in such materials, and before issuance, obtain the vendor's express endorsement in writing of the accuracy and completeness of the particulars contained therein, and ensure that the relevant requirements in the Residential Properties (First-hand Sales) Ordinance are complied with.

5. Under the Residential Properties (First-hand Sales) Ordinance, an advertisement must not give information on the size or unit price other than by reference to the saleable area of the property.
6. Estate agency companies are specifically reminded not to misrepresent the surroundings of a development. An advertisement containing a picture, image, drawing or sketch showing an artist's impression of the development or its surrounding area must contain a statement specified in the Residential Properties (First-hand Sales) Ordinance.

Only option (i) is incorrect. The answer is C.

Question 7

It is not uncommon in Hong Kong for a purchaser to acquire from the shareholder(s) the entire issued share capital of a property holding company so that the purchaser will indirectly acquire the asset of the company namely, the property. It is however not appropriate for Mr. Wood himself to arrange for sale and purchase of property by way of sale and purchase of shares in a private limited company which holds a property because:-

- (i) the purchaser may unknowingly take over debts and liabilities of the subject company.
 - (ii) Mr. Wood is only a licensed salesperson, not a licensed estate agent.
 - (iii) the purchaser may face potential complications in the financing of the purchase.
 - (iv) it is essential that both the purchaser and the vendor should have obtained legal advice before the relevant agreement for sale and purchase of shares is entered into .
- A. (i), (ii) and (iii) only
 - B. (i), (ii) and (iv) only
 - C. (i), (iii) and (iv) only**
 - D. (ii), (iii) and (iv) only
 - E. (i), (ii), (iii) and (iv)

Answer to Question 7:

“estate agency work” is defined in Section 2(1) of the Ordinance to mean “any work done in the course of business for a client -

- (a) being work done in relation to the introduction to the client of a third person who wishes to acquire or dispose of a property, or to the negotiation for the acquisition or disposition of a property by the client; or
- (b) being work done, after the introduction in the course of that business to the client of a third person who wishes to acquire or dispose of a property or the negotiation in the course of that business for the acquisition or disposition of a property by the client, in relation to the acquisition or disposition, as the case may be, of the property by the client.”

It is further stated in Section 2(3) of the Ordinance that estate agency work “are not to be construed as including references to work which relates solely to a survey, to a valuation or to a disposition by way of auction or tender”.

There is no express provision in the Ordinance which states that estate agency work does not include work involving sale and purchase of shares of a limited company which holds a property. The Authority issued Practice Circular No. 05-08 (CR) to advise that it is highly risky for licensed estate agents or salespersons to arrange for the share transfer of a property holding company without legal advice. Unlike the usual Provisional Agreement for Sale and Purchase, an agreement for the sale and purchase of shares is a complicated legal document. Purchaser(s) may unwittingly take over debts and liabilities of a limited company that are associated with a transfer of the shares and business undertaking of that limited company and such debts and liabilities (which may be present or contingent and may or may not relate to the subject property) may not be easily discovered without conducting a due diligence

examination of the accounts and business of that limited company. In the event that the purchaser(s) require(s) financing to complete the purchase, a share transfer may give rise to complications in the financing of the purchase.

Therefore, options (i), (iii) and (iv) are correct, the answer is C.

Question 8

If Mr. Wood is to take care of the post signing formalities for Ms. Gold and Mrs. Fire after the tenancy agreement for the renewal is signed by both Ms. Gold as landlord and Mrs. Fire as tenant, which of the following procedures should be completed?

- (i) to submit the signed renewed tenancy agreement to the Stamp Office for stamping within 30 days from the date of the agreement.
 - (ii) to arrange for registration of the signed and stamped renewed tenancy agreement at the Land Registry for registration within one month from the date of the agreement.
 - (iii) to file the duly completed and signed Form CR109 and lodge it with the Commissioner of Rating and Valuation within one month from the date of the renewed tenancy agreement.
- A. (i) only
 - B. (ii) only
 - C. (ii) and (iii) only
 - D. (i), (ii) and (iii)**
 - E. None of the above (i), (ii) and (iii)

Answer to Question 8:

The submission of Form CR109 to the Commissioner of Rating and Valuation for endorsement in the case of renewal of tenancy of domestic tenancies is required notwithstanding that the amendment to Section 119L(1) of the Landlord and Tenant (Consolidation) Ordinance by virtue of the Amendment Ordinance.

Mr. Wood should arrange for registration of the tenancy agreement at the Land Registry in order to better protect the interest of Mrs. Fire. It is because Mrs. Fire is granted the right to renew the tenancy for a further term of two years under the agreement. Under Section 3(2) of the Land Registration Ordinance, any registrable instruments affecting land, which are not registered, are void against a bone fide purchaser or mortgagee for valuable consideration. In Markfaith Investments Ltd v Chiap Hua Flashlights Ltd [1990] 2 HKLR 84, it was held that an unregistered option to renew is void against a bone fide purchaser for value.

Under Head 1(2) of Schedule 1 of the Stamp Duty Ordinance, a tenancy agreement is chargeable with stamp duty.

The answer is D.

Question 9

Ms. Gold will have the right to forfeit the tenancy if Mrs. Fire shall have committed certain acts even if the renewed tenancy agreement with Mrs. Fire does not contain the relevant conditions. Such acts include:

- (i) non-payment of rent within 15 days of the due date.
- (ii) structural alteration to the premises without the prior written consent of the landlord.
- (iii) unnecessary annoyance, inconvenience or disturbance to the landlord.
- (iv) unnecessary annoyance, inconvenience or disturbance to persons other than the landlord.
- (v) use of the premises for immoral or illegal purpose.

- A. (i), (ii) and (v) only
- B. (i), (iii) and (iv) only
- C. (i), (ii), (iii) and (v) only
- D. (ii), (iii), (iv) and (v) only
- E. (i), (ii), (iii), (iv) and (v)**

Answer to Question 9:

Section 117 of the Landlord and Tenant (Consolidation) Ordinance provides that, for a tenancy created on or after 27th December 2002, there shall be implied in the tenancy certain covenants if the tenancy agreement does not contain the relevant covenants. The failure to perform such covenants on the part of the tenant will empower the landlord to forfeit the tenancy.

According to Section 117(3) of the Landlord and Tenant (Consolidation) Ordinance, the implied covenants include:

1. tenant to pay the rent on the due date; and a condition for forfeiture if that implied covenant is broken by virtue of non-payment of the rent within 15 days of the due date.
2. tenant not use the premises for an immoral or illegal purpose; and a condition for forfeiture if that implied covenant is broken.
3. tenant not cause unnecessary annoyance, inconvenience of disturbance to landlord or to any other person; and a condition for forfeiture if that implied covenant is broken.
4. tenant not make any structural alteration to, or suffer or permit any structural alteration to, the premises without the consent of the landlord; and a condition for forfeiture if that implied covenant is broken.

It is further provided in Section 117(5) of the Landlord and Tenant (Consolidation) Ordinance that for the purpose of the covenant that the tenant not cause unnecessary annoyance, inconvenience or disturbance to the landlord or to any other person; then there shall be a condition for forfeiture if that covenant is broken, persistent delay of payment of rent is unnecessary annoyance, inconvenience or disturbance.

The answer is E.

Question 10

A landlord is required to give receipts to the tenant for rent received, the information to be specified in the receipt include:-

- (i) the name of the landlord.
- (ii) the period in respect of which the rent was paid.
- (iii) the address of the landlord.
- (iv) the rent payable by the tenant in the coming month.

- A. (i) and (ii) only
- B. (ii) and (iii) only
- C. (i) and (iii) only
- D. (i), (ii) and (iii) only**
- E. (i), (iii) and (iv) only

Answer to Question 10:

Under Section 119RA(1) of the Landlord and Tenant (Consolidation) Ordinance, a landlord shall give to his tenant, at the time that the tenant pays his rent, a receipt for the amount of the rent paid containing the information required. These information include:

- (a) the name and address of the landlord;
- (b) the period in respect of which such rent was paid; and
- (c) the date of payment.

It is provided in Section 119RA(2) that a landlord who fails to comply with the requirement commits an offence and is liable to a fine of HK\$2,000.

The answer is D.

- End -