

地產代理監管局
ESTATE AGENTS AUTHORITY

專業
天地

HORIZONS

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小心推銷 境外物業

Be Careful when Promoting
Non-Local Properties



目錄

CONTENTS

- 03 觀點視野
A Perspective
- 04 新聞速遞
News Flash
- 09 焦點話題
In Focus
- 12 人物誌
Portrait
- 14 誠信與你
Integrity in Focus
- 17 CPD重溫
CPD Recap
- 18 執業問與答
Practice Q&A
- 19 顧名思義
ABC in Estate Agency
- 20 活動紀要
Events and Activities
- 22 統計數字
Statistics



韓婉萍
Ruby Hon

監管局行政總裁
Chief Executive
Officer of the EAA

“大多數業界人士均守法循規，並能在困難時期找到自己的方向。天無絕人之路，但同時也應緊記，凡事謹慎、三思而後行。”

“... most trade members are compliant with the regulations and will find their own way forward in difficult times. While one door shuts another opens, please do remember to look before you leap.”

逆境自強 也須自律

SELF-DISCIPLINE IN A VOLATILE MARKET

政府在2016年11月4日宣布增加住宅物業交易的從價印花稅稅率。這個增幅無可避免地會影響物業市場，而地產代理業界亦已公開表達對政府措施的意見。我理解業界可能因此經歷一個困難的時期，但我同時希望提醒所有的從業員，必須時刻警惕自己，切勿為求開單而冒險違規，令自己的事業和行業聲譽受到影響。

首先，從業員應該在一手住宅物業銷售中保持專業。毋庸置疑，個別地產代理打架的傳媒報道已為行業聲譽帶來嚴重損害。這種魯莽行為，是永遠不會被監管局、公眾和大多數從業員所容忍的。

其次，從業員在發出廣告時應份外小心。今年監管局收到越來越多的相關投訴。從業員應留意，無論以任何形式或通過任何平台發出的廣告，均只能以地產代理公司的名義發出。同時，不論廣告內容是宣傳個別的物業，抑或是供客戶參考的相關樓市成交數據，當中都只可包含準確的資訊。任何人都不應向客戶、或透過媒體向公眾發布不真實或不準確的市場數據，以圖炒作市場氣氛或走勢。

此外，某些從業員可能會發掘傳統住宅物業交易以外的商業機會，例如銷售境外物業、車位及商業物業等。他們應特別留意及了解相關知識，充分裝備自己，以免對客戶作出任何失實陳述。正如筆者在上期《專業天地》的欄目中提過，監管局今年收到有關商場舖位銷售的投訴數字大幅上升。而由於有關銷售境外物業的投訴也大幅增加，今期的《專業天地》中亦有另一篇文章探討這個問題。

筆者深信，大多數業界人士均守法循規，並能在困難時期找到自己的方向。天無絕人之路，但同時也應緊記，凡事謹慎、三思而後行。魯莽衝動或不負責任的行為，可能會賠上你的牌照和事業。

The Government announced to increase the ad valorem stamp duty rates for residential property transactions on 4 November 2016. The increase will inevitably affect the property market and the estate agency trade has already publicly voiced its views about the Government's measures. While I understand the trade may have to go through a difficult period, I would like to remind all practitioners to stay vigilant and not to breach any regulations in order to seal a deal and risk their careers and the trade's reputation.

Firstly, practitioners should conduct themselves professionally at first-sale sites. Media reports of individual incidents of estate agents fighting have already brought serious damage and disrepute to the estate agency trade. This kind of reckless behaviour will never be tolerated by the EAA, the public and the trade at large.

Secondly, practitioners should be extra careful when issuing advertisements. This year the EAA has received an increasing number of related complaints. Practitioners should note that advertisements, no matter in whatever format or through whatever platform, can only be issued in the name of the estate agency company. Practitioners should only advertise accurate information, not just about the particular properties they are promoting, but also on any relevant transaction figures they provide to their clients for reference. No one should manipulate the market by releasing untrue or inaccurate market figures to clients or the public through the media.

Furthermore, some practitioners may explore business opportunities other than handling traditional residential property transactions, such as the sale of non-local properties, car parking spaces and commercial properties. They should pay extra attention to and equip themselves with sufficient related knowledge in order to avoid making any misrepresentation to their clients. For example, as I have written in the last issue of *Horizons*, the number of complaints concerning the sale of units in shopping malls the EAA has received this year has shown a huge increase. In this issue of *Horizons*, there is another article on the issue of selling non-local properties, as the number of related complaints has also increased substantially.

I genuinely believe that most trade members are compliant with the regulations and will find their own way forward in difficult times. While one door shuts another opens, please do remember to look before you leap. Acting rashly or irresponsibly may cost you your licence and career.

監管局董事局歡迎五位新任董事局成員上任 THE BOARD OF THE EAA WELCOMED FIVE NEW BOARD MEMBERS

香港特區政府早前宣布委任五位監管局董事局新成員，包括張呂寶兒太平紳士、藍德業資深大律師、司徒惠貞女士、謝小玲女士及黃偉雄先生，MH。五人任期由2016年11月1日至2018年10月31日為止。監管局董事局現時共有正、副主席各一名及18名來自社會上不同界別的一般成員。

監管局董事局亦於2016年11月22日舉行的會議上，委任了五個常設委員會的主席。各委員會的主席名單及其工作範疇如下：

The HKSAR Government has announced the appointment of five new EAA Board members; Mrs Peggy CHEUNG Po-yee, JP, Mr Douglas LAM Tak-yip, SC, Ms Anna SETO Wai-ching, Ms Phoebe TSE Siu-ling and Mr Addy WONG Wai-hung, MH, with a term of office from 1 November 2016 to 31 October 2018. The EAA Board now consists of a Chairman, a Vice-chairman and 18 ordinary members from various sectors of the community.

The EAA Board at its meeting on 22 November 2016 also endorsed the composition of five standing committees. The chairpersons and the terms of reference of these committees are as follows:

常設委員會名稱 NAMES OF THE STANDING COMMITTEES

工作範疇 TERMS OF REFERENCE

主席姓名 NAMES OF THE CHAIRPERSON

財務及策略發展委員會 Finance and Strategic Development Committee	專責籌劃監管局的發展方向，研究具有長遠性影響的政策和工作策略 Responsible for mapping the strategic development of the EAA, examines strategic issues of long-term significance	梁永祥太平紳士，SBS Mr William LEUNG Wing-cheung, SBS, JP
紀律委員會 Disciplinary Committee	負責接受及查究涉及持牌地產代理的投訴，並向違規地產代理施行紀律處分 Receives and inquires into complaints lodged against licensed estate agents, metes out disciplinary sanctions to non-compliant licensees	廖玉玲太平紳士 Ms Elaine LIU Yuk-ling, JP
牌照委員會 Licensing Committee	處理有關牌照事宜，研究發牌規定，批准或拒絕發出牌照 Oversees licensing matters, considers and recommends licensing requirements for estate agents, and approves or refuses applications for licences brought before it	羅孔君太平紳士 Miss Jane Curzon LO, JP
執業及考試委員會 Practice and Examination Committee	處理有關執業及考試事宜，並制訂關於地產代理工作的執業通告及指引 Oversees practice and examination matters, formulates practice circulars and guidelines on various aspects of estate agency work	張國鈞議員，JP The Hon Horace CHEUNG Kwok- kwan, JP
專業發展委員會 Professional Development Committee	制訂及監督持續專業進修計劃的執行，以提升持牌人的專業水平 Formulates and oversees the implementation of the Continuing Professional Development (CPD) Scheme with a view to raising the competence of licensees	余惠偉太平紳士 Mr YU Wai-wai, JP



有關核實賣方身分的 新執業通告 NEW PRACTICE CIRCULAR ON VERIFICATION OF VENDORS' IDENTITY

因應有關騙徒假冒業主身分以騙取訂金的新聞，監管局發出一份題為「核實賣方身分」的新執業通告（編號16-03(CR)），並已於2016年12月1日生效。

新執業通告取代舊有的相關通告（編號09-08(CR)），詳列指引供持牌人遵循。例如，當與賣方訂立地產代理協議時，持牌人應要求賣方出示其香港身分證，並在地產代理協議中記錄賣方的姓名及身分證號碼。

此外，持牌人在安排買賣雙方訂立物業的臨時買賣協議前，須以書面形式建議其客戶安排在律師行託管所有訂金，以及告知客戶不託管訂金的風險。倘若雙方決定不託管訂金而繼續進行交易，持牌人則須取得買方的書面確認，說明買方已知悉有關建議。

假如在核實賣方身分時覺得有可疑的情況，持牌人應建議客戶尋求法律意見。新執業通告及相關的持續專業進修計劃網上學習活動已上載至監管局網頁 (www.eaa.org.hk)。

In response to news about fraudsters impersonating flat owners and swindling the deposit, the EAA issued a new Practice Circular (No. 16-03 (CR)) titled "Verifying the Identity of Vendors" and it has become effective on 1 December 2016.

The new circular replaces the relevant old circular (No. 09-08 (CR)) and sets out detailed guidelines for licensees to follow. For example, when entering into an estate agency agreement with the vendor, licensees should ask the vendor to produce his Hong Kong identity card and record the name of the vendor and the number of his identity card in the estate agency agreement.

In addition, licensees are required to advise their clients in writing to arrange for the stakeholding of all deposits by a firm of solicitors, before arranging for the parties to enter into the provisional agreement for sale and purchase and the risk of not doing so. If the parties decide to proceed with the transaction without arranging for the stakeholding of all deposits, licensees should obtain a written acknowledgement from the purchaser that the advice has been given.

Licensees should advise their clients to seek legal advice if there are any suspicious circumstances on verifying the vendor's identity. The new practice circular and related CPD e-Learning programme are available on the EAA's website (www.eaa.org.hk).

持續專業進修計劃優越嘉許獎章 CPD PREMIUM ATTAINMENT SYMBOLS

為表揚持牌人積極參與持續專業進修計劃以提升其專業水平，連續五年或三年達到持續專業進修計劃學分要求的持牌人，可獲監管局頒發「金章」及「銀章」的優越嘉許獎章。首批獲嘉許的持牌人名單經已誕生，逾四百名從業員已獲頒發「銀章」。

To recognise licensees' efforts in enhancing their professional knowledge through continuous participation in the Continuing Professional Development ("CPD") Scheme, the "Gold" and "Silver" Premium Attainment Symbols will be awarded by the EAA to eligible licensees, upon their achievement of the CPD attainment target for five or three consecutive years respectively. The first batch of awardees has been announced. Over 400 practitioners have been awarded the "Silver" Premium Symbol.



自2013年10月1日至2014年9月30日的進修時段開始計算，若持牌人連續在三個進修時段達到修畢12個學分的要求，可獲頒發「銀章」。首批「銀章」得主共有427人，他們除獲頒發證書及「銀章」襟針以表揚其卓越表現外，也可在其地產代理證及個人名片印上優越嘉許獎章。

在首批「銀章」得主中，更有14名持牌人於連續11個進修時段內均達到學分要求，即自計劃於2005年開始以來，每年均達到12個學分之要求。監管局期望有更多持牌人繼續自我增值，實踐終身學習的長遠目標，積極參與持續專業進修計劃以提升其專業水平。

The "Silver" Premium Symbol will be awarded to the licensees upon their achievement of the CPD attainment target (i.e. obtaining 12 CPD points) for three consecutive CPD periods, with effect from the CPD period commencing 1 October 2013 and ended 30 September 2014. A total of 427 licensees have been awarded the first batch of the "Silver" Symbol. As well as receiving a certificate and a silver badge, the awardees can also print the Premium Symbol on their estate agent card and business card to signify their efforts and outstanding performance in continuous learning.

Amongst the first batch of awardees, 14 of them have even achieved the CPD target for 11 consecutive CPD periods, i.e. having obtained 12 CPD points every year since the Scheme commenced in 2005. The EAA hopes that more licensees will continue to enhance their knowledge through life-long learning and participation in the CPD Scheme.



監管局員工獲頒發「2016申訴專員嘉許獎」 EAA'S STAFF RECEIVED “THE OMBUDSMAN'S AWARD” 2016

監管局兩名員工獲頒發「2016申訴專員嘉許獎—公職人員獎」，表揚他們處理查詢時的專業表現和積極態度。

申訴專員嘉許獎頒獎典禮已於2016年10月27日舉行。監管局牌照部陸國豪先生及財務及行政部梁玉貞女士，憑藉處理查詢時的出色表現，分別獲頒發「公職人員獎」。

兩位得獎者對是次獲獎感到非常欣喜。陸國豪先生表示：「在處理查詢時，我們應耐心聆聽查詢者的訴求，並細心解釋相關政策。」

梁玉貞女士則表示：「我已在監管局服務多年。是次獲獎令我感受到前線員工的重要性和價值，並推動自己每天做得更好。」

兩位得獎者就是以積極正面的態度服務大眾的好例子。是次共有37名來自不同公營機構和政府部門的公職人員獲得「公職人員獎」。監管局去年也有兩名員工獲得此殊榮，是局方連續兩年有員工獲獎。

Two employees of the EAA received “The Ombudsman’s Award” 2016 for “Officers of Public Organisations” in recognition of their professionalism and positive attitude in enquiries handling.

The Ombudsman’s Awards Presentation Ceremony was held on 27 October 2016. Mr Howard Luk from the Licensing Section and Ms Pinky Leung from the Finance and Administration Section, received individual awards for their outstanding performance in handling enquiries.

Both awardees were very pleased to receive the award. “We should listen to the request of the enquirer patiently and explain the relevant policies in handling enquiries.” Mr Howard Luk shared.

“I have been working in the EAA for many years, this award reminds me the importance and value of frontline staff and I am eager to do my best everyday”, Ms Pinky Leung said.

The two awardees had set good examples by adopting a positive attitude to serve the public. There were 37 awardees from various public organisations and Government departments. It is the second consecutive year that EAA staff have received the Ombudsman’s Awards. Two other EAA staff also received the Awards last year.



申訴專員劉燕卿女士(左)頒贈獎座予梁玉貞女士。
Ms Connie Lau (left), The Ombudsman, presented the trophy to Ms Pinky Leung.



陸國豪先生從申訴專員劉燕卿女士手中接過獎座。
Mr Howard Luk received the award from The Ombudsman, Ms Connie Lau.

不應對少數族裔作出歧視行為 NO DISCRIMINATION AGAINST ETHNIC MINORITIES SHOULD BE COMMITTED

監管局一直致力提升持牌人的專業水平，並提倡持牌人在執業時須遵守平等機會的原則。因此，局方希望提醒持牌人在處理物業交易時不應作出歧視行為。

根據平等機會委員會（「平機會」）早前公布的調查報告，發現有少數族裔人士透過地產代理物色租住單位時受到歧視，有地產代理向他們表明，業主拒絕將物業租給他們。

持牌人應注意，他們不但有可能因個人違反反歧視條例而負上責任，他們同時也可能因為協助業主執行涉及歧視的指示而違法。因此，持牌人不應基於客戶的種族而拒絕提供服務。

監管局建議持牌人閱覽監管局發出的相關執業通告及平機會網頁（www.eoc.org.hk）內發布的資訊。監管局也會定期為業界舉辦相關的持續專業進修計劃講座。

The EAA attaches great importance to enhancing the professional standard of licensees and upholding the principle of equal opportunities in their practice. The EAA would, therefore, like to remind licensees not to commit discriminatory acts when handling property transactions.

According to a report issued earlier by the Equal Opportunities Commission (“EOC”), ethnic minorities were discriminated against when looking for flats to rent through estate agents. Some of them were told by estate agents that the landlord refused to lease the property to them.

Licensees should note that they may be personally liable for their own acts if they violate the anti-discrimination ordinances; and may also be liable for aiding a landlord’s discriminatory act even if they act on the landlord’s instructions. Thus, licensees should not refuse to provide service on the ground of race.

Licensees are advised to read the related practice circulars issued by the EAA and the information issued by the EOC at their website (www.eoc.org.hk). Related CPD seminars are organised regularly for the trade as well.

恐怖分子或與恐怖分子有聯繫者的更新資料 UPDATING OF SPECIFICATION OF TERRORISTS AND TERRORIST ASSOCIATES

監管局不時接獲保安局通知，有關聯合國安全理事會委員會發出的恐怖分子或與恐怖分子有聯繫者的更新名單。持牌人應採取措施協助打擊洗黑錢活動，及留意更新名單。

請留意，聯合國已於2016年11月4日發出恐怖分子或與恐怖分子有聯繫者的更新名單，相關公告已刊於政府憲報內。持牌人可參閱政府的憲報資料（www.gld.gov.hk/egazette/pdf/20162044/cgn201620446223.pdf），以了解有關詳情。

監管局提醒所有持牌人，如發現任何懷疑洗黑錢個案，應向聯合財富情報組（www.jfiu.gov.hk）舉報。

The EAA is notified by the Security Bureau regularly on the updates of the list of terrorists and terrorist associates from the United Nations Security Council Committees. Licensees should adopt measures to help combat money laundering activities and pay attention to the updated list.

Please note that the United Nations has issued an updated list of terrorists and terrorist associates and a notice was published in the Gazette on 4 November 2016. Licensees may read the notice at the Government’s Gazette for more details (www.gld.gov.hk/egazette/pdf/20162044/cgn201620446223.pdf).

The EAA reminds all licensees that any suspicious cases of money laundering should be reported to the Joint Financial Intelligence Unit (www.jfiu.gov.hk).



小心推銷境外物業

BE CAREFUL WHEN PROMOTING NON-LOCAL PROPERTIES

近年，本港樓價高企，部分境外物業的項目標榜高回報率且售價較本地物業容易負擔，吸引不少港人購買。加上政府早前調高住宅物業交易的從價印花稅稅率至劃一15%，本地住宅物業成交萎縮，不少地產代理從業員為另覓出路，紛紛參與推銷境外物業。

然而，基於境外物業涉及外地法例並且受當地制度所限，加上稅制複雜，地產代理容易在銷售過程中誤導客戶或作出失實陳述，結果引起爭拗或被投訴。持牌人在決定參與銷售境外物業前，需謹慎考慮清楚自身的經驗和知識能否應付。

相關規管

根據《地產代理(豁免領牌)令》，若任何人純粹處理香港以外地方的物業，並在其所有信件、帳目、收據、單張、小冊子及其他所有文件內及在任何廣告中，清楚述明其本人並無處理位於香港的任何物業的牌照，可獲豁免領取監管局發出的牌照。

As local property prices continue to remain high, more Hong Kong people are attracted to non-local properties due to their higher yields and more affordable prices. Transactions in the local residential property market have become even more stagnant after the increase of the ad valorem stamp duty rates for residential property transactions to a flat rate of 15%. Under these circumstances, some estate agents have been looking for other business opportunities and engaging in the sale of non-local properties.

However, as non-local property transactions are conducted under different regulatory regimes and tax systems, the likelihood for estate agents to mislead their clients or make misrepresentations leading to disputes or complaints is high. Hence, licensees should consider thoroughly whether they have equipped themselves with sufficient experience and knowledge before deciding to participate in the sale of non-local properties.

RELEVANT REGULATIONS

According to the Estate Agents (Exemption From Licensing) Order, if a person engages in estate agency work exclusively in relation to properties outside Hong Kong, and states in all his letters, accounts, receipts, pamphlets, brochures and other documents and in any advertisement that he is not licensed to deal with any property situated in Hong Kong, he shall be exempted from the requirement for obtaining an estate agent's licence or a salesperson's licence from the EAA.

焦點話題 IN FOCUS

一般情況下，純粹處理境外物業交易的代理工作並不屬監管局的規管範圍。然而，若該人同時從事香港境內及境外物業的代理工作，則必須持有監管局發出的有效牌照，並受到監管局監管。倘若持牌地產代理在銷售境外物業時的操守出現問題，監管局亦會作出跟進。

容易引發問題

監管局在2016年首11個月，共接獲21宗涉及境外物業的投訴，比去年同期大幅增加19宗，主要指稱代理作出失實陳述及涉及有關項目工程未能完成（即俗稱「爛尾」）。

事實上，若然參與銷售的代理對物業的發展商或所在地的情況了解不足，又或對當地的法例及稅制不熟悉，例如不清楚境外人士購買／轉售／出租物業有否限制，再加上僅靠網上找來的資料便向客戶宣傳的話，便容易出現誤導客戶或向客戶作出失實陳述的機會。



根據監管局發出的《操守守則》第3.3.1段，即「持牌地產代理必須秉持誠實、忠誠和嚴正的態度向客戶提供服務，並保障客戶在地產交易中不因欺詐、失實陳述或不合專業操守的行為而受損。」

為免造成任何誤導或產生誤會，代理在編製及發放相關宣傳物品前，應先取得賣方的書面批署。



Generally speaking, carrying out estate agency work exclusively in relation to properties outside Hong Kong is not regulated by the EAA. However, if the persons engage in estate agency work in relation to properties both in Hong Kong and outside Hong Kong, they are required to hold a licence issued by the EAA and their practices are regulated by the EAA. The EAA will follow up on cases against licensed estate agents' malpractice in the sale of non-local properties.

PROBLEMS ARISING

In the first 11 months of 2016, the EAA received 21 complaints concerning non-local properties, a sharp increase of 19 complaints when compared to those in the same period last year. Major allegations concern misrepresentation made by estate agents, and cases of failing to complete the construction of the relevant development.

In fact, it would be easy for estate agents to mislead their clients or make misrepresentations when promoting non-local properties if they do not have sufficient understanding of the property developer, the legal and tax system of the country that the development is located (such as whether there are any restrictions for non-local persons to purchase, resell or lease the properties), or if they just rely on the information from the Internet.

According to paragraph 3.3.1 of the *Code of Ethics*, "estate agents and salespersons shall, in the course of business, provide services to clients with honesty, fidelity and integrity. They should protect their clients against fraud, misrepresentation or any unethical practices in connection with real estate transactions."

To avoid any misunderstanding or making any misrepresentation, estate agents should obtain written consent from the vendor before preparing or issuing any relevant promotional materials.



持牌人應留意，倘若持牌地產代理在銷售境外物業時違反上述守則，可能會被監管局紀律處分，屆時不單聲譽受損，連帶本地生意也可能受牽連；更甚者有可能面臨買方的法律申索，追討賠償。

境外物業交易並不簡單

其實，監管局不時都有透過傳媒提醒消費者，在跨境置業前，應衡量有關交易所涉及的風險，尤其是購買海外樓花或可獲得發展商的額外優惠，但樓花項目所涉風險亦相對較高，要小心項目有可能出現「爛尾」。

監管局亦有提醒消費者，最好親身到物業所在地視察，了解清楚發展商的背景、物業周邊環境、配套等，同時要了解當地對境外人士購買或出租物業的規管、遺產法例及稅制問題等，才作出購買的決定。

跨境置業始終牽涉不同地區或國家的法規，其中所涉及的問題十分複雜和廣泛。持牌人在推銷境外物業時要謹言慎行，倘若對物業資料或相關法例、制度存疑時，切勿輕率回應及誤導買家。另外，須建議買家諮詢獨立的法律意見，以了解清楚投資海外物業當中的風險。

Licensees should note that if licensed estate agents are in breach of the aforementioned *Code of Ethics* in the sale of non-local properties, they may be disciplined by the EAA. Not only their reputation will then be damaged, their business of local properties may also be affected. Worse still, the purchaser may also take legal action against them for compensation.

IT'S COMPLICATED

The EAA has consistently reminded consumers of the risks of purchasing non-local properties. Consumers should consider the risks involved especially when purchasing uncompleted non-local developments. Although the incentives could be high, the risks are also high as the developer of those properties may fail to complete their construction.

The EAA also recommends that consumers should visit the site of the property, carry out research on the developer, the environment of the property and the surrounding transportation network. Consumers are also advised to, before making a purchase, to learn more about the regulations of that country's purchasing laws concerning non-residents, reselling or leasing of properties, the laws and practice on conveyancing and estate taxes etc.

Purchasing non-local properties is complicated as it involves different regulatory regimes. Licensees should also be very careful when promoting non-local properties. If licensees are uncertain about any property information or relevant regulations they should not advise their clients hastily or mislead them. Furthermore, licensees should advise purchasers to seek independent legal advice in order to gain a better understanding of the risks involved.



鄒廣榮教授

Professor Chau Kwong-wing

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專訪監管局成員鄒廣榮教授

AN INTERVIEW WITH EAA BOARD MEMBER PROFESSOR CHAU KWONG-WING

本期《專業天地》專訪了監管局成員鄒廣榮教授，了解一下他對業界專業水平及香港房地產發展的看法。

In this issue of *Horizons*, we interview our EAA Board member Professor Chau Kwong-wing, about his views on the trade's professional standard and the development of the Hong Kong real estate market.

問：你自2012年11月起加入監管局董事局。這些年間，你覺得地產代理業界的專業水平如何？

Q: You have served on the EAA Board since November 2012. What do you think of the professional standard of the estate agency trade over the years?

答：我很榮幸出任監管局成員已逾四年。作為香港測量師學會前會長及房地產及建設系的教授，我在加入監管局前，已對地產代理業界的工作有所認識。為監管局工作，令我對業界的執業情況及所面對的挑戰有更深認識。要成為一個專業的地產代理並不是一件易事，因為他們的工作不但需要有熱誠，也同時要有高水平的知識及自律。現今的業界專業水平，比起多年前已經大有提升，但我認為，尤其是對新入行的年青人來說，尚有改善空間。要達到業界整體及成員的持續進步，不斷進修是其中一個有效良方。

A: It is my honour to have served on the EAA Board for over four years. As the former president of the Hong Kong Institute of Surveyors and a professor of real estate and construction, I was familiar with the work of estate agents even before joining the EAA. Working with the EAA enhances my understanding of the trade's practices and the challenges they face. It is not easy to be a professional estate agent as this job requires not only a high level of enthusiasm but also knowledge and self-discipline. The professional standard of the trade nowadays has greatly advanced compared with that of many years ago, but I still see room for improvement in particular with the young newcomers. Continuous learning is one of the most effective and useful tools for a sustainable improvement of the trade and its members.

問：作為香港大學房地產及建設系講座教授及系主任，你對香港地產市場的發展及業界參與其中的角色有何看法？

答：住屋是一個很基本的生活需要，市民除非居住政府資助房屋，否則即使不買樓，也要租樓自住，很大機會需要地產代理的服務。因此，地產代理在香港多年來的地產市場發展中，佔有着一個不可取替的角色。

和地產代理業界一樣，香港的地產市場同樣需要穩定及持續的發展。近年供應不足，樓價攀升，令樓市難免變得波動。新樓單位面積越來越小，仍然不斷有買家入市，有些人可能因恐怕樓價繼續上升，希望先「上車」後再作打算；但同時也有人希望「細屋換大屋」改善生活質素。因此，不論大市如何，樓市仍會繼續有成交，地產代理仍可在這些空間中尋找出路。

問：政府剛推出了新一輪針對樓市過熱的措施。你認為這些措施對樓市有何影響？可否給予持牌人一些忠告？

答：政府這次為樓市推出的新措施，的確增加了投資者的成本，但從需求方面來看，低息環境仍然支持着樓市的需求；而從供應方面看，未來每年推出市場的私人住宅物業數量並非龐大，用家入市的意欲仍在。因此，我認為樓價可能在短時間內略為整固，樓市仍然會繼續有成交，但地產代理可能需要面對一段較為艱難的時間。業界可以有如我在前題所說，尋找不同的物業成交空間，同時趁機在專業知識上自我增值，避免被大市支配，最重要是在保持積極的同時，也要保持自律，切勿因心急開單而作出違規及影響行業聲譽的行為。

Q: As the Chair Professor and Head of Department of Real Estate and Construction of The University of Hong Kong, what are your views on the development of the Hong Kong real estate market in recent years and the role of our trade members?

A: Housing is a very basic need for people's living. Unless one lives in a Government subsidised flat, one needs to either buy a home or rent one, and most likely would need the service of estate agents. Hence, estate agents have had an irreplaceable role in the development of the real estate market in Hong Kong over the years.

Same as the estate agency trade, the Hong Kong real estate market also needs a stable and sustainable development. With the supply shortage and property prices soaring in recent years, the property market has inevitably become volatile. The size of new flats is getting smaller and smaller but there are still buyers. Some people may want to own a home as soon as possible in fear of the continuous hike in property prices, while others may wish to raise their quality of living by selling their smaller flats for a bigger one. Transactions would thus continue to exist and estate agents could still find a way out regardless of the market conditions.

Q: The Government has just introduced new measures to address the overheated residential property market in Hong Kong, could you share with us your views on its impact on the property market and your advice for our licensees?

A: The new measures introduced by the Government for the property market has indeed increased the cost for investors. However, on the demand side, the low interest rate environment still supports the demand for property, while on the supply side, the quantity of newly built private residential properties that could be released yearly is not humongous. Hence the urge for buying a home is still there. I would therefore think that property prices may be slightly affected for a short period of time but there will still be transactions in the property market. That said, estate agents may have to face a difficult time. The trade can, as I answered in the previous questions, look for opportunities of different property transactions and upgrade their professional knowledge, so as to avoid being dominated by the market. Most importantly, licensees should maintain a positive mind set and self-discipline, and not breach any laws or bring disrepute to the trade.

誠信與你

INTEGRITY IN FOCUS

紀律研訊個案： 干擾車輛及妨礙駕駛者 DISCIPLINARY HEARING CASE: INTERCEPTING VEHICLES AND DISTRACTING DRIVERS



引言

持牌人於一手住宅樓盤銷售處進行推廣活動時，應保持良好秩序，包括不得作出對駕駛人士或其他道路使用者構成危險的行為，否則有可能被監管局紀律處分。

INTRODUCTION

Licensees should maintain good order in first-sale sites when carrying out promotional activities, including not committing behavior which may endanger the safety of drivers and other road users. Otherwise, they may be subject to disciplinary action by the EAA.

事件經過

監管局職員駕車前往某一手樓盤銷售處巡查時，發現一名營業員站在附近的行車道上向途經的駕駛車輛的人士揮動該樓盤的宣傳物品以招攬生意。當監管局職員停車時，該營業員隨即跑至車旁，遞上該樓盤的宣傳物品及表示可為他們介紹該新樓盤。

INCIDENT

EAA staff discovered a salesperson standing on the road when they drove to the first-sale site of a development for inspection. The salesperson was soliciting business by waving the promotional materials of that new development to the drivers of the vehicles passing by. When the EAA staff pulled over, that salesperson rushed to the car and handed over the promotional materials, claiming that he could introduce them to the new development.

研訊結果

監管局紀律委員會認為該營業員站在行車道上或攔截車輛，會對駕駛人士和其他道路使用者構成危險，而且揮動宣傳單張吸引駕駛人士，屬於可能干擾前往或路經該一手樓盤銷售點的駕駛人士的行為，故該營業員未有遵循執業通告中的指引，因而違反《操守守則》第3.2.1段：「地產代理和營業員應熟悉並必須在執業時遵守《地產代理條例》、其附屬法例、本操守守則，以及由監管局不時發布的所有其他指引。」

在考慮個案的性質後，紀律委員會決定譴責該名營業員、罰款港幣2,000元及暫時吊銷其牌照14天；同時在其牌照上附加條件，要求他在12個月內取得持續專業進修計劃下核心科目的12個學分。

RESULT

The EAA Disciplinary Committee was of the view that the salesperson failed to comply with the guidelines of the related Practice Circular by standing on the carriageway or intercepting vehicles, which endangered the safety of drivers and other road users. He also distracted drivers heading for or passing by the first-sale site by waving promotional leaflets to beckon the drivers of the vehicles. Therefore, he was in breach of paragraph 3.2.1 of the *Code of Ethics* which states: “estate agents and salespersons should be fully conversant with the EAO, its subsidiary legislation, this Code of Ethics, and other guidelines issued by the EAA from time to time and shall observe and comply with them in the course of their practice”.

Having considered the nature of the case, the Disciplinary Committee decided to reprimand the salesperson, impose a fine of \$2,000, suspend his licence for 14 days, and attach a condition to his licence requiring him to obtain 12 points in the core subjects of the CPD Scheme in 12 months.



地產代理人員協會副主席
蕭亮鴻先生
Mr Keith Siu
Vice-Chairman of Property
Agents Association

業界回應

監管局及業界團體多年來一直透過各種方法，提升地產代理及營業員的專業水平，及為業界建立一個正面的專業形象。個別行家以人海戰術方式在馬路上截車搶客，此等違規行為實在有損業界的專業形象。在此僧多粥少、生意難做的惡劣環境下，生存之道在於優質專業服務。

COMMENT FROM TRADE

The EAA and trade associations strive to enhance the professional standard of estate agency practitioners through various means over the years, with the aim to develop a positive image of the trade. However, such professional image is damaged by individual practitioners who intercept cars and solicit business on the road. Providing quality services is the way to survive under the present competitive business environment.

紀律研訊個案：未能兌現現金回贈承諾

DISCIPLINARY HEARING CASE: FAILING TO HONOUR PROMISE OF CASH REBATE

引言

持牌人須履行向客戶許下的優惠承諾，否則有可能被監管局紀律處分。

INTRODUCTION

Licensees should honour the incentives they promised their clients. Otherwise, they may be subject to disciplinary action by the EAA.

事件經過

一名買家透過一名營業員購買一個一手住宅物業單位。在訂立臨時買賣協議（「臨約」）前，該營業員聲稱當買家的單位入伙後，他們便會提供相等於樓價2%的現金回贈給她。

訂立臨約後，該營業員給買家一份現金回贈確認表格，表格由該營業員即場填寫並註明現金回贈金額。填妥後，他指示另一營業員在表格上簽署。該名買家繼而簽署表格並取得表格副本。

一年後，該買家收樓後遷入上述單位，並向該營業員索取該筆現金回贈，但該營業員及另一簽署了該現金回贈確認表格的營業員均一直沒有回覆。該買家曾就現金回贈一事向他們的主管查詢，亦不獲回覆。該買家深感不滿，遂向監管局投訴。

INCIDENT

A purchaser purchased a first-hand residential property through a salesperson. Before signing the provisional agreement for sale and purchase ("PASP"), the salesperson promised that a cash rebate of 2% of the property price would be offered to the purchaser upon completion of the property.

After entering into the PASP, the salesperson filled in and passed to the purchaser a cash rebate confirmation form which stated the amount of cash rebate and was signed by another salesperson. The purchaser then signed the form and the salesperson provided her a copy of it.

One year later, after the completion of the sale and purchase, the purchaser moved into the property and asked the salespersons for the rebate. However, no reply was received from the salespersons. In light of the salespersons' reluctance to respond, the purchaser made enquiry to their supervisor but still received no reply. Feeling aggrieved, the purchaser lodged a complaint with the EAA.

研訊結果

監管局紀律委員會認為，該營業員未有兌現向買家提供現金回贈的承諾，因而違反了《操守守則》第3.7.2段：「地產代理和營業員應避免做出可能令地產代理行業信譽及/或名聲受損的行為。」

在考慮個案的性質及持牌人的違規紀錄後，委員會決定譴責該名營業員、罰款港幣10,000元，以及暫時吊銷其牌照一個月；同時在其牌照上附加條件，要求他在12個月內取得持續專業進修計劃下核心科目的12個學分。

RESULT

The EAA Disciplinary Committee found that the salesperson had failed to honour the promise of cash rebate made to the purchaser. He was in breach of paragraph 3.7.2 of the *Code of Ethics*, which stipulates that “Estate agents and salespersons should avoid any practice which may bring discredit and/or disrepute to the estate agency trade.”

Having considered the nature and gravity of the case and the disciplinary record of the salesperson, the Disciplinary Committee decided to reprimand him, suspend his licence for one month and impose on him a fine of \$10,000. A condition was also attached to his licence, requiring him to obtain 12 points in the core subjects of the CPD Scheme in 12 months.



香港地產代理商總會副主席
陳炳才先生

Mr Johnny Chan
Vice-Chairman of Hong Kong
Real Estate Agencies
General Association

業界回應

地產代理應秉持誠實守諾的態度向客戶提供物業交易的周全服務，既然該營業員在交易時作出現金回贈承諾，並且即時與客戶簽署現金回贈確認文件，該營業員必須履行對客戶之承諾。

該營業員違背承諾的行為，除影響其個人信譽及名聲，更會令業界的專業形象受損。

COMMENT FROM TRADE

Estate agents should be honest and keep their promises when providing a wide array of services for clients in property transactions. As the salesperson in the case had promised his client a cash rebate and he had also signed the cash rebate confirmation form with his client, he should honour his promise to his client.

The behaviour of this salesperson not only injured his personal reputation but also damaged the professional image of the estate agency trade.

持續專業進修講座 CPD SEMINAR

防止有關物業的詐騙罪案 PREVENTION OF PROPERTY FRAUD

有鑑於最近關於騙徒冒認業主詐騙的新聞報道，監管局分別於2016年11月15日和12月1日舉辦了兩場「防止有關物業的詐騙罪案」的講座，合共有超過300名持牌人出席。

於這兩場講座，監管局邀請了警務處商業罪案調查科和入境事務處的代表，分別向持牌人講解有關涉及香港物業的詐騙罪案的趨勢和智能身分證的防偽特徵。而監管局代表則為持牌人解釋監管局所發出的新執業通告－核實賣方的身分（通告編號16-03(CR)）所載的指引，期望增進持牌人對執業通告內容的認識及促使他們跟循指引。

In response to news about fraudsters impersonating flat owners, the EAA organised two CPD seminars on prevention of property fraud on 15 November and 1 December 2016 respectively. These two sessions of seminars were well received by over 300 participants.

At the seminars, representatives of the Commercial Crime Bureau of the Police Force and the Immigration Department were invited to give participants an overview of the general trend of property fraud cases in Hong Kong and the sophisticated security features of a smart identity card. At the same time, the EAA's representative briefed licensees on the EAA's guidelines set out in the new practice circular on "Verifying the Identity of Vendors" (Circular No. 16-03 (CR)), in order to enhance practitioners' understanding of the EAA's guidelines on the subject and compliance in this respect.



執業問與答

PRACTICE Q&A

在《專業天地》內，我們會解答與持牌人執業息息相關的一些常見提問。
In *Horizons*, we will answer selected enquiries commonly raised by licensees concerning estate agency practice.

問：如買家關注所買單位是否「凶宅」，我查證後向他表示該單位沒有發生過任何命案，是否便已足夠？我需要查證單位所在的層數或全幢大廈有否發生過命案嗎？

Q: If a purchaser is concerned that a property he is interested in purchasing is “haunted”, may I tell him that it is not “haunted” as no murder case has been recorded in the property? Do I need to check whether there has been any murders recorded in any other units on the same floor or even in the building?

答：有關單位是否「凶宅」或曾經發生死亡事件，並非《地產代理條例》規定下地產代理必須提供的訂明物業資料。然而，根據監管局制訂的《操守守則》，持牌人在經營過程中，必須秉持誠實、忠誠和嚴正的態度向客戶提供服務。他們在履行職務時也必須盡量小心和盡一切應盡的努力。因此，當客戶作出查詢時，持牌人應採取合理及切實可行的步驟去查證及向其客戶提供相關資料。由於「凶宅」在法律上並沒有定義，而不同人對「凶宅」的定義或許會有所不同，地產代理在遇到客戶查詢有關「凶宅」的問題時，應向客戶問清楚其「凶宅」所指是什麼，才回答客戶的問題。

A: Whether a death has occurred in a property is not a piece of prescribed information required to be provided by estate agents under the Estate Agents Ordinance (“EAO”). However, according to the *Code of Ethics* issued by the EAA, licensees must serve their clients with honesty, fidelity and integrity; they should also exercise due care and due diligence when fulfilling their duties. Therefore, licensees should try their best to provide the client with the related information when asked. Since there is no legal definition on a so-called “haunted property” and different people may have different interpretations on the definition of a “haunted property”, in the case of licensees receiving enquiries from clients, they should ask the clients what they exactly mean by a “haunted property” before answering their questions.

問：代理在店外張貼某一手樓盤的海報或在店內放置該樓盤售樓說明書，以供客人參考的話，是否需要取得該樓盤發展商的授權？

Q: If an estate agent posts the poster of a first-hand residential property or displays the sales brochure of that property in his/her shop for clients’ reference, does he/she need to seek the authorisation from the developer of that property?

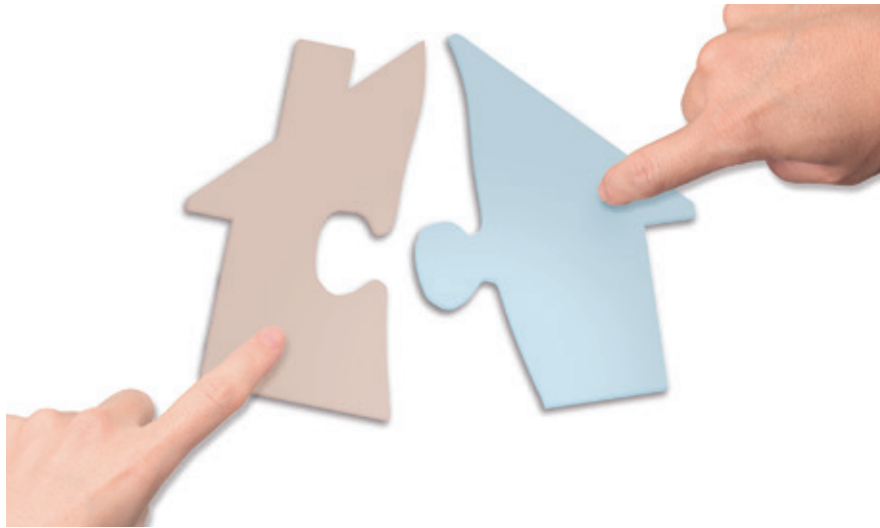
答：根據《地產代理常規（一般責任及香港住宅物業）規例》及監管局就一手住宅物業銷售而制訂的執業通告（編號13-04(CR)），地產代理公司在發出任何廣告或宣傳物品之前，須事先取得賣方的書面同意。一般來說，張貼一手住宅物業海報及在店內放置該樓盤售樓說明書會被視為協助推廣該發展項目。因此，地產代理公司在編制宣傳物品以協助推廣發展項目時，須採取一切合理步驟核實宣傳物品所載資料的準確性，並在發出前取得賣方就所載資料的準確性及完整性的明確書面批署。

A: According to the Estate Agents Practice (General Duties and Hong Kong Residential Properties) Regulation and the Practice Circular (No.13-04(CR)) issued by the EAA on the sales of first-hand residential properties, estate agency companies must obtain written consent of the vendor before they issue any advertisement or promotional material. Generally speaking, posting a poster of a first-hand residential property and displaying its sales brochure at the shop are regarded as a promotion of that development. Therefore, 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, when preparing materials to assist vendors to promote a development.

「聯權共有」與「分權共有」

T FOR TENANCY -

“JOINT TENANCY” AND “TENANCY IN COMMON”



一般來說，物業的共同擁有權可分為兩種：(1)聯權共有；及(2)分權共有。兩者的分別主要在於繼承的權利。

聯權共有是共有業權的一種，所有共同業主一起擁有整個物業，但個別業主不擁有任何物業的明確但不分割份數。如果其中一名共同業主身故，根據尚存者原則，該物業將歸屬予其餘在生的共同業主。在聯權共有業權下，各共同業主並不擁有物業的份數，亦無該物業的獨有管有權，而是與整個物業的其他共同業主享有共有權利。

如果業主以聯權共有方式持有物業，則臨時買賣協議、正式買賣協議、轉讓契或按揭等影響物業的所有文件，均須由所有聯權共有人簽署。

另一方面，分權共有是指每名業主擁有物業的明確但不分割份數。每名業主均有權與其他業主共同擁有整個物業的管有及使用權。遇有分權共有人身故時，尚存者原則不適用，已故業主的明確份數將根據其遺囑或繼承法傳予繼承人。

There are generally two forms of co-ownership of properties: (1) joint tenancy; and (2) tenancy in common. The difference between the two involves the right of succession.

Joint tenancy is a form of co-ownership where all the co-owners own the whole property together but individually they do not own a distinct undivided share in the property. On the death of a co-owner, the property remains vested in the survivors by virtue of the doctrine of survivorship. Under joint tenancy, the co-owner does not own a share in the property and does not have the exclusive possession of the property. He has rights in common with the other co-owners of the whole of the property.

Where the property is held by joint tenants, all documents affecting the property, such as a provisional agreement for sale and purchase, a formal agreement for sale and purchase, an assignment or a mortgage have to be signed by them all.

On the other hand, in a tenancy in common, each owner owns a distinct but undivided share in the property. Each owner is entitled to possession and use of the whole property in common with the others. On the death of a tenant in common, there is no right of survivorship, and his distinct share will pass according to his will or the law of intestacy to his successor.

活動紀要

EVENTS AND ACTIVITIES

2016·09·27

監管局於荃灣區舉辦持牌人「聚焦小組」會議，與出席的持牌人交流意見。

The EAA organises a focus group meeting with licensees in Tsuen Wan District and exchanges views with the attending licensees on their practice.



2016·10·25

監管局主席梁永祥太平紳士，SBS(左八)及行政總裁韓婉萍女士(右八)，出席香港房地產代理業聯會舉辦的聯歡晚宴。

Chairman of the EAA, Mr William Leung Wing-cheung, SBS, JP, (eighth from left) and the EAA's Chief Executive Officer, Ms Ruby Hon Yuen-ping (eighth from right), attend the Celebration Dinner held by the Hong Kong Property Agencies Association.

2016·11·23

監管局接待來自中國房地產估價師與房地產經紀人學會(「中房學」)的代表團，雙方於會上交流意見。中房學的代表對香港物業市場的特色深感興趣，並與監管局就香港與內地法規管制度上的分別交流意見。

The EAA receives a delegation of the China Institute of Real Estate Appraisers and Agents. The delegates expressed their interest in understanding the characteristics of property market in Hong Kong as well as the differences in regulatory systems between the Mainland and Hong Kong.

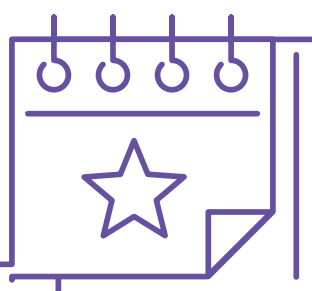


2016·11·29

監管局主席梁永祥太平紳士，SBS(右二)及規管及法律總監劉淑棻女士(左二)接受新城電台訪問，介紹監管局的規管工作。二人亦與聽眾分享物業交易的相關知識及注意事項。



Chairman of the EAA, Mr William Leung Wing-cheung, SBS, JP, (second from right) and Director of Regulatory Affairs & General Counsel, Ms Eva Lau (second from left), are interviewed by Metro Radio to introduce the regulatory work of the EAA. They also share the knowledge and points-to-note on property transaction.



統計數字

STATISTICS

考試 EXAMINATIONS

地產代理資格考試 ESTATE AGENTS QUALIFYING EXAMINATION

考試日期
Examination date
14/09/2016

參加人數
No. of candidates
1,007

合格率
Pass rate
54.7%

營業員資格考試 SALESPERSONS QUALIFYING EXAMINATION

考試日期
Examination date
11/11/2016

參加人數
No. of candidates
939

合格率
Pass rate
28%

牌照數目 (截至2016年11月30日) NUMBER OF LICENCES (AS AT 30/11/2016)



營業員牌照
Salesperson's Licence
19,816



地產代理(個人)牌照
Estate Agent's Licence (Individual)
17,295

個人牌照總和
Total no. of individual licences

37,111

地產代理(公司)牌照
Estate Agent's Licence (Company)

3,364

營業詳情說明書 (截至2016年11月30日) NUMBER OF STATEMENTS OF PARTICULARS OF BUSINESS (AS AT 30/11/2016)



合夥經營
Partnerships
217



獨資經營
Sole proprietorships
1,630



有限公司
Limited companies
4,726

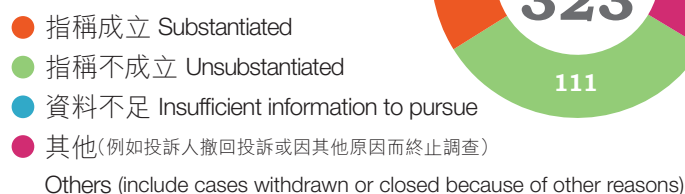


總數 Total
6,573

接獲的投訴 (2016年1月至11月) NUMBER OF COMPLAINT CASES RECEIVED (JANUARY TO NOVEMBER 2016)

447

已處理的投訴個案結果* (2016年1月至11月) RESULTS OF COMPLETED COMPLAINT CASES* (JANUARY TO NOVEMBER 2016)



* 部分是往年接獲的個案 some cases were carried over from previous years

巡查次數 (2016年1月至11月)

NUMBER OF COMPLIANCE INSPECTIONS (JANUARY TO NOVEMBER 2016)



巡查發現主動調查的個案 (2016年1月至11月)

NUMBER OF CASES ARISING FROM SELF-INITIATED INVESTIGATIONS DURING INSPECTIONS (JANUARY TO NOVEMBER 2016)



* 部分是往年展開調查的個案 some cases were carried over from previous years

向持牌人或前持牌人採取的行動* (2016年1月至11月)

ACTIONS TAKEN AGAINST LICENSEES OR EX-LICENSEES* (JANUARY TO NOVEMBER 2016)

有關的持牌人或前持牌人人數
No of licensees or ex-licensees



行動

ACTIONS TAKEN

訓誡/譴責
Admonishment/
reprimand
193

罰款
Fine
139

於牌照附加/更改條件
Attachment/ alteration of
conditions to licence
183

暫時吊銷牌照
Suspension
33

撤銷牌照
Revocation
44[#]

* 向持牌人或前持牌人作出的行動是根據《地產代理條例》而作出的判決，當中有部份可能屬於紀律性質，包括在發牌時或在其他情況下於牌照上附加條件。
These actions were taken pursuant to powers under the Estate Agents Ordinance. Some actions may be disciplinary in nature and others not, and they include the attachment of conditions to licences whether upon issuance or otherwise.

這些個案由牌照委員會裁定。理由是持牌人不符合適當人選要求，因而不適合繼續持有牌照。

These cases were decided by the Licensing Committee on the ground that the licensees concerned were considered not fit and proper to continue to hold a licence.



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