



Dear Licensees,

Re: Conduct in the Sale of First-hand Residential Properties

The Consumer Council issued a report on “Study on the Sales of First-hand Residential Properties” which revealed suspected malpractice of estate agents. The Estate Agents Authority (“EAA”) is very much concerned about the issue and therefore would like to remind licensees that they must comply with all the relevant laws and Practice Circulars issued by the EAA, in particular the Residential Properties (First-hand Sales) Ordinance (“the Ordinance”) and Practice Circular No. 13-04(CR) (“the Practice Circular”), when they participate in the sale and promotion of first-hand residential properties.

Loans are Strictly Prohibited

According to the Practice Circular, licensees must not offer or make loans to a prospective purchaser during the sale of first-hand residential properties for any purpose.

Licensees should note that if a prospective purchaser states that he does not have a cashier order to participate in the lot drawing for purchasing the property and thus requests the estate agency company to offer him a cashier order and in return he could pay the same amount of money to the estate agency company by credit card, licensees must not express that they will not debit the prospective purchaser’s credit card. On the contrary, licensees should debit the prospective purchaser’s credit card on the same day after accepting the credit card payment. Otherwise it might be construed as a loan to a prospective purchaser and thus might violate the EAA’s guidelines. If the prospective purchaser chooses to pay the same amount of money by cheque, licensees must deposit the cheque on the same day or the next banking day.



Capacity to Act

According to the Practice Circular, licensees must, at the first opportunity after having successfully established contact with a prospective purchaser, clearly explain to the prospective purchaser about their estate agency company's capacity to act (including only for the vendor/purchaser or for both sides) and inform the prospective purchaser in writing accordingly. Licensees must act in an impartial and just manner to all parties involved in a transaction regardless of their capacity.

Property Information

The Practice Circular stipulates that when providing information to prospective purchasers, licensees must do so only on the basis of the latest information contained in the sales brochure and documents prepared and provided by the vendor; and only after they have taken all reasonable steps and exercised all due diligence to verify the information. In addition, when preparing materials to assist the promotion of a development, estate agency companies must take all reasonable steps to verify the accuracy of the information contained in such materials; and before issuance, obtain the vendor's express endorsement in writing of the accuracy and completeness of the particulars contained therein, and ensure that the relevant requirements in the Ordinance are complied with. Under the Ordinance, a person who makes a fraudulent misrepresentation or reckless misrepresentation for the purpose of inducing another person to purchase any first-hand residential property commits an offence.

The EAA would like to remind licensees again that they may be subject to disciplinary actions by the EAA if they fail to comply with the guidelines set out in the Practice Circular. The most severe sanction will be the revocation of a licence. Contravention of the Ordinance is a criminal offence and is liable to a maximum penalty of a fine of



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\$5,000,000 and imprisonment for seven years. Licensees should read the [Practice Circular](#) and the full version of the [Ordinance](#) carefully for a better understanding of and compliance with the requirements.

Estate Agents Authority

24 November 2014