

## **Circular**

Circular No. 12-02 (CR)

- **Provide the floor area information of a property in accordance with the information stated in Part B of Form 1 or Form 2.**
- **Provide the saleable area of the property if such information can be obtained from the RVD or the first agreement.**

### **Provision of floor area information for second-hand residential properties**

The Estate Agents Authority (“EAA”) has from time to time received complaints about licensees’ provision of unclear or misleading floor area information to their clients<sup>1</sup> in respect of second-hand residential properties. There has been increasing demand from the public that the provision of floor area information in the sale and leasing of second-hand residential properties should be clearer in order to safeguard the interests of consumers. This Circular sets out guidelines for licensees on the provision of floor area information for the sale or lease of second-hand residential properties in their practice.

### **Property Information Form/Leasing Information Form**

- (2) Under the Estate Agents Practice (General Duties and Hong Kong Residential Properties) Regulation (“Practice Regulation”), licensees are required to complete a Property Information Form (Form 1) in the case of a sale and purchase, or a Leasing Information Form (Form 2) in the case of a lease in accordance with the directions and instructions specified in the forms. For the purpose of completing the floor area information of the property in Part B of the forms, licensees are required to obtain the saleable area of the property provided by the Rating and

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<sup>1</sup> For the purpose of this circular, the term “clients” includes, where applicable, prospective clients.

Valuation Department (“RVD”) or as stipulated in the agreement for sale and purchase of the first assignment of the property registered in the Land Registry (“first agreement”). If the saleable area of the property cannot be obtained from either the RVD or the first agreement, licensees should tick the relevant box in the forms stating that no such information can be obtained from either the RVD or the first agreement.

### Advertising

- (3) It appears that it is a common practice for licensed estate agents not to specify, in their advertisements for the sale or lease of second-hand properties, whether the floor area information provided in the advertisement is the saleable area or gross floor area of the property concerned (e.g. Sale: ABC Street, high floor, 600 square feet, \$5 million). Such a practice may cause unnecessary confusion to the public.
- (4) If the floor area information of a property is included in an advertisement **and** the saleable area of the property can be obtained from either the RVD or the first agreement, then licensees must:
  - (a) provide the saleable area of the property (obtained from the RVD or the first agreement, as the case may be) in the advertisement; and
  - (b) clearly state in the advertisement that the floor area provided is the saleable area of the property (e.g. saleable area: 980 square feet).
- (5) Licensees may provide the gross floor area or other floor area information of the property in the advertisement if:
  - (a) the saleable area of the property is also provided in the advertisement in compliance with paragraph (4) above; or

- (b) the saleable area of the property (e.g. village type houses) cannot be obtained from either the RVD or the first agreement.
- (6) In either case as mentioned in paragraph (5) above, the licensee concerned must also, upon EAA's request, produce evidence to substantiate that the gross floor area or other floor area information of the property was obtained from a reasonable source or there was a proper basis upon which he could rely for including such information in the advertisement.
- (7) If both the saleable area and gross floor area of a property are included in the advertisement, the font size for the letters, characters and numbers used regarding the saleable area shall be no smaller than those of the gross floor area of the property.

**Provision of floor area information in other situations**

- (8) In situations other than advertising, licensees are required to follow the guidelines below in the provision of floor area information of a property:
- (a) If the saleable area of the property can be obtained from either the RVD or the first agreement, licensees must, before providing any other floor area information of the property, provide the saleable area of the property and clearly state that the floor area so provided is the saleable area of the property;
- (b) Licensees may provide the gross floor area or other floor area information of the property if:
- (i) the saleable area of the property has been provided in compliance with paragraph (8)(a) above; or
- (ii) the saleable area of the property (e.g. village type houses) cannot be obtained from either the RVD or the first agreement; and

- (c) In either case as mentioned in paragraph (8)(b) above, the licensee concerned must also, upon EAA's request, produce evidence to substantiate that the gross floor area or other floor area information of the property was obtained from a reasonable source or there was a proper basis upon which he could rely for supplying such information.

Licensees are reminded that under section 9(1) of the Practice Regulation, a licensed estate agent shall not cause or permit to be issued an advertisement wholly or partly relating to his estate agency business which includes any statement or particular that is false or misleading in a material particular. For example, a mere figure indicating the size of a flat without any qualifier may be regarded as misleading.

Licensees must exercise due care and due diligence to ensure that any information they provide is not false or misleading.

The management of an estate agency should establish proper procedures or systems to supervise and manage its estate agency business to ensure that its staff comply with the guidelines above.

Licensees who fail to comply with the above guidelines may be subject to disciplinary action by the EAA.

This Circular will come into operation on 1 January 2013.

May 2012

Holders of Statements of Particulars of Business  
 should bring this Circular to the attention of all staff  
 engaged in estate agency work