



提醒客戶舊樓交易的風險

Warning clients of the risks when buying or leasing old buildings

士瓜灣舊樓倒塌慘劇，引起大眾關注舊樓的安全，那些附有違例建築物的唐樓，更是焦點所在。監管局提醒從業員，客戶買賣或租賃該類物業時，應向客戶清楚解釋有關風險。

《地產代理常規（一般責任及香港住宅物業）規例》訂明，從業員須就其處理的物業進行土地查冊。監管局認為，他們應查閱物業是否有拆卸或改動令；如有，則須查核有關命令是否已獲遵從。此外，根據監管局的《操守守則》，從業員應保障和促進客戶的利益。

倘若代表租客的從業員知悉物業附有違例建築物，即使沒有拆卸令，他們都應提醒客戶，單位可能有安全問題，亦應讓他們知悉相關的風險，例如政府可對物業行使重收權或將物業封閉等。

The tragic collapse of an old building in Tokwawan has sparked public concern about the safety of old buildings, especially those old tenements with illegal structures. The EAA reminds practitioners that they should explain to their clients the risks involved in the sale, purchase and lease of properties with such structures.

Under the Estate Agents Practice (General Duties and Hong Kong Residential Properties) Regulation, practitioners have to conduct a land search of the property concerned. The EAA is of the view that they should check from the land search whether any order requiring demolition or alteration of unauthorised building works (UBW) has been registered and if so, whether the order



另一方面，代表買方客戶的從業員，除了應提醒客戶該類物業的業權可因上述風險而出現問題外，亦應向他們解釋其他風險，包括政府可發出命令要求業主於指定期限內清除違例工程，若業主未有執行，政府可代為拆卸或改動，並出售物業以追討有關費用。

至於在租賃中代表業主行事的從業員，則應告知業主客戶，他們有責任維修物業和保持其結構良好。如有需要，從業員應強烈建議業主遵從有關拆卸或改動令。

另外，從業員亦應讓業主知悉，由於違例工程可能導致業權出現問題，除非買賣協議另有協定，否則買方可以取消買賣並追討違約損失賠償。

從業員若沒有遵守以上規定，可遭監管局紀律處分。

has been complied with. In addition, according to the EAA's Code of Ethics, practitioners should protect and promote their clients' interests.

If practitioners acting for the tenant are aware of such UBWs, even though no order for demolition has been registered, they should alert their client to the likely safety issues of the property and the risks involved, such as the risk of the Government's exercising its right of re-entry and closure of the property.

Some of the above risks may render the title defective, and practitioners acting for the buyer should advise their clients so. In addition, they should advise their buyer clients of the risk of a Government order to remove the UBW within a specified period; and if the owner failed to do so, Government-enforced demolition or alteration works, followed by the forced sale of the property to recover the costs.

Practitioners acting for the owner in leasing such properties should remind their client that it is the owner's general duty to keep the structure of the property in good repair and condition and strongly advise the owner to comply with the order if there is one.

Owners selling such properties should be advised that, unless otherwise specified in the agreement for sale and purchase, the purchaser is entitled to rescind the purchase and claim damages for breach of contract as the title may be rendered defective by the UBW.

Practitioners failing to comply with the above may be disciplined by the EAA.