

政例通識 Reminders from the Government

監管局不時收到不同政府部門的來函，希望就某些不同議題提示各位地產代理從業員，由於議題通常涉及不同法例，監管局邀請這些部門為《專業天地》撰文。以下為牌照事務處及差餉物業估價署的來稿。

From time to time, the EAA receives letters from different Government departments which wish to remind estate agency practitioners about different subjects. Since the topics usually involve in different laws, the EAA invited these departments to share their views and opinions via *Horizons*. The following articles are contributed by the Office of the Licensing Authority and the Rating and Valuation Department.

簡介《旅館業條例》(第349章)

因應最近報章報導有個別地產代理懷疑涉及無牌經營旅館活動，民政事務總署轄下的牌照事務處(「牌照處」)有必要提醒持牌地產代理，無牌經營旅館屬刑事罪行，並會登記為有關違法者的個人犯罪紀錄。

在香港經營旅館，必須按照香港法例第349章《旅館業條例》(《條例》)申領旅館牌照才可以經營。根據《條例》的釋義，「旅館」是指任何處所，其佔用人、東主或租客顯示會向到臨該處所的任何人士提供住宿的地方，而該人看似有能力並願意為獲提供的服務及設施繳付合理款項，以及每次出租期少於連續28天。

根據《條例》第5條，任何人沒有

有效牌照而經營、開設、管理或以其他方式控制旅館，即觸犯刑事罪行，一經定罪可被判監禁，最高罰款200,000元及監禁兩年，並可就罪行持續期間的每一天另處罰款20,000元。根據紀錄，法院近年亦已加重對有關無牌經營旅館罪行的刑罰。

牌照處是執行《條例》的部門。現時，牌照處以雙管齊下的方式，一方面加執法，另一方面加強宣傳，打擊無牌活動。

在執法方面，牌照處近日展開一連串大規模針對無牌旅館及「月子公寓」的巡查及執法行動。此外，牌照處亦會繼續與地產代理監管局緊密聯繫，若有持牌地產代理被判罪，有關定罪紀錄將會轉介地產代理監管局跟進。

在宣傳持牌旅館資料方便，市民可從牌照處網頁(www.hadla.gov.hk)查閱所有持牌旅館的名單或於辦公時間內致電2881 7034查詢。牌照處亦已規定所有持牌賓館須在入口及每間客房房門貼上「持牌賓館」標誌，以茲識別。

如欲舉報懷疑無牌旅館，可致電牌照處舉報熱線(電話：2881 7498)，同時亦可透過電郵(hadlaenq@had.gov.hk)，或下載牌照處網頁(www.hadla.gov.hk)的舉報表格，以傳真(2504 5805)方式舉報。為了加強有效執法，有關舉報應提供詳細準確的懷疑無牌旅館地址。

民政事務總署
牌照事務處總主任余德祥

Introduction to Hotel and Guesthouse Accommodation Ordinance (Cap. 349)

In view of recent news reports that a few estate agents were reportedly involved in suspected unlicensed guesthouse operations, the Office of the Licensing Authority (OLA) under the Home Affairs Department wants to remind all licensed estate agents that the operation of an unlicensed guesthouse is a criminal offence and will lead to a criminal record.

In Hong Kong, before starting a hotel/guesthouse business, a licence issued under the Hotel and Guesthouse Accommodation Ordinance (Cap. 349) (the Ordinance) has to be obtained. Under the Ordinance, “hotel/guesthouse” means any premises being held out by the occupier, proprietor or tenant for providing sleeping accommodation for any person presenting himself who appears able and willing to pay a reasonable sum for the services and facilities provided for a period of less than 28 continuous days for each letting.

Any person who operates, keeps, manages or otherwise has control of a hotel/guesthouse without a valid licence commits a criminal offence. Under section 5 of the Ordinance,

the convicted person is liable to imprisonment. The maximum penalty upon conviction is a \$200,000 fine and imprisonment for two years, and a fine of \$20,000 for each day during which the offence continues. According to records, heavier sentences for unlicensed hotel/guesthouse operations have been passed by the courts in recent years.

The OLA is responsible for the enforcement of the Ordinance and has been taking vigorous action to combat these unlicensed operations. A two-pronged approach of stringent law enforcement and city-wide publicity has been adopted.

On law enforcement, the OLA has recently mounted a series of territory-wide blitz inspections cum enforcement operations against unlicensed guesthouses including “maternity service hostels”. The OLA will continue to work closely with the Estate Agents Authority (EAA) and should there be any licensed estate agent being convicted under the Ordinance, the OLA will pass the convicted records to the EAA for follow up action.

To facilitate members of the public to identify licensed hotels/guesthouses, they could search for licensed hotels/guesthouses and obtain a full list from the OLA’s website www.hadla.gov.hk, or make enquiries to the OLA at 2881 7034 during office hours. In addition, the OLA requires all licensed guesthouses to display a logo at the main entrance and on the doors of all guestrooms for easy identification.

For effective enforcement, the OLA welcomes reports of suspected unlicensed operations with accurate and detailed addresses. Such reports could be made to the hotline (tel. no. 2881 7498), by e-mail (hadlaenq@had.gov.hk) or by fax (fax no. 2504 5805) using a report form downloaded from the website www.hadla.gov.hk.

YU Tak-cheung
Chief Officer (Licensing Authority)
Office of the Licensing Authority
Home Affairs Department