



模擬投訴圖片 Staged complaint

執法及投訴處理

作為香港持牌地產代理的法定規管機構，監管局主要通過日常巡查及調查投訴個案，執行《地產代理條例》（條例）賦予的監管和執法職能。

在2006/07年度，監管局就626宗投訴個案展開調查。這些個案包括由公眾人士提出或由其他執法機構轉介的個案，也包括監管局就持牌人是否繼續持有牌照的適當人選而自行展開調查的個案。

如果監管局的調查顯示案件可能涉及條例或其他法例列明的刑事罪行，監管局可能把個案轉交警方或廉政公署跟進。如果調查顯示有人違反條例或其附屬法例的規則，監管局通常會把個案轉交紀律委員會處理。有關的持牌人可以在紀律委員會施行任何紀律處分前，於聆訊中答辯。

本年度，監管局共完成了653宗投訴個案的調查工作，其中183宗被證實成立。監管局致力迅速、公平和專業地處理投訴個案，並會仔細考慮所有搜集得來的相關證據才作結論。另外監管局執行部共進行1,154次巡查，處理了299宗涉嫌違規個案，其中指稱成立的有86宗。

Law enforcement and complaint handling

As Hong Kong's statutory regulator of the local licensed estate agency trade, EAA primarily performs the regulatory and enforcement functions entrusted to it by the Estate Agents Ordinance (the Ordinance) through compliance inspection checks and complaint investigations.

In 2006/07, EAA began investigations into 626 complaints, including complaints received from the general public, referrals by other law-enforcement bodies to EAA, and self-initiated investigations into certain licensees' suitability to continue holding their licences.

In cases where EAA's investigation reveals the possibility of criminal offences either under the Ordinance or any other legislation, we may refer such cases to the police or the Independent Commission Against Corruption for follow-up action. Where the investigation discloses a breach or breaches of the Ordinance or its subsidiary legislation, those cases will usually be referred to the Disciplinary Committee for consideration. The licensees concerned have a right to be heard before the imposition of any disciplinary sanction by the Disciplinary Committee.

Over the course of the year, EAA completed investigations into 653 complaints of which 183 were found to be substantiated. EAA aims to deal with all complaints in a timely, fair and professional manner. All investigation outcomes are based upon careful deliberation of all the relevant evidence available to EAA. EAA has also, through its enforcement arm, conducted a total of 1,154 compliance inspections and dealt with 299 cases, of which non-compliance was established in 86 cases.

除調查投訴個案和巡查外，監管局也會處理公眾和從業員親身或電話提出的有關地產代理執業和條例的查詢。監管局會先向查詢者提供有關執業的初步建議、解釋監管局處理投訴的程序和法定職能，並可能會向查詢者提出其他解決爭議的辦法，例如到小額錢債審裁處解決佣金爭議，或向地產代理公司提出有關服務水平的投訴。

In addition to investigation of complaints received and compliance inspection visits, EAA also deals with enquiries from both the public and the trade by telephone or in person on issues relating to estate agency practices and the Ordinance. People with enquiries are given preliminary advice on trade practices, complaint procedures and EAA's jurisdiction, or may be advised on alternative methods to resolve disputes. They may be referred, for instance, to the Small Claims Tribunal for disputes over commission, or directly to the estate agency companies on standard of service issues.

查詢

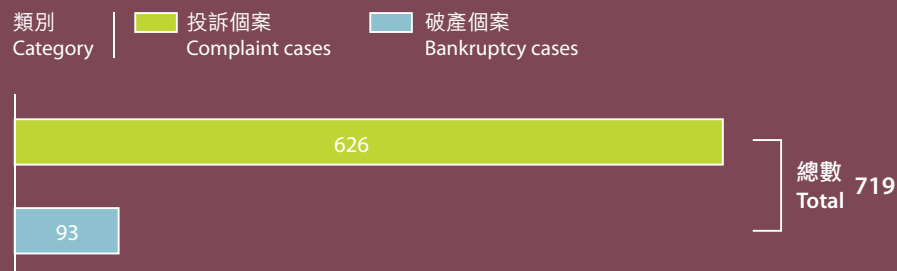
在2006/07年度，監管局共處理了7,271個來自公眾或地產代理業的查詢。

Enquiries

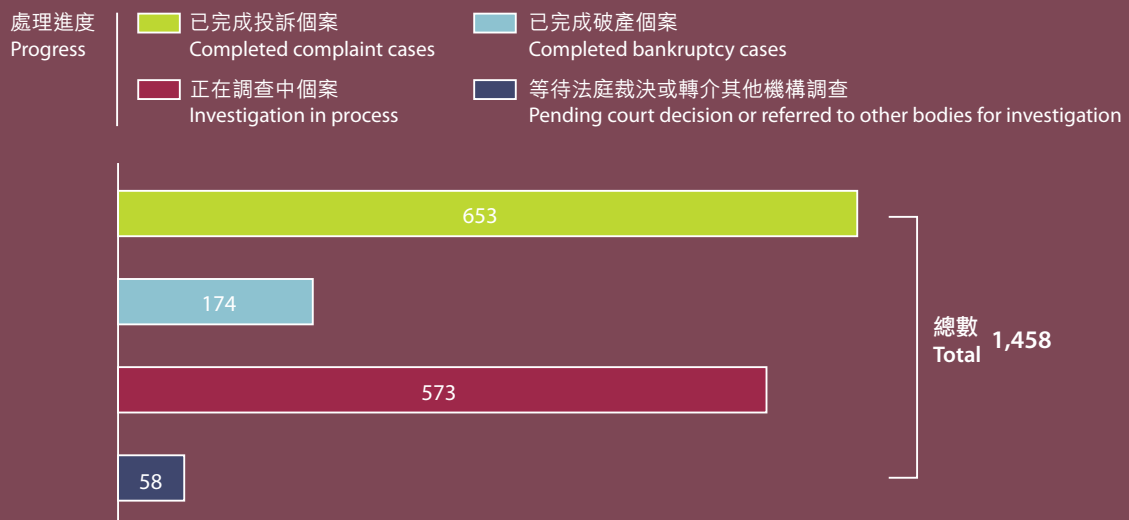
In 2006/07, EAA handled a total of 7,271 enquiries from the public and the estate agency trade.

投訴個案 / 破產個案 COMPLAINT CASES / BANKRUPTCY CASES

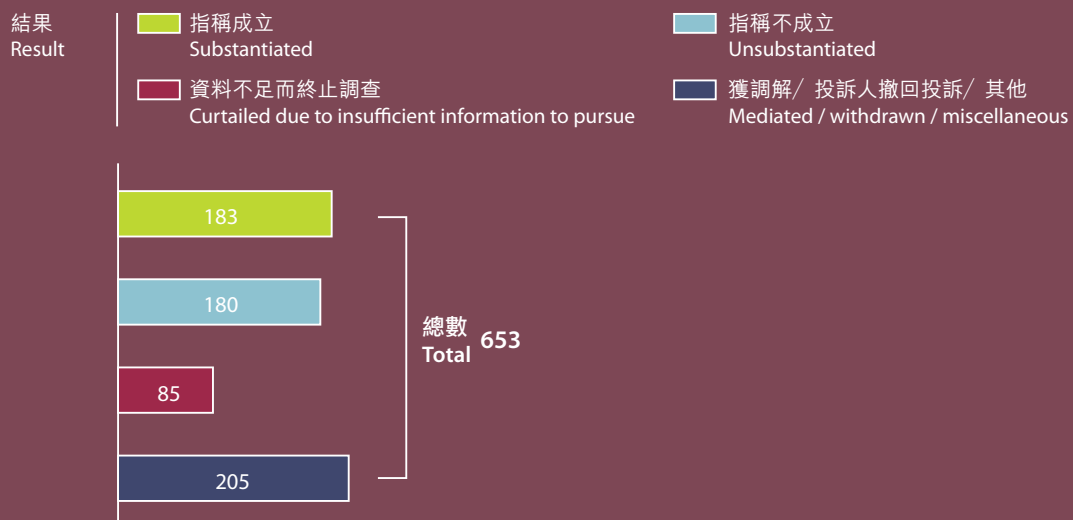
本年度，監管局共接獲719宗投訴及破產個案，分類如下：
During the year, EAA received 719 complaint and bankruptcy cases classified as follows:



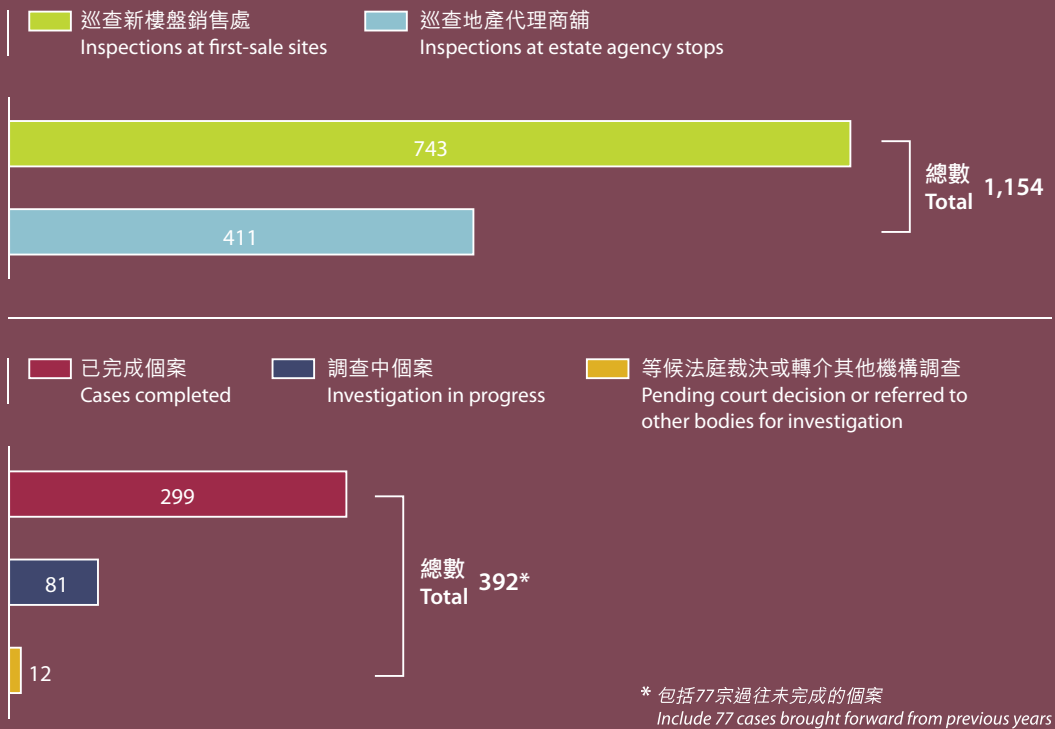
本年度，監管局共處理1,458宗投訴及破產個案（包括過往接獲的733宗個案）。詳情如下：
 During the year, EAA handled 1,458 complaint and bankruptcy cases (including 733 cases brought forward from previous years). Progress is as follows:



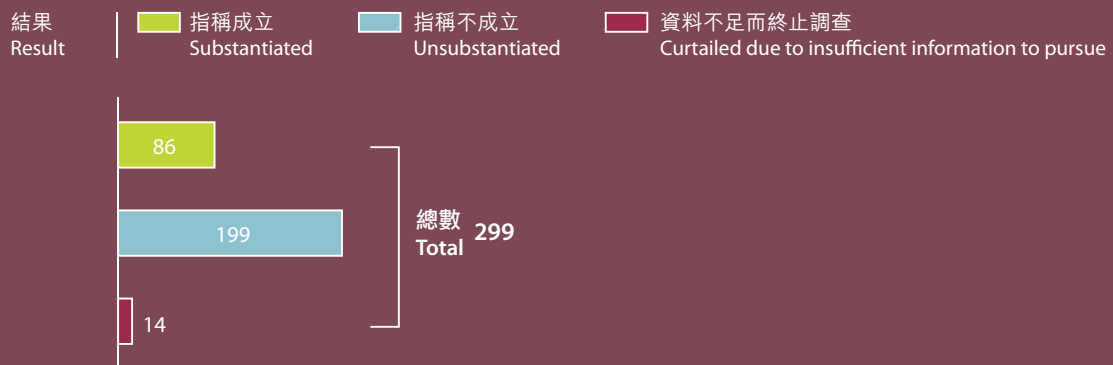
653宗已完成處理的投訴個案分類如下：
 The 653 completed complaint cases are classified as follows:



巡查 COMPLIANCE INSPECTIONS



299宗已完成處理的個案分類如下：
The 299 completed cases are classified as follows:





模擬紀律研訊圖片 Staged inquiry hearing

紀律研訊

監管局或其紀律委員會會就違規的個案，進行紀律研訊。在2006/07年度，紀律委員會就172宗個案進行了研訊。

違規個案主要涉及以下事項：欠缺專業能力/違反專業操守；沒有管有或提供物業的訂明資料；沒有採用指定表格與客戶訂立地產代理協議；沒有進行土地查冊/提供查冊文本。

涉及欠缺專業能力/違反專業操守的個案包括沒有向客戶提供適當意見；沒有告訴客戶有關物業的業權負擔；提供誤導性資料；沒有核實簽署協議的人士是否有妥當授權；安排客戶簽訂欠缺重要條款的臨時買賣協議；安排客戶訂立違反轉售/轉租/分租限制的買賣/租賃協議；以及沒有保障客戶利益/沒有小心和盡力提供服務等。

紀律委員會亦就涉及被頒令破產或剛獲解除破產令的持牌人是否適合繼續持牌的個案進行研訊。

監管局及紀律委員會可施行的紀律處分包括：訓誡或譴責、在牌照上附加條件、更改牌照上的條件、暫時吊銷牌照（不超過兩年）、撤銷牌照及罰款（最高30萬元）。

Inquiry hearings

The Disciplinary Committee of EAA conducts inquiry hearings into cases of non-compliance by licensees. In 2006/07, the committee conducted hearings into 172 cases.

The hearings concerned cases of non-compliance including professional incompetence or misconduct, failure to possess or supply prescribed information, failure to enter into an estate agency agreement in the prescribed form, and failure to conduct a land search or to supply the result of a land search.

Cases of professional incompetence or misconduct included failure to give proper advice to a client, failure to inform client of an encumbrance on a property, the giving of misleading information, failure to ensure that the signatory of agreement was authorised, procuring a client to enter into a provisional agreement with the essential terms left blank, procuring a client to enter into a sale and purchase agreement or a tenancy agreement in contravention of a restriction against sale or tenancy transfer or sub-letting, and failure to protect the client's interest and failing to provide service with due care and diligence.

The Disciplinary Committee also inquired into cases concerning the eligibility of licensees who were either bankrupts or recently discharged bankrupts to continue to hold licences.

Disciplinary powers that may be exercised by EAA or the Disciplinary Committee include admonishing or reprimanding the licensee concerned, attaching specified conditions to the licence concerned, varying any condition already attached to a licence, suspending a licence for up to two years, revoking a licence and imposing a fine up to \$300,000.

紀律研訊 DISCIPLINARY INQUIRIES

本年度提交紀律委員會進行研訊的事項種類：

Breakdown of the 172 cases inquired into by the Disciplinary Committee over the course of the year:

違規類別 Type of non-compliance	數目 Number
1. 欠缺專業能力/違反專業操守 Professional incompetence/professional misconduct	76
2. 沒有採用指定表格，沒有與客戶訂立地產代理協議，沒有管有/提供訂明資料 Failure to use prescribed forms, failure to enter into an estate agency agreement, failure to possess/supply prescribed information	47
3. 沒有進行土地查冊及/或向買方客戶提供土地查冊的結果文本 Failure to conduct a land search/supply the land search result to the purchaser	34
4. 破產的持牌人是否適合繼續持牌 Eligibility to continue to hold a licence in bankruptcy cases	33
5. 虛假或誤導性廣告/未取得賣方書面同意前發出廣告 False or misleading advertisements/advertising without the vendor's written consent	19
6. 沒有在廣告上列明牌照號碼及營業名稱 Failure to show the licence number and the business name on advertisements	19
7. 無牌執業或經營地產代理業務前沒有申請營業詳情說明書 Unlicensed practice/failure to apply for a statement of particulars of business before carrying out estate agency business	13
8. 沒有披露利益或避免陷入利益衝突之中 Failure to disclose interests or avoid conflict of interests	13
9. 沒有設立妥善制度管理地產代理業務 Failure to establish proper systems to manage estate agency business	3
10. 其他 Others	11

備註：個別紀律研訊個案可能涉及超過一項違規事宜。

Note: Some inquiry hearing cases may involve more than one type of non-compliance.

紀律委員會施行的紀律處分：
Disciplinary sanctions imposed by the Disciplinary Committee:

紀律處分性質 Nature of disciplinary sanctions	受處分的持牌人數目 Number of licensees sanctioned
訓誡或譴責 Admonishment or reprimand	109
罰款 Fine	22
附加條件 Condition(s) attached to licence	76*
暫時吊銷牌照 Suspension	42
撤銷牌照 Revocation	2

備註：同一持牌人可能在一宗個案中受到超過一項紀律處分。
Note: A licensee may receive more than one type of disciplinary sanction in a case.

*另外，受到監管局行使《條例》第17(3)條訂明的權力而附加條件的牌照，合共105個。

* In addition, a total of 105 licensees had conditions attached to their licences by virtue of the Authority's exercise of power under section 17(3) of the EAO.

此外，監管局曾就投訴個案採取以下非紀律制裁行動：
Besides, EAA has taken the following non-disciplinary actions in complaint cases:

轉交其他機構處理 Referred to other bodies	37
發出指導函 Issued reminder of good practice	122

監管局曾就巡查個案採取以下的非紀律制裁行動：
EAA has also taken the following non-disciplinary actions in cases initiated from inspections:

口頭勸喻 Issued verbal advice	2,389
發出指導函 Issued reminder of good practice (written)	101

法律事務

監管局經常留意業界的執業情況並於有需要時發布執業通告，向從業員提供指引。於2006/07年度發布的通告如下：

Legal services

EAA reviews practices of the trade and prepares practice circulars to provide guidelines and directives on estate agency practice from time to time. In 2006/07, the following circulars were issued:

名稱 Title	編號 Number
地產代理管理階層有責任有效地控制業務 Duties of Management in Ensuring Effective Control of Their Estate Agency Business	06-03 (CR)
每週五天結算 5-Day Clearing Week	06-04 (CR)
銷售新住宅物業事宜 First Sales of Residential Properties	06-05 (CR)

此外，為加強從業員對地產代理工作的有關法律及執業實務的認識，監管局就《代理法》、《認識土地查冊》、《物業產權負擔》、《香港樓宇按揭》、《香港物業轉易》及《香港住宅物業租務》課題，出版六本專題論集的全新修訂版。監管局亦重新編印了《〈操守守則〉及〈地產代理條例〉簡介》。

To enhance practitioners' knowledge of the law and practice of estate agency, EAA published six updated monographs on the following topics: agency law, land search, encumbrances, mortgages, conveyancing and Hong Kong domestic tenancy. A *Code of Ethics and Guide to the Estate Agents Ordinance* was also issued.

本年度，監管局與政府、消費者委員會和香港地產建設商會曾多次商討如何改善一手住宅物業的銷售流程。此外，監管局代表亦曾出席立法會房屋事務委員會會議，討論議員所關注的事宜。

In the course of the year, EAA maintained close contact with the Government, the Consumer Council and The Real Estate Developers Association of Hong Kong on ways to improve the sales arrangements of first-hand residential properties. EAA also attended the Legislative Council Panel on Housing to address legislators' concern on the subject.



監管局牌照及執業委員會主席梁永祥先生（中）在記者招待會中，向傳媒介紹監管局有關「一手」物業買賣的執業通告。

At a press conference, Chairman of the EAA Licensing and Practice Committee Mr William Leung (centre) introduces the practice circular on the sales of first-hand residential properties.