

# Appendix 3

## SAMPLE QUESTIONS AND ANSWERS

### Notes :

#### 1. All references to:

- (a) "Hong Kong" shall mean the Hong Kong Special Administrative Region ("HKSAR").
- (b) "Government" shall mean The Government of the HKSAR.
- (c) the "Code of Ethics" shall mean the Code of Ethics issued by the Estate Agents Authority.
- (d) the "Practice Circular" shall mean the practice circulars issued by the Estate Agents Authority.
- (e) the "Licensing Regulation" shall mean the Estate Agents (Licensing) Regulation.
- (f) the "Practice Regulation" shall mean the Estate Agents Practice (General Duties and Hong Kong Residential Properties) Regulation.
- (g) the "Ordinance" shall mean the Estate Agents Ordinance.
- (h) a gender shall include the opposite and the neuter gender.
- (i) the singular shall include the plural and vice versa.

#### 2. Unless otherwise stated:

- (a) the Estate Agents Ordinance and its subsidiary legislation shall apply to all questions.
- (b) "estate agent", "licensee" and "salesperson" shall mean a person holding a relevant licence under the Estate Agents Ordinance.
- (c) a "land search" refers to the land register of a property in the Land Registry.
- (d) "Property Information Form (Form 1)" and "Leasing Information Form (Form 2)" refer to the corresponding forms prescribed in the Practice Regulation.

- (e) "Estate Agency Agreement (Form 3)", "Estate Agency Agreement (Form 4)", "Estate Agency Agreement (Form 5)" and "Estate Agency Agreement (Form 6)" refer to the corresponding agreements prescribed in the Practice Regulation.

### PLEASE CHOOSE THE BEST ANSWER

\* Indicates the correct answer

1. Which of the following type(s) of information may be found in the Government Gazette?

- (i) names of candidates passing the Estate Agents Qualifying Examinations
- (ii) names of licensees who have had specified conditions attached to their licence by the Disciplinary Committee
- (iii) names of licensees whose licence has been suspended by the Disciplinary Committee

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

2. A purchaser intends to buy a flat for \$3 million. The land search shows that the vendor bought the flat in 2009 for \$6 million and mortgaged it to Money Bank under an "all monies" mortgage. In the circumstances, which of the following advice from the purchaser's estate agent would best protect the purchaser's interests?

- A. To pay the deposit by way of post-dated cheque
- B. To lower the offer to \$2.7 million
- C. To pay as little deposit as possible so as to minimise the purchaser's loss in the event that the vendor is unable to complete the sale
- \* D. To have the deposit stakeheld by the vendor's solicitors until the balance of the purchase price payable on completion is found sufficient to discharge the existing mortgage
- E. To pay the deposit direct to Money Bank so that the bank cannot foreclose on the property
3. Raymond is an estate agent who often refers clients to ABC Bank for mortgages. In order to secure favourable valuations, he gives the mortgage clerk of the bank \$2,000 per month. Which of the following Ordinance(s)/Code has/have Raymond breached?
- (i) Prevention of Bribery Ordinance
- (ii) Conveyancing and Property Ordinance
- (iii) Code of Ethics
- A. (i) only
- B. (ii) only
- C. (iii) only
- \* D. (i) and (iii) only
- E. (ii) and (iii) only
4. Under the Ordinance, which of the following are among the factors that the Estate Agents Authority must consider in determining whether a person is "a fit and proper person" to hold an estate agent's licence (individual) or a salesperson's licence?
- (i) The person is an undischarged bankrupt.
- (ii) The person is a mentally disordered person within the meaning of the Mental Health Ordinance.
- (iii) The person has relevant work experience.
- (iv) The person was convicted of the offence of theft by a court in Hong Kong.
- A. (i) and (ii) 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)
5. Under the Practice Regulation, the vendor's estate agent shall have in his possession which of the following information relating to his client's property?
- (i) current ownership and subsisting encumbrances
- (ii) saleable area
- (iii) user of property
- A. (i) only
- B. (i) and (ii) only
- C. (i) and (iii) only
- D. (ii) and (iii) only
- \* E. (i), (ii) and (iii)
6. It is common for a married couple to own a property as joint tenants because:
- (i) any one of them can sign the provisional agreement on behalf of the other by virtue of his capacity as a joint tenant when selling the property
- (ii) if one of them assigns his interest in the property to a third person by way of gift with the other co-owner's consent, no stamp duty is payable on the assignment
- (iii) if one of them passes away, the survivor has an automatic right of succession to the

deceased's interest in the property

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

7. Despite the vendor client's insistence that she will not list or sell her property for anything less than \$1.1 million, a dual agent takes the initiative to advertise the property for a "may try" price of \$0.8 million and persuades a purchaser client to view the property, suggesting that it is a good buy. The agent may have breached the provisions of which of the following?

- (i) Practice Regulation – for advertising the property at a price other than that instructed by his vendor client
- (ii) Code of Ethics – (in his capacity as the purchaser's agent) for knowingly showing his purchaser client a property with a fictitious list price
- (iii) the general conditions of his licence

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

8. Which of the following statements is **NOT** included as a Data Protection Principle under the Personal Data (Privacy) Ordinance?

- \* A. Personal data may be used for any purpose that benefits the data subject provided that he is informed of such

purpose as soon as possible after such use

- B. Personal data shall not be kept longer than is necessary for the fulfilment of the purpose of collection
- C. Personal data shall be collected for a lawful purpose
- D. A data user shall take all practicable steps to prevent any accidental access to the personal data it holds
- E. A data subject shall have access to his personal data held by a data user

9. Which of the following statements in respect of a Deed of Gift of a property is **NOT CORRECT**?

- \* A. It is not registrable in the Land Registry
- B. It is a document of title
- C. It may be invalidated by the bankruptcy of the donor
- D. It may be made in favour of more than one donee
- E. It is charged for stamp duty at the full market value of the property

10. Mary bought a residential property for \$3.5 million in April 2009. What is the amount of stamp duty payable on the provisional agreement for sale and purchase?

- A. \$70,000
- \* B. \$78,750
- C. \$87,500
- D. \$92,250
- E. \$105,000

11. Which of the following persons/bodies are normally parties to the Deed of Mutual Covenant of a building?

- (i) the developer
- (ii) the Transport and Housing Bureau
- (iii) the first purchaser buying from the developer
- (iv) the management company

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

12. Under common law, which of the following is **NOT** an essential element of a contract?

- A. Offer
- B. Acceptance
- C. Consideration
- \* D. Remedies for breach
- E. Intention to contract

13. Tim's estate agent's licence was recently revoked by the Estate Agents Authority. Under the Ordinance and the Licensing Regulation, Tim is **NOT** entitled to make an application for a licence without the consent of the Estate Agents Authority within what period of the revocation date?

- A. 6 months
- B. 9 months
- \* C. 12 months
- D. 18 months
- E. 24 months

14. A recruitment advertisement reads: "Estate agents required. Single female preferred." This advertisement may be in breach of which of the following anti-discrimination laws in Hong Kong?

- (i) Sex Discrimination Ordinance
- (ii) Disability Discrimination Ordinance
- (iii) Family Status Discrimination Ordinance

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

15. A tenancy agreement signed in April 2009 has the following terms:

1. Duration : 24 months
2. Monthly Rent :  
\$10,000 for the first 12 months  
\$15,000 for the last 12 months
3. Rent-free period: the first 3 months

Inclusive of a counterpart tenancy agreement, what is the total stamp duty payable?

- A. \$600
- B. \$625
- \* C. \$680
- D. \$750
- E. \$900

**Note:**

The following is a sample of the case study of the Qualifying Examinations. The complexity of the Case Study in an actual examination may be different from what is shown, or there may be two short cases instead of a long one. Only 8 questions are shown here for illustration purpose.

**Part II**

**CASE STUDY**

**Leasing of Property A**

1. Teddy is the tenant of Flat A, 12<sup>th</sup> Floor, Fragrant Garden, 25 Sunflower Road, Hong Kong ("Property A"), and for years has been sharing it with his brother, Sales. The current 2-year tenancy agreement has a few more months to run. Sales graduated last month and now works as a salesperson for XYZ Estate Agency ("XYZ") which is located very near Property A.
2. Teddy has just found a new job in Macau and so will soon move over there. Knowing that with no proof of stable income the landlord will probably be reluctant to transfer the tenancy to Sales, Teddy agrees to continue to deal with the landlord as if he were to remain the tenant, so long as Sales continues to pay the rent and also a small amount of "tea money" to Teddy for all the trouble every month.

**Listing of Property A**

3. One day in April 2009, Mr. Au Tsz Bun ("Au") walked into XYZ and enquired with Sales the procedures for arranging the sale of his property with a sitting tenant. Sales immediately realized that Au is his landlord when Au gave him the address of Property A. Sales however did not tell Au he lives there. Sales suggested that if Au appointed XYZ as an exclusive agent

for 6 months, XYZ will advertise Property A on the front page of *Property Post*, a popular weekly property magazine, for the whole period.

4. Au asked if the exclusive agency can be for a shorter period, and Sales told him that it has been XYZ's policy to require six months minimum for exclusive agency services. After some negotiation, Au agreed to appoint XYZ as exclusive agent for Property A for four months and as non-exclusive agent for the following two months. Sales started completing Form 1 and Form 3.
5. Au agreed to list Property A for \$1 million, which was recorded in Form 3. Sales phoned Banker Q who gave a verbal valuation of \$850,000 only. Au said he would not sell Property A for anything less than \$900,000. XYZ's computer record showed that in the past month two nearby comparable properties fetched \$840,000 and \$850,000 respectively, and Sales considered it a waste of valuable marketing resources to advertise Property A for \$1 million.
6. Sales believed that for the best interest of Au it would be vital marketing strategy to get prospective purchasers to enquire of and take a look at Property A, and so he decided to advertise Property A with a "try price" of \$700,000 alongside a list price of \$1 million in *Property Post*. The day after Property A was advertised Sales received an offer of \$840,000 from Client A. The following day Client B offered \$850,000, and at the same time Client C informed Sales that he might make a higher offer the next day after checking valuation, and requested Sales not to present Au with offers from any clients until Client C made an offer.

## Ownership of Property A

7. Au told Sales that though Property A has been in the joint names of himself and his wife, he is in fact the sole beneficial owner because all deposits and mortgage payments have been paid by him. Au also told Sales that his wife has agreed to sell Property A in exchange for him agreeing to a divorce; that she now lives somewhere in Mainland China and Au is doubtful if he can locate her to sign any documents to sell Property A.
8. As proof that all mortgage payments have been made by him, Au showed Sales his bank pass book and some recent mortgage repayment receipts. Au also produced a signed Declaration of Authority (**Annex A**) stating that Au would bear full responsibility for any problem that might arise from his wife, Chan Ngar Man ("Chan") not signing the *estate agency agreement* and provisional agreement. Au assured Sales that the Declaration is a valid authorization.
9. **Annex B** is a recent land search of Property A. Au told Sales there is no need to worry about the court order as his wife has no legal interest in Property A. Au showed Sales a letter from his solicitors to prove that he is the sole beneficial owner of Property A (**Annex C**).

## List of Annexes:

- A: Declaration of Authority
- B: Land Search Record
- C: Letter from Tai Dai Wai & Co.

**DECLARATION OF AUTHORITY**

To: (estate agent/purchaser) \_\_\_\_\_

I declare and confirm that I have obtained the authority of Chan Ngar Man (joint owner of Flat A, 12<sup>th</sup> Floor, Fragrant Garden, 25 Sunflower Road, Hong Kong ) to sign any [estate agency/provisional sale and purchase] agreement in respect of the above property on her behalf.

I warrant that I shall perform the terms of the agreement so signed and shall indemnify you against all damages and costs for anything arising from my signing the agreement on her behalf.

Signature : Au Tsz Bun

Name/HKID of representative : Au Tsz Bun / D123456(7)

Address : Room 123, Fat Fat Building, No.123 Treetop Road, Hong Kong.

Date: 30th December 2008

土地註冊處 THE LAND REGISTRY  
土地登記冊 LAND REGISTER

印製於 PRINTED AT: INTERNET SEARCH (DOWNLOAD)

查冊日期及時間 SEARCH DATE AND TIME: 15/04/2009 10:39

查冊者姓名 NAME OF SEARCHER: X 查冊種類 SEARCH TYPE: HISTORICAL AND CURRENT

本登記冊列明有關物業截至 15/04/2009 08:30 之資料

THE INFORMATION SET OUT BELOW CONTAINS PARTICULARS OF THE PROPERTY UP TO 08:30 ON 15/04/2009.

備存土地紀錄以供市民查閱旨在防止秘密及有欺詐成分的物業轉易，以及提供容易追溯和確定土地財產及不動產業權的方法。土地紀錄內載的資料不得用於與土地紀錄的宗旨無關之目的，使用所提供的資料須符合《個人資料（私隱）條例》的規定。

The land records are kept and made available to members of the public to prevent secret and fraudulent conveyances, and to provide means whereby the titles to real and immovable property may be easily traced and ascertained. The information contained in the land records shall not be used for purposes that are not related to the purposes of the land records. The use of information provided is subject to the provisions in the Personal Data (Privacy) Ordinance.

物業資料

PROPERTY PARTICULARS

物業參考編號

PROPERTY REFERENCE NUMBER (PRN) :

地段編號

LOT NO. : INLAND LOT NO.1021

批約 HELD UNDER : GOVERNMENT LEASE

年期 LEASE TERM : 75 YEARS RENEWABLE FOR 75 YEARS

開始日期 COMMENCEMENT OF LEASE TERM : 07/ 09/ 1898

每年地稅 RENT PER ANNUM : \$2.00

所佔地段份數

SHARE OF THE LOT : 7/1213

物業地址

ADDRESS : FLAT A ON 12<sup>th</sup> FLOOR  
FRAGRANT GARDEN  
25 SUNFLOWER ROAD  
HONG KONG

物業備註 REMARKS :

業主資料

OWNER PARTICULARS

業主姓名 <u>NAME OF OWNER</u>	身分 (如非唯一擁有人) <u>CAPACITY</u> (IF NOT SOLE OWNER)	註冊摘要編號 <u>MEMORIAL NO.</u>	文件日期 <u>DATE OF</u> <u>INSTRUMENT</u>	註冊日期 <u>DATE OF</u> <u>REGISTRATION</u>	代價 <u>CONSIDERATION</u>
FRAGRANT COMPANY LIMITED		UB704717 REMARKS: ASSIGNMENT OF IL1021	11/ 08/ 1976	08/ 09/ 1976	\$800,000.00
CHEUNG SIU HENG		UB903534 REMARKS : ASSIGNMENT WITH PLAN			
AU TSZ BUN CHAN NGAR MAN	JOINT TENANT JOINT TENANT	UB1973047	07/ 11/ 1986	16/ 11/ 1986	\$380,000.00

物業涉及的轉讓  
**INCUMBRANCES**

<u>註冊摘要編號</u> MEMORIAL NO.	<u>文件日期</u> DATE OF INSTRUMENT	<u>註冊日期</u> DATE OF REGISTRATION	<u>文件性質</u> NATURE	<u>受惠各方</u> IN FAVOUR OF	<u>代價</u> CONSIDERATION
UB749889	20/ 04/ 1977	19/ 05/ 1977	BUILDING MORTGAGE	BIG BANK	
UB843764	03/ 01/ 1979	23/ 01/ 1979	DISCHARGE BY RECEIPT		
UB900629	12/ 10/ 1979	03/ 11/ 1979	DEED OF MUTUAL COVENANT		--
UB1942701	21/ 08/ 1986	12/ 09/ 1986	AGREEMENT FOR SALE AND PURCHASE	AU TSZ BUN CHAN NGAR MAN (JOINT TENANTS) REMARKS: SEE ASSIGNMENT MEMORIAL NO.UB1973047	\$380,000.00
UB1973048	07/ 11/ 1986	16/ 11/ 1986	MORTGAGE TO SECURE GENERAL BANKING FACILITIES	SMALL BANK	
08121546435763	20/ 11/ 2008	15/ 12/ 2008	CERTIFIED TRUE COPY NOTICE OF AN APPLICATION FOR ANCILLARY RELIEF	AU CHAN NGAR MAN "PETITIONER" AU TSZ BUN "RESPONDENT" REMARKS: IN F.C.M.C.NO.4604 OF 2008	

等待註冊的契約

**DEEDS PENDING REGISTRATION**

無 NIL

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登記冊末端 END OF REGISTER

**TAI DAI WAI & Co.  
Solicitors and Notaries**

Your Ref.: CCW/SC/B00-55/SC  
Our Ref.: BBC/135

22 January 2009

Messrs. But Siu Ming & Co.  
Solicitors, Suite 123, 1/F.,  
Ho Ho Building,  
7 Queen's Road Central,  
Hong Kong.

Dear Sirs,

**Re: F.C.M.C.No. 4604 of 2008**

We are in receipt of your letter of 20 January 2009, the assertions therein are denied absolutely. We are instructed that your client, Chan Ngar Man, has agreed not to ask for any maintenance costs should our client, Mr. Au Tsz Bun, expedite the divorce proceedings, which condition our client has indeed complied with.

Though your client has been named a joint owner of the property at Flat A, 12<sup>th</sup> Floor, Fragrant Garden, 25 Sunflower Road, Hong Kong, we are instructed our client is its sole beneficial owner as the deposit for the property purchase and all monthly mortgage repayments are paid by our client (see copies of payment receipts enclosed). Your client is therefore holding her share of the property, if any (which is denied), in trust for our client only.

We hereby demand you to cause the registration of the Notice of Application for Ancillary Relief to be vacated within 14 days of this letter. All our client's rights are hereby reserved.

Yours faithfully,

*[signed]*  
Tai Dai Wai & Co.

Encl.(omitted in case study)

1. For the purpose of completing the *Property Information Form* (Form 1), which of the following is/are current and subsisting encumbrances on Property A according to the land search?
- (i) Building Mortgage Memorial No.UB749889
  - (ii) Mortgage Memorial No.UB1973048
  - (iii) Certified True Copy Notice of An Application for Ancillary Relief Memorial No.08121546435763
- A. (iii) only
  - B. (i) and (ii) only
  - C. (i) and (iii) only
  - \* D. (ii) and (iii) only
  - E. (i), (ii) and (iii)
2. Which of the following statements is/are correct?
- (i) Cheung Siu Heng was the vendor in Agreement Memorial No.UB1942701
  - (ii) the purchase of Property A by Au and Chan was financed by a mortgage loan under Mortgage Memorial No.UB1973048
  - (iii) Certified True Copy Notice of An Application for Ancillary Relief Memorial No.08121546435763 shows that Chan has legally become the sole owner of Property A
- A. (ii) only
  - \* B. (i) and (ii) only
  - C. (i) and (iii) only
  - D. (ii) and (iii) only
  - E. (i), (ii) and (iii)
3. For the purposes of completing the *Property Information Form* (Form 1) in April 2009, what is the unexpired term of the Government lease inclusive of the renewable term (a period exceeding six months shall be counted as one year)?
- A. 32 years
  - \* B. 39 years
  - C. 50 years
  - D. 75 years
  - E. 150 years
4. Which of the following statements about Sales' disclosure of interests under Clause 9 of the Estate Agency Agreement (Form 3) is/are correct?
- (i) there is nothing for him to disclose
  - (ii) he should disclose that he resides in Property A of which his brother is the tenant
  - (iii) he should disclose that his brother is the tenant of Property A
  - (iv) he should disclose the selling price of comparable properties
- A. (i) only
  - B. (iii) only
  - \* C. (ii) and (iii) only
  - D. (ii) and (iv) only
  - E. (iii) and (iv) only
5. In respect of the offers from Client A and Client B and the potential offer from Client C, Sales should:
- A. not inform Au of offers below \$900,000
  - B. inform Au of Client B's offer only
  - \* C. inform Au of the offers received from Clients A and B in the order he received them

- D. inform Au of Client B's offer and then Client A's offer
- E. wait for Client C's offer and then inform Au of all the three offers received in the order he received them
6. To comply with the Practice Regulation and the Practice Circular, Sales may advertise Property A at which of the following price(s) if there are no further written instructions?
- (i) \$1 million
- (ii) \$850,000
- (iii) \$700,000
- \* A. (i) only
- B. (i) and (ii) only
- C. (i) and (iii) only
- D. (ii) and (iii) only
- E. (i), (ii) and (iii)
7. Sales is a dual agent also serving the client who agreed to buy Property A. As it was a Sunday, the purchaser could not reach his lawyer for advice about the various matters shown on the land search. Au was adamant that unless the agreement was signed on that day he would not sell to the purchaser. To resolve the deadlock, Sales suggested that all deposits should be stakeheld by Au's solicitors as he thought this would best protect both clients' interests. Both parties agreed and Sales proceeded to complete the provisional agreement. To protect his clients' interests, how should the deposits be stakeheld?
- (i) Not to be released until the purchaser accepts the title
- (ii) Not to be released until there is evidence to prove that the balance of purchase price is sufficient to discharge all mortgages and charges
- (iii) Not to be released until a land search is available
- A. (i) only
- B. (ii) only
- C. (iii) only
- \* D. (i) and (ii) only
- E. (i) and (iii) only
8. For Au to validly execute on behalf of Chan all agreements and assignments for the sale of Property A, which of the following steps need be taken?
- (i) Au executes the Declaration of Authority as a deed under seal
- (ii) Chan writes Au an authorisation letter showing her signature consenting to the sale of Property A
- (iii) Chan executes a power of attorney by deed appointing Au to execute documents relating to the sale of Property A on her behalf
- A. (i) only
- \* B. (iii) only
- C. (i) or (ii) only
- D. (i) or (iii) only
- E. (ii) or (iii) only