

## 規管地產代理參與 收購舊樓新指引

## New guidelines regulating estate agents' practices in the acquisition of flats in old buildings

有見於舊樓收購活動日漸頻繁，而社會亦非常關注地產代理參與有關活動時的執業手法，監管局於2010年8月2日發出執業通告10-05(CR)，就地產代理參與收購舊樓時應注意的事項提供指引，加強從業員對相關法例要求的了解。

監管局於同日舉行記者會，公布有關新通告的重點。監管局行政總裁余呂杏茜女士表示：「監管局現行的規管架構已經對有關的地產代理活動有所監管。新發出的執業通告清楚而具體地闡釋地產代理參與收購舊樓時的規例和行為準則，期望從業員能夠明白相關規定和行為準則並且切實遵行。同時，監管局也希望公眾藉此了解監管局對從業員在進行該類活動時的要求，從而知道如何保障權益。」

新執業通告涵蓋的主要內容包括：

- (一) 地產代理參與收購舊樓時，須告知賣方是代表買方，抑或也將同時代表賣方；
- (二) 須要披露因處理物業而獲得的金錢或其他利益；
- (三) 須提供正確和最新的資料；
- (四) 進行商議時應留意的地方，如不得滋擾或騷擾賣方；
- (五) 應避免安排賣方簽署一份在重要的交易條款漏空的臨時買賣合約；
- (六) 聘用其他人士進行游說時要注意的地方。

監管局執行總監黃維豐說：「倘若地產代理參與收購舊樓時違規，可能會遭受監管局的紀律處分，最嚴重的處分為撤銷牌照。」

為促使從業員遵守通告內的指引，監管局會加強宣傳教育工作，藉著巡查地產代理商舖及舉辦持續專業進修講座，向地產代理清楚講解指引內容。

Recently, there has been an increase in the number of acquisitions of flats in old buildings. The general public has shown great concern over the practices of estate agents who engage in such activities. In view of this, the EAA issued new practice circular 10-05(CR) on 2 August 2010 in a bid to provide guidance to licensees who are involved in the acquisition of old properties, and to improve their understanding of the relevant legal requirements.

The EAA held a press conference on the same day to announce the key points of the new circular. EAA Chief Executive Officer Mrs Rosanna Ure said, "The regulatory regime of estate agency practitioners provides a general framework of how such estate agency activities should be conducted by estate agents. The new practice circular explains clearly and in more concrete terms the rules and regulations, and the code of conduct which estate agents should comply with when involved in the acquisition of flats in old buildings. The EAA expects practitioners to gain a good understanding of the regulations and code, and abide by them. At the same time, this allows members of the public to become better equipped to protect their interests by understanding what the EAA expects of estate agents when they carry out such activities."

Highlights of the new practice circular include the following requirements of estate agents:

- (i) When they are involved in the acquisition of flats in old buildings, they should clearly inform the vendor whether they are acting for the purchaser and whether they would also like to represent the vendor.
- (ii) They must disclose any monetary or other beneficial interests which may accrue to them in handling the flat.
- (iii) They must provide accurate and up-to-date information to their clients.
- (iv) When conducting negotiations, they must not harass or pester the vendor.
- (v) They must not arrange for the vendor to sign a Provisional Agreement for Sale and Purchase (PASP) unless all blank spaces in the PASP have been filled in.
- (vi) Points to note when engaging other persons in solicitation activities.

EAA Director of Operations Mr Anthony Wong said, "If practitioners are proven to have breached the regulations when involved in the acquisition of flats in old buildings, they may be subject to disciplinary sanctions by the EAA, with the most serious sanction being licence revocation."

In order to facilitate estate agents' compliance with the new circular, the EAA will step up education and promotion efforts. Through compliance inspections at estate agency shops and CPD seminars, the EAA will explain the new guidelines in detail to practitioners.