

Appendix 2

SALESPERSONS QUALIFYING EXAMINATION SYLLABUS

Preamble

Expectations

Salespersons are expected to:

- be aware of the background of the real estate agency trade;
- have a basic knowledge of the Estate Agents Ordinance (“EAO”) and the Estate Agents Authority;
- be able to handle typical cases in line with EAA’s prescribed practice;
- be aware of the basic terminology and concepts of laws governing practice and the need to comply with the requirements of the law;
- be aware of how prescribed property information is gathered, the terminology involved and be able to interpret the information for clients;
- be aware of the basic classification of and terminology for buildings and that different aspects of buildings are regulated by law; and
- have a basic knowledge of the basic terminology and concepts of tenancy and the need to comply with the requirements of the law.

Annotation system for levels of expectation

EAA has devised a coding system for each section of the syllabus to assist candidates’ understanding of the depth of knowledge expected to be shown in the examination.

Levels of expectation

(a) Depth of knowledge (3 levels)

W = awareness

K = basic knowledge

U = understanding, able to relate to the context of the industry

(b) Ability to make use of knowledge in practice (1 level)

P = application, able to perform correctly

Part 1: Introduction to the real estate agency industry in Hong Kong

Salespersons are expected to be aware of the background of the trade.

(W) for the whole of Part 1

- 1.1 Development of the real estate sector in Hong Kong: the different stages, and its relation to overall socio-economic development
- 1.2 Development of real estate practice in Hong Kong, including the growth from individually-based to company-based operations and the development of large chain enterprises; the relationship between the real estate agency trade and other professions and sectors: government departments, legal, banking, developers, building and construction, property management

- 1.3 Housing and land policy
 - 1.3.1 Housing and land policy and other major factors (political, economic restructuring, immigration) affecting property prices and their fluctuation cycles
 - 1.3.2 Technical factors affecting property prices: interest rates, economic indices, seasonal variations, mortgage policy
- 1.4 Property market supply and demand annual statistics
- 1.5 The role and functions of real estate agents in the property market: promoter and distributor
- 1.6 Problems of real estate practice in the absence of a specific ordinance to govern the practice and rationale behind the introduction of EAO
- 1.7 Public expectations of the trade's professionalism
 - 1.7.1 Consumers' perspective of the trade in relation to their rights
 - 1.7.2 Professionalism in the context of real estate practice

Part 2: Estate Agents Ordinance and estate agency practice

Salespersons are required to have a basic knowledge of the EAO and EAA, to be conversant with EAA's prescribed practice for property sales and to be able to deal with typical cases.

(K, P) for the whole of Part 2

- 2.1 The trade's regulatory and statutory body
 - 2.1.1 Principal functions and general powers of EAA
 - 2.1.2 Organisational structure of EAA
 - 2.1.2.1 Composition of EAA and its standing committees
 - 2.1.2.2 Organisational structure of EAA
 - 2.1.2.3 Role of the Chief Executive Officer ("CEO") in handling complaints and conducting investigations
 - 2.1.2.4 Inquiries by the Disciplinary Committee
- 2.2 Compliance with EAA's licensing requirements
 - 2.2.1 Obtaining a licence before practice
 - 2.2.2 Licensing requirements
- 2.3 Statutory duties of Salespersons and the EAO
 - 2.3.1 Definition of Salespersons
 - 2.3.2 Application for licence
 - 2.3.3 Renewal of licence
 - 2.3.4 Suspension or revocation of licence
 - 2.3.5 Duties: information regarding properties and transactions, Section 40(1) notice, liability for

Estate Agents Authority website: <http://www.eaa.org.hk>

- monies received, advertising
- 2.3.6 Standard forms: requirements for making agreements, contents of agreements, Estate Agency Agreement for vendor, Estate Agency Agreement for purchaser, Property Information Form, Vendor's Statement
- 2.3.7 Offences by Salespersons (Section 55)
- 2.3.8 Appeal
 - 2.3.8.1 Categories of appeal
 - 2.3.8.2 Appeal panel and tribunals
 - 2.3.8.3 Appeal tribunal proceedings
- 2.4 Code of Ethics
 - 2.4.1 Compliance with the law
 - 2.4.2 Good understanding of related legislation and requirements
 - 2.4.3 Professional knowledge and competence required
 - 2.4.4 Ethical and moral standards during practice and responsibilities towards clients
 - 2.4.5 Exercising due diligence
 - 2.4.6 Minimising any conflict-of-interest situations
 - 2.4.7 Relationship between agents and ethical standards to be observed in conducting business
- 2.5 Practice Regulations
 - 2.5.1 General duties of Salespersons
 - 2.5.2 Listing and seeking instructions
 - 2.5.3 Use of Estate Agency Agreement
 - 2.5.4 Advertising
 - 2.5.5 Provision of property information and exercise of due diligence
 - 2.5.6 Property inspection and viewing
 - 2.5.7 Conduct of negotiations
 - 2.5.8 Handling of clients' money and keeping of accounts and records
 - 2.5.9 Preliminary agreement for sale and purchase
 - 2.5.10 Commission
 - 2.5.11 Post-transaction services
- 2.6 Compliance with guidelines relevant to the trade
 - 2.6.1 Guidelines for sale of uncompleted property under the Consent Scheme
 - 2.6.2 Guidelines for internal sales

Part 3: Laws governing estate agency practice and conveyancing procedures

Salespersons are expected to be aware of the basic terminology and concepts of the laws and the need to comply with the requirements of the law. Awareness of conveyancing procedures, mortgages and taxation is also expected.

(W) for the whole of Part 3

- 3.1 Basic concept of common law
 - 3.1.1 Definition of common law
 - 3.1.2 System of judicial precedent
- 3.2 Basic concept of equity
- 3.3 Statute law
- 3.4 Principles of the law of agency
 - 3.4.1 Mode of creation
 - 3.4.1.1 Express
 - 3.4.1.2 Implied
 - 3.4.1.3 Estoppel
 - 3.4.1.4 Ratification
 - 3.4.2 Duties of agent
 - 3.4.2.1 Obey lawful instructions

- 3.4.2.2 Due care and diligence
- 3.4.2.3 Disclose material information
- 3.4.2.4 Avoid conflict of interest
- 3.4.2.5 Keep secret confidential information
- 3.4.2.6 Not to delegate duties
- 3.4.2.7 Not to make secret profit
- 3.4.2.8 No misrepresentation
- 3.4.3 Termination of agency
 - 3.4.3.1 By mutual agreement
 - 3.4.3.2 Revocation by principal
 - 3.4.3.3 Renunciation by agent
 - 3.4.3.4 Supervening illegality
 - 3.4.3.5 Expiration
 - 3.4.3.6 Full fulfilment of terms
 - 3.4.3.7 Incapacity of principal or agent
 - 3.4.3.8 Destruction of subject matter
 - 3.4.3.9 Enemy status
- 3.5 Principles of the law of contract
 - 3.5.1 Definition of contract
 - 3.5.2 Formation of contract
 - 3.5.2.1 Offer
 - 3.5.2.2 Acceptance
 - 3.5.2.3 Consideration
 - 3.5.2.4 Intention to be legally binding
 - 3.5.3 Contract for real property
 - 3.5.3.1 General ingredients
 - 3.5.3.2 Special requirements-in writing: parties, Property, price, particular terms, signature
- 3.5.4 Interpretation of contract
- 3.5.5 Breach of contract and remedies
 - 3.5.5.1 Breach of contract
 - 3.5.5.2 Remedies: common law remedies, equitable remedies
- 3.5.6 Misrepresentation
 - 3.5.6.1 Definition of misrepresentation
 - 3.5.6.2 Remedies for misrepresentation
- 3.5.7 Breach of contractual duties by agents and liabilities
- 3.6 Negligence
 - 3.6.1 Definition of negligence
 - 3.6.2 Ingredients of negligence
 - 3.6.2.1 Duty of care
 - 3.6.2.2 Breach of duty
 - 3.6.2.3 Injury or damages
 - 3.6.3 Negligent statement
 - 3.6.3.1 Ingredients of negligent statement: negligent statement, reliance by plaintiff, defendant knows reliance, reliance is reasonable, plaintiff suffers injuries or damages
 - 3.6.3.2 Restriction on liability
 - 3.6.4 Breach of duty of care by agent and liabilities
- 3.7 Other Ordinances relating to estate agency practice
 - 3.7.1 Conveyancing and Property Ordinance
 - 3.7.1.1 Land contracts to be in writing (Section 3)
 - 3.7.1.2 Certain instruments to be in writing (Section 5)
 - 3.7.1.3 Creation of interest in land by parol (Section 6)

- 3.7.2 Land Registration Ordinance
 - 3.7.2.1 Registrable instruments
- 3.7.3 Housing Ordinance
 - 3.7.3.1 Sale of land by Housing Authority (Section 17A)
 - 3.7.3.2 Particular conditions of sale (Section 17AA)
 - 3.7.3.3 Void alienation (Section 17B)
 - 3.7.3.4 Alienation restrictions (Schedule)
- 3.7.4 Personal Data (Privacy) Ordinance
 - 3.7.4.1 Definition of personal data (Section 2)
 - 3.7.4.2 Data protection principles: purpose and manner of collection of personal data, accuracy and duration of retention of personal data, use of personal data, security of personal data, information to be generally available, access to personal data (Schedule)
 - 3.7.4.3 Direct marketing (Section 34)
- 3.7.5 Unconscionable Contracts Ordinance (Section 6)
- 3.7.6 Prevention of Bribery Ordinance (Sections 5 and 9)
- 3.7.7 Misrepresentation Ordinance (Section 3)
- 3.8 Conveyancing practice and procedures: from preliminary agreement for sale and purchase to completion
- 3.9 Mortgages
 - 3.9.1 Different forms of mortgage
 - 3.9.2 Essential terms of mortgage and their common variations
 - 3.9.3 Floating and fixed-rate mortgages
 - 3.9.4 Application procedures and usual considerations in approving mortgages
- 3.10 The basics of property-related taxation
 - 3.10.1 Stamp duty
 - 3.10.2 Property tax
 - 3.10.3 Government rent
 - 3.10.4 Rates
 - 3.10.5 Profits tax

Part 4: Introduction to land registration, land search and property-related information systems

Salespersons are expected to be aware of how information is derived to conduct typical searches, the terminology involved, and to be able to interpret the information for clients.

(W) for the whole Part of 4, unless otherwise specified

- 4.1 Technical terms and salient features of a land search
 - 4.1.1 Property particulars: lease term, commencement of lease term, lease restrictions, memorial, court order
 - 4.1.2 Owner particulars: name of owner, consideration
 - 4.1.3 Incumbrances: occupation permit, date of instrument, Deed of Mutual Covenant ("DMC")

- 4.1.4 Types of ownership: sole owner, joint tenants/tenants in common, trustee
- 4.1.5 Property as gift
- 4.2 Land search (*P*)
 - 4.2.1 Historical versus current land search
 - 4.2.2 Various methods of conducting land search: Integrated Registration Information System (IRIS), via third parties, government charges
 - 4.2.3 How to analyse a search document
 - 4.2.3.1 Checklists for going over a search document
 - 4.2.3.2 Most common complications spotted in a search: occupation date, cases of dispute etc.
 - 4.2.3.3 When a company search is necessary and items to be checked
 - 4.2.3.4 When to resort to legal consultation
- 4.3 Publicly available statistical information
 - 4.3.1 Basic statistics related to the real estate trade: population, age, number of households, wage/earnings, expenditure on housing
 - 4.3.2 Housing information
 - 4.3.2.1 Land population, land domestic household, house size (Housing Department)
 - 4.3.2.2 Government lease (Lands Department)
- 4.3.2.3 Housing supply and demand (Housing Department, Rating and Valuation Department): stock of permanent residential flats: private; public: Home Ownership Scheme, Private Sector Participation Scheme, Housing Society subsidised sale flat, Housing Authority rental flats, Housing Society rental flats; production of permanent residential flats: by nature and by location, future production, redevelopment and clearance programme, total vacant private residential stock, housing demand projection; housing prices: prices of permanent residential flats
- 4.3.3 Transaction information (Land Registry)
 - 4.3.3.1 Sale and purchase agreements for building units and land
 - 4.3.3.2 Floor plan
 - 4.3.3.3 Rental information
- 4.4 Access to other land/property information systems
 - 4.4.1 Commercial property information providers
 - 4.4.2 Internet: government department web pages, publicly available estate agency web pages

Part 5: Introduction to building-related knowledge, property classification and property management

Salespersons are expected to be aware of the basic classification and terminology of buildings and that different aspects of buildings are regulated by law.

(W) for the whole of Part 5

- 5.1 Government Lease conditions
 - 5.1.1 Particulars of the lot
 - 5.1.2 General conditions
 - 5.1.3 Special conditions
 - 5.1.4 Special categories
- 5.2 Buildings Ordinance
 - 5.2.1 Definition
 - 5.2.2 Parties involved and their duties
- 5.3 Issues affecting existing buildings
 - 5.3.1 Essential information
 - 5.3.2 Alterations and additions
 - 5.3.3 Change in use
- 5.4 Property management
 - 5.4.1 Deed of Mutual Covenant (“DMC”)
 - 5.4.2 Essential elements of property management
 - 5.4.3 Building Management Ordinance

Part 6: Leasing and tenancy matters

Salespersons are expected to have a basic knowledge of the terminology and concepts involved and the need to comply with the requirements of the law (specifically the Landlord and Tenant (Consolidation) Ordinance).

(K, P) for the whole of Part 6

- 6.1 Types of tenancy
 - 6.1.1 Domestic
 - 6.1.2 Commercial
- 6.2 Stamp duty on tenancy agreement
- 6.3 Rights of tenant
 - 6.3.1 Exclusive possession
 - 6.3.2 Quiet enjoyment
- 6.4 Obligations of tenant
 - 6.4.1 Payment of rent
 - 6.4.2 Delivery of possession on termination of tenancy
- 6.5 Rights of landlord
 - 6.5.1 Receipt of rent
 - 6.5.2 Re-possession on tenant’s default or statutory grounds
- 6.6 Obligations of landlord
 - 6.6.1 Structural and exterior repairs
- 6.7 Determination of tenancy
 - 6.7.1 By effluxion of time
 - 6.7.2 By mutual agreement
 - 6.7.3 The break clause
 - 6.7.4 Other means
- 6.8 Tenancy renewal procedures
 - 6.8.1 Renewal by agreement
 - 6.8.2 Other means
- 6.9 CR forms
 - 6.9.1 CR 109