EAA issues practice circular on estate agents' practices in the acquisition of flats in old buildings

(2 August 2010) Since the lowering of the threshold for the compulsory sale of old buildings from 90% to 80% of ownership, it is expected that there will be an increase in the number of acquisitions of old properties. The community and the Estate Agents Authority (EAA) are very concerned about the practices of estate agency practitioners who assist developers to acquire old properties for redevelopment . The EAA today issued a practice circular on practitioners' practices in the acquisition of flats in old buildings to explain clearly and in detail the relevant legal and regulatory requirements and code of conduct which practitioners should comply with.

Highlights of the circular include the following:

- When a practitioner engages in acquisition activities, he must clearly inform the vendor whether he is acting for the purchaser and whether he would also represent the vendor.

- Practitioners must keep the client informed of any monetary or other beneficial interest which may accrue to them.

- Practitioners must not harass the property owner or use any other improper tactics to exert pressure on the owner to sell.

- Where the owner is an elderly person, practitioners must advise him that he should be accompanied by a family member or close relative when negotiating the sale of his flat.

- Practitioners should avoid arranging for the vendor to sign a provisional agreement for sale and purchase with the essential terms of the transaction (e.g. price, deposit, completion date) left blank.

- Practitioners must not engage unlicensed persons in acquisition

activities.

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 EAA issued a practice circular on the subject today to explain 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, members of the public are better equipped to protect their interests by understanding what the EAA expects of estate agents when they carry out such activities."

According to Mrs Ure, the EAA will promptly follow up any complaint regarding practitioner malpractice in the acquisition of old buildings and has zero tolerance for non-compliant practitioners. She also pointed out that if the complaint concerns harassment, such acts may constitute a criminal offence. In such cases, the EAA urges affected residents to report the case to the police in the first instance before lodging a complaint with the EAA.

EAA Director of Operations Mr Anthony Wong said, "The EAA would brief practitioners on the new guidelines and would urge them to ensure compliance when carrying out such activities through EAA seminars and inspections at agency shops."

Mr Wong added that estate agency companies must establish proper and effective procedures and systems to ensure compliance with the rules and regulations by their employees or other persons under their control. He said that the EAA may impose disciplinary sanctions on practitioners who

fail to observe the guidelines and that the estate agency company for which they work may be held accountable for the practitioners' non-compliance.

Since 2009, the EAA has received four complaints against practitioner malpractice in the acquisition of old buildings for redevelopment.   One of the complaints was an anonymous letter with insufficient information, and therefore, the EAA was unable to contact the complainant for follow-up action. The other three cases are still under investigation.

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