

法律事務

LEGAL AFFAIRS

法律事務組主要為監管局內其他組別提供法律意見及在工作上作出支援。法律事務組職員除定期出席投訴組的會議，為處理投訴個案提供意見外，亦負責聯繫紀律委員會召開紀律研訊事宜，並擔任紀律研訊的書記。

在報告年度內，法律事務組跟進了修訂《發牌規例》的草擬工作及立法程序，為過渡期於2001年12月31日結束後的發牌事宜作出安排。

法律事務組也協助完成提昇差餉物業估價署的「物業資料資訊聆系統」，新系統於2001年11月投入服務，除住宅物業的實用面積及樓齡外，現更提供「估用許可証」上的用途限制資料。

法律事務組也協助「檢討《執業規例》專責小組」的工作，在檢討《執業規例》條文、研究及諮詢是否有修訂需要(包括簡化標準文件)方面提供支援。

The Legal Affairs Section provides professional opinions and support to other Sections in respect of legal issues. Staff members of the Section regularly attend meetings of the Complaints Section and give their views on matters arising from the handling of complaint cases. The Legal Section is also responsible for administering the inquiry hearings conducted by the Disciplinary Committee.

In the year under review, the Legal Section had followed through with the drafting and legislating of the amendments to the Licensing Regulation to cater for licensing matters after the transition period ended on 31st December 2001.

The Section helped to bring to fruition the capital project of the enhancement of the Info-Hotline System of the Rating and Valuation Department. The enhanced Info-Hotline System came into service in November 2001 and now provides the user restrictions on Occupation Permits as well as the saleable area and property age of residential properties.

The Section also provided legal and secretarial support to the Working Group on the Review of the Practice Regulation established for the review of and consultation on possible amendments to the Practice Regulation, including the simplification of the standard documents.

紀律研訊 INQUIRY HEARINGS

在2001/02年度，紀律委員會總共舉行過86次紀律研訊。研訊事由包括因破產或刑事罪行而影響適當人選資格、在進行地產代理工作過程中襲擊他人或打架、聘用無牌人士、違反帳目規定、不履行送贈承諾、及違反公營房屋買賣的特定程序及步驟等。

為確保公平公正，紀律委員會對召開紀律研訊定下一套嚴謹程序。在研訊日期最少21天前，委員會會向有關持牌人發出研訊通知書，通知其研訊日期及指稱。委員會也可傳召任何人士出席研訊及作證。有關持牌人於研訊中有權以律師代表答辯，更有充分機會向委員會陳述其案情、引導其證人作證及盤問對方證人。有關持牌人也可就委員會的決定提出上訴。

During 2001/02, a total of 86 inquiry hearings were held. Matters for hearing included fitness to hold licence due to bankruptcy or convictions, assault or fighting in the course of doing estate agency work, employing unlicensed salespersons, failure to follow accounting rules, failure to honour cash incentives, and contravening the rules and procedure of subsidized housing schemes.

The holding of inquiry hearings entails a detailed procedure to ensure fairness. At least 21 days before the date of hearing, a notice will be sent to the licensee concerned to notify him of the matter under inquiry and the date of hearing. The Committee may issue summons to any person to attend and give evidence at the hearing. At the hearing, the licensee is entitled to legal representation. The licensee is given ample opportunity to state his case, and may produce his own witness and/or cross-examine other witnesses. He may also appeal against the Committee's decision.

通告 CIRCULARS

監管局不時就與代理業相關的事項向從業員發出通告。相關的事項包括在處理查詢或投訴過程中發現與行業有關的問題、《地產代理條例》及其附例的條文如何應用在具體的情況、新實施的法例及規例、以及公營房屋的最新資訊等。在 2001/02 年度，監管局總共發出 16 則通告。

From time to time, the EAA issues circulars of topical interests to practitioners. Issues identified from the handling of enquiries or complaints to be of relevance to the trade, application of provisions of the EAO and its subsidiary legislation in specific practice areas, newly enforced laws and regulations, and updated information on subsidized housing schemes are included. A total of 16 circulars were issued in the year 2001/02.

2001/02 年度發出的執業通告 CIRCULARS ISSUED DURING THE YEAR 2001/02

題目 /Topic	編號 /No.
「地產代理協議」 (2) Estate Agency Agreement (2)	01-07 (CR)
有關確認人轉讓物業事宜 Confirmor Sales	01-08 (CR)
住宅物業的租賃 Tenancy Matters	01-09 (CR)
有關負資產物業 (2) Negative Equity (2)	01-10 (CR)
處置客戶的款項 Handling Client Moneys	01-11 (CR)
處置共有物業 留意妥當授權 Beware of Proper Authorization when Dealing with Jointly Owned Properties	01-12 (CR)
房屋委員會 / 房屋協會屋苑名單 Lists of Estates under the Housing Authority and the Housing Society	01-13 (CR)/ 02-02 (CR)
違例張貼街招海報 Posting Unauthorised Bills and Posters	01-14 (CR)
差餉物業估價署「資訊聆」新服務 The Enhanced Info-Hotline Service	01-15 (CR)
發牌規例的修訂 Amendments to the Licensing Regulation	01-16 (CR)
未建成住宅物業銷售說明書指引 Guidelines for Sales Descriptions of Uncompleted Residential Properties	01-17 (CR)
「自置居所貸款計劃」 (2) The Home Purchase Loan Scheme (2)	01-18 (CR)
使用盜版電腦軟件的刑事責任 Criminal Liability for Using Pirated Computer Software	02-01 (CR)
《個人資料 (私隱) 條例》 (3) Personal Data (Privacy) Ordinance (3)	02-03 (CR)
居屋及公屋入息及資產限額調低 Downward Adjustments of Income and Asset Limits for Applicants of Home Ownership Scheme and Public Rental Housing	02-04 (CR)

諮詢事項 CONSULTATIONS

監管局每年均應其他機構之請，就公共事務政策，檢討或製訂法例作諮詢。

The EAA is consulted from time to time by other public bodies on matters related to public bodies, or the formulation or amendment of legislation.

諮詢機構 Organizations Consulting the EAA	諮詢事宜 Issues	日期 Date
規劃地政局 Planning and Lands Bureau	天台非法搭建物《物業轉易及財產條例》(第219章)的修訂建議 Illegal Rooftop Structures (IRS) : Proposed Amendments to Conveyancing and Property Ordinance (Cap. 219)	8/2001
房屋局 Housing Bureau	法律改革委員會就非本地未落成住宅樓宇的銷售報告中的建議 Recommendations in the Report of the Law Reform Commission on Sales Descriptions of Non-Local Uncompleted Residential Properties	9/2001
工商局 Commerce and Industry Bureau	專業服務發展資助計劃 Professional Services Development Assistance Scheme	10/2001
禁毒處 Narcotics Division	打擊清洗黑錢財務行動特別小組：40項建議的檢討 The Financial Action Task Force on Money Laundering (FATF) : Review of the Forty Recommendations	11/2001
教育統籌局 Education and Manpower Bureau	檢討職業訓練與再培訓機構的諮詢 Review of Organization of Vocational Training and Retraining	11/2001
終審法院首席法官轄下 民事司法制度改革工作小組 Chief Justice's Working Party on Civil Justice Reform	民事司法制度改革：中期報告及諮詢文件 Civil Justice Reform : Interim Report and Consultative Paper	11/2001
律政司 Department of Justice	公司物業轉易文件的簽立《物業轉易及財產條例》(第219章)的修訂建議 Execution of Conveyancing Documents by Corporation : Proposed Amendments to the Conveyancing and Property Ordinance (Cap. 219)	1/2002
稅務局 Inland Revenue Department	物業交易印花稅新徵收方法建議 Proposal on New Method of Stamping Instruments Relating to Property Transaction	1/2002
房屋局 Housing Bureau	與中國內地更緊密的經濟合作 Closer Economic Partnership Arrangements with The Mainland (CEPA)	2/2002
立法會條例草案委員會 Bills Committee, Legislative Council	《2001年業主與租客(綜合)(修訂)條例草案》 Landlord and Tenant (Consolidation) (Amendment) Bill 2001	3/2002