



## 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.

# 紀律處分個案分享

## An inquiry hearing case

# 失實陳述 Misrepresentation

身為專業的地產代理從業員，有責任提供準確的樓盤資料。消費者選擇物業時，十分依賴從業員提供的資訊。因此，監管局提醒從業員，當客戶就樓盤作出查詢時，倘若不知道有關資料，切勿向客戶提供可能失實或含糊不清的資訊。

一對夫婦委託一名從業員尋找合適單位租住，該從業員先後兩次帶他們視察同一個單位。期間，該對夫婦多次詢問該從業員，單位大廈的平台是否用作垃圾收集點，惟該從業員在未有查清事實前，向客戶表示該處只是垃圾車暫時停泊的地點，而垃圾收集點處於屋苑另一座，而事實上，垃圾收集點的確

設置於大廈平台。

該對準租客重複提出相同的問題，顯示他們十分關注垃圾收集點的位置，但該從業員始終沒有替準租客查明，就給他們一個失實的答案。該從業員在履行職務時，沒有盡量小心和盡一切應盡的努力，未有遵守《操守守則》第3.5.1段。

結果，該名從業員被監管局紀律委員會暫時吊銷牌照七天，其牌照上也被附加條件，要求他在一年內取得12個持續專業進修計劃核心科目的學分。

### 商會代表意見：

香港地產代理商總會主席李純鶴先生認為地產代理公司管理層應敦促從業員了解物業周圍的環境，避免失實陳述。如果客戶也想了解有關物業的其他問題，例如物業是否「凶宅」，從業員也應努力查證，而公司也可考慮備存物業的有用資料供從業員查閱。

地產代理聯會主席郭德亮先生認為從業員如專注於某一區的代理工作，應該多親身了解區內物業周圍的環境、物業設施的資料等。地產代理公司也應訂立守則，確保從業員依法執業。從業員亦宜多進修增值，了解執業時須要留意之處。

### Comments from representatives of trade associations:

Chairman of the Hong Kong Real Estate Agencies General Association Mr Li Shun-hok commented that the management of estate agency companies should urge their staff to learn more about the surrounding



香港地產代理商總會李純鶴主席  
Chairman of the Hong Kong Real Estate Agencies General Association Mr Li Shun-hok



地產代理聯會郭德亮主席  
Chairman of the Property Agencies Association Mr Tony Kwok

environment of properties to avoid any misrepresentation. If clients would like to obtain other property information, such as whether the property concerned is a "haunted" flat (i.e. whether there was a fatal incident in the flat or nearby), practitioners should exercise due diligence to verify such information. Estate agencies could consider keeping records of useful property information for practitioners' reference.

Chairman of the Property Agencies Association Mr Tony Kwok said for practitioners who serve a particular neighbourhood, they should learn more about the environment and facilities of the properties in the area. Practitioners should also keep learning and get themselves well acquainted with all the relevant rules. Estate agency firms should also issue guidelines to ensure practitioners' compliance with the law.

Professional estate agency practitioners are responsible for providing accurate property information to clients. Consumers looking for a home rely heavily on the information provided by practitioners. The EAA reminds practitioners that when clients raise questions about the properties, if they are not sure about the answer, they must not provide information which may be inaccurate or unclear.

A couple asked a practitioner to look for a rental residential property. The practitioner arranged for them to view a flat twice. During the inspections, the couple repeatedly asked the practitioner whether the podium of the block was used to collect refuse. The practitioner, without verification, claimed that the podium was for the temporary parking of refuse-collection vehicles only and that the refuse-collection point was in another block of the housing estate. In fact, the refuse-collection point was on the podium floor of the block in question.

Although the tenants asked the same question repeatedly, which indicated that the location of the refuse-collection point was of great concern to them, the practitioner did not verify the information and gave an inaccurate answer. The practitioner did not exercise due care and diligence in fulfilling his duties, thus failing to comply with paragraph 3.5.1 of the Code of Ethics.

The EAA Disciplinary Committee suspended the practitioner's licence for seven days and attached a condition to his licence, requiring him to obtain 12 Continuing Professional Development (CPD) points in core subjects of the CPD Scheme.



## 牌費寬免期將於4月30日結束

監管局提醒從業員，牌費寬免計劃的寬免期將於**2010年4月30日**結束。倘若從業員希望透過續領牌照或申請退款獲得牌費寬免，必須於寬免期內提交申請。一般情況下，監管局會於十個工作天內完成牌照審批工作，以及於四星期內發出有關退款支票。寬免計劃的詳情，可參閱監管局網頁。

## Fee concession period to end on 30 April

*The EAA reminds practitioners that the concession period under the fee concession scheme will end on 30 April 2010. If practitioners would like to obtain the fee concession through licence renewal or refund application, they must submit their applications during the concession period. Under most circumstances, the EAA will be able to grant new licences within 10 working days and issue refund cheques under the concession scheme within four weeks. Details of the scheme can be found on the EAA website.*



## 無牌從事地產代理工作 影響前途

### Doing estate agency work without a licence may *ruin your life*

**監**管局提醒地產代理公司管理層，切勿要求無牌人士從事地產代理工作，因為這可令他們留有刑事罪行紀錄，影響一生。

監管局執行總監黃維豐先生說：「地產代理工作的定義廣泛。帶客視察物業或在街頭『兜客』參觀一手樓盤也可能被視為在業務過程中進行地產代理工作。不少地產代理公司都僱用所謂的『營業員見習生』。這些公司的管理層有責任確保這些見習生沒有從事地產代理工作。」

黃維豐表示，監管局不時巡查各區的商舖，包括在鄉村和離島的商舖，查看有否聘用無牌人士從事地產代理工作。

無牌從事地產代理工作乃刑事罪行，最高可判處罰款50萬元和監禁兩年。

監管局絕不容忍無牌執業的行為，並鼓勵舉報。局方會就有關涉嫌違法行為展開調查，有需要時更會「放蛇」。若有表面證據，監管局會將個案轉交警方處理。

The EAA warns the management of estate agencies not to engage unlicensed persons to carry out estate agency work, as these persons may end up with a criminal record as a result and have their lives ruined.

EAA Director of Operations Mr Anthony Wong said, "Estate agency work has a wide meaning. Bringing clients to view flats or enticing passers-by to view first-hand properties may amount to work done in the course of carrying out estate agency work. Quite a number of agencies employ so-called 'salesperson-trainees'. The management or employer of such agencies must make sure these trainees are not doing estate agency work."

Mr Wong said the EAA conducted regular compliance checks on estate agency shops of all districts, including those in villages and on outlying islands, to see if any unlicensed persons had been engaged to carry out estate agency work.

Conducting unlicensed estate agency work is an offence and is liable to a maximum fine of \$500,000 and two years' imprisonment.

The EAA has zero tolerance for unlicensed estate agency work and encourages the public to report such cases. It will investigate any case in connection with unlicensed estate agency work and carry out covert operations if necessary. If there is prima facie evidence, the EAA will refer such cases to the police for further action.