

樓宇維修 不容忽視

Do Not Ignore Building Maintenance



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

“筆者希望再次提醒所有持牌人，即使面對重重挑戰，也要謹慎行事及維持業界形象，始能被消費者所尊重。”

“Notwithstanding the challenges faced by the trade, I would like to once again remind all licensees to behave properly and protect the trade’s image for maintaining a sustainable industry worthy of the respect of the consumers.”

好榜樣與壞榜樣

GOOD AND BAD EXAMPLES

在最近一次媒體訪問中，記者朋友向我展示一個關於香港地產市場前景問卷調查的結果。問卷調查的其中一條關於公眾對地產代理服務看法的題目引起我的注意，調查結果顯示不算太差但也不算太好。

上述問卷調查由一個地產網站進行，受訪人數有2,800多名市民。問卷其中一條題目問及受訪者過去與地產代理接觸的經驗。有四成受訪者認為地產代理的表現合乎預期；但有四成半認為地產代理的表現一般及參差。另外有8%受訪者認為他們委託的地產代理表現非常專業，有7%則認為其服務非常不專業。

另一方面，監管局的數字顯示，2016年接獲的投訴宗數比2015年增加了51%，而當中有關本地住宅以外的其他物業交易更錄得184%升幅，包括涉及商場舖位銷售及非本地物業交易。因此，我們正計劃發出兩份新執業通告讓業界依循。

這些數字反映了業界的表現參差和不穩，當中可能是由於營商環境困難所致。筆者希望再次提醒所有持牌人，即使面對重重挑戰，也要謹慎行事及維持業界形象，始能被消費者所尊重。

調查結果也令本人更加深信，有些持牌人的表現及服務是非常突出的。基於這個信念，我們今年首次舉辦「傑出地產代理獎」。透過這個獎項，我們希望鼓勵持牌人精益求精，同時推動地產代理行業的專業化。我寄望比賽結果會為業界帶來長遠的正面影響。

During a recent media interview, a reporter showed me the results of a survey about the prospects of the property industry. One of the survey questions caught my attention, which was about the public's view on the services of estate agents. The results were not bad but not good either.

The abovementioned survey was conducted by a property website and interviewed some 2,800 people. There was a question asking the interviewees' experience with estate agents. 40% of interviewees found that the performances of estate agents met their expectations, while 45% opined that the performances of estate agents were average and mixed. 8% found that the estate agents they appointed were very professional but 7% thought that they were very unprofessional.

On the other hand, the EAA's figures showed that the number of complaints we received in 2016 had increased 51% compared to 2015. In particular, there was an upsurge of 184% in complaints related to properties other than local residential properties, including those about the sale of units in shopping malls and non-local properties. In this regard, we are planning to issue two new practice circulars for the trade to follow.

These figures reflect that the trade's performance is mixed and inconsistent, possibly due to their difficult operating environment. Notwithstanding the challenges faced by the trade, I would like to once again remind all licensees to behave properly and protect the trade's image for maintaining a sustainable industry worthy of the respect of the consumers.

The survey results convinced me again that there are licensees whose performances and services are distinguished. Based on this belief, we introduced the first Outstanding Estate Agent Award this year. Through this Award, we intend to further motivate licensees to improve themselves and promote the professionalism of the estate agency industry. I do hope that the results will have a long-term positive influence on the trade.

監管局回顧2016年工作及簡介2017年工作重點 THE EAA REVIEWS ITS WORK IN 2016 AND INTRODUCES ITS INITIATIVES FOR 2017

監管局於2017年1月24日舉行新聞發布會，由主席梁永祥先生及行政總裁韓婉萍女士回顧監管局在2016年的工作，及簡介2017年的工作重點。

梁永祥主席指出，監管局在2016年共接獲475宗投訴個案，比2015年上升51%。導致投訴個案數字大幅上升的主因是去年有關本地住宅以外的其他物業的投訴增加了不少，由2015年的55宗增加至2016年的156宗，增幅高達1.84倍。

在最常見的投訴性質當中，有關「提供不準確或具誤導性的物業資料」的投訴數字錄得顯著升幅，由2015年的76宗增加至2016年的181宗，構成升幅的部分原因是當中有57宗個案涉及商場的鋪位銷售。

踏入2017年，鑑於有關本地住宅以外的其他物業的投訴大幅增加，監管局將於本年內發出相關的執業通告，為業界提供指引，希望從而減少引發糾紛及投訴的可能。此外，監管局將會於今年首次舉辦「傑出地產代理獎」，作為監管局成立20周年的重點活動之一。

監管局主席梁永祥先生及行政總裁韓婉萍女士於新聞發布會上回顧局方在2016年的工作及簡介2017年的工作重點。

At the press conference, the EAA's Chairman Mr William Leung and Chief Executive Officer Ms Ruby Hon review the EAA's work in 2016 and introduce its initiatives for 2017.

The EAA held a press conference on 24 January 2017 at which its Chairman, Mr William Leung Wing-cheung, and Chief Executive Officer, Ms Ruby Hon Yuen-ping, reviewed the EAA's work in 2016 and introduced its initiatives for 2017.

Mr Leung pointed out that the EAA received a total of 475 complaints in 2016, an increase of 51% compared to 2015. The major reason for the significant increase is due to the hike in complaint cases related to properties other than local residential properties, which amounted to 156 cases in 2016, an upsurge of 184% compared to the 55 cases in 2015.

Among the most common categories of complaints, "providing inaccurate or misleading property information", saw an enormous increase from 76 cases in 2015 to 181 in 2016, of which 57 were about the selling of units in shopping malls, contributing considerably to the upsurge.

Stepping into 2017, owing to the rise in complaints involving properties other than local residential properties, the EAA will issue a related practice circular later this year to provide guidelines for the trade to follow and hopefully it will reduce the possibility of disputes and complaints. Moreover, the EAA will organise the first "Outstanding Estate Agent Award" as one of the major campaigns of the EAA's 20th anniversary.



監管局推出全新消費者教育網站 EAA LAUNCHES NEW CONSUMER EDUCATION WEBSITE

監管局推出全新消費者教育網站，名為「精明委託地產代理」(smart.eaa.org.hk)，旨在透過有趣及互動平台向消費者提供全面的置業資訊。

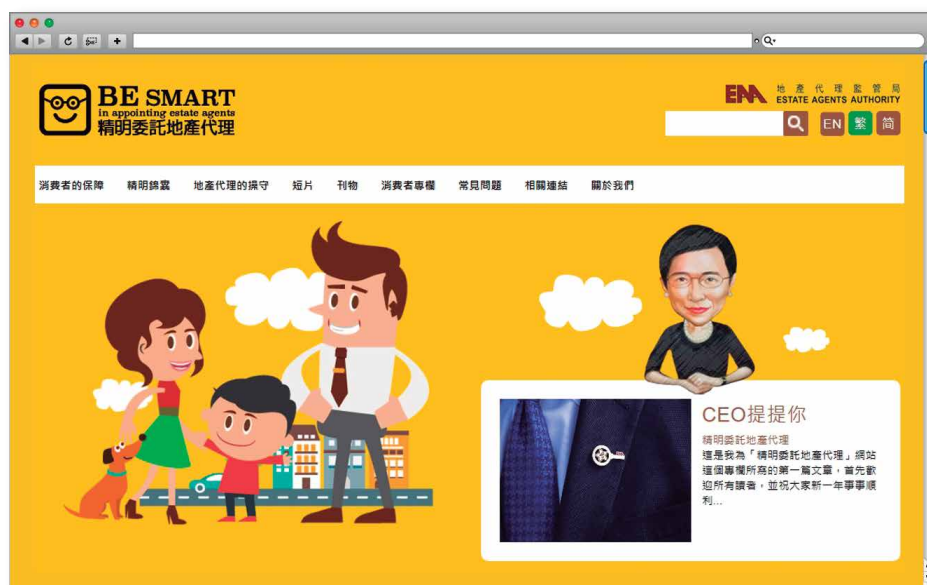
網站涵蓋不同部分，例如由監管局行政總裁韓婉萍女士定期撰文的「CEO提提你」，還有「精明錦囊」及常見問與答等等。網站也有由監管局製作的消費者教育短片和刊物，以及富趣味性的互動遊戲，讓消費者透過方便簡單的模式了解自己的權益。

監管局希望透過這生動、具吸引力的網站，與消費者分享有關委託地產代理以及物業交易的實用知識。新網站同時可於手機瀏覽。

With the aim to provide consumers with comprehensive information through an interesting and interactive platform, the EAA has launched a new consumer education website named “Be Smart in Appointing Estate Agents” (smart.eaa.org.hk).

The website includes various sections such as “CEO’s Tips”, a regular column updated by Ms Ruby Hon, Chief Executive Officer of the EAA, “Smart Advice” and FAQs etc. Different consumer education videos and publications produced by the EAA are also available on the website. Moreover, there is an interesting interactive game to help consumers understand their rights and interests in a user-friendly format.

The EAA would like to share practical tips with consumers on appointing estate agents or during property transactions through this vivid and attractive website. The new website is also compatible for browsing on mobile phones.



監管局推出全新電視宣傳短片 A NEW ANNOUNCEMENT IN THE PUBLIC INTEREST(“API”) BY THE EAA LAUNCHED



為提醒消費者在進行物業交易時，宜將所有訂金交由律師樓託管，監管局最近推出全新電視宣傳短片及電台聲帶，於各大電視台和電台頻道播放。電視宣傳短片同時亦可於監管局網頁、全新消費者教育網站及YouTube頻道瀏覽。

此新宣傳短片名為「訂金交託律師行、樓宇買賣風險降」。因應去年發生騙徒假冒業主騙取物業買家訂金的事件，局方製作此新宣傳短片，帶出把所有訂金交由律師樓託管以減低風險的重要性。

相關的宣傳海報及貼紙也陸續派發到各地產代理商舖。上述電視宣傳短片可於監管局網頁(「資訊中心」>「短片」)、局方的全新消費者教育網站 smart.eaa.org.hk，以及YouTube頻道 (<http://youtu.be/B73fl-eHcK8>)觀看。

In order to remind the public to arrange for the stakeholding of all deposits by a firm of solicitors during a property transaction, the EAA has recently launched a new TV and radio API which are now broadcasting on major TV and radio channels. The TV API is also available at the EAA's website, the EAA's new consumer education website and on YouTube.

The EAA's new API is titled "Lower the risk in property transactions; place all deposits at a law firm for stakeholding". In response to the incidents that happened last year of fraudsters impersonating flat owners to swindle deposits paid by purchasers in property transactions, the API points out the importance of stakeholding all deposits to lower the risks involved.

Related promotional stickers and posters have also been produced and distributed to all SPOBs. The new TV API is available at the EAA's website ("Information Centre" > "Videos"), the EAA's new consumer education website: smart.eaa.org.hk or on YouTube (<http://youtu.be/fJBsu-tdDXY>).



新小冊子《委託地產代理須知》 NEW LEAFLET ON “NOTES ON APPOINTING ESTATE AGENTS”

為推廣委託持牌地產代理的重要性，監管局出版了一本名為《委託地產代理須知》的新小冊子，提醒公眾訂立地產代理協議時應注意的事項。

此小冊子設計為可放於口袋呎吋，並附有磁石封面及封底。公眾可於監管局網頁上瀏覽該小冊子，也可親臨監管局辦事處及民政事務總署轄下的各區民政諮詢中心索取。



In order to promote the importance of appointing licensed estate agents, the EAA has published a leaflet of “Notes on Appointing Estate Agents” to remind the public about the points-to-note when entering into an estate agency agreement.

The leaflet is pocket-size with magnetic front and back covers. The public can read it at the EAA's website, it is also available at the office of the EAA and all Home Affairs Enquiry Centres of the Home Affairs Department.

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2017年3月3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/20172109/cgn201721091085.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 3 March 2017. Licensees may read the notice at the Government's Gazette for more details (www.gld.gov.hk/egazette/pdf/20172109/egn201721091085.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).

有關政府就《打擊洗錢及恐怖分子資金籌集(金融機構)條例》的修訂建議與業界舉行特別會議

SPECIAL TRADE MEETING ON THE GOVERNMENT'S PROPOSAL TO AMEND THE ANTI-MONEY LAUNDERING AND COUNTER-TERRORIST FINANCING (FINANCIAL INSTITUTIONS) ORDINANCE

監管局收到財經事務及庫務局通知，就《打擊洗錢及恐怖分子資金籌集(金融機構)條例》與指定非金融企業及行業相關的修訂建議，於2017年1月6日至2017年3月5日進行為期兩個月的諮詢。

是次修訂建議關乎要求指定非金融企業及行業(包括地產代理業)人士在從事指明交易時須進行客戶盡職審查措施，並備存識別客戶身分及各項交易的紀錄最少六年。就此，監管局於2017年2月14日與主要商會及地產代理公司的代表舉行特別會議，向代表簡介政府的修訂建議。而業界代表也於2017年2月17日出席了由財經事務及庫務局就此修訂建議舉行的簡介會。

The EAA was informed by the Financial Services and the Treasury Bureau ("FSTB") that a two-month consultation exercise on a proposal to amend the Anti-Money Laundering and Counter-Terrorist Financing (Financial Institutions) Ordinance for Designated Non-Financial Businesses and Professions was launched from 6 January 2017 to 5 March 2017.

The proposed amendment is about requiring designated non-financial businesses and professions (including the estate agency trade) to conduct customer due diligence when they engage in specified transactions and maintain records on customer identification and transactions for at least six years. A special meeting was held on 14 February 2017 for the EAA to brief the representatives of major trade associations and estate agency companies about the Government's proposal. The trade representatives also attended the FSTB's briefing on the proposal on 17 February 2017.



監管局與主要商會及地產代理公司的代表舉行特別會議，向代表簡介政府的修訂建議。

A special meeting was held for the EAA to brief the representatives of major trade associations and estate agency companies about the Government's proposal.



樓宇維修 不容忽視

DO NOT IGNORE BUILDING MAINTENANCE

香港不少樓宇的樓齡達30年或以上，部分唐樓更建於超過50年前，若缺乏妥善保養，這些舊樓可能危及公眾安全。業主應定期安排檢查，並在必要時儘早進行維修工程，以確保居住環境安全。

樓宇的整體質素是影響樓價的其中一個因素。此外，如物業因違反《建築物條例》而附有未解除的建築命令，可能導致業權出現問題。因此，買賣雙方及地產代理都應注意買賣此類物業所涉及的相關風險。

樓宇安全

根據2012年全面實行的強制驗樓計劃，樓齡達30年或以上的私人樓宇（不高於三層的住用樓宇除外）的業主，在收到法定通知後須委任註冊檢驗人員，就樓宇的公用部分、外牆及伸出物或招牌進行檢驗。如需進行訂明的修葺工程，業主必須委任註冊承建商進行該些工程。

Buildings over 30 years old are common in Hong Kong. Some tenements were even built more than 50 years ago. The condition of old buildings without proper maintenance could threaten public safety. Property owners should arrange flat inspections regularly and carry out timely repair work when necessary to maintain a safe living environment.

One of the factors affecting the property price is the overall condition of the building. Moreover, properties subject to undischarged building orders due to non-compliance with the Buildings Ordinance ("BO") may involve defective titles. Therefore, vendors, purchasers and estate agents should always pay attention to the relevant risks in the sale and purchase of this type of property.

BUILDING SAFETY

Under the Mandatory Building Inspection Scheme launched in 2012, owners of buildings aged 30 years or above (except domestic buildings not exceeding three storeys) and served with statutory notices are required to appoint a registered inspector to carry out the inspection and supervise the repair work found necessary of the common parts, external walls and projections or signboards of the buildings. Where a prescribed repair is required, the owners concerned must appoint a registered contractor to carry out the repair works.



焦點話題 IN FOCUS

倘若樓宇日久失修，會對公眾安全、住戶的生命財產以及鄰近地區構成威脅，而因樓宇失修引致的意外，業主或須負擔法律責任及巨額賠償。為確保樓宇安全，業主應成立業主立案法團及聘用專業的物業管理公司管理和保養樓宇。當出現安全問題，應立即進行維修工程。假如樓宇的公用部分或外部出現損壞，每位業主有責任按公契規定的份數分擔修葺工程費用。同時，業主只可委任註冊承建商進行所有建築工程。

建築命令與產權負擔

凡涉及樓宇結構的建築工程，包括建造、拆卸、加建、改動等，均受《建築物條例》所監管，以確保私人樓宇的安全、衛生及環境方面皆符合標準。

建築事務監督可向違反《建築物條例》的業主發出法定命令，要求他們於指定期限內清除違例建築工程。有關命令會於土地註冊處登記，有可能導致該物業的業權出現問題。除此之外，如業主未能遵從相關命令，政府有可能行使收回土地的權利，並向業主追討費用。

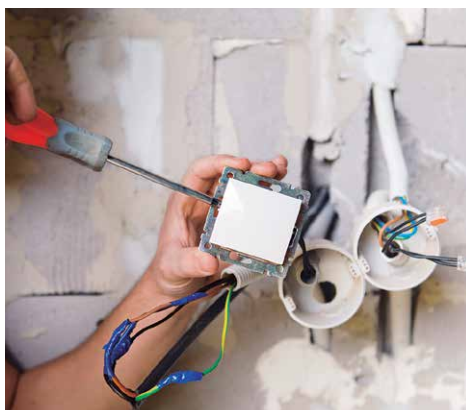
注意相關風險

為保障客戶利益及避免買賣涉及附有建築命令的物業的風險，地產代理應就有關物業進行土地查冊並仔細查閱物業的查冊記錄，以確定該物業是否註有要求拆卸/改動違例建築工程的命令。除了告知客戶有關該命令的詳情，地產代理也應提醒客戶購買該物業可能涉及的風險，例如有機會未能取得足夠銀行按揭貸款以完成交易，以及政府有權收回土地等。

另一方面，地產代理亦須提醒賣方，除非買賣協議另有協定，否則，由於

A dilapidated building is a threat to public safety, the properties of its residents and its neighbourhood. Owners may have to bear legal liability and pay severe compensation if accidents happen because

of improper maintenance of buildings. In order to ensure the safety of a building, owners should establish an Owners' Corporation and hire a professional property management company to manage and maintain the building's safety. When safety problems occur, repair work should be carried out immediately. If any deterioration is found in the common parts or on the exterior of the building, each owner will be responsible for their share of the cost of the repair work in accordance with the deed of mutual covenant. Moreover, owners should also appoint only registered contractors when carrying out building works.



BUILDING ORDERS AND ENCUMBRANCES

Building works, such as construction, demolition, addition and alteration involving the structure of the building, are regulated by the BO to ensure the safety, health and environmental standard of private buildings.

The Building Authority may serve a statutory order to owners of a property when there are breaches

of the BO and regulations, requiring them to remove the unauthorised building works ("UBW") within a specified period. The order will be registered at the Land Registry, which may render the title defective. In addition, the government may exercise its right of re-entry and recovery of cost from the owners if they fail to comply with the order.

PAY ATTENTION TO THE RISKS INVOLVED

In order to protect clients from the risks involved in the transaction of properties with building orders, estate agents should conduct a land search against the properties concerned and check carefully to see if any orders requiring the demolition or alteration of UBW has been registered. Apart from informing clients about the existence of such an order, estate agents should also remind their clients of the relevant risks if purchasing the property, such as the possibility of

違建工程可能導致業權出現問題，買方可取消買賣並追討違約損失賠償。基於以上風險，地產代理應提醒買賣雙方在繼續有關買賣前先諮詢法律意見；如客戶堅持繼續有關買賣（不論是否已經取得法律意見），地產代理宜向客戶取得一份書面確認，說明代理已告知他們相關風險，並建議他們諮詢法律意見。

failing to get a sufficient bank mortgage loan to complete the deal and the government's right of re-entry to the property.

On the other hand, estate agents should remind the vendor that the purchaser is entitled to rescind the purchase and claim the loss from breach of contract on the grounds that UBW may render the title defective unless otherwise agreed in the agreement for sale and purchase of the property. Owing



此外，地產代理須注意，部份較早前發出的法定命令可能仍未在土地註冊處登記，故即使物業並未註有法定命令，亦不一定代表有關物業沒有違例建築工程。因此，地產代理在向客戶提供相關物業資料時，應提醒客戶以上事項，如客戶有疑問，則建議他們向屋宇署查詢或徵詢專業人士意見。

to the above risks, it is important to remind the client to seek legal advice before proceeding with the transaction. If the client insists on proceeding with the transaction, no matter whether legal advice has been sought, estate agents should obtain a written acknowledgement from the client stating that he is fully advised of the risks involved and of the need to seek legal advice.

總括而言，樓宇的安全及保養問題，不單影響物業的成交，更與我們的日常生活息息相關。業主有責任確保樓宇狀況良好，並遵從法定命令。而在處理附有建築命令的物業交易時，地產代理應遵守相關指引以保障客戶利益，否則有可能被監管局紀律處分。

In addition, estate agents should note that some statutory orders may not have been registered at the Land Registry and that a property with no statutory orders does not necessarily mean that it is free of UBW. Therefore, estate agents should alert their clients about this when providing the property information to the prospective purchasers or tenants, and advise them to check with the Buildings Department or seek professional advice if they are in doubt.

In conclusion, safety and maintenance of buildings not only affect the property transaction but are also closely related to our daily life. Owners have the responsibility to maintain their building in a good condition and comply with the statutory orders. When handling transactions of properties with building orders, estate agents should comply with the relevant guidelines to protect the interests of their clients. Otherwise, they may subject to disciplinary action by the EAA.



羅孔君太平紳士

Miss Jane Curzon LO, JP

- 大律師
Barrister-at-Law
- 學術及職業資歷評審上訴委員會成員
Member, Accreditation of Academic and Vocational Qualifications Appeal Board
- 入境事務審裁處審裁員
Adjudicator, Immigration Tribunal
- 保安及護衛業管理委員會副主席
Vice-chairman, Security and Guarding Services Industry Authority

專訪牌照委員會主席羅孔君太平紳士

AN INTERVIEW WITH MISS JANE CURZON LO, JP CHAIRMAN OF THE LICENSING COMMITTEE

本期《專業天地》專訪了監管局牌照委員會主席羅孔君太平紳士，了解一下她對業界專業水平及委員會工作的見解。

In this issue of *Horizons* we interview Miss Jane Curzon LO, JP, Chairman of the EAA Licensing Committee, about her views on the professional standard of the estate agency trade and the work of the Committee.

問：你自2014年起加入監管局董事局，並於去年開始出任牌照委員會主席。你對持牌人的質素有何印象？

Q：You have been a member of the EAA Board since 2014 and became the Chairman of the Licensing Committee last year. What are your impressions of the quality of our licensees?

答：我很榮幸出任監管局成員及牌照委員會主席。過去數年間，我對地產代理業界及其執業的認識加深不少。我認為，在業界及監管局的共同努力下，整體而言，持牌人的質素與從前相比，明顯有所提升。然而，我們不應滿足於現狀，我們仍須更努力去提升地產代理的形象。

A：I am honoured to be a member of the EAA Board and the Chairman of the Licensing Committee. During the last few years I have learnt a lot about the estate agency industry and its practice. In my view, the quality of the licensees has on the whole notably improved when compared to the early years, owing to the efforts of both the trade and the EAA. However, we should not be content with the achievements so far but more effort is still required to improve the image of estate agents.

例如，地產代理於一手樓盤銷售處打鬥搶客的新聞仍時有所聞，涉事的從業員實在十分魯莽和不智。這些行為不但遭受公眾及傳媒的蔑視，更禍及業界多年來建立的成果，令持牌人的形象嚴重受損。況且，於公眾地方打架屬違法行為，涉案代理可能面臨刑事起訴，一旦被定罪，可能被監管局撤銷牌照。讓我在此重申監管局絕不容忍打架行為，涉事持牌人最終或會失去牌照。

For instance, occasionally we still hear news reports about cases of estate agents fighting for clients at first-sale sites. Those who were involved are extremely reckless and unwise. Such behavior is despised by the public and media, and it jeopardises the efforts made by the trade over the years and tarnishes the image of the licensees. More seriously, fighting in public places is against the law and the agents concerned may face criminal charges and, if convicted, could result in the revocation of their licences by the EAA. It is to be stressed that fighting will not be tolerated by the EAA and the licensees concerned could eventually lose their licence.

問：牌照委員會在2016年共撤銷了44個牌照，與2015年數字相等，你預期2017年所撤銷牌照的數字會上升還是下跌？

答：牌照委員會其中一個最重要的職能是為符合所有發牌條件的申請人批給新牌照及續牌申請。假如持牌人被發現不再符合相關的發牌條件，委員會會撤銷其牌照，以確保持牌人的水平符合要求，從而保障消費者權益。

來年，牌照委員會會繼續同樣的工作，但我們無法估計不符合發牌條件的個案會有多少宗。於2016年，大部分被撤銷牌照的持牌人是因他們曾被刑事定罪，而不再是適當人選。他們的牌照被撤銷，除了因為其行為損害業界形象外，也基於相關法例的規定。我衷心希望今後被牌照委員會撤銷牌照的個案會有所減少。

問：假如持牌人在從事地產代理工作時干犯涉及暴力的行為而被刑事定罪，例如在一手樓盤銷售處打架，其牌照是否會被牌照委員會撤銷？

答：監管局一向嚴守其把關者的角色。局方負責規管持牌人的操守，以及提升他們的形象。因此，我們會仔細審閱每個申請。監管局不會接受任何從事地產代理工作時干犯的罪行，尤其是涉及暴力行為。

因應於一手樓盤銷售處發生的打架事件，我們去年更新了有關刑事定罪的政策，以確保符合要求的人士才可繼續於地產代理行業內執業。如相關人士在監管局考慮其定罪紀錄的日期起計的前三年內，曾在從事地產代理工作或在公眾知悉其地產代理身份時干犯涉及暴力的行為而被刑事定罪，其牌照申請一般會被拒絕及/或其所持牌照一般會被撤銷。

因此，持牌人應留意他們的言行操守，必須遵守法律、監管局的指引及守則。否則，他們有可能因在從事地產代理工作時干犯涉及暴力行為的罪行而失去牌照，並最少在三年內不會獲重新批給牌照。

Q : There were 44 licences revoked by the Licensing Committee in 2016, which was the same as 2015. Do you estimate an increase or decrease in 2017?

A : One of the most important tasks of the Licensing Committee is to approve licence applications and renewal applications subject to the applicants fulfilling all licensing requirements. If a licensee is found to no longer meet the relevant licensing requirements, the Committee would revoke his/her licence. This is to ensure that the licensees reach the required standards for the protection of consumers' rights.

In the year to come, the work of the Licensing Committee will remain the same but we cannot guess how many cases of not meeting the licensing requirements there will be. In 2016, the cases mainly concerned holders no longer being "fit and proper" due to their criminal convictions. Those licences were revoked, not only because the behaviour of the licensee concerned damaged the image of the trade, but also due to the requirements of the law. I sincerely hope that there will be fewer cases of revocations by the Licensing Committee this year and in the future.

Q : If a licensee is convicted of any offence involving violence committed in the course of estate agency work, e.g. fighting at a first-sale site, his licence will be revoked by the Licensing Committee. Is that correct?

A : The EAA takes its role of gatekeeping very seriously. We are expected to be the gatekeeper in regulating the conduct of licensees and promoting their image, and as such we verify each licence application thoroughly. Any offence especially involving violence committed in the course of estate agency work will not be acceptable to the EAA.

In view of the fighting incidents which happened in first-sale residential properties sites, we updated our policy on criminal convictions last year to ensure that only those who meet the required standards are allowed to continue to practise in the trade. A licence application will normally be refused and/or a licence will normally be revoked if the person concerned was within a period of three years prior to the date the conviction is considered by the EAA, convicted of any offence involving violence committed in the course of estate agency work or was committed during such time when the licence status of the offender was known to the general public.

Therefore, licensees should be fully aware of their conduct and make sure they comply with the law, EAA guidelines and other regulatory requirements. Otherwise, they could lose their licence and not be granted one again for at least three years for committing any offence involving violence in the course of estate agency work.

誠信與你

INTEGRITY IN FOCUS

紀律研訊個案： 誤導客戶將可獲批核之按揭貸款額 DISCIPLINARY HEARING CASE: MISLEADING A CLIENT ON THE MORTGAGE AMOUNT THEY WILL BE OFFERED



引言

持牌人不應向客戶就物業按揭貸款事宜上作出任何誤導或保證，否則有可能被監管局紀律處分。

INTRODUCTION

Licensees should not make any misrepresentation or promises about mortgages to clients. Otherwise, they may be subject to disciplinary action by the EAA.

事件經過

一名地產代理向一名準買家介紹一個一手服務式住宅物業。該地產代理向她聲稱，她必定可從發展商指定的借貸機構取得樓價八成半的按揭貸款。

在訂立臨時買賣合約前，該準買家再次向地產代理確認有關按揭貸款額，而該地產代理向她重申，貸款額可達樓價的八成半。

然而最終，買家因其財務狀況而只獲批樓價四成的按揭貸款。結果，該買家未能完成交易及被發展商沒收訂金。買家大感不滿，遂向監管局作出投訴。

INCIDENT

An estate agent introduced a first-hand serviced apartment to a prospective purchaser and told her that she could definitely obtain a mortgage loan of 85% of the purchase price from the lending institution appointed by the developer.

Before signing the provisional agreement of sale and purchase, the prospective purchaser reconfirmed the mortgage loan amount with the estate agent and the agent reassured her that the loan amount would cover up to 85% of the property price.

However, a mortgage loan to the purchaser of only 40% of the property price was finally approved due to her financial situation. As a result, the purchaser was unable to complete the transaction and her deposit was forfeited to the developer. Feeling aggrieved, she lodged a complaint with the EAA.

研訊結果

監管局紀律委員會認為，地產代理不可向買家作出任何按揭貸款金額的保證。該地產代理違反了《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」。

委員會決定譴責該地產代理及暫時吊銷其牌照一個月，並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的12個核心科目學分。

RESULT

The EAA Disciplinary Committee was of the view that the estate agent should not have assured the purchaser that she would be able to obtain a certain amount of mortgage loan. The estate agent was in breach of paragraph 3.7.2 of the *Code of Ethics*, which stipulates: “estate agents and salespersons should avoid any practice which may bring discredit and/or disrepute to the estate agency trade.”

The Committee decided to reprimand the estate agent and suspend his licence for one month. A condition requiring him to obtain 12 points in the core subjects of the Continuing Professional Development Scheme in 12 months was also attached to his licence.



地產代理(從業員)總公會副主席
岑柱華先生

Mr Shum Chu-wah
Vice-Chairman of
Estate Agent Association

業界回應

從業員必須告知客戶在申請物業按揭時需經過銀行壓力測試，並以銀行批核作實。而在每宗交易過程中，從業員必須盡一切努力如實向客戶提供資料，不可作出任何誤導或胡亂作出任何承諾，令客戶蒙受損失，否則可能因此負上法律責任。

COMMENT FROM TRADE

Practitioners should inform their clients that there are stress-test and stressed-DSR (Debt-Servicing Ratio) cap for mortgage loans provided by banks, the availability of such mortgage loan is subject to individual banks' approval. Moreover, practitioners should provide valid information to clients in order to exercise due care and due diligence in each transaction. They should not make any misrepresentation or any promise to clients about mortgage loans. Otherwise, they may be subject to legal liability for causing loss to clients.

紀律研訊個案：以有別於客戶指示的放售價宣傳物業 DISCIPLINARY HEARING CASE: ADVERTISING A PROPERTY AT A DIFFERENT PRICE FROM THAT INSTRUCTED BY THE CLIENT

引言

持牌人不應以有別於客戶所指示的價格、租金或條款宣傳有關的住宅物業，否則有可能被監管局紀律處分。

INTRODUCTION

Licensees should not advertise a residential property at any price, rental or terms different from that instructed by the client concerned. Otherwise, they may be subject to disciplinary action by the EAA.

事件經過

監管局接獲一宗匿名投訴，有關一則網上的一手樓盤廣告。一間地產代理公司於網上物業平台發布該則一手住宅物業廣告，物業的售價標示為\$16,000,000。

根據一手住宅物業銷售資訊網所載的價單，該發展項目的售價由\$16,567,000至\$21,541,000。

INCIDENT

The EAA received an anonymous complaint regarding an online advertisement of a first-hand residential property posted by an estate agency company on an online property platform. The listing price of that property was \$16,000,000.

According to the price list on the Sales of First-hand Residential Properties Electronic Platform, the price of that development ranged from \$16,567,000 to \$21,541,000.

該地產代理公司聲稱收到發展商的特別通知，指可將樓盤售價調整至\$16,000,000或以下。但是，就監管局的查詢，發展商表示他們沒有指示任何受委託的地產代理公司根據價單以外的售價來調整售價。

The estate agency company claimed that it received a special notice from the developer that the price could be adjusted to \$16,000,000 or below. However, upon EAA's enquiry, the developer said they did not instruct any appointed estate agency companies to adjust the listing price other than that stated in the price list.

研訊結果

監管局紀律委員會認為，該地產代理公司以有別於賣方所指示的價格發布廣告，違反了《地產代理常規（一般責任及香港住宅物業）規例》第9(3)條：「持牌地產代理不得就其以持牌地產代理身分代理的住宅物業，安排或准許以有別於有關的客戶所指示的價格或租金或條款宣傳該住宅物業。」

在考慮個案的性質及該公司的違規紀錄後，委員會決定譴責該地產代理公司及罰款3,000元。

RESULT

The EAA Disciplinary Committee found that the estate agency company issued an advertisement in which the property price stated was different from that instructed by the vendor. Thus, it was in breach of section 9(3) of the Estate Agents Practice (General Duties and Hong Kong Residential Properties) Regulation: "A licensed estate agent shall not cause or permit to be advertised a residential property in respect of which he is acting as agent at a price or rental or on terms different from those instructed by the client concerned."

Having considered the nature and gravity of the case and the disciplinary record of that estate agency company, the EAA Disciplinary Committee reprimanded the estate agency company and fined it \$3,000.



地產代理管理協會有限公司會長
黃漢成先生

Mr Daniel Wong
President of Estate Agents
Management Association
Limited

業界回應

是次監管局研訊的結果十分公平合理，相信違規地產代理公司受到應有的懲處外，此個案對業界亦能起警惕作用。

本人深信唯有專業守規，才能提升整個地產代理業界的水平和社會地位，在此謹提醒各地產從業員，執業時務必守規守法，一起營造公平而健康的業界生態。

COMMENT FROM TRADE

The result of this disciplinary case is fair and reasonable. The non-compliant estate agency company was punished and I believe this case could be a warning to other trade members.

I am convinced that in order to enhance the professional standard and reputation of the trade, practitioners must act professionally and follow all the regulations and guidelines at all times. Let us develop a fair and healthy way of doing business in the industry.

持續專業進修講座 CPD SEMINAR

地產代理監管局實務證書課程 EAA's Certificate Programme in Practice



為幫助持牌人有效執業打好基礎，監管局在2016年10月推出全新的結構性課程——地產代理監管局實務證書課程。

此課程分為三個單元：

單元一——專業操守及誠信；

單元二——地產代理法律與規則；及

單元三——地產代理實務與實用知識。

以上三個單元由十個課堂及三個單元測驗組成。完成整個課程及於所有測驗取得合格或以上成績的參加者將獲監管局頒發證書。

課程深受從業員歡迎，已累計超過800人次參加已舉辦的課堂。參加者均對課程給予正面評價，並認為這課程的內容涵蓋全面和有用，而特別全新設計的個案研習及互動練習能幫助參加者正確及有技巧地執行其日常工作，並能為他們裝備必須的法律及實用知識。

第二期實務證書課程的課堂將於2017年4月至9月舉行，現已接受報名。詳情請瀏覽監管局網頁：www.eaa.org.hk/zh-hk/CPD-Scheme/EAA-Certificate-Programme-in-Practice。

(註：此課程現階段將以廣東話授課，監管局將在日後檢討以英語授課的可行性。)

To help the licensees build a solid foundation for effective estate agency practice, a structured programme titled the “EAA’s Certificate Programme in Practice” was launched in October 2016.

This programme is structured into three modules namely:

Module One – Professional Ethics and Integrity;

Module Two – Estate Agency Law and Regulations; and

Module Three – Estate Agency Practice and Knowledge in Practical Use.

Forming these modules are ten classes and three module-end tests. A certificate will be presented to the participants upon successful completion of the entire programme and passing of the module-end tests.

The programme has been well-received by the participants that there have been over 800 enrolments so far. Positive feedback has been received from the participants that they thought the programme was comprehensive and useful. Licensees commented that the newly designed interactive case studies and exercises equipped them with essential legal and practical knowledge and thus helped enable them to carry out real-life work with high accuracy and skills.

The second round of the classes of the Certificate Programme in Practice scheduled for April to September 2017 is now open for registration. For details, please visit the EAA website: www.eaa.org.hk/zh-hk/CPD-Scheme/EAA-Certificate-Programme-in-Practice.

(Note: the programme will be conducted in Cantonese at this stage. The EAA will study the feasibility of conducting the programme in English later.)

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： 當提供物業資料表格予住宅物業的準買家時，我們須註明該物業有否於土地註冊處註有建築命令，若進行土地查冊時沒有發現相關紀錄，是否代表該物業沒有僭建物？

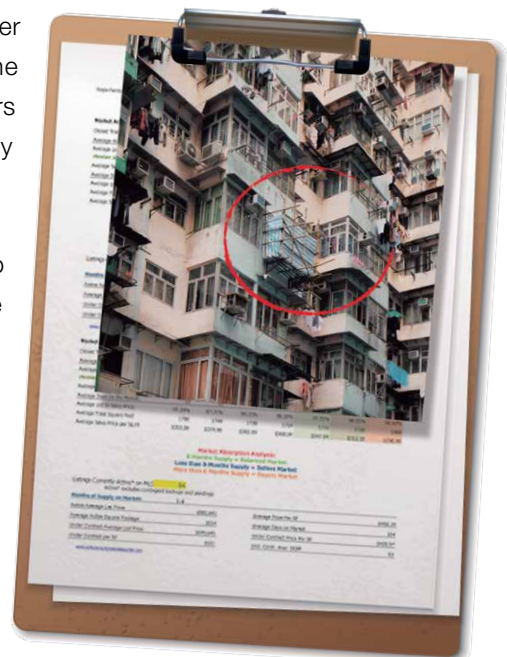
Q： When providing the property information form of a residential property to prospective purchasers, we have to state whether there is any registered building orders registered against the property at the Land Registry. If no record of any building order was found on the land search, does it mean that the property is free of unauthorised building works?

答： 根據屋宇署網站中的常見問題，部份較早前發出的建築命令可能仍未在土地註冊處登記，故即使該物業沒有該些命令，亦不代表有關物業沒有僭建物。

因此，在向準買家提供物業資料、尤其是關於該物業是否註有建築命令時，地產代理應提醒客戶留意以上事項，如有疑問，應建議他們向屋宇署查詢或諮詢專業人士的意見。

A： According to the Frequently Asked Questions section on the website of the Buildings Department, some earlier building orders may not have been registered at the Land Registry. Therefore, if there is no statutory orders registered against the property, it does not necessarily mean that it is free of unauthorised building works.

Hence, when providing the property information to prospective purchasers, especially on whether there is any building order registered, estate agents should alert their clients about the above matter accordingly, advise them to check with the Buildings Department or seek professional advice if they are in doubt.



何謂「確認人轉讓」？ C FOR “CONFIRMOR SALE”



確認人轉讓是指準買家在完成該項物業交易前將物業轉售予第三者。以此形式轉讓物業較一般交易複雜，地產代理處理此類交易時有數點要留意。

確認人轉讓涉及一定風險，地產代理安排確認人與轉購人訂立轉售協議前，必須就有關物業進行土地查冊，以確保確認人有權轉售物業，並應審視確認人與業主所訂立的買賣協議，以了解其中條款，特別是有否轉售限制。

當物業成交時，若確認人須將轉購人所繳付之樓價餘款轉交予業主，為確保確認人有充裕時間遞送該樓價餘款，地產代理應建議確認人與轉購人協定成交時間早於確認人與業主的成交時間。

此外，地產代理應向轉購人解釋，轉售協議條款是受到確認人與業主簽訂的買賣協議約束，例如買賣協議內訂明買方（確認人）接受某結構性改動，轉售協議中的轉購人也得接受該結構性改動等。

A confirmor sale means the prospective purchaser resells the property to a third person before the completion of the transaction. It is more complicated than an ordinary sale and there are a number of issues that an estate agent should pay attention to when dealing with this type of transaction.

As there are certain risks in confirmor sales, an estate agent should carry out a land search of the relevant property before arranging for the confirmor and the sub-purchaser to enter into a sub-sale agreement to ascertain whether the confirmor has the power to sub-sell. The agreement for sale and purchase entered into between the vendor and the confirmor should also be examined to determine the terms of the agreement, including but not limited to any restriction on sub-sale.

On completion, if the confirmor needs to transfer the balance of purchase price payable by the sub-purchaser to the vendor, sufficient time should be allowed for making the said transfer. It is advisable that the completion time for the sub-sale agreement should precede that for the original agreement for sale and purchase.

Moreover, estate agents should explain to the sub-purchaser that the terms of the sub-sale agreement are subject to those of the original agreement for sale and purchase. For example, if the confirmor has accepted any structural alteration in the original agreement, the sub-purchaser has to accept the same under the sub-sale agreement.

活動紀要

EVENTS AND ACTIVITIES



2016.11.24

監管局作為「人才發展計劃」的僱主機構之一，獲邀出席由僱員再培訓局舉辦的「僱主周年聚會」，藉此促進僱主機構與委任培訓機構的溝通，並加強合作。

Being one of the members of the “Manpower Development Scheme”, the EAA attends the Annual Employer Luncheon organised by the Employees Retraining Board in order to facilitate communication and cooperation between employers and the appointed training bodies.



2017.01.09

監管局董事局舉行午餐聚會，歡迎新任成員及向離任成員頒發紀念座，以答謝他們過去對監管局的貢獻。

The EAA Board holds a luncheon to welcome its new members and bid farewell to its retiring members. Souvenirs were also presented to the retiring members as a token of appreciation to their past contribution to the EAA.

2017-01-16



監管局接待來自廣東省機構編制委員會辦公室的代表團，監管局代表向他們簡介監管局的角色及職能，以及本港的監管制度。代表團成員對香港地產代理行業的發牌制度及規管機制深感興趣。

The EAA receives a delegation from the Office of Government Set-up Committee of Guangdong Province. The delegates are briefed on the EAA's role, its functions and the regulatory system in Hong Kong. The delegates show great interest in the rationale behind the regulatory and licensing system.

2017-02-10

監管局舉行春茗，主席梁永祥先生，SBS，JP(右三)及一眾管理層與傳媒朋友拜年。

The EAA holds a media luncheon to celebrate Chinese New Year with journalists. Chairman Mr William Leung Wing-cheung, SBS, JP (third from the right) and the EAA's management team wish the press a happy new year of the Rooster.



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
8/12/2016

參加人數
No. of candidates
1,147

合格率
Pass rate
21.0%

營業員資格考試 SALESPERSONS QUALIFYING EXAMINATION

考試日期
Examination date
23/12/2016

參加人數
No. of candidates
852

合格率
Pass rate
26.3%

牌照數目 (截至2017年2月28日) NUMBER OF LICENCES (AS AT 28/2/2017)



營業員牌照
Salesperson's Licence
19,949



地產代理(個人)牌照
Estate Agent's Licence (Individual)
17,192

個人牌照總和
Total no. of individual licences



37,141

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



3,403

營業詳情說明書 (截至2017年2月28日) NUMBER OF STATEMENTS OF PARTICULARS OF BUSINESS (AS AT 28/2/2017)



合夥經營
Partnerships
4,738



獨資經營
Sole proprietorships
1,604



有限公司
Limited companies
209



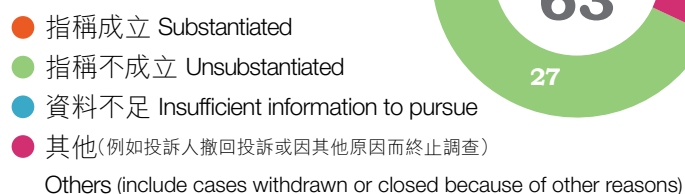
總數 Total

6,551

接獲的投訴 (2017年1月至2月) NUMBER OF COMPLAINT CASES RECEIVED (JANUARY TO FEBRUARY 2017)

48

已處理的投訴個案結果* (2017年1月至2月) RESULTS OF COMPLETED COMPLAINT CASES* (JANUARY TO FEBRUARY 2017)



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

巡查次數 (2017年1月至2月)

NUMBER OF COMPLIANCE INSPECTIONS (JANUARY TO FEBRUARY 2017)



巡查發現主動調查的個案 (2017年1月至2月)

NUMBER OF CASES ARISING FROM SELF-INITIATED INVESTIGATIONS DURING INSPECTIONS (JANUARY TO FEBRUARY 2017)



* 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* (2017年1月至2月)

ACTIONS TAKEN AGAINST LICENSEES OR EX-LICENSEES* (JANUARY TO FEBRUARY 2017)

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
44

罰款
Fine
26

於牌照附加/更改條件
Attachment/ alteration of
conditions to licence
32

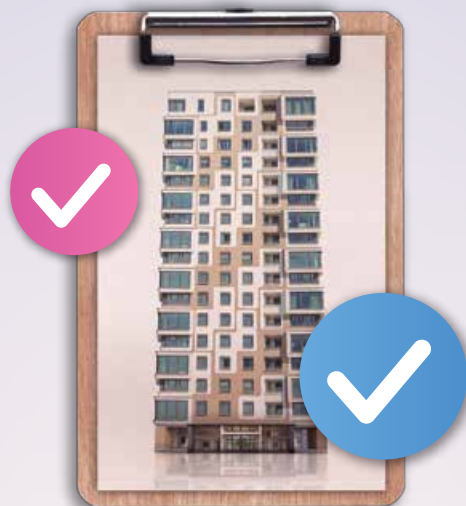
暫時吊銷牌照
Suspension
2

撤銷牌照
Revocation
3[#]

* 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。理由是持牌人不再符合相關發牌條件。

These cases were decided by the Licensing Committee on the ground that the licensees concerned no longer meet the relevant licensing requirements.



香港灣仔皇后大道東183號合和中心48樓
48/F, Hopewell Centre, 183 Queen's Road East, Wanchai, Hong Kong