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ESTATE AGENTS AUTHORITY

Dear Licensees,

**Re: Sale of Subsidised Sale Flats of the Hong Kong Housing Authority
which have breached the live-in requirements**

The Estate Agents Authority (“EAA”) notes from media reports that some estate agents may be involved in the sale of subsidised sale flats (“SSFs”) for owners and such flats have never been occupied. As the relevant owners may be in breach of the live-in requirements, the EAA is writing to remind all licensees not to participate in such sale if the relevant SSFs have breached the live-in requirements.

According to the Agreement for Sale and Purchase entered into between the SSF owners and the Housing Authority (“HA”), the live-in requirements stipulate that the SSF must be occupied by the SSF owner himself and all members of his family named in the application form for the SSF. If, without the prior written consent of the HA, any family member, including the SSF owner, ceases to actually or permanently live in the SSF, the HA has the right to require the SSF owner to assign the SSF back to the HA at the costs and expenses of the SSF owner. In addition, if the SSF owner is found to have breached any of the live-in requirements, the HA will not approve the application for the issuance of a Certificate of Availability for Sale (“CAS”)/Letter of Nomination in respect of the SSF concerned under the Home Ownership Scheme Secondary Market Scheme (“HOS SMS”) and any CAS issued will be revoked. The SSF owner concerned will not be able to sell the flat under the HOS SMS.

If the SSF owner violates the live-in requirements, it could put the interest of the subsequent buyer at risk with respect to his purchase of the SSF concerned, as the SSF could be required to be assigned back to the HA before completion and/or the HA could revoke the CAS previously issued before completion which would result in the buyer not being able to purchase the SSF concerned. Accordingly, if licensees are aware of any such breach, they should refrain from participating in the sale of the



relevant SSFs which involve the abuse of housing resources.

Licensees should also note that the term “unmodified flats” (「清水樓」) may be regarded as units which have never been occupied as well as units which have never been modified. Licensees are reminded that they must accurately describe the SSFs and refrain from using the term “unmodified flats” (「清水樓」) or similar terms recklessly in the promotion of the sale of SSFs. If licensees suspect that there may be any breach of the live-in requirements when acting for owners in the sale of their SSFs, licensees must be more prudent in understanding the occupancy status of the SSF concerned.

If licensees incorrectly use the related term(s) to describe the relevant SSFs where they are untrue, it may amount to misrepresentation and contravention of paragraph 3.2.2 and/or paragraph 3.3.1 of the *Code of Ethics* issued by the EAA, which respectively provide that licensees should keep themselves informed of any laws, government regulations, essential facts and developments in the real estate market in order to be in a position to advise their clients in a responsible manner; and they should protect their clients against misrepresentation in connection with real estate transactions.

The HA has issued a press release on 25 January 2024 to remind SSF owners of the live-in requirements for all SSFs, including HOS flats. Licensees may refer to the government press release (www.info.gov.hk/gia/general/202401/25/P2024012500538.htm) for details.

Estate Agents Authority

26 January 2024