

# Review 2010

# 2011

## 地產代理監管局

## 回顧2010年工作及簡介2011年新工作

### EAA reviews its work in 2010 and introduces its initiatives for 2011

地產代理監管局（監管局）主席陳韻雲女士聯同行政總裁余呂杏茜女士於2011年1月18日舉行新聞發布會，回顧監管局在2010年的工作，並且簡介2011年的工作重點。陳韻雲女士表示，監管局去年通過巡查和教育工作，以及發出執業通告，以提升地產代理業界的專業水平。為了推動業界的長遠發展及提升業界的操守水平，監管局將於2011年推展內地與香港地產代理專業資格互認的計劃，以及「誠信管理計劃」。

陳韻雲女士表示，可能由於2010年的市道暢旺，應考資格考試的考生以及持牌人數目均錄得顯著的增幅。持有個人牌照人士的數目於2010年12月31日創出歷史新高，達到31,306。不過，監管局於去年所收到的投訴數目，卻較2009年下跌7%，其中有關一手樓銷售的投訴也下降11%。

陳韻雲女士又指出，監管局致力成為負責任和有效的規管機構，一直密切監察市場新情況，尤其是政府相關的新措施以及地產代理從業員的執業手法，並不時發出執業通告和指引。

Chairman of the Estate Agents Authority (EAA) Ms Vivien Chan, together with EAA Chief Executive Officer Mrs Rosanna Ure, held a press conference on 18 January 2011 to give an account of the EAA's work in 2010 and its initiatives for 2011. Ms Vivien Chan pointed out that in 2010, through compliance inspections and issuance of new practice circulars, the EAA strived to upgrade the professional standards of the estate agency trade. In 2011, the EAA will roll out the scheme of mutual recognition of professional qualifications for Hong Kong and Mainland estate agents, and launch the "Integrity Management Programme", which will help the long term development of the trade and promote integrity in the industry.

According to Ms Vivien Chan, probably due to the boom in the property market in 2010, there was a substantial increase in both the number of candidates taking part in qualifying examinations and the number of licensees, with the number of individual licensees scaling new



監管局主席陳韻雲女士（左）及行政總裁余呂杏茜女士於新聞發布會上回顧局方在2010年的工作，並且簡介2011年的工作重點。  
EAA Chairman Ms Vivien Chan (left) and Chief Executive Officer Mrs Rosanna Ure review the EAA's work in 2010 and introduce its initiatives for 2011 at the press conference.

她舉例說，為了幫助地產代理了解規管一手樓銷售的規例，並且提醒業界遵行由政府發出的相關新指引，監管局在2010年5月整合並且更新有關規管一手樓銷售的執業通告。此外，監管局也分別就地產代理處理附有違例建築工程的樓宇的租賃事宜以及地產代理參與收購舊樓發出執業通告。

此外，局方於2010年在一手樓盤和地產代理商舖進行了一共2,326次巡查，其中巡查代理商舖次數增加了29%至1,165次。此外，監管局約訪11個發展商，向他們講解監管局對於地產代理推銷一手樓盤的要求。

監管局與中國房地產估價師與房地產經紀人學會於2010年11月簽署協議書，就內地與香港的地產代理專業資格互認的安排方面，落實計劃的基本安排。根據協議，內地和香港的地產代理參加課程和通過考試後，將分別取得在香港和內地執業的資格。

余呂杏茜女士表示，有關資格互認計劃將於2011年2月接受報名，而訓練課程和考試則於今年7月舉行。計劃的詳情會於2011年2月1日在監管局網頁公布。

除了協助地產代理業界在內地開拓商機外，監管局亦會於2011年致力加強行業的誠信培訓和管理。監管局與廉政公署會於2011年3月聯合推出為期三年的「誠信管理計劃」。有關計劃的重點項目包括培訓短片、優質管理指引和新的誠信培訓課程。

監管局亦會提升服務水平，以方便持牌人和公眾。局方將會全面革新網頁，加強監管局與持牌人和市民的聯繫。新的監管局網頁會為持牌人提供新的電子化服務，首先將會推出網上更新個人資料以及訂閱／取消訂閱監管局的通知和提示服務。

就最近有買家投訴某半山樓盤的獨家代理涉嫌誤導一事，陳韻雲女士也向傳媒闡釋了監管局的立場和跟進工作。發布會吸引共28間傳媒機構採訪，各大主要電子傳媒於當日報道了有關監管局的消息。翌日印刷傳媒有關監管局的報道文章有30多篇。



heights to 31,306 as at 31 December 2010. The number of complaints against estate agents decreased by 7% in 2010 as compared to 2009, with those relating to first sales down 11% from 2009.

Ms Vivien Chan also emphasised the EAA's vision to be a responsible and effective regulator. It closely monitors new market conditions, in particular, relevant Government policies and practices of estate agency practitioners, and issues practice circulars and guidelines from time to time.

Ms Chan mentioned, for instance, that the EAA consolidated and updated its practice circulars in a bid to strengthen practitioners' understanding of legislative requirements relating to the sale of first-hand properties and to remind them to abide by the Government's new guidelines regulating first sales in May 2010. The EAA also issued practice circulars on both the leasing of old properties with unauthorised building works and agents' practices in the acquisition of old buildings.

In 2010, the EAA carried out 2,326 compliance inspections, with the number of spot checks at agency shops up 29% to 1,165. The EAA also visited a total of 11 developers, providing them with information about the EAA's expectation of estate agents' conduct during first-sale activities.

In regard to the mutual recognition of professional qualifications between estate agents in the Mainland and Hong Kong, the EAA and the China Institute of Real Estate Appraisers and Agents signed an agreement in November 2010, laying down the foundation

for the arrangement through which agents in the Mainland and Hong Kong can obtain a qualification to practise in Hong Kong and the Mainland respectively upon taking a course and passing an examination.

Mrs Rosanna Ure announced that participants could register for the scheme in February 2011, and that the training course and examination would be held in July 2011. Details on the scheme would be available on the EAA website with effect from 1 February 2011.

In addition to facilitating the exploration of opportunities in the Mainland by the estate agency trade, the EAA will work towards enhancing integrity training and management within the industry in 2011. The EAA and ICAC will jointly roll out a three-year "Integrity Management Programme" in March 2011. Highlights of the programme include a training video, guidelines on proper management, and new training courses on integrity management.

To provide better and more convenient service for licensees and the general public, the EAA will overhaul its website to enhance communication with them. The EAA will use the new website to introduce new electronic services for licensees, including updating personal particulars and subscribing or unsubscribing to EAA notices and reminders, in the first phase.

In response to a number of purchasers' complaints against the alleged provision of misleading information by the exclusive agent of a development in the Mid-levels, Ms Vivien Chan explained to the media in detail the EAA's stance and follow-up action. The press briefing was attended by a total of 28 media organisations, resulting in wide coverage of the briefing by the electronic media on the same day and more than 30 news reports in the printed media on the following day.

## 內地與香港地產代理 資格互認計劃

### Mutual recognition of professional qualifications of estate agents in the Mainland and Hong Kong

監管局與中國房地產估價師與房地產經紀人學會（中房學）於2010年11月3日簽訂協議書，落實內地與香港地產代理資格互認計劃的基本安排。符合有關資格的香港地產代理，可於2011年2月報名，而訓練課程和考試會於2011年7月舉行。

監管局主席陳韻雲女士及中房學會長宋春華先生分別代表雙方簽署資格互認協議書。簽署儀式的見證嘉賓包括香港特區政府運輸及房屋局局長鄭汝樺女士、監管局副主席梁永祥先生、監管局成員馬豪輝先生及洪小蓮女士、監管局行政總裁余呂杏茜女士、中央駐港聯絡辦公室教育科技部傅芃芃博士、中房學副會長兼秘書長柴強博士、中房學副會長陳勁松先生以及中房學理事劉田先生及李文杰先生。逾百名來自香港及澳門特區政府部門、多間地產代理業界商會、地產行業嘉賓，以及來自多個公共機構和專業團體的代表也有出席儀式，共證盛事。

有關安排旨在推動兩地地產代理行業的專業發展、合作和長遠發展。監管局主席陳韻雲女士在簽署儀式上表示：「內地房地產經紀人和香港地產代理各有不同的優勢，實行資格互認可以達到互惠互利，優勢互補的目標。」中房學會長宋春華先生亦指出，透過資格互認，兩地的代理可達到雙贏，同時為兩地經濟的繁榮作出貢獻。

The EAA and the China Institute of Real Estate Appraisers and Agents (CIREA) entered into an agreement on 3 November 2010 to lay down the foundation for the mutual recognition of professional qualifications of estate agents in the Mainland and Hong Kong. Qualified estate agents in Hong Kong may apply for nomination in February 2011. The training course and examination will be held in July 2011.

EAA Chairman Ms Vivien Chan and CIREA President Mr Song Chunhua signed the agreement on the mutual recognition of qualifications on behalf of their respective organisations in a ceremony. The witnessing guests included Secretary for Transport and Housing of the HKSAR Government Ms Eva Cheng; EAA Vice-chairman Mr William Leung Wing-cheung; EAA Members Mr Ma Ho-fai and Ms Katherine Hung Siu-lin; EAA Chief Executive Officer Mrs Rosanna Ure; Dr Fu Pengpeng of the Department of Educational Scientific and Technological Affairs of the Liaison Office of the Central People's Government in the HKSAR; CIREA Deputy President and Secretary Dr Chai Qiang; CIREA Deputy President Mr Chen Jinsong; and CIREA Council Members Mr Liu Tian and Li Wenjie. The ceremony was also attended by over 100 guests from various Hong Kong and Macau Government departments, estate agency trade associations, the real estate sector, public organisations and professional bodies.

The arrangement aims at boosting professional exchanges and cooperation between the estate agency trade in the Mainland and Hong Kong, and facilitating the long-term development of the industry of both sides. EAA Chairman Ms Vivien Chan said, "Estate agents in the Mainland and Hong Kong have different strengths and the agreement will benefit the development of the estate agency trade of both sides". According to CIREA President Mr Song Chunhua, through the mutual recognition of qualifications, estate agents in both places can achieve a win-win situation and jointly contribute to the continued prosperity of the trade in both the Mainland and Hong Kong.



監管局主席陳韻雲女士及中房學會會長宋春華先生簽署協議書。見證嘉賓包括（後排左起）監管局行政總裁余呂杏茜女士、監管局成員洪小蓮女士及馬豪輝先生、監管局副主席梁永祥先生、香港特區政府運輸及房屋局局長鄭汝樺女士、中央駐港聯絡辦公室教育科技部傅芃芃博士、中房學副會長兼秘書長柴強博士、中房學副會長陳勁松先生、中房學理事劉田先生及李文杰先生。

EAA Chairman Ms Vivien Chan and CIREA President Mr Song Chunhua sign the agreement. The signing was witnessed by (from left of the rear row) EAA Chief Executive Officer Mrs Rosanna Ure, EAA Members Ms Katherine Hung and Mr Ma Ho-fai, EAA Vice-chairman Mr William Leung, Secretary for Transport and Housing of the HKSAR Government Ms Eva Cheng, Dr Fu Pengpeng of the Department of Educational Scientific and Technological Affairs of the Liaison Office of the Central People's Government in the HKSAR, CIREA Deputy President and Secretary Dr Chai Qiang, CIREA Deputy President Mr Chen Jinsong, and CIREA Council Members Mr Liu Tian and Li Wenjie.

### 地產代理專業資格互認計劃詳情：

#### 1. 報名資格：

只有符合以下要求的香港地產代理才可報名參加計劃：

- 持有有效的地產代理（個人）牌照的人士（牌照並非以香港與其他國家或地區資格互認方式而取得的）；
- 持有地產代理（個人）牌照後，累積了不少於5年的地產代理或相關工作經驗；
- 無犯罪紀錄；及
- 身體健康。

### Details of the scheme for mutual recognition of professional qualifications for estate agents:

#### 1. Requirements for application:

Only those Hong Kong estate agents fulfilling the following requirements can apply for nomination:

- holding a valid estate agent's licence (individual) (not having been obtained through any recognition scheme between Hong Kong and other countries or regions);
- having a total of not less than 5 years of estate agency or related work experience after holding an estate agent's licence (individual);
- having no record of criminal conviction; and
- being generally in good health.



## 2. 計分制度：

因名額有限，故假如報名人數超過限額時（首年的名額是300個），監管局會採用計分制度（計分制滿分為4分），優先考慮具備以下條件的人士參加此計劃：

- 地產代理或相關工作經驗：超過5年但少於10年（1分）；10年或以上（2分）（此項目最高分數為2分）；
- 完成大學或以上教育程度（1分）；
- 在報名參加計劃前的12個月內在監管局的持續專業進修計劃之活動取得12個學分（1分）

## 3. 通知申請人申請結果：

監管局將會於2011年6月初通知申請人申請結果。倘若申請失敗，監管局會於6月底前向申請人退還費用。

## 4. 訓練課程的日期和地點：

訓練課程將於2011年7月18及19日舉行；考試則於7月20日進行  
地點：深圳

## 5. 申請資格期限：

凡完成訓練課程並通過考試的人士，可於考試合格後12個月內申請資格。

關於計劃的詳情，請瀏覽監管局網頁：  
[www.eaa.org.hk/licensing/ch\\_mutualrecognition.htm](http://www.eaa.org.hk/licensing/ch_mutualrecognition.htm)。

## 2. Point system:

A quota of 300 has been set for the first year. In the event of over-enrolment, a point system will be adopted whereby estate agents meeting the following criteria will be given up to a maximum of 4 points:

- Estate agency or related work experience (1 point for over 5 and less than 10 years; 1 more point for over 10 years; i.e. a maximum of 2 points for this criterion);
- A recognised university degree (1 point); and
- Having obtained 12 points through attending training course organised by the EAA under its Continuing Professional Development Scheme within the 12 months before application (1 point).

## 3. Notification of application results:

Applicants will be notified of the results of their application in early June 2011. Unsuccessful applicants will receive a refund by the end of June 2011.

## 4. Date and venue of the training course:

Date: The training course will be held on 18 and 19 July 2011, and the examination on 20 July 2011.

Venue: Shenzhen

## 5. Date of application for qualifications:

Participants who have completed the training course and passed the examination may apply for the qualification within 12 months.

Further details on the scheme can be found on the EAA website:

[www.eaa.org.hk/licensing/mutualrecognition.htm](http://www.eaa.org.hk/licensing/mutualrecognition.htm)

# 有關物業資料及土地查冊的執業通告

## New practice circular on property information and land search

**向** 客戶提供準確及最新的物業資料是地產代理的重要責任。因此，監管局更新有關執業通告，提醒地產代理獲賣方（或業主）委託並訂立地產代理協議，必須從訂明來源取得物業資料，並且將取得的資料填於物業資料表格內。地產代理不但要向賣方（或業主）提供該已填妥的表格的正本或副本，也須向買方（或租客）提供該已填妥的表格的正本或副本，除非對方明確表示放棄其收取該表格的權利。

此外，代表住宅物業的賣方（或業主）行事的的地產代理在緊接買賣協議（或租約）訂立之前，必須就物業進行土地查冊，並向買方（或租客）提供該土地查冊結果的文本。

新的通告也提供更詳細的資料，包括：

- 即使臨時買賣協議（或臨時租約）於深夜訂立，地產代理也不能於翌日才進行土地查冊和向客戶提供土地查冊結果文本。
- 不論買方（或租客）本身是否另有地產代理代其於交易中行事，代表賣方（或業主）的地產代理同樣需要就物業進行土地查冊。
- 即使租客只租住住宅單位內的房間，地產代理也需提供該住宅單位的土地查冊結果的文本。
- 只代表買方（或租客）行事的的地產代理亦應於緊接買賣協議（或租約）訂立之前進行土地查冊，也需要向客戶講解查冊的內容。

該份執業通告已上載於監管局網頁：  
[www.eaa.org.hk/practice/documents/11-01\\_CRC.pdf](http://www.eaa.org.hk/practice/documents/11-01_CRC.pdf)

The provision of accurate and up-to-date property information to clients is an important duty of estate agents. The EAA has recently updated its practice circular on the subject to remind practitioners that when they act for the vendor (or landlord) and have entered into an estate agency agreement with him, they are required to obtain certain property information from the prescribed sources and complete the property information form with such information. In addition to providing to the vendor (or landlord) the original or copy of the completed form, they must supply the original or copy of the completed form to the purchaser (or tenant), unless the purchaser (or tenant) specifically waives his right to receive the form.

Moreover, estate agents who act for the vendor (or landlord) of a residential property have to carry out a land search in respect of the property immediately before an agreement for sale and purchase (or a tenancy agreement) of the property is entered into and provide a copy of the land search to the purchaser (or tenant).

The new practice circular provides more detailed information on the subject including the following:

- It is not permissible to defer carrying out a land search and supplying a copy of it to the purchaser (or tenant) on the following day in cases when the provisional agreement for sale and purchase (or provisional tenancy agreement) is entered into late at night.
- The duty of the licensee acting for the vendor (or landlord) to carry out a land search applies in all cases, irrespective of whether or not the purchaser (or tenant) has his own estate agent acting for him in the transaction.
- The duty of the licensee acting for the landlord to carry out a land search and supply a copy of it to the tenant also applies to cases of leasing a room in a residential flat.
- A licensee who acts only for the purchaser (or tenant) should also conduct a land search and explain it to his client immediately before an agreement for sale and purchase (or tenancy agreement) is entered into.

Details of the practice circular can be found at  
[www.eaa.org.hk/practice/documents/11-01\\_CRE.pdf](http://www.eaa.org.hk/practice/documents/11-01_CRE.pdf)



# 監管局新一屆董事局及委員會

## New EAA Board and Standing Committees

特區行政長官委任／再委任監管局以下成員，任期由2010年11月至2012年10月止，為期兩年。

主席： 陳韻雲女士, BBS, JP

副主席： 梁永祥先生, BBS, JP

普通成員：

陳超國先生

鍾詠雪女士

洪小蓮女士

郭昶先生

林詩棋先生

劉振江先生

劉詩韻女士

劉燕卿女士

李景亮先生

李國麟議員, SBS, JP

梁繼昌先生

劉哲寧先生

廖玉玲女士

呂耀華先生

馬豪輝先生, SBS, JP

伍景華先生

吳麗莎女士

運輸及房屋局常任秘書長(房屋)或其代表

The Chief Executive of the Hong Kong Special Administrative Region appointed/reappointed the following individuals to the EAA for a period of two years from November 2010 to October 2012:

Chairman: Ms Vivien Chan, BBS, JP

Vice-Chairman: Mr William Leung Wing-cheung, BBS, JP

Ordinary Members:

Mr Chan Chiu-kwok

Ms Cynthia Chung Wing-suet

Ms Katherine Hung Siu-lin

Mr Anthony Kwok Chong

Mr Kevin Lam Sze-cay

Mr Lau Chun-kong

Ms Serena Lau Sze-wan

Miss Connie Lau Yin-hing

Mr Lee King-leong

Dr the Hon Joseph Lee Kok-long, SBS, JP

Mr Kenneth Leung Kai-cheong

Mr Liu Che-ning

Ms Elaine Liu Yuk-ling

Mr Alexander Lui Yiu-wah

Mr Ma Ho-fai, SBS, JP

Mr Ng King-wah

Miss Melissa Wu

Permanent Secretary for Transport and Housing (Housing) or his representative



監管局設宴歡迎新任委員，並向離任委員致謝意。

The EAA Board and Administration welcome new board members and say farewell to retiring members.

由2010年11月1日起，監管局改組轄下的常設委員會，以便更有效地履行規管地產代理的職責。常設委員會經改組後，設立了牌照委員會和執業及考試委員會。該兩個新成立的委員會取代舊有的牌照及執業委員會及考試小組，分別處理與牌照有關的事宜，以及執業和考試有關的事宜。

### 牌照委員會的角色和職能

牌照委員會除了處理批核新牌照及續牌的事宜，也會就牌照申請人及持牌人是否領有牌照或繼續持有牌照的適當人選作出裁定。

一般而言，該委員會處理下列類型的個案：

- 未獲解除破產個案
- 《破產條例》訂明的個人自願安排個案
- 涉及刑事罪行的個案
- 未有遵守附加於牌照上條件的個案
- 未有遵守根據《地產代理條例》（《條例》）而徵收或施加的任何費用、收費或罰款的個案

為了處理有關的個案，該委員會將根據《條例》第27條行使權力，決定是否需要暫時吊銷牌照或撤銷牌照。倘若該委員會提出暫時吊銷或撤銷某牌照的建議，監管局會通知有關的持牌人，以讓他有陳述的機會。委員會在作出裁決之前，會考慮持牌人的陳述。

牌照委員會也負責審批牌照。倘若持牌人在牌照屆滿前一個月至三個月提出續牌申請，但於牌照屆滿前有關申請仍未完成審批，委員會可根據《條例》第23條向他批出臨時牌照，而臨時牌照的有效期一般為六個月。

### 執業及考試委員會的角色和職能

執業及考試委員會的主要工作，包括檢視地產代理業界的執業，以及就地產代理工作各方面制訂政策和指引。該委員會也會處理前考試小組的工作，專責監督和檢視有關資格考試的行政事宜。

The EAA reorganised its Standing Committees from 1 November 2010 in order to discharge its functions more effectively and efficiently. As a result of the reorganisation, a new Licensing Committee (LC) and a new Practice and Examination Committee (PEC) were formed. The two new committees replaced the former Licensing and Practice Committee and Examination Panel to oversee licensing related matters, and practice and examination related matters, respectively.

### Roles and functions of the Licensing Committee (LC)

In addition to granting and renewing licences, the LC focuses on determining whether a licence applicant or current licensee is a fit and proper person to hold or, where appropriate, continue to hold a licence.

Generally, the types of cases that are handled by the LC include the following:

- Cases of undischarged bankruptcy;
- Cases of Individual Voluntary Arrangements provided by the Bankruptcy Ordinance;
- Cases of criminal conviction;
- Cases of non-compliance with conditions attached to a licence; and
- Cases of failing to pay a fee, charge or penalty charged or imposed under the Estate Agents Ordinance (EAO).

To this end, the EAA has delegated to the LC the powers under Section 27 of the EAO to suspend or revoke a licence. If the LC proposes to revoke or suspend a licence, the licensee concerned will be notified of the proposal and given an opportunity to make representations. The LC will consider the licensee's representations, if any, in deciding whether the licence should be suspended or revoked.

The LC is also responsible for considering licence applications brought before it. Pursuant to Section 23 of the EAO, a provisional licence shall be issued to a licensee who makes a renewal application within one to three months prior to the expiration of a licence but the application is still being considered after the licence has expired. The validity period of a provisional licence is usually six months.

### Roles and functions of the Practice and Examination Committee (PEC)

The PEC focuses on reviewing the practices of the trade, and formulating policies and guidelines on various aspects of estate agency work. It also assumes the work of the former Examination Panel, overseeing and reviewing various issues relating to the administration of the qualifying examinations.



## 紀律研訊個案分享 — 分拆樓契 Inquiry hearing case — Deed partitioning

分拆樓契所涉及的程序並不簡單，而且物業交易有機會因為過程中的困難而受到阻延。地產代理不應輕率地建議客戶採取這種方法，應該建議就分拆樓契的可行性諮詢法律意見。

一名地產代理在一宗村屋交易中為買賣雙方行事，而買方是一對夫婦。有關的村屋共有三層，該名代理建議買方夫婦簽訂兩份買賣合約，分層購入村屋，並表示以上的安排涉及分拆該物業的樓契，有關程序需時約7至10天。

於是，該名代理安排買方妻子先與賣方就該物業的一樓和二樓與賣方單位訂立臨時買賣合約，亦於同日安排買方丈夫與賣方就物業的地下單位訂立臨時買賣合約。

後來，由於該物業未能於兩份臨約訂明的成交日期前完成分拆樓契的程序，因此兩份臨約均不能如期完成交易。買賣雙方須透過律師另行簽訂一份由夫婦向賣方購入該整幢物業的買賣合約。該物業交易也延遲完成。

紀律委員會認為該名代理沒有遵守《操守守則》中第3.4.1段，未有保障和促進客戶的利益，並對交易各方公平公正，因此向他作出訓誡，並且在牌照上附加條件，要求他在一年內取得持續專業進修計劃下的12個學分。

Deed partitioning is not a simple process, and there is always the risk of the sale and purchase being delayed by difficulties encountered in the process. Hence, estate agents should not lightly advise clients to enter into sale and purchase arrangements which necessitate deed partitioning.

In this inquiry hearing case, an estate agent acted for both purchaser (a couple) and vendor in a transaction involving a three-storey village house. The agent proposed to the couple to enter into two separate agreements for sale and purchase in respect of different floors. The agent further advised that this arrangement involved deed partitioning, which required 7 to 10 days for a solicitor to handle.

The agent arranged for the purchaser to enter into two provisional agreements for sale and purchase (PASP) of the property, one with the husband for the ground floor and one with the wife for the first and second floors.

However, the deed partitioning could not be completed in time, resulting in the postponement of the completion of the sale and purchase of the property. Eventually, the couple entered into a new agreement for the sale and purchase of the property as one block.

The Disciplinary Committee was of the view the agent concerned had not complied with paragraph 3.4.1 of the Code of Ethics, in that he had failed to protect and promote the client's interests and to be fair to every party involved in the transaction. Hence, he was admonished and a condition was attached to his licence, requiring him to obtain 12 points under the Continuing Professional Development Scheme within a year.

## 紀律研訊個案分享 — 沒有妥善保管客戶信用卡 Inquiry hearing case — Failure to safeguard a client's credit card

**地**產代理在推銷一手住宅樓盤時，如須應發展商的要求向準買家提出交出其身份證及／或信用卡的要求，必須向準買家清楚說明其索取有關身份證及／或信用卡的用途及有關要求是發展商提出的，並且要小心保管這些證件，免被誤用。

一名地產代理陪同一準買家參觀某新樓盤的示範單位。該名地產代理向準買家表示，他必須向發展商提供準買家的身份證及信用卡，才可取得該樓盤的價格資料。該名代理也向準買家表示，由於他並無簽署任何文件，因此他的信用卡並不會被扣賬。準買家於是將他的身份證及信用卡交給該代理，以便取得該樓盤的價格資料。

該代理其後向準買家提供該樓盤部分單位的售價。準買家對該批單位沒有興趣，並要求取回他的身份證及信用卡。然而，當準買家取回他的信用卡時，發現他的信用卡已分別就三宗交易被扣賬數十萬元。該名代理解釋，其同事誤以為準買家有意購買該樓盤的單位，故安排有關的扣賬交易。其後，準買家獲退回該筆款項。

紀律委員會認為，該名代理沒有妥善保管準買家交付的信用卡，沒有盡量小心和盡一切應盡的努力履行其職務。由於該名代理沒有遵守《操守守則》第3.5.1段，故決定譴責他及在其牌照上附加條件，要求他在一年內取得在持續專業進修計劃之下的12個學分。

另一方面，該名代理所屬的地產代理公司，沒有設立妥善的程序或制度以監督和管理它所僱用的地產代理的工作，違反《地產代理常規（一般責任及香港住宅物業）規例》第15條，被紀律委員會譴責及罰款2萬元。

When estate agents ask a prospective purchaser to provide his identity card and/or credit card at the request of the developer in promoting the first-hand residential properties, they must state clearly the purposes for which the identity card and/or credit card will be used and also properly safeguard the cards to prevent their misuse.

In this inquiry hearing case, an estate agent arranged for a prospective purchaser to view the show flats of a development. The agent told the prospective purchaser that in order to enable him to obtain the price list of the units in the development, he had to provide the developer with the identity card and credit card of the prospective purchaser. The agent also assured the prospective purchaser that no amount would be debited against his credit card since he had not signed any document to that effect. The prospective purchaser, therefore, gave both his identity card and credit card to the agent in order to obtain the list.

The agent subsequently provided the prospective purchaser with the prices of some of the units. The prospective purchaser was not interested in the units and requested the return of his identity card and credit card. However, after collecting his credit card, he discovered that several hundred thousand dollars had been charged to it in three transactions. The agent explained that his colleague had misunderstood the situation, thought that the prospective purchaser would purchase a unit, and swiped the credit card for payment of the deposit. The prospective purchaser subsequently obtained a refund of the amount that had been charged to his credit card.

The EAA Disciplinary Committee was of the view that the agent had not properly safeguarded the prospective purchaser's credit card and failed to discharge his duties with due care and due diligence. As he had failed to comply with paragraph 3.5.1 of the Code of Ethics, he was reprimanded and a condition was attached to his licence which required him to obtain 12 points under the Continuing Professional Development Scheme within a year.

Furthermore, the Disciplinary Committee found that the estate agency company concerned had failed to establish proper procedures or systems to supervise or manage its frontline staff, and was thus in breach of Section 15 of the Estate Agents Practice (General Duties and Hong Kong Residential Properties) Regulation. The Disciplinary Committee decided that the company should be reprimanded and fined \$20,000.



## 香港新界地產代理商聯會主席邱慶新先生的意見

Views from Chairman of the H.K.N.T. Estate Agents and Merchants Association **Mr Yau Hing-sun**

「分拆樓契」牽涉複雜的程序，需要由專業律師處理，而且不屬於地產代理的專業知識範圍之內，因此地產代理應建議客戶諮詢律師的意見，不應輕率向客戶提出建議。



至於另一宗個案中的地產代理未得客戶的授權使用他的信用卡扣賬，反映他的專業水平非常不足，也令人懷疑他沒有誠信。作為專業的地產代理，處理客戶的信用卡要十分小心，也必先要取得客戶的授權，才可用客戶的信用卡繳付訂金。

“Deed partitioning” involves complicated procedures and should be handled by a professional solicitor. Such procedures are not part of the professional knowledge expected of estate agents. When estate agents come across issues relating to “deed partitioning”, they should advise their clients to seek legal advice and must not make any suggestion rashly.

Regarding the estate agent who failed to properly safeguard his client’s credit card, his professional standard was far from satisfactory and his integrity questionable. A professional estate agent should exercise due care in handling his client’s credit card and seek his client’s authorisation before arranging for payment by credit card.

## 地產代理（從業員）總公會主席吳元興先生的意見

Views from Estate Agent Association Chairman **Mr Evan Ng**

如果準買家有意就物業進行分契，地產代理應建議客戶交由律師處理，並且提醒客戶，分契有可能會令物業交易延遲完成，讓客戶考慮是否進行該程序。



信用卡是客戶重要的財物，個案中的地產代理向客戶取得信用卡後，沒有採取適當步驟去保管，欠缺了認真和專業的態度。監管局已經發出指引，要求地產代理從業員在替客戶以信用卡交付訂金或其他任何款項前，須特別取得客戶的書面同意，建議加強教育業界，確保從業員遵行該指引。

If a client intends to enter into a sale and purchase arrangement which involves deed partitioning, the estate agent should advise his client that the partitioning be handled by a solicitor. He should also remind his client that the property transaction may be delayed due to difficulties which may be encountered in the process of deed partitioning, so that his client may consider whether to proceed or not.

In another case, an estate agent did not follow proper procedures to safeguard his client’s credit card, which is an important document. He failed to demonstrate the professional attitude expected of an estate agent. The EAA has recently issued a practice circular, which, amongst others, requires practitioners to specifically obtain the written approval of the prospective purchaser before any arrangement could be made to use the purchaser’s credit card for the payment of deposits or other purposes. The training of practitioners should be stepped up to ensure compliance.



# SPECIAL STAMP DUTY 額外印花稅

## Special Stamp Duty

政府在2010年11月建議引入一項在住宅物業轉售時適用的額外印花稅，以遏抑住宅物業投機。為了讓地產代理業界加深了解有關的新政策，監管局邀請政府官員向業界商會代表簡介建議的額外印花稅的內容。監管局亦透過電郵通知從業員，並於網頁刊載相關的資訊，供業界參閱。

運輸及房屋局與稅務局的官員於2010年12月14日，出席監管局與業界季度聯絡會議。出席的官員包括運輸及房屋局總行政主任（私營房屋）葉郭小珊女士、稅務局印花稅署高級總監康偉權先生及總監陳月珍女士。八個地產代理業界商會也有派員出席。

會議上，康偉權先生和陳月珍女士闡釋額外印花稅的詳情、在不同情況下額外印花稅的計算方法，以及回答與會者的提問。他們也派發了一份簡介，列出一些實用提示、常見問題和答案，以及多個計算額外印花稅的個案例子。葉郭小珊女士表示，運輸及房屋局和稅務局的網頁，均載有額外印花稅的資料。監管局行政總裁余呂杏茜女士說：「監管局期望，商會代表會向旗下會員轉達相關的資訊。」

有關新措施的建議有待立法會通過，監管局會密切留意事態發展，待條例草案通過後，視乎實際情況，或向業界發出指引或執業通告。

有關額外印花稅的最新詳情（資料由稅務局提供），可參閱監管局網頁：

[www.eaa.org.hk/SSD\\_2010-12-20\\_chi.pdf](http://www.eaa.org.hk/SSD_2010-12-20_chi.pdf)。

In November 2010, the Government proposed a Special Stamp Duty (SSD) on residential properties at the point of resale in order to curb speculation in such properties. In order to deepen the estate agency trade's understanding of the new initiative, the EAA invited officials from the relevant departments to brief representatives of the trade on the details of the proposed SSD. It also alerted practitioners about the measure by email and posted relevant information on its website for the trade's reference.

On 14 December 2010, officials from the Transport and Housing Bureau (THB) and the Inland Revenue Department (IRD) were invited to attend the EAA quarterly meeting with representatives of trade associations. The officials attending the meeting included Mrs Susanne Ip, Chief Executive Officer (Private Housing) of the THB, Mr Raymond Hong, Senior Superintendent of the Stamp Office of the IRD, and Ms Chan Ut-chan, Superintendent of the Stamp Office of the IRD. Also attending the meeting were representatives of eight trade associations.

At the meeting, Mr Raymond Hong and Ms Chan Ut-chan explained the details of the proposed SSD and how the SSD was calculated in various scenarios, and answered enquiries from the attendees. A set of briefing notes, which consisted of practical information, frequently-asked questions and answers, and different scenarios, was distributed at the meeting. Mrs Susanne Ip said that information on the SSD was available on the THB and IRD websites. EAA Chief Executive Officer Mrs Rosanna Ure reminded attendees that trade representatives were expected to share such useful information with their members.

The amendment bill on the SSD has yet to be passed by the Legislative Council and the EAA will closely monitor the situation. Upon the passage of the bill, the EAA may issue guidelines or practice circular to the trade if necessary.

Updated details on the SSD (provided by the IRD) have been posted on the EAA website:

[www.eaa.org.hk/SSD\\_2010-12-20\\_eng.pdf](http://www.eaa.org.hk/SSD_2010-12-20_eng.pdf)



## 活動紀要 Events and activities



9/12/2010

監管局行政總裁余呂杏茜女士（前排右五）、規管及法律總監劉淑葵女士（前排右四）和執行總監黃維豐先生（前排右三）接待成都市房地產經紀協會的代表團。

EAA Chief Executive Officer Mrs Rosanna Ure (fifth from right on front row), Director of Regulatory Affairs and General Counsel Ms Eva Lau (fourth from right on front row) and Director of Operations Mr Anthony Wong (third from left on front row) receive delegates from the Chengdu Real Estate Broker Association.



20/12/2010

監管局執行總監黃維豐先生於利嘉閣地產有限公司的月會上發表演講。

EAA Director of Operations Mr Anthony Wong delivers a speech at the monthly sales meeting of Ricacorp Properties Limited.



18/1/2011

監管局主席陳韻雲女士（左二）出席地產代理聯會慶祝成立十六週年典禮暨歲晚同業聯歡晚會，並擔任主禮嘉賓。

（左起：地產代理聯會主席郭德亮先生、陳韻雲女士、民政事務局副局长許曉暉女士及典禮籌委會首席會長劉振賢先生）

EAA Chairman Ms Vivien Chan (second from left) attends the Property Agencies Association's 16th anniversary celebration and is one of the officiating guests. (From left: Chairman of the Association Mr Tony Kwok, Ms Vivien Chan, Under Secretary for Home Affairs Ms Florence Hui and Honorary President of the organising committee of the celebration Mr Dominic Lau)

## 統計數字 Statistics

### 牌照數目 (於2010年12月31日計算)

Number of licences (as at 31/12/2010)

營業員牌照 Salesperson's licences	17,034
地產代理(個人)牌照 Estate agent's licences (individual)	+ 14,272
個人牌照總數 Total no. of individual licences	<b>31,306</b>
地產代理(公司)牌照 Estate agent's licences (company)	2,426

### 營業詳情說明書數目 (於2010年12月31日計算)

Number of statements of particulars of business  
(as at 31/12/2010)

獨資經營  
Sole proprietorships

合夥經營 Partnerships

1,663

290

總數 Total  
**5,601**

3,648

有限公司  
Limited  
companies

### 接獲的投訴/破產個案數目 (2010年1月至12月)

Number of complaint / bankruptcy cases received (January to December 2010)

投訴個案 Complaint cases	624
破產個案 Bankruptcy cases	44

### 已處理的投訴個案結果\* (2010年1月至12月)

Results of completed complaint cases\*  
(January to December 2010)

其他 (例如投訴人撤回投訴或由於被投訴人不再是持牌人而終止調查)  
Others (e.g. cases withdrawn by the complainant or curtailed because the complaine was no longer a licensee)

資料不足 Insufficient information to pursue

224  
(36.7%)

61  
(10%)

總數 Total  
**610**

151  
(24.8%)

174  
(28.5%)

指稱成立  
Substantiated

指稱不成立  
Unsubstantiated

### 已處理的破產個案數目 (2010年1月至12月)

Number of completed bankruptcy cases (January to December 2010)

**57\***

\* 部分是往年接獲的個案  
Some cases were carried over from previous years



## 巡查次數 (2010年1月至12月)

Number of compliance inspections (January to December 2010)

「一手」樓盤 First-sale sites	1,161
代理商舖 Agency shops	1,165
網上物業廣告 Online property advertisements	524

## 經巡查或抽查而發現並成立的違規個案 (2010年1月至12月)

Number of substantiated non-compliance cases arising from inspections or spot checks (January to December 2010) **101\***

\* 部分是往年接獲的個案  
Some cases were carried over from previous years

## 紀律處分 (2010年1月至12月)

Disciplinary actions (January to December 2010)

被暫時吊銷的牌照數目 Number of licences suspended	28
被撤銷的牌照數目 Number of licences revoked	0

## 考試及考試日期

Examination and date

參加人數

No. of candidates

合格率

Pass rate

地產代理資格考試  
Estate Agents Qualifying Examination

25/2/2010	1,640	44%
22/4/2010	1,903	40%
19/8/2010	2,376	36%
16/12/2010	2,551	25%

營業員資格考試  
Salespersons Qualifying Examination

26/2/2010	1,583	52%
23/4/2010	1,866	50%
25/6/2010	2,209	60%
20/8/2010	1,902	51%
22/10/2010	2,228	43%
17/12/2010	2,129	54%