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監管局行政總裁韓婉萍

Ruby Hon

Chief Executive Officer of the EAA

“若證實地產代理因疏忽而導致買方有所損失，地產代理有可能要負上責任及被買方追討。”

“If it is proven that the purchasers suffer a loss due to the negligence of the estate agents, estate agents might be held liable and sued by the purchaser.”

保障客戶及自身利益

PROTECT YOUR CLIENT AND YOURSELF

近期在地產代理之間最熱門話題，想必是有騙徒冒充住宅業主並騙取近300萬元訂金的新聞報道。這宗個案引起了社會及監管局的極大關注。

專業的地產代理有責任保障及促進其客戶的利益。而作為整個物業交易過程中的第一關，地產代理無可避免地會被期望成為核實業主身分的把關者之一。至於其他有份置身交易過程其中的人士，同樣也須擔起把關者的角色，不可置身事外。為保障公眾及自身利益，所有參與物業交易過程的各方，應檢視可以做些甚麼去避免日後同類欺詐事件再次發生，以及應採取什麼預防措施去盡力核實賣方身分。

我們明白這類騙案不能百分百杜絕。然而，若證實地產代理因疏忽而導致買方有所損失，地產代理有可能要負上責任及被買方追討。因此，地產代理應盡其百分百努力去打擊這類騙案。

是次騙案中，不單買方遭受損失，牽涉其中的持牌人亦上了寶貴一課。其實，這類個案並非沒有先例，亦正因如此，監管局曾於2009年發出執業通告(編號09-08(CR))，提醒持牌人核實賣方身分。

鑑於發生這宗新個案(希望不會接踵而至)，我們即將會更新上述這張現有的執業通告，有待執業及考試委員會審議後，為業界提供更詳細的指引。而在新修訂的執業通告發出前，我們已於5月中就有關議題向所有持牌人廣發電郵函件。我強烈建議所有持牌人認真對待此事，並到監管局網頁細讀有關函件以及上述現有的執業通告。

The hottest topic among estate agents lately is possibly the news report of a man impersonating the vendor of a residential property and swindling a deposit of nearly three million dollars. This case has aroused much community concern and, of course, caught the EAA's attention.

It is clear that professional estate agents have the responsibility to protect and promote the interests of their clients. Being the first party involved in the chain of a property transaction, estate agents are unavoidably expected to be one of the gatekeepers in verifying the identity of the vendors. That said, all other parties who participate in the chain are similarly expected to take up the gatekeeper role and cannot stand aloof from this responsibility. In the interest of the public as well as themselves, all parties in the chain should thus review what can be done by them for future prevention of similar fraud cases and what precautionary steps could be taken to verify the identity of vendors with due care and diligence.

We all understand that there will not be any 100% guarantee to stop such fraud cases, but if it is proven that the purchasers suffer a loss due to the negligence of the estate agents, estate agents might be held liable and sued by the purchaser. Hence, estate agents should be seen as making their 100% effort in combating such fraud.

In this fraudster case, not only the purchaser suffered a loss, the licensees involved would have also learnt a big lesson. That said, this case was not unprecedented and in fact the EAA did issue a Practice Circular (no. 09-08 (CR)) in 2009 to remind licensees to verify the identity of the vendors.

With this new case (hopefully not a trend) surfacing, we are going to update and revise this existing practice circular very soon. More detailed guidelines will be provided to the trade after the endorsement from the Practice and Examination Committee. Before the issuance of the revised circular, we have already emailed a letter to all licensees in Mid-May on this subject. The letter, as well as the abovementioned existing practice circular, is available on the EAA's website. I strongly advise all licensees to read it carefully and take it seriously.