



**New Practice Circular on
Proper Authorisation by Absent Contracting Party**

(22 June 2015) The Estate Agents Authority (“EAA”) today issued a new Practice Circular (No. 15-02(CR)) stipulating that estate agents should require a person claiming to be the authorised representative of an absent contracting party to produce a proper power of attorney when handling any sale and purchase or tenancy transactions of properties and allowing the representative to enter into the transaction concerned.

According to the Chairman of the EAA’s Practice and Examination Committee, Mr Horace Cheung Kwok-kwan, the EAA has continued to receive complaint cases in which the estate agents failed to obtain a proper written authorisation signed by the absent contracting party authorising his representative to enter into the transaction on his behalf, and as a result, the absent contracting party disclaims liability afterwards. In view of this and for better protection of consumers’ interests, the Committee, at its meeting last week, approved the issuance of this new Practice Circular to supersede two old Circulars issued some years ago.

Mr Horace Cheung said, “To enable estate agents to better protect their clients’ interests, the new Practice Circular gives guidance to estate agents on the proper procedures that they should take when handling with a representative of an absent contracting party in a sale and purchase or leasing transaction of property.”

Estate agents should note that, according to the new Practice Circular, a power of attorney is required for appointing an authorised representative in sale and purchase and leasing transactions and the power of attorney should be duly executed and attested. The owner’s authority for the



representative to receive the deposit is also required before the deposit is released to the representative.

The Circular also reminds estate agents to abstain from simply requesting the representative (whether a co-owner or otherwise) to sign a declaration to the effect that he has or will have proper authorisation from the absent contracting party and that he will be personally responsible for all consequences. Such a declaration could not bind the absent contracting party to enter into the transaction concerned. By doing so regardless, estate agents might be considered as having disregarded the proper procedure in property transactions, and may cause their clients to suffer damage.

The new Practice Circular supersedes old Circulars Nos. 01-12(CR) and 06-02(CR) and has taken effect today. Estate agents who are found to have failed to comply with the guidelines set out in the Circular will be subject to disciplinary action by the EAA.

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