



Report of the Chief Executive Officer



行政總裁
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Chief Executive Officer

這是我作為地產代理監管局(「監管局」)行政總裁呈遞的第三份、亦是最後一份報告。

2011/12年度的社會經濟環境

2011/12年度，樓市面臨重重挑戰。年初，市場表現暢旺，價格一度上升，加上投機活動日增，令樓價持續高企。有見及此，政府於2011年6月推出額外印花稅。措施令投機者卻步，再加上國際金融市場的不明朗因素，香港樓市於2011/12下半年持續降溫。本年度的成交量說明了此現象。2010/11年度的樓宇買賣合約數目為131,377宗，與之相比，2011/12年度只有74,363宗。2011/12年度初，每月成交量由徘徊7,000宗上升至超過9,000宗，然後於2012年1月及2月逐漸下跌至4,000宗以下。雖然成交量於3月突然回升至超過11,000宗，有助提升本財政年度的總成交量，但2011/12年度的整體成交量仍較上年度下跌43%。成交量下跌直接影響地產代理業務，而監管局主辦的資格考試，應考人數亦因而減少。

另一個值得注意而且對樓市有長遠影響的因素，是政府有意透過立法規管一手住宅物業的交易。迄今，一手樓盤的銷售已引起傳媒及立法機關相當多的批評。由於現時地產代理在一手物業的宣傳上扮演非常重要的角色，該擬定法例將直接影響他們將來的營運方式。

持牌人數目

2012年3月底，個人牌照數目為34,831人，與上年度相比，增幅為8.9%。公司牌照數目亦創紀錄新高，總數為2,782，較上年度增加10.7%。營業詳情說明書數目為6,036，較上年度增加6.7%。

由於持牌人數目不斷上升，監管局行政部門的工作量大增。為了應付龐大的工作量，截至2012年3月底，監管局行政部門的職員編製數目已增至91.5^{*}，代表人力資源增長了3.4%。

監管局的規管工作

資格考試

監管局的規管制度始於設立資格考試。年內，監管局為有意考取地產代理牌照及營業員牌照的人士分別舉辦四次及六次資格考試。報考地產代理資格考試及營業員資格考試的人數分別為7,735人及12,055人。兩者於2010/11年度的數字分別為9,221及13,036。本年度地產代理資格考試及營業員資格考試的平均及格率分別為39.6%及43.6%。考試由監管局行政部門制定，試題範圍包括《地產代理條例》(《條例》)及其附屬法例、監管局不時發出的執業通告及指引，和其他與物業交易相關的事宜。考試特別強調測試考生面對誠信問題和利益衝突時，能否保持警覺性。考試具有一定的難度，以確保獲發牌照的人士擁有必須的知識，然後才投身地產代理工作。

通過資格考試是獲發牌照的先決條件，但卻不是唯一的要求。

* 兩名半職員工相等於一個全職員工



Report of the Chief Executive Officer

This is the third and final report I submit as the CEO of the Estate Agents Authority (EAA).

Socio-economic environment in 2011/12

The year 2011/12 has been a challenging year for the property market. Earlier in the year, the market was buoyant, and prices had been on the rise. With an increase in speculative activities, which has resulted in ever-increasing property prices, the government introduced the Special Stamp Duty in June 2011. It created a dampening effect on speculators. Together with the uncertainties in the global financial markets, the property market in Hong Kong experienced a gradual cooling down in the second half of 2011/12. This observation is supported by the number of transactions in the year. The number of agreements for sale and purchase of residential building units in 2011/12 is 74,363, as compared to 131,377 in 2010/11. The year 2011/12 started off with a monthly transaction of between 7,000 to more than 9,000, and gradually tapered off to less than 4,000 by January and February 2012. The number then rose phenomenally to more than 11,000 in March which helps raise the total number of transactions in the financial year. However the number of transaction in 2011/12 is still 43% lower than that in 2010/11. The drop in transaction has a direct impact on the business of estate agencies, which has also created a dampening effect on the number of people taking part in the qualifying examinations administered by the EAA.

Another noteworthy factor which has long-term impact on the property market is the government's intention of regulating the first hand residential property transactions via legislation. Hitherto, the sale of first hand residential properties has attracted considerable criticism from the media and legislature. As estate agents now play a very important role in the promotion of first hand properties, the proposed legislation will have a direct impact on the way agents conduct their business in future.

Numbers of licensees

The number of individual licensees stood at 34,831 as at the end of March 2012. This represents a year-on-year increase of 8.9%. The number of company licences also reached a record high of 2,782, an increase of 10.7% as compared to end of March 2011. The number of statement of particulars of business (SPOBs) stood at 6,036, an increase of 6.7% year-on-year.

With the continuous increase in the number of licensees, the workload of the EAA Administration has increased substantially. In order to cope with increase in workload, the number of staff establishment of the EAA Administration has increased to 91.5*, as at end of March 2012. This represents a growth in manpower of 3.4%.

* 2 half-time officers are equivalent to 1 full-time officer

發牌考慮

根據《條例》，所有人士必須達到《條例》第19、20及21條所訂定的要求，才可獲發牌照。此外，獲發牌照後，持牌人仍須於續牌時就特定事項作出聲明。監管局亦會主動抽查持牌人的犯罪紀錄，以驗證持牌人所提供的資料的準確性。任何人被發現並非持牌的「適當人選」，將不能獲發牌照。年內，本局以不同原因拒絕了195宗牌照申請。

執行巡查

監管局行政部門的行動部是本局的執法部門。年內，該部門巡查了1,282間地產代理商舖，以確定代理商及其員工遵守規定程序，並就其執業情況及監管局推行的新措施等相關事宜上教育持牌人。針對年內幾項有關房屋的問題，如「劏房」、違例建築工程及工商業大廈擅改作住宅用途等，行動部同事特別「主題式巡查」受影響地區，並提醒從業員應加倍留意這些不當使用土地／物業會對客戶構成風險。我們全年進行了36次「主題式巡查」，涉及505間商舖。隨着網絡宣傳和推廣的普及化，監管局亦透過網絡巡查確保持牌人符合法規。年內，共進行了579次網絡巡查，並查出94宗涉嫌違規個案，大部分指控為失實或誤導性的樓盤廣告或標價、未有簽訂地產代理協議及填妥訂明表格等。

一手樓盤銷售仍是大型地產代理商的主要業務，其銷售秩序更引來公眾及傳媒一定程度的注意。年內，行動部同事對一手樓盤銷售處進行了1,100次巡查，並進一步調查其中七宗個案。其實，一手樓盤銷售的問題不只限於銷售秩序，其他投訴原因包括提供誤導性的按揭資訊及拒絕向買家支付已承諾的回扣。

處理投訴

處理投訴是監管局每日的基本工作。2011/12年度，我們收到共7,412宗公眾查詢及498宗投訴。查詢數目較上一個財政年度下降18%，投訴量亦下降24%。投訴性質大致相同，通常為未有妥善處理或解釋臨時買賣合約的失當，及提供失實或誤導性的物業資訊。

紀律行動

2011/12年度，紀律委員會判定279宗紀律研訊個案，其中267宗指稱成立。年內，紀律委員會接獲的案件數目比上年度(224宗)大幅增加，但成立率則相若。

共278名持牌人受到紀律處分(2010/11年度為222名)，其中223名為個人持牌人，55名為公司持牌人。

監管局的工作重點

監管局參與促進政府規管一手住宅物業銷售

鑑於一手住宅物業價格不斷上升，業內的執業手法又引來公眾相當多的批評，運輸及房屋局(運房局)於是發起討論，研究如何規管一手住宅物業的銷售及宣傳活動。一個由不同界別人士組成的督導小組正式成立。該小組及其附屬委員會的成員中，有監管局行政部門的高級行政人員，他們不但代表我們提出意見，更分享有關一手樓盤銷售處的執法工作與經驗，以及常見的違規行為。督導小組完成審議後，運房局發表了一份諮詢文件，徵詢公眾的意見。監管局亦遞交了意見，大致同意透過立法規管一手住宅物業市場。由於草案已進入立法程序，監管局會密切注意其發展，確保及時向持牌人提供適當建議，滿足法規要求。

Report of the Chief Executive Officer

EAA's regulatory work

Qualifying examinations

EAA's regulatory regime starts with the setting of the qualifying examinations. In the year, a total of four and six qualifying examinations were organized for those interested in obtaining an estate agent's and salesperson's licence respectively. A total of 7,735 candidates registered for the estate agents qualifying examination while 12,055 for the salespersons qualifying examinations. The corresponding figures for 2010/11 are 9,221 and 13,036. The average passing rates are 39.6% and 43.6% for the estate agents and salespersons qualifying examinations respectively. The EAA Administration, in setting the examination, incorporated questions relating to the Estate Agents Ordinance (EAO) and its subsidiary legislation, the practice circulars and guidelines issued by the EAA from time to time, and other related matters in property transactions. Particular emphasis has been paid to test the alertness of candidates to issues relating to integrity and conflict of interest situation. The level of difficulty is maintained at a suitable level, so as to ensure those who eventually obtain a licence possess the necessary knowledge to undertake estate agency work.

Passing the examination is a pre-requisite to obtaining a licence, but it is by no means the only hurdle.

Licensing considerations

According to the EAO, an individual who wishes to obtain a licence must fulfil certain requirements, as stipulated in sections 19, 20 and 21 of the EAO. Besides, even if a person has obtained a licence, he must, on renewal of his licence, declare certain facts. The EAA also proactively checks the criminal records of licence applicants, on a random basis, to verify the accuracy of information provided by them. If a person is found to be not a "fit and proper" person, his licence may not be issued. In the year, 195 licence applications were rejected for various reasons.

Compliance checks

The Operations Division of the EAA Administration is the law enforcement arm of the Authority. In the year, 1,282 shop visits were conducted. These visits aim at checking whether agencies and their employees follow the prescribed procedures, educating licensees on issues relating to their practice and new measures introduced by the EAA. In view of various housing-related problems in the year, such as sub-divided cubicles, unauthorized building works and the improper use of industrial or commercial buildings for residential purpose, staff of the Operations Division paid special "thematic visits" to affected districts and impressed upon practitioners that they should pay special attention to the possible risks this improper use of land/property would have on their clients. In the year, 36 "thematic visits" were conducted, involving visiting 505 shops. With the rising popularity of the internet as a means of promotion and publicity, the EAA also conducts cyber patrol to ensure compliance of licensees. In the year, 579 cyber patrols were carried out. All these proactive efforts have resulted in 94 suspected non-compliant cases in the year, with the majority of these allegations concern advertising false or misleading property information or listing price, breaches relating to signing of estate agency agreement and improper completion of prescribed forms.

The sale of first hand properties continues to be a main source of business for large agencies. The order of first sales has attracted considerable attention from the public and media. In the year, Operations staff paid 1,100 visits to first sales sites, which resulted in 7 cases being investigated. Problems associated with first sales are not confined to the order of sales. Other reasons for complaints include providing misleading information relating to mortgage application and failure to honour the rebates to purchasers as promised.



發出執業通告

鑑於市場狀況的轉變及政府推出的新措施，監管局於2011/12年度發出了三份執業通告，內容包括一手住宅物業推廣活動的操守，額外印花稅及保障個人資料。這些通告為持牌人提供與業界及公眾關注事宜有關的具體實用指引。

基於市場對物業資訊透明度的需求日增，及預期一手住宅物業銷售會立法要求採用「實用面積」，監管局遂於2011年中開始研究在二手物業市場推行實用面積。在考慮採用「實用面積」推廣二手物業的好處後，監管局為了順利實施新措施並讓公眾及持牌人逐漸適應，要求業界在二手住宅物業的宣傳推廣中提供實用面積及建築面積。此議題於2011/12年底在執業及考試委員會中經過充分討論，並預期於2012年中發出執業通告，公眾及業界會有足夠的時間熟習有關概念和應用事宜。

一手樓盤銷售處的從業員操守繼續受到社會關注。2011/12年度，本局審閱並更新了與一手住宅物業推廣活動的操守相關的通告。

近年，隨著誤用及大意洩漏個人資料的事件發生，掀起了公眾對保障個人資料的關注。為確保持牌人遵守法例，並給予地產代理業界實用及具體指引，本局於2011年10月發出了保障個人資料的執業通告。

Report of the Chief Executive Officer

Complaint handling

Complaint handling is the bread and butter of EAA's daily work. In 2011/12, we received a total of 7,412 enquiries from members of the public, and received 498 complaints. This represents a drop of 18% in enquiries and 24% in complaints when compared to similar figures for the previous financial year. The nature of complaints is largely the same, with the usual reasons of complaints being mishandling or failing to explain the provisional agreements for sale and purchase and providing inaccurate or misleading property information.

Disciplinary action

As regards disciplinary cases, in 2011/12, the Disciplinary Committee adjudicated on 279 cases of which 267 cases were substantiated. The number of cases being brought before the Disciplinary committee in 2011/12 is much higher than that of 2010/11 (224 cases), whereas the substantiation rates of these two years are quite similar.

A total of 278 licensees were disciplined (as compared to 222 in 2010/11), amongst which 223 were individual licensees and 55 company licensees.

Highlights of EAA's work

EAA's contributing to government's effort to regulate first hand residential property sales

With the continuous rise in prices in first hand residential properties and the practices which attracted considerable criticism from the public, the Transport and Housing Bureau (THB) initiated a discussion on how the sale and promotional activities of first hand residential properties should be regulated. A Steering Group was formed, with participants from various sectors. Senior executives of the EAA Administration were members of the Steering Group and its sub-committees, offering our comments and sharing experience in our ongoing law enforcement work in first sale sites and malpractices commonly observed. Upon conclusion of deliberation by the Steering Group, a consultation paper was published by THB, soliciting views from the community. The EAA also submitted our views on the paper, agreeing in general that regulating the first hand residential property market should be by way of legislation. As the bill is going through the legislative process, the EAA will closely monitor the development to ensure that timely and suitable advice be given to licensees in compliance with the legislation.

公眾參與及與業界聯繫

監管局是為保障公眾利益而設立的法定機構。為了讓公眾更了解我們的工作，監管局透過傳媒、巡迴展覽及互聯網與社區進行連繫。監管局會就特定議題召開新聞發布會，並為主席、董事局成員及行政部門高級行政人員安排傳媒採訪，讓市民得知本局的最新措施和工作動向。我們亦會為不同傳媒撰文，讓公眾緊貼最新發展及教導消費者有關物業買賣的常見陷阱。另一方面，互聯網是與新一代消費者溝通的有效媒介。隨着網站革新，監管局定期上載各種有用資訊，讓持牌人及市民瀏覽。公眾亦可透過新聞稿獲得重要訊息。而巡迴展覽則讓監管局職員有機會直接與市民互動。年內，本局已於三個港鐵站內舉辦了六次展覽，市民反應正面。

與業界交流有助監管局直接而清晰地向業界代表傳達本局的計劃與措施，確保業界能了解並遵守。2011/12年度，本局舉行了四次季度業界聯絡會議。監管局行政部門的高級行政人員與八個業界商會代表會面，就不同議題交流意見。此外，監管局行政部門亦與四大地產代理商舉行一年兩次的會議，以加強溝通。年內，行政部門開始舉行季度聚焦小組會議，與隨機抽樣的從業員會面。這類聯絡活動讓監管局與持牌人能對所關注的議題作出深入討論，參與者一般對此表示歡迎。

提高持牌人的專業水平

我們繼續與持牌人討論應否將自願性持續專業進修計劃改為強制性。此舉對監管局行政部門和持牌人有着重大的承擔及影響，所以必須進行非常仔細和全面的討論才能落實。這項更改亦需要政府參與修改相關法例。有關討論仍在進行中。

由監管局與廉政公署合辦的「誠信管理計劃」，已完成了第二年。2012年3月，我們出版了《優質執業手冊》，並將舉辦一連串的培訓講座。

與中國房地產估價師與房地產經紀人學會(「中房學」)的資格互認計劃

2010年11月，監管局與中房學簽署協議後，於2011年7月在深圳舉辦第一屆培訓課程暨考試，共有231位香港考生及67位內地考生參加。其中分別有225位及66位通過考試，並於2011年8月獲得通知。2011/12財政年度完結前，監管局行政部門與中房學制訂了註冊程序。同時，雙方已就第二期資格互認計劃展開初步討論。



Report of the Chief Executive Officer

Issuing of practice circulars

In the light of changing market conditions and government's new measures, in 2011/12, the EAA has issued three new practice circulars on issues such as the conduct in promotional activities in sales of first-hand residential properties, Special Stamp Duty and the protection of personal data. These circulars provide specific and useful guidance to licensees in matters of concern to the estate agency trade and the public.

With the increase in demand for higher transparency in property information, and in anticipation of the possible legislative requirement for information on "saleable area" to be quoted in the sale of first-hand residential properties, the EAA started studying the application of saleable area in second-hand properties in mid 2011. Having considered the benefits of adopting "saleable area" in the promotion of second-hand properties, the EAA believed that to smooth the implementation and enable both the public and licensees to gradually accustom to the new practice, the trade should be required to quote information on both saleable area and gross floor area in advertising and promoting second hand residential properties. The issue was thoroughly discussed at the Practice and Examination Committee towards the end of 2011/12 and it is anticipated that the circular will be issued in mid 2012, with a period of time allowed for both the public and the trade to familiarize themselves with the concept and the applicability issues.

Practitioners' conduct in first sale sites continues to be a matter of concern to the community. In 2011/12, the circular on conduct in promotional activities of first hand residential properties was reviewed and updated.

Protection of personal data has become a public concern in the past few years, following incidents of misuse of personal data and inadvertent leakage of personal information. To ensure licensees abide by the legislation, and to give practical and specific guidance to the estate agency trade, a practice circular on protection of personal data was issued in October 2011.

Public engagement and liaison with the trade

EAA is a statutory body formed to protect public interests. To enable the public to have a better understanding of its work, the Authority has outreached to the community through the media, roving exhibitions and the internet. To inform the public of its new initiatives and ongoing work, the EAA organizes press briefings on specific subjects, media interviews for Chairman and other Board members, and senior executives of the EAA Administration. We also contribute articles to various media outlets to keep the public abreast of recent developments and educate the consumers on the common pitfalls in property transaction. The internet on the other hand is a very effective medium to communicate our work to the IT savvy consumers. Following the revamp of the EAA website, information useful to licensees and members of the public is regularly uploaded. Press releases are issued to disseminate important messages to the public. Roving exhibition enables the EAA staff to have direct and face-to-face interaction with the public. In the year, six exhibitions were organized at three MTR stations. Feedback from visitors was generally positive.

Engaging the trade helps to communicate the EAA's plans and initiatives to its representatives directly and clearly, thereby ensuring better understanding and compliance. In 2011/12, four quarterly trade liaison group meetings were held. Senior executives of the EAA Administration met with representatives of eight trade associations and exchanged views on a wide range of subjects. In addition, the EAA Administration also had biannual meetings with the four major estate agency companies to strengthen communication. In the year, the EAA Administration started to meet randomly selected practitioners in focus group meetings on a quarterly basis. This type of liaison enables the EAA and licensees to have in-depth discussions on issues of concern and is generally welcomed by those who participated.



(左起) 監管局服務總監韓婉萍女士、行政總裁余呂杏茜女士、執行總監黃維豐先生、PMSM及規管及法律總監劉淑葵女士。

(From left) EAA Director of Services Ms Ruby Hon, Chief Executive Officer Mrs Rosanna Ure, Director of Operations Mr Anthony Wong, PMSM and Director of Regulatory Affairs and General Counsel Ms Eva Lau.

機構管治

一如以往，監管局高度重視機構管治。所有員工必須每年一次或按需要申報其利益。年內，行政部門應董事局的要求，重新檢視了員工離職後的就業限制安排，並收緊了相關要求，以符合公眾期望。

自2010年7月起，監管局被納入申訴專員的監管範圍。2011/12年度，申訴專員向本局轉介了五宗個案，並全部獲得妥善處理。申訴專員對監管局行政部門的回覆表示滿意，無須展開正式調查。本局認真看待公眾意見，並樂於尋求改善程序或僱員技能的空間。

總結

回顧過去，實是精彩而又碩果纍纍的一年。我衷心感謝董事局的指導和支持，亦為監管局行政部門全體員工的團結一致感到自豪。

在監管局籌備其十五周年慶典之際，讓我們藉此回顧，地產代理行業在過去十五年所經歷翻天覆地的改變，有賴過去及現任董事局成員及員工的努力，全情投入建立和運作本法定機構。過去三年，我能夠在監管局工作，實在深感榮幸。我深信本局將繼續竭力以專業公正的精神履行職責。

行政總裁
余呂杏茜

Report of the Chief Executive Officer

Upgrading of licensees' professional standard

Our discussion with licensees on turning the voluntary Continuing Professional Development scheme into a mandatory one continued. Since this has major implications on the commitment of the EAA Administration and licensees, very detailed and exhaustive discussion is necessary. The said change also requires legislative amendment, which has to be processed by the Government. Discussion is still ongoing.

The Integrity Management Programme jointly organized by the EAA and the Independent Commission Against Corruption completed its second year. A *Best Practice Checklist* was published in March 2012, which will be followed by training seminars.

Mutual recognition scheme with the China Institute of Real Estate Appraisers and Agents (CIREA)

With the signing of the agreement between the EAA and the CIREA in November 2010, the first training cum examination session was conducted in July 2011 in Shenzhen. Altogether, 231 candidates from Hong Kong and 67 from the Mainland took part in the event. 225 from Hong Kong and 66 from the Mainland passed the examination and were informed of the outcome in August 2011. At the close of the financial year of 2011/12, the EAA Administration was in close touch with the CIREA to map out the registration procedures. At the same time, preliminary discussion was held on the second phase of the mutual recognition scheme.

Corporate Governance

As in the past, the EAA takes corporate governance seriously. All staff are required to declare their interest once a year and as and when required. In the year, the Administration, at the request of the Board, reviewed its post-employment sanitization arrangement. The relevant requirement was subsequently tightened to meet rising public expectation.

The EAA has come under the scrutiny of The Ombudsman since July 2010. In 2011/12, a total of 5 referrals were received from The Ombudsman, all of which were settled. No formal investigation has been launched by The Ombudsman following the replies furnished by the EAA Administration. The Authority takes views from the public seriously, and seeks to improve its procedures or skills of its employees when needed.

Conclusion

The year in review has been a busy and productive one. I would like to express my gratitude to the Board for its guidance and support. I also appreciate the team work of all my colleagues in the EAA Administration.

As the EAA is preparing to celebrate its 15th anniversary, let us remember that the estate agency trade has experienced a sea change in these 1 1/2 decades, thanks to the hard work of all the past and current Board members and staff who have contributed enormously to the setting up and running of this regulatory body. I have the privilege to be associated with the EAA in the past three years and am confident that it will continue to discharge its duties diligently, professionally and fairly.

Rosanna Ure

Chief Executive Officer