

Estate Agents Authority

**A Study Guide to
Estate Agency Law and Practice**

July 2007

Table of Contents

	Page
Foreword	vi
Disclaimer	vi

Part 1: The Real Estate Agency Trade in Hong Kong

Paragraph		Page
1	The Real Estate Trade and Its Socio-Economic Development	2
2-8	Development of Real Estate Agency Practice in Hong Kong	3
9-21	The Relationship Between the Real Estate Agency Trade and Other Professions and Sectors	4
22-28	Statistics on Supply and Demand in the Property Market	5
29-31	Role and Functions of Real Estate Agents	9
32-35	The Estate Agents Ordinance	9
36-37	Professionalism of the Estate Agency Trade – Community Expectations	10

Part 2: Estate Agents Ordinance and Subsidiary Legislations

Paragraph		Page
1 - 2	The Estate Agents Ordinance and Subsidiary Legislations	13
3	The Authority	13
4 - 5	Membership of the Authority	13
6 - 14	Complaints Handling	14
15 - 16	Particulars of Business	15
17 - 20	Important Definitions in the EAO	16
21 - 29	Licensing Requirements	17
30 - 35	The Licence	20
36 - 52	Duties of Estate Agents	22
53 - 63	The Estate Agency Agreement	25
64 - 68	Offences and Penalties	28
69 - 72	Appeals	30
73 - 79	Disputes about Commission	31
80 - 93	The Code of Ethics	33

94 - 104	Practice Regulations	37
105 - 114	First Sales	41

Part 3: Other Laws Governing Estate Agency Practice and Conveyancing Procedures

Paragraph		Page
<u>Other Laws Governing Estate Agency Practice</u>		
1 - 23	The Law of Contract	47
24 - 25	Misrepresentation	52
26 - 34	Negligence	53
35 - 59	Other Ordinances Relating to Estate Agency Practice	55
<u>Conveyancing Procedures</u>		
60 - 64	Conveyancing Steps	60
65 - 71	Sale and Purchase Agreement / Assignment	63
72 - 74	Title	70
75 - 80	Completion	70
81 - 95	Mortgage	72
96 - 107	Property-related Taxation	75

Part 4: Introduction to the Land Registration System, Land Search and Property-related Information Systems

Paragraph		Page
1-5	Title to Land and Land Search	80
6-24	The Land Register	81
25-30	Types of Ownership	85
31-32	Making a Gift of Property	86
33-36	Searching the Land Register	86
37-39	Analysis of a Land Search	87
40-44	Additional Information from Searches	92
45-46	Statistical and Other Information	94

Notes to this part are set out in Appendix 1.

Part 5: Introduction to Building-related Knowledge, Property Classification and Property Management

Paragraph		Page
1-6	Forms of Government Leases	96
7	Lot Particulars	96
8-9	Government Lease Conditions	97
10-14	Special Categories	98
15-26	The Town Planning Ordinance	100
27-39	The Buildings Ordinance	102
40-43	Regulation of Existing Buildings	105
44-47	Alterations and Additions	106
48-49	Changes in User	107
50-54	New Sites and Re-developments	108
55-65	Property Management	109
66-73	The Building Management Ordinance	113

Part 6: Principles and Practice of Property Valuation

Paragraph		Page
1-4	Supply and Demand	116
5-8	Possible Values of Landed Properties	117
9-13	Methods of Valuation	118
14-16	Site Valuation Methods	119
17	Valuation Reports	120
18-20	The Property Market and Sales Methods	120

Part 7: Leasing and Tenancy Matters

Paragraphs		Page
1 - 3	Tenancies and Leases	123
4 - 9	Tenancies by Contract and by Operation of Law	123
10 -14	Domestic and Commercial Tenancies	125
15	Stamp Duty	126
16	Form CR 109	126
17 -19	Covenants and Conditions	126
20 - 22	Rights of the Tenant	127
23 - 25	Obligations of the Tenant	127
26 - 31	Rights of the Landlord	128
32	Obligations of the Landlord	129
33 - 41	Determination of Tenancy	129
42 - 43	Renewal of Tenancy	131

Part 8: Effective Agency Management and Supervision of Salespersons to Ensure Compliance

Paragraph		Page
1-6	Vicarious Liability	133
7-13	Regulation of Employment	134
14-22	Data Protection	135
23-58	Observance of Other Legislation	138
59-65	Management of Property Information	145
66-69	Handling of Complaints and Disputes	146

****** *This section should be read in conjunction with the regulatory matters discussed in Part 2.*

Appendix 1: Notes to Part 4

Paragraph		Page
1	Sample Land Search	149
2	Charges for Land Registry Services	151
3	Basic Hong Kong Statistics, Census and Statistics Department	152
4	Population Statistics, Housing Department	152
5	Housing Authority Programmes	152
6	Contacting Relevant Government Departments/Public Bodies	153
Appendix 2:	List of abbreviations used	158

Foreword

The Estate Agents Authority (the Authority) is a statutory body responsible for licensing and regulating the estate agency trade in Hong Kong. To promote the development of the trade, the Authority also publishes reference materials on topics related to the practice of estate agents.

This guide contains basic concepts for a wide range of topics pertaining to estate agency practice, and is, therefore, a reference for estate agency practitioners who wish to refresh their knowledge and grasp the essentials of a subject quickly and easily.

The guide may also be a useful revision book for individuals preparing for the Estate Agents Qualifying Examination and the Salespersons Qualifying Examination.

Since the qualifying examinations may require more in-depth understanding of certain topics and the guide presents only a summary of the basic concepts, candidates are reminded to refer to the relevant syllabi (as outlined in the Estate Agents and Salespersons Qualifying Examinations Handbook, www.eaa.org.hk/development/examhb.pdf) for further details of requirements. Candidates are also advised to consult other reference materials, such as the Estate Agents Ordinance and its subsidiary legislation, the Code of Ethics, Practice Circulars and Monographs issued by the Authority, so as to obtain in-depth knowledge of the relevant laws and trade practices.

Disclaimer

This guide is intended to serve as a reference for qualified estate agency practitioners who wish to refresh or enhance their professional knowledge, and for individuals preparing for the Estate Agents and Salespersons Qualifying Examinations who may have difficulty obtaining a general grasp of the relevant laws and trade practices. It should not be construed as a source of legal advice or a comprehensive textbook for the examinations. The Authority does not warrant that this guide may lead to a particular level of examination attainment.

While every effort has been made to ensure that the contents of this guide are accurate and relevant, it is only intended to be a book for estate agency practitioners' quick reference, or a revision aid for examination candidates. Readers are strongly advised to seek legal advice or make their own enquiries on matters encountered in specific situations and do their own

in-depth research in case of doubt. The Authority shall not be held liable for any loss or damage incurred or suffered in connection with, arising from, or in reliance on, any error, omission, statement or misstatement contained in the whole or any part of this guide. Unless otherwise specified in the guide, the text is intended to describe the state of law and practice as at 1 July 2007.

The male pronoun is used to cover references to both the male and female. No gender preference is intended.