

Circular

Circular No. 09-04 (CR)

- **Advertisements must not contain misleading phrases such as “direct to owner” when the phone number advertised is that of the owner’s estate agent.**
- **The number of the estate agent’s licence or Statement of Particulars of Business and the business name must be stated clearly and conspicuously in advertisements.**
- **It is an offence to display advertising bills or posters on private land without the written permission of the owner/occupier or on any Government land without the written permission of the Secretary for Food and Health.**

Advertisements posted outside vacant shops and in public places

Recently, the Authority has received complaints that the roller shutters of many vacant shops are plastered with “for rent” or “for sale” advertisements for non-residential properties by practitioners. Some of these advertisements may contain misleading statements and do not comply with the Estate Agents (Licensing) Regulation (Licensing Regulation).

Practitioners are reminded not to use misleading phrases such as “direct to owner” on the advertisements so as to give the false impression to the public that the property is sold by the owner direct when in fact the phone number advertised is that of the owner’s estate agent. Practitioners are also reminded that all advertisements for non-residential properties issued by estate agency practitioners must comply with the Licensing Regulation.

Under section 14(1)(c) of the Licensing Regulation, an estate agent must state **clearly** and **conspicuously** in all advertisements (pamphlets and brochures excepted) the number of his licence or Statement of Particulars of Business (SPOB) and the business name as stated in the SPOB.

According to section 104A of the Public Health and Municipal Services Ordinance, a person displaying or affixing a bill or poster on any private land without the written permission of the owner or occupier thereof or on any Government land without the written permission of the Secretary for Food and Health commits an offence. Hence, practitioners must obtain the owner/occupier's written consent before putting up advertising bills or posters on shop fronts, and must not display or affix advertising bills or posters in public places without the requisite permission. The fixed penalty for the offence under the Fixed Penalty (Public Cleanliness Offences) Ordinance is \$1,500 and the penalty for the offence under the Public Health and Municipal Services Ordinance is a fine of \$10,000 and an additional daily fine of \$300.

While practitioners may, with the written permission of the owner or occupier, put up advertisements on shop fronts, it is unethical for them to cover other practitioners' advertisements with their own, unless specifically authorised to do so by the owner or occupier.

The Authority also reminds practitioners that, pursuant to paragraph 3.1.1 of the Code of Ethics, estate agents and salespersons must, in the course of their estate agency practice, refrain from activities which may infringe the law. Also, pursuant to paragraphs 3.7.1 and 3.7.2 of the Code of Ethics, estate agents and salespersons should not seek unfair advantage over other agencies and should avoid any practice which may bring disrepute to the estate agency trade.

Practitioners who fail to comply with the above guidelines may, in addition to committing offences under the law, be subject to disciplinary action by the Authority.

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