



The EAA issues a Practice Circular on the Completion of Provisional Tenancy Agreement and Tenancy Agreement

(11 November 2015) The leasing of second-hand properties in Hong Kong is often conducted through estate agents who assist the landlord and tenant to first enter into a provisional tenancy agreement and then probably the formal tenancy agreement. A tenancy agreement which is not completed properly may easily give rise to complaints or disputes. In view of this, the Estate Agents Authority (“EAA”) issues a new practice circular (No. 15-04 (CR)) today reminding estate agents to exercise due care and due diligence when completing tenancy agreements.

According to the new circular, estate agents should not arrange for their clients to sign a tenancy agreement unless all blank spaces for essential terms in the agreement have been filled in. No matter whether it is the provisional tenancy agreement or the formal one, all essential terms of the tenancy should be filled in, including the property description, names of the parties to the agreement, term of the tenancy and its commencement date, amount of rent and the amount of commission etc. Consent from the parties must be sought before any amendments are made.

Furthermore, estate agents should ensure that all information provided in a tenancy agreement is true and accurate. They should state in the tenancy agreement correctly the use of the property and should not release the keys of the property to the tenant without obtaining the landlord’s consent or arrange for the landlord to confirm receipt of any rental deposit



in advance.

Regarding the inventory of the property, estate agents should list in the tenancy agreement any furniture and electrical appliances to be included in the tenancy. They should also state clearly which version shall prevail if a tenancy agreement is written in both English and Chinese. After signing, a copy of the agreement should be given to the party. Estate agents should also return the formal tenancy agreement and its counterpart to the parties for retention after stamping and registration, if applicable.

Chief Executive Officer of the EAA, Ms Ruby Hon, said, “The EAA has from time to time received complaints relating to tenancy matters. By issuing guidelines on the completion of tenancy agreements, we aim to reduce disputes and enhance the professional standard of the practitioners.”

The new practice circular has taken effect today. Estate agents who are found to have failed to comply with the guidelines set out in the Circular may be subject to disciplinary action by the EAA.

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