

## 處理出租「規管租賃」的新指引 New guidelines on handling the letting of “regulated tenancies”



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韓婉萍  
行政總裁

**Ruby Hon Yuen-ping**  
*Chief Executive Officer*

“

疫情之下，筆者勸勉業界繼續保持正面積極的精神，趁這段時間多加進修，疫情過後會有更好一天。

I would like to encourage the trade to continue to maintain a positive spirit under the pandemic, take advantage of this time to study more, and there will be a better day after the pandemic.

”

# 疫情過後會有更好一天

## There will be a better day after the pandemic

在過去這兩個月，大家都受到第五波新冠病毒疫情的打擊。各行各業和日常生活都大大受到影響，監管局和地產代理一樣，必須作出緊急應變。

首先，監管局員工雖然繼續以特別安排工作，但灣仔和柴灣的辦事處已於二月中開始暫停對外開放。此外，原定在三月舉行的各場資格考試，均需要全部取消。

雖然如此，監管局亦有員工不幸地感染新冠肺炎，辦事處也曾需要關閉進行消毒。因此，局方在發牌、巡查、處理投訴以至舉行研訊等各方面的工作均受到一定影響。局方會採取靈活措施，務求將疫情對我們工作上的影響減至最低，希望市民和持牌人明白和諒解。

另外，視乎疫情的發展，未來舉行的資格考試也可能有機會要取消。監管局會密切留意事態發展，在可行情況下儘早恢復舉辦考試。

至於局方的其他工作，例如持續專業進修計劃的活動、新聞發布會和公開講座等等，都已採取網上形式進行以盡量減少受疫情所影響。

筆者留意到地產代理亦已作出靈活應變，加強網上業務推廣及推動網上睇樓等。筆者希望提醒各從業員，網上發出廣告較快捷方便，但同時也容易產生出錯情況。其次，在沒有親身會面之下處理物業交易，代理必須份外小心，避免日後與客戶產生任何糾紛。

疫情之下，筆者勸勉業界繼續保持正面積極的精神，趁這段時間多加進修，疫情過後會有更好一天。最後，筆者在此祝願各位保持身心健康，並呼籲尚未接種疫苗的人士趕快行動，保障自己和身邊家人。

In the past two months, everyone has been impacted by the fifth wave of the COVID-19 pandemic. All businesses and our daily lives are greatly affected. The EAA, like estate agents, must act responsively and swiftly.

First, although all EAA staff continue to work under special arrangements, the EAA offices in Wanchai and Chai Wan have been closed to the public since mid-February. In addition, all qualifying examinations originally scheduled to be held in March were cancelled.

Notwithstanding, some EAA staff were unfortunately infected with COVID-19 and our office had to be closed for disinfection. As a result, the work of the EAA, such as licensing, inspections, complaints handling, and inquiry hearings are inevitably affected to some extent and the EAA will take flexible measures to minimise the impact of the pandemic on our work. We hope that the public and licensees will understand.

In addition, depending on the development of the pandemic, the qualifying examinations scheduled in the future may also have to be cancelled. The EAA will closely monitor the situation and resume the examinations as soon as practicable.

The EAA's other work, such as the activities of the Continuing Professional Development Scheme, press conferences and public seminars, etc., is mostly carried out online and so will be least affected.

I have noticed that estate agents have also made flexible adaptation by strengthening their online business promotion and actively promoting online property inspections. I would like to remind practitioners that although it is quicker and more convenient to issue online advertisements, they are prone to errors and inaccuracies. Besides, estate agents must be extra careful when handling property transactions without meeting clients in person, to avoid any disputes with clients in the future.

I would like to encourage the trade to continue to maintain a positive spirit under the pandemic, take advantage of this time to study more, and there will be a better day after the pandemic. Finally, I would like to wish you all good physical and mental health and appeal to those who have not yet been vaccinated to act quickly to protect themselves and their families.





## 處理出租「規管租賃」的新指引 New guidelines on handling the letting of “regulated tenancies”

**就**公眾關注有關保障基層租客的利益，政府推出《業主與租客（綜合）條例》（《條例》）第IVA部下對分間單位（俗稱「劏房」）的新租務管制制度，並已於2022年1月22日起生效。

由於地產代理有可能處理受《條例》第IVA部所規管的分間單位租賃（即「規管租賃」），監管局發出新的執業通告22-01（CR）（「執業通告」）以制定指引讓持牌人遵從，並與《條例》第IVA部同日生效。今期《專業天地》將會為持牌人講述新指引的重點。

In response to public concern on protecting the interest of grass-root tenants, the government implemented a new tenancy control regime on subdivided units (“SDUs”) under Part IVA of the Landlord and Tenant (Consolidation) Ordinance (“Ordinance”) which came into effect on 22 January 2022.

Since estate agents may handle tenancies relating to SDUs which are subject to Part IVA of the Ordinance (i.e. “regulated tenancies”), the Estate Agents Authority (“EAA”) issued a Practice Circular (No. 22-01 (CR)) (“Circular”) setting out the relevant guidelines for licensees to follow, which also came into effect on the same date as Part IVA of the Ordinance. In this issue of Horizons, we will introduce the gist of the new guidelines to licensees.

## 規管範圍

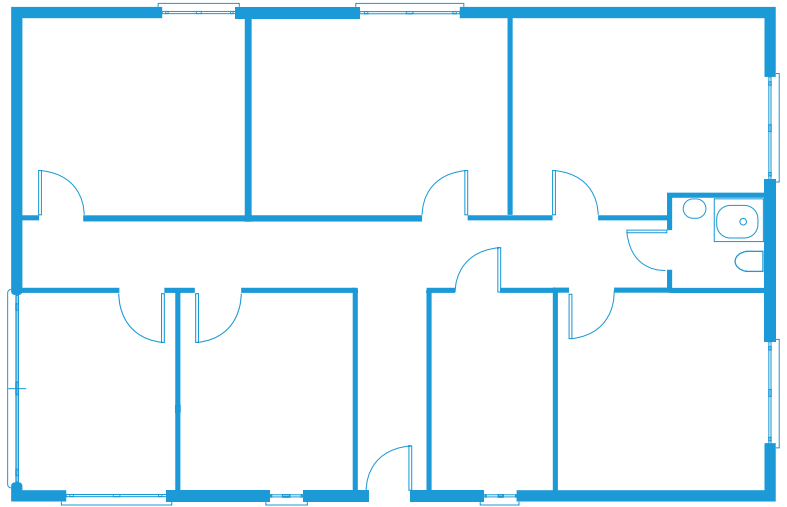
簡單而言，《條例》第IVA部涵蓋在住宅/綜合用途樓宇內及工/商業大廈內的分間單位。然而，由於「寮屋」以及新界豁免管制屋宇並不是根據建築圖則所建造或經改動以供使用，故不受《條例》第IVA部所涵蓋。

## 指引重點

在處理分間單位的「規管租賃」時，持牌人須向準租客披露他們在交易中的行事身份。他們須向準租客披露其所屬的地產代理公司是只代表業主行事；只代表租客行事；抑或同時代表業主及租客雙方行事。

此外，持牌人在安排立約方訂立租賃協議前，必須向客戶解釋《條例》第IVA部的主要規定，包括有關租住權保障和租金規管及每項「規管租賃」隱含的強制性條款的規定。持牌人亦須向其客戶提供強制性條款摘要之副本。

儘管《條例》第IVA部規定「租賃」是指以口頭或書面達成的租賃，持牌人應建議客戶以書面達成「規管租賃」，以便清楚反映雙方



## Scope of the regulation

Generally speaking, Part IVA of the Ordinance covers SDUs of domestic/composite buildings, or industrial/commercial buildings. However, “squatters” and New Territories Exempted Houses are not covered under Part IVA of the Ordinance as they are not buildings or structures constructed or adapted for use in accordance with a building plan.

## Gist of the Guidelines

When handling “regulated tenancies” of SDUs, licensees must inform prospective tenants of their capacity in the transaction. They must disclose to the prospective tenants whether their estate agency company acts only for the landlord; only for the tenant; or for both the landlord and the tenant.

In addition, licensees are required to explain the key requirements under Part IVA of the Ordinance, including those relating to the security of tenure and rent regulation, and the mandatory terms to be implied for every “regulated tenancy” to the clients before arranging for them to enter into the tenancy agreement. Licensees are also required to provide a copy of the summary mandatory terms to the clients.

Although part IVA of the Ordinance provides that “tenancy” means a lease entered into orally or in writing, licensees should advise





協議的內容，並須告知他們有關租賃協議不應載有與租住權保障和租金規管規定及每項「規管租賃」隱含的強制性條款不一致的條文。

違反《條例》第IVA部的規定有可能觸犯法例。因此，持牌人必須提醒客戶相關的罪行和罰則。為便利業主遵守相關法定要求，在分間單位的「規管租賃」中代表業主行事的持牌人，應（除非業主客戶以書面方式表示他將直接處理該事宜）於簽訂租賃協議後安排將租賃協議加蓋印花，並安排向差餉物業估價署（「差估署」）署長提交租賃通知書（表格AR2），通知他有關租賃的詳情。

為使持牌人更熟悉新指引，監管局已舉辦相關的持續進修專業進修講座，稍後會將相關錄影上載至監管局網站供大家重溫。同時，局方已在監管局網站刊登相關的「問與答」供持牌人參考。至於有關《條例》第IVA部新租務管制制度的詳情及相關表格，持牌人應瀏覽差估署的網頁。



為避免引起任何爭拗，監管局建議持牌人向客戶取得書面確認，說明持牌人已告知客戶有關執業通告中提及的相關事項及已提供每項「規管租賃」隱含的強制性條款摘要副本。倘若客戶對《條例》第IVA部有任何疑問，持牌人應建議他們向差估署查詢及/或考慮尋求法律意見。

their clients to enter into a “regulated tenancy” in writing to clearly reflect the contents of the parties’ agreement. Moreover, they must advise clients that the tenancy agreement should not contain provisions which are inconsistent with the security of tenure and rent control requirements under the Ordinance and the mandatory terms implied for every “regulated tenancy”.

Non-compliance with the requirements under Part IVA of the Ordinance may constitute an offence. Therefore, licensees are required to draw their clients’ attention to the relevant offences and penalties. To facilitate the landlord’s compliance with the relevant statutory requirements, licensees who act for the landlord in a “regulated tenancy” of an SDU should (unless the landlord client has otherwise indicated in writing that he/she would handle the matter directly) arrange for the stamping of the tenancy agreement after it has been entered into and the submission of the relevant Form AR2 to notify the Commissioner of Rating and Valuation of the particulars of the tenancy.

In order to familiarise licensees with the new guidelines, the EAA has organised relevant continuing professional development seminars already and related video recordings will be uploaded to the EAA website later. The EAA has also published a set of “Questions and Answers” on the EAA website for licensees’ reference. For details of the new tenancy control under Part IVA of the Ordinance and related Forms, licensees should refer to the webpage of the Rating and Valuation Department (“RVD”).



In order to avoid any disputes, licensees are advised to obtain written acknowledgement from their clients stating that the licensee has informed them of the relevant matters set out in the Circular and the licensee has provided them with a copy of the summary mandatory terms implied for every “regulated tenancy”. If clients are in doubt of matters related to Part IVA of the Ordinance, licensees should advise them to make enquiry with the RVD and/or consider seeking legal advice.



# 監管局回顧2021年工作及簡介2022年工作重點

## The EAA reviews its work in 2021 and introduces its initiatives for 2022



監管局主席廖玉玲太平紳士（左）及行政總裁韓婉萍女士（右）於網上新聞發布會上回顧局方在2021年的工作，並簡介2022年的工作重點。

*EAA Chairman Ms Elaine Liu, JP (left) and Chief Executive Officer Ms Ruby Hon (right) review the EAA's work in 2021 and introduce its initiatives for 2022 at the online press conference.*

監管局於2022年1月26日舉行網上新聞發布會，由主席廖玉玲太平紳士及行政總裁韓婉萍女士回顧監管局在2021年的工作，並簡介2022年的工作重點。

廖主席指出，截至2021年12月31日，個人牌照數字錄得42,062人的歷史新高，主要是因為彌補2020年受疫情影響而取消的資格考試場次，導致去年的考試名額大幅增加。

監管局於2021年共開立331宗投訴個案，數字與之前一年相若。當中涉及「發出違規廣告」的投訴共有121宗，大部份屬於網上廣告，主要與提供不準確資料有關。至於有關香港境外物業的投訴，2021年共有21宗，絕大部分問題源於境外發展商，而非與地產代理的操守有關。

2022年監管局會因應法例及市況變化，向業界適時發出指引。此外，局方會繼續教育消費者購買境外物業可能存在的風險，並再三提醒買家必須細心考慮清楚才作出購買的決定。

The EAA held an online press conference on 26 January 2022 at which its Chairman, Ms Elaine Liu, JP, and Chief Executive Officer, Ms Ruby Hon, reviewed the EAA's work in 2021 and introduced its initiatives for 2022.

Ms Liu pointed out that the number of individual licences reached a record high of 42,062 as at 31 December 2021 as a result of the significant increase in the number of seats for the qualifying examinations to make up for the cancelled examinations in 2020 due to the pandemic.

In 2021, the EAA opened a total of 331 complaint cases, a figure similar to the previous year. In particular, complaints concerning the issuance of non-compliant advertisements amounted to 121 cases, most of them were about online advertisements and were mainly about provision of inaccurate information. Regarding complaints about non-local properties, there were 21 cases in 2021 and most of the issues were related to non-local developers rather than of the conduct of estate agents.

In 2022, the EAA will issue guidelines to the estate agency trade on matters arising from any changes in law or market situation. In addition, the EAA will continue to educate consumers on the possible risks of purchasing non-local properties, and remind buyers to give careful and thorough considerations before they make any decision to purchase.

## 境外物業『智』『析』『揀』 Facebook直播講座

Facebook live seminar: "Important points-to-note when purchasing properties situated outside Hong Kong"



監管局於2022年3月12日舉辦一個名為「境外物業『智』『析』『揀』」的Facebook直播公開講座。三位嘉賓講者分享他們對境外置業的寶貴見解及知識，吸引超過五萬人次觀看。

是次講座以網上視像會議形式進行，由新城財經台新聞部總監林潔瑩小姐擔任主持。在長約一小時的講座中，三位講者包括城市大學管理科學系特約教授曾淵滄博士、國眾聯測量師行顧問余錦雄測量師、以及監管局執行總監陳汝傲律師，為觀眾講解境外置業重要策略和注意重點並回答觀眾的提問。

如欲重溫是次講座的錄影，可瀏覽監管局的消費者教育網站（<http://smart.eaa.org.hk>）、監管局的YouTube頻道（[www.youtube.com/estateagentsauthority](http://www.youtube.com/estateagentsauthority)）及新城財經台的Facebook專頁。

The EAA conducted a Facebook live public seminar on the important points-to-note when purchasing properties situated outside Hong Kong on 12 March 2022. Three guest speakers shared their valuable insights and knowledge at the seminar which recorded over 50,000 views.

The seminar was held through online conferencing and hosted by Ms Grace Lam, News Controller of Metro Finance Radio. During the one-hour seminar, the three guest speakers, Dr Chan Yan Chong, MH, Adjunct Professor of Department of Management Sciences, City University of Hong Kong, Sr Yu Kam-hung, Consultant of PSA (HK) Surveyors Limited and Mr Chan U-keng, Director of Operations of the EAA, shared with the audience the strategy to follow and points-to-note when purchasing properties situated outside Hong Kong and answered questions from the audience.

To watch the video of the seminar, please visit the EAA's consumer education website (<http://smart.eaa.org.hk>), the EAA's YouTube channel ([www.youtube.com/estateagentsauthority](http://www.youtube.com/estateagentsauthority)) or the Facebook page of Metro Finance Radio.



## 疫情下監管局的服務安排

### The EAA's service under the pandemic

**因**應2019冠狀病毒疫情的最新發展，由2022年2月14日起，監管局位於灣仔（灣仔皇后大道東183號合和中心26樓2601室）及柴灣（柴灣利眾街24號東貿廣場7樓）的辦事處不會對持牌人及公眾開放，直至另行通知。

持牌人/前持牌人可透過監管局網站所提供之電子服務、郵寄或本局灣仔辦事處門外的收件箱以遞交牌照申請。

監管局會密切留意事態發展，並於服務安排有任何修改時儘快向公眾作出公布。請密切留意本局網站的最新公布。

如有查詢，請郵寄、電郵（[enquiry@eaa.org.hk](mailto:enquiry@eaa.org.hk)）至本局，或致電監管局熱線2111 2777。

In view of the latest development of COVID-19, the EAA offices in Wanchai (Room 2601, 26/F, Hopewell Centre, 183 Queen's Road East, Wanchai) and Chai Wan (7/F, E-Trade Plaza, 24 Lee Chung Street, Chai Wan) were closed to all licensees and the general public with effect from 14 February 2022 until further notice.

Current licensees/ex-licensees may submit their licence applications through e-Services on the EAA website, by post or via the collection box located outside the EAA office in Wanchai.

The EAA will continue to closely monitor the development of the situation and announce to the public if there is any change to our service arrangements. Please stay tuned with the latest updates announced in the EAA website.

For enquiries, please write to the EAA by post, by email ([enquiry@eaa.org.hk](mailto:enquiry@eaa.org.hk)) or call our hotline at 2111 2777.

## 有關按揭保險計劃之修訂

### Amendments to the Mortgage Insurance Programme

**為**協助需要置業自用的人士，香港按揭保險有限公司（「按揭保險公司」）宣布就已落成住宅物業的按揭保險計劃作出修訂，並已於2022年2月23日生效。

監管局已於2022年2月25日發出「致持牌人函件」，以提醒各持牌人相關修訂及切勿向準買家提供任何不準確或具誤導性的資訊。請於監管局網站閱讀有關函件，並參閱按揭保險公司的相關網頁（[www.hkmc.com.hk](http://www.hkmc.com.hk)），以了解修訂的詳情。

In order to provide assistance to homebuyers with housing needs, HKMC Insurance Limited ("HKMCI") announced certain amendments to the Mortgage Insurance Programme for completed residential properties effective from 23 February 2022.

The EAA issued a Letter to Licensees on 25 February 2022 to remind them of the amendments and not to provide any inaccurate or misleading information to prospective purchasers. Please read the Letter to Licensees in the EAA website and refer to the relevant webpage of the HKMCI ([www.hkmc.com.hk](http://www.hkmc.com.hk)) for details of the amendments.

# 有關購買香港境外物業的消費者教育

## Consumer education on purchasing properties situated outside Hong Kong

近年，購買香港境外物業的問題引起公眾關注，而消費者委員會去年亦發表了一份相關報告。監管局目前正與政府及地產代理業界討論及研究消委會的建議。與此同時，局方會繼續致力教育消費者有關購買香港境外物業可能存在的風險，並再三提醒準買家在作出任何購買決定前，必須細心考慮清楚。

繼去年8月於各大電視台及電台頻道中推出相關宣傳短片及聲帶後，局方亦於YouTube頻道及Google和Yahoo的廣告網絡中作出相關宣傳。

踏入2022年，監管局於1月再推出另一個為期兩星期的宣傳計劃，在港鐵車廂電視上播放



The issue of purchasing properties situated outside Hong Kong has become a public concern in recent years and the Consumer Council published a report on the issue last year. Currently the EAA is discussing and studying with the government and the trade on the recommendations proposed by the Consumer Council. Meanwhile, the EAA will continue to spare no effort in educating consumers on the possible risks of purchasing properties situated outside Hong Kong and reminding prospective purchasers to give careful and thorough consideration before they make any decision to purchase.

Further to launching an announcement in the public interest ("API") on TV and radio channels in August last year, the EAA publicised the issue on YouTube and the display advertising networks of Google and Yahoo.

Stepping into 2022, the EAA launched another two-week publicity campaign on the subject in January. The TV API was broadcast through the MTR in-train TV network and it was also promoted through the MTR mobile App, which generated over nine thousand clicks to our consumer education website.

In addition, the EAA partnered with two newspapers, namely *Ming Pao* and *Hong Kong Economic Times*, in February 2022 for another publicity campaign on the subject. A total of 60,000 copies of the consumer education booklet "Purchasing Non-local Properties – Be Smart" were





上述該宣傳短片，並在港鐵手機程式中作出相關宣傳，共有逾九千人次因而到訪監管局的消費者教育教育網站。

此外，監管局亦與兩份報章《明報》及《香港經濟日報》合作，在2022年2月推出另一項宣傳計劃。我們把合共六萬本消費者教育小冊子《境外置業要「究」SMART》分六天放到這兩份報章內分發，該兩份報章同時亦有刊登相關廣告，並在其Facebook專頁內宣傳該小冊子。

事實上，監管局過去幾年曾就此議題推出多個消費者教育及推廣計劃，例如製作短片、小冊子、舉辦公開講座等。所有有用資訊已上載到監管局的消費者教育網站內名為「有關購買境外物業」的專區供市民參考，持牌人可到 <http://outsideHK.eaa.org.hk> 了解詳情。



inserted into the two newspapers for distribution on a total of six days. There were also related printed advertisements and promoting posts in the Facebook pages of the two newspapers.

In fact, the EAA has already launched a number of educational and promotional campaigns such as producing videos, booklets and organising public seminars on the subject in the past few years. All these useful materials are available in the designated section titled "Purchasing properties located outside Hong Kong" in the consumer education website of the EAA. Licensees may visit the webpage to learn more: <http://outsideHK.eaa.org.hk>





# 持續專業進修活動

## CPD Activities

### 遺囑認證

為提升持牌人的專業水平並擴闊他們的視野，監管局與香港大律師公會土地、信託及遺囑認證專業委員會於2022年1月7日舉行了「遺囑認證」的網絡研討會。席間，香港大律師公會土地、信託及遺囑認證專業委員會的代表向持牌人講解有遺囑與無遺囑的主要分別、土地實產的承繼以及案例分享，讓持牌人能夠掌握遺囑認證的相關知識。參加者均對是次網絡研討會給予正面評價

### 《業主與租客(綜合)條例》第IVA部—「規管租賃」及監管局新執業通告—通告編號22-01(CR)

鑑於《業主與租客(綜合)條例》(「《條例》」)第IVA部已於2022年1月22日生效，而監管局亦就此《條例》發出相關處理分間單位住宅租賃的新執業通告—通告編號22-01(CR)。為了協助持牌人了解此《條例》及新執業通告的要求，監管局聯同差餉物業估價署分別於2022年2月18日及2月28日舉辦了兩場以中文及英文講解的『《業主與租客(綜合)條例》第IVA部—「規管租賃」及監管局新執業通告—通告編號22-01(CR)』網絡研討會。

席間，差餉物業估價署的代表向持牌人講解《條例》第IVA部的內容，而監管局代表則向持牌人詳細講解新執業通告的內容及規定。除此之外，監管局將會就此條例及新執業通告推出兩個以中文及英文的新「網上學習活動」，以協助持牌人能夠隨時隨地學習條例及新執業通告。



### Probate

To enhance the professionalism and widen the horizon of licensees, the EAA in collaboration with the Hong Kong Bar Association's Committee on Land, Trust and Probate held a webinar on "Probate" on 7 January 2022. During the webinar, representatives from Committee on Land, Trusts and Probate explained to licensees the key differences between testate and intestate, inheritance of properties as well as sharing some precedent cases to equip them with knowledge on probate. The webinar received very positive feedback from the attendees.

### Part IVA of the Landlord & Tenant (Consolidation) Ordinance – "Regulated Tenancies" & New EAA Practice Circular (No. 22-01 (CR))

In view of the commencement of Part IVA of the Landlord and Tenant (Consolidation) Ordinance ("Ordinance") on 22 January 2022, the EAA has issued a new Practice Circular (No. 22-01(CR)) on handling of subdivided domestic tenancies in relation to the Ordinance. In order to help licensees understand the requirements of the Ordinance and the new Practice Circular, the EAA and the Rating and Valuation Department have launched two CPD webinars in Chinese and English on 18 February and 28 February 2022 respectively, entitled "Part IVA of the Landlord & Tenant (Consolidation) Ordinance – "Regulated Tenancies" & New EAA Practice Circular (No. 22-01 (CR))".

During the webinars, representatives from the Rating and Valuation Department briefed licensees on the contents of Part IVA of the Ordinance while representative from the EAA explained to licensees the contents and the requirements of the new Practice Circular. Following the webinar, the EAA will launch two new e-Learning programmes on this topic respectively in Chinese and English to facilitate licensees' self-learning of the new Ordinance and new Practice Circular at their own pace.

# 188間地產代理商舖獲得「地產代理商舖專業進修嘉許獎章」

## 188 estate agency shops awarded the "CPD Mark" for Estate Agencies Award Scheme

為鼓勵更多地產代理商舖和從業員參與持續專業進修計劃，監管局於2008年推出地產代理商舖專業進修嘉許獎章（「商舖嘉許獎章」）。

在2020-21年度的持續專業進修時段，共有188間地產代理商舖符合嘉許資格並獲頒商舖嘉許獎章。即於每年10月1日當日，有八成或以上的受僱持牌人（包括分行經理）在其個別的上一個持續專業進修時段獲頒發持續專業進修計劃嘉許證書。

這數字創過去十年以來的新高。獲獎商舖不但來自大型地產代理公司，也有來自中小型的地產代理行。他們可於2022年1月1日至12月31日期間，在其店內張貼商舖嘉許獎章的標誌，亦可在其發出的文件和員工名片上，印上商舖嘉許獎章標誌。

獲得商舖嘉許獎章的商舖名單已刊載於監管局網站([www.eaa.org.hk](http://www.eaa.org.hk))及監管局的消費者教育網站([smart.eaa.org.hk](http://smart.eaa.org.hk))。同時，監管局已於2022年1月至2月期間，透過網上廣告向公眾推廣商舖嘉許獎章。

In order to encourage greater participation in the Continuing Professional Development ("CPD") Scheme by estate agency shops and practitioners, the EAA launched the CPD Mark for Estate Agencies Award Scheme ("CPD Mark") in 2008.

For the CPD period of 2020-21, a total of 188 estate agency shops met the requirement of having 80% or more of their employed licensees (including the branch manager) being awarded the CPD Attainment Certificate for the CPD period immediately preceding their current individual CPD periods on 1 October each year and have been awarded the CPD Mark.

This figure is the highest recorded in the last ten years. The awardees not only come from big real estate agency companies, but also small and medium-sized agencies. The awarded shops are entitled to display the CPD Mark decal in their shops and have the mark printed on their documents and employees' business cards from 1 January to 31 December 2022.

The list of shops awarded the CPD Mark is available on the EAA's website ([www.eaa.org.hk](http://www.eaa.org.hk)) and its consumer education website ([smart.eaa.org.hk](http://smart.eaa.org.hk)).

The EAA also promoted the CPD Mark to the public in January to February 2022 through placing online advertisements so as to enhance its public recognition.





## 紀律研訊個案 Disciplinary hearing case

# 以有別於賣方指示的價格宣傳物業 Advertising property at a price different from that instructed by the vendor

### 引言

持牌人應注意物業廣告中顯示的放盤價必須與業主指示的一致。否則，他們有機會被監管局紀律處分。

### Introduction

Licencees should note that the price stated in property advertisements must be in accordance with the vendor's instructions. Otherwise, they may be subject to disciplinary action by the EAA.

### 事件經過

一名業主的代表委託數家地產代理公司放售一個屬於其已去世親屬的住宅物業。其後，其中一家地產代理公司向他們查詢是否更改了該物業的放盤價。該名業主代表此時才發現他委託的另一家地產代理公司，在其店舖櫥窗刊登一則廣告，指該物業的放盤價為1,368萬元，比他指示的放盤價下調了很多。業主代表深感不滿，遂向監管局作出投訴。

### Incident

A vendor's representative appointed several estate agencies to sell a residential property belonged to a deceased relative. Later, he received an inquiry from one of the appointed agencies that if the listing price of the property concerned has been revised. The vendor's representative then discovered that another agency he appointed had issued an advertisement of the property in its shop window with a listing price of \$13,680,000, which was much lower than his instructed price. Feeling dissatisfied, the vendor's representative lodged a complaint with the EAA.



## 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指示的價格宣傳該物業，因而違反了《地產代理常規（一般責任及香港住宅物業）規例》第9(3)條。

此外，監管局於調查期間發現該地產代理公司在接受客戶的委託處理該物業的出售事宜前，只依賴客戶的口頭表述而未有核實其賣方的身份，因而違反了《操守守則》第3.7.2段，即「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。」

考慮到個案的性質及該地產代理公司的違規紀錄，紀律委員會決定譴責該公司，並向其罰款共45,000元。

## Result

The EAA Disciplinary Committee was of the view that the estate agency company advertised the property at a price different from that instructed by the vendor. Hence, it was in breach of Section 9(3) of the Estate Agents Practice (General Duties and Hong Kong Residential Properties) Regulation.

Moreover, during the investigation of the case, the EAA found out that the estate agency company only relied on the client's verbal representation without any verification of his capacity as vendor when accepting the appointment to handle the sale of the property. Thus, it failed to comply with paragraph 3.7.2 of the *Code of Ethics*, which states 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 that estate agency company, the Committee decided to reprimand it and impose a fine of \$45,000.



蕭亮鴻先生  
地產代理人協會副主席  
**Mr Keith Siu**  
Vice-chairman of Property Agents  
Association

## 業界意見 Comment from trade

地產代理除了應具備專業知識外，保持誠信亦不可忽視。必須遵照客人的意願及指示行事。不能為了促成交易或其他原因，而未經客人同意下，擅自更改客人指示。這樣不但違反有關法例及操守守則，亦破壞了客人的信任。若此等不當行為不加以遏止，會對整個地產代理行業的專業形象造成負面影響。

In addition to professional knowledge, integrity is also a must for being a professional estate agent. They should act according to the instructions of their clients and should not change the clients' instructions without seeking the clients' consent, as it will breach the regulations and *Code of Ethics*. Such behaviour will also damage the clients' confidence and tarnish the professional image of the entire estate agency trade.

## 紀律研訊個案 Disciplinary hearing case

## 買方取消交易後被扣起臨約及訂金 Withholding the PASP and deposit after the purchaser cancelled the transaction

## 引言

持牌人在執業期間，應避免作出任何損害地產代理行業信譽及/或名聲的行為，否則有機會被監管局紀律處分。

## Introduction

Licensees should avoid any behaviour that may bring discredit and/or disrepute to the estate agency trade in their practice. Otherwise, they may be subject to disciplinary action by the EAA.

### 事件經過

一名地產代理在一項物業交易中擔任雙邊代理。她安排買家單方面簽署臨時買賣協議（「臨約」），並收取一張由買家提供的十萬元支票作為訂金（「訂金支票」）。

其後，買家告知該地產代理，她因財政問題決定取消該交易，並要求取回該份賣方尚未簽署的臨約和訂金支票。然而，該地產代理要求買家先向其地產代理公司支付佣金及賣方的律師費，否則不會退還該臨約及訂金支票。

買家於是向監管局作出投訴。調查期間，該地產代理未能出示賣方已簽署該臨約或任何顯示賣方不同意終止相關交易的證據。

### Incident

An estate agent was appointed as a dual agent in a property transaction. She arranged for the purchaser to sign the provisional agreement for sale and purchase ("PASP") unilaterally and received the purchaser's cheque of \$100,000 as the deposit ("Deposit Cheque").

Later, the purchaser informed the estate agent that she had decided to cancel the transaction due to financial problems and requested to have the unilaterally signed PASP and the Deposit Cheque back. However, the estate agent refused to do so and told the purchaser that she had to settle the estate agent's commission and the vendor's legal expenses before her request would be entertained.

Hence, the purchaser lodged a complaint with the EAA. During the investigation, the estate agent failed to provide any evidence indicating that the PASP had been signed by the vendor or the vendor disagreed to terminate the transaction.

### 研訊結果

監管局紀律委員會認為，該地產代理違反了《操守守則》第3.7.2段，即「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。」委員會指出該地產代理不應拒絕退還該臨約和訂金支票，而應透過適當途徑追討相關費用。

考慮到個案的性質及該地產代理的違規紀錄，紀律委員會決定譴責該地產代理，並向其罰款共3,000元，並要求她在12個月內取得持續專業進修計劃下的12個學分。

### Result

The EAA Disciplinary Committee was of the view that the estate agent failed to comply with paragraph 3.7.2 of the *Code of Ethics*, which states that "Estate agents and salespersons should avoid any practice which may bring discredit and/or disrepute to the estate agency trade". The Committee pointed out that the estate agent should recover the relevant fees through appropriate means instead of withholding the purchaser's PASP and the Deposit Cheque.

Having considered the nature and gravity of the case and the disciplinary record of that estate agent, the Disciplinary Committee decided to reprimand her, impose a fine of \$3,000 and require her to obtain 12 points in the Continuing Professional Development Scheme within 12 months.



吳元興先生  
地產代理（從業員）總公會主席  
**Mr Evan Ng Yuen-hing**  
Chairman of Estate Agent  
Association

### 業界意見 Comment from trade

個案中賣方仍未簽署臨約，而買方因財務問題而終止交易，並立刻通知代理代理。作為一個具有專業操守的地產代理，應該退回訂金及該份臨約，反而拒絕退還並向買方追討賠償或佣金是無理的。在此提醒準買家，在簽約前應先向銀行或財務機構查詢可獲批核的按揭。

In the case, the vendor had not yet signed the PASP when the purchaser decided to cancel the transaction due to financial problems and informed the estate agent. As an ethical professional estate agent, she should return the deposit and the PASP to the purchaser. It is unreasonable to decline the purchaser's request and demand compensation or commission from the purchaser. I would like to remind prospective purchasers to consult with banks or financial institutions for the mortgage that can be approved before entering into any agreement.

## 反洗錢

為加深持牌人對反洗錢及反恐怖分子資金籌集（「反洗錢」）議題的認知，我們會在《專業天地》這個「反洗錢專區」為大家提供有關反洗錢的不同資訊及最新消息。

To enhance licensees' knowledge on the subject of anti-money laundering ("AML") and counter-terrorist financing ("CTF"), we will provide various information and updates about AML in the "AML Corner".

# 反洗錢及反恐融資責任指導計劃

## AML & CTF Responsibilities Guidance Programme

有關反洗錢及反恐怖分子資金籌集的法定規定已延伸至指定非金融業人士 (DNFBPs)，當中包括地產代理行業。為協助地產代理履行相關制度下的監管要求，監管局在2021年進行了一項外展教育計劃 - 「反洗錢及反恐融資責任指導計劃」。

在該計劃下局方人員到訪一些地產代理商舖，為持牌人就處理買賣交易而進行的客戶盡職調查和記錄備存責任提供面對面的指導。

因應業界對該計劃的正面評價，局方擬繼續推行該項計劃，以增強持牌人的合規意識及加強他們對執業通告(編號18-01(CR))所載反洗錢/反恐怖分子資金籌集規定的認識。

To assist estate agents in fulfilling the regulatory requirements under the new AML/CTF regime, which has been extended to designated non-financial businesses and professions (DNFBPs), including estate agents, the EAA launched an outreach educational programme - "AML & CTF Responsibilities Guidance Programme" in early 2021.

Under the programme, EAA staff visited a number of estate agency shops to provide face-to-face guidance to licensees on conducting customer due diligence and record-keeping for the sale and purchase transactions handled by them.

As the feedback from the trade is positive, we are planning to continue the programme so as to enhance licensees' compliance awareness and strengthen their conversance with the regulatory requirements under the relevant Practice Circular (No.18-01 (CR)).



在《專業天地》內，我們會解答持牌人的一些常見提問。

In *Horizons*, we will answer questions commonly asked by licensees.

**問** 《業主與租客（綜合）條例》（「《條例》」）第IVA部已於2022年1月22日生效，監管局會否提供一份標準租賃協議樣本適用於受《條例》第IVA部所規管的「劏房」租賃（即「規管租賃」）供持牌人採用？

**答** 由於租賃協議屬商業合約，「規管租賃」的業主及租客在不抵觸《條例》條文（包括但不限於每項「規管租賃」隱含的強制性條款）的情況下，可自由協商「規管租賃」的條款。因此，監管局不會提供「規管租賃」的標準租賃協議樣本供持牌人採用。

然而，政府已擬備一份《條例》第IVA部適用的「規管租賃」的租賃協議範本作一般參考之用，持牌人可於差餉物業估價署的網頁（[www.rvd.gov.hk/tc/our\\_services/part\\_iva.html](http://www.rvd.gov.hk/tc/our_services/part_iva.html)）下載。

持牌人可建議「規管租賃」的業主及租客使用範本並因應其情況對範本作適當的修訂（強制性條款除外）。若業主或租客對如何應用或詮釋範本內的條文有疑問，持牌人應建議客戶考慮徵詢法律或其他專業意見。

（備註：租賃如符合以下所有條件，即屬《條例》第IVA部下的「規管租賃」：

- (a) 租賃在2022年1月22日當日或之後開始；
- (b) 租賃屬住宅租賃；
- (c) 租賃中的處所屬分間單位；
- (d) 租客是自然人；
- (e) 租賃的目的是作為租客本身的住宅；及
- (f) 租賃並非《條例》附表6指明的其中一種租賃。）

**Q** Part IVA of the Landlord and Tenant (Consolidation) Ordinance (“Ordinance”) came into effect on 22 January 2022. Will the EAA provide a standard form of tenancy agreement for a tenancy relating to a subdivided unit (“SDU”) which is subject to the tenancy control regime under Part IVA of the Ordinance (i.e. “regulated tenancy”) for licensees’ use?

**A** Since tenancy agreements are commercial contracts, as long as it is not inconsistent with the provisions of the Ordinance (including but not limited to the mandatory terms implied into every “regulated tenancy”), the landlord and tenant of a “regulated tenancy” are free to negotiate the terms of the “regulated tenancy”. As such, the EAA will not provide a standard form of tenancy agreement for a “regulated tenancy” for licensees’ use.

However, the Government has prepared a template for tenancy agreement for a “regulated tenancy” to which Part IVA of the Ordinance applies for general reference purpose. Licensees can download it from the webpage of the Rating and Valuation Department ([www.rvd.gov.hk/en/our\\_services/part\\_iva.html](http://www.rvd.gov.hk/en/our_services/part_iva.html)).

Licensees may invite the landlord and tenant of a “regulated tenancy” to use and adapt the template with such modifications as appropriate (except mandatory terms) to suit their own circumstances. If they have doubts about how the provisions in the template are to be applied or interpreted in their cases, licensees should recommend them to consider seeking legal or other professional advice.

(Remark: A tenancy which fulfills the following conditions is a “regulated tenancy” under Part IVA of the Ordinance:

- (a) it commences on or after 22 January 2022;
- (b) it is a domestic tenancy;
- (c) the subject premises of the tenancy are a SDU;
- (d) the tenant is a natural person;
- (e) the purpose of the tenancy is for the tenant’s own dwelling; and
- (f) it is not one of the tenancies specified in Schedule 6 to the Ordinance.)

監管局即將推出的持續專業進修計劃活動  
Upcoming CPD activities offered by the EAA

日期 Date	課程名稱 Course title	講者 Speaker	語言 Language	類別 Category
實務證書課程				
31/5/2022	地產代理的責任 — 恰當及誠信行為	監管局法律顧問 梁耀光先生	廣東話	合規及有效管理
14/6/2022	優質客戶服務與 正向思維	客戶服務培訓顧問 朱浩雲先生		
網絡研討會 Webinars				
28/4/2022	地產代理業防止賄賂措施 (前線代理)	廉政公署代表	廣東話	合規及有效管理
29/4/2022	英國房地產市場，買賣 流程及注意事項	皇家測量師學會代表		全面提升發展
19/5/2022	認識買賣農地			
9/6/2022	Corruption Prevention Measures for Estate Agency Industry (Frontline Practitioners)	ICAC Representative	English	Compliance and Effective Management

詳情請瀏覽《持續專業進修計劃》的網頁。  
For details, please visit the webpage of the CPD Scheme.

## 其他活動

### 香港個人資料私隱專員公署主辦活動

#### 條例簡介講座 (\*以視像形式進行)

日期	時間	語言	課程費用
21/4/2022	15:00-16:30	粵語	免費
12/5/2022			

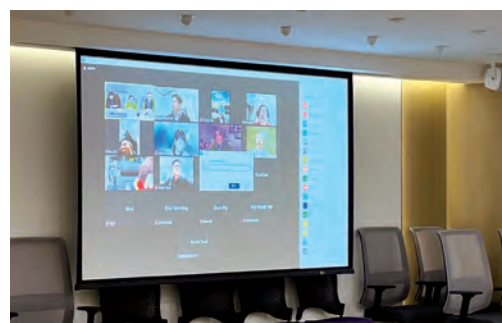
查詢電郵：training@pcpd.org.hk  
查詢電話：2877 7130



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監管局以視像會議形式與業界主要代表舉行聯絡會議。除了監管局向業界介紹有關處理劏房租賃的新執業通告外，運輸及房屋局代表亦有出席會議，以了解業界對消費者委員會提出有關銷售香港境外物業報告的建議之意見。

The EAA holds a liaison meeting with major trade representatives through video conferencing. In addition to introducing the new Practice Circular on handling the tenancy of subdivided units to the trade by the EAA, representatives from the Transport and Housing Bureau also attend the meeting to understand the trade's views regarding the recommendations proposed in the report of the Consumer Council on the sale of uncompleted properties situated outside Hong Kong.



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1  
2022

為減低2019冠狀病毒病在社區擴散的風險，監管局的新聞發布會以網上直播形式進行。監管局主席及行政總裁於網上提問環節回應傳媒提問。

In order to reduce the risk of the spread of COVID-19 in the community, the EAA press conference is conducted in online live format. The EAA Chairman and Chief Executive Officer respond to the questions raised by the press during the online Q&A session.



11  
2  
2022

監管局行政總裁韓婉萍女士接受新城財經台的網上訪問，談及局方在疫情下的特別工作安排及投訴數字。此外，訪問中亦談及有關劏房租賃的新執業通告及銷售境外物業等議題。

Ms Ruby Hon, the EAA's Chief Executive Officer, attends an online interview by Metro Finance Radio. She talks about the EAA's special work arrangement under the pandemic and the figures of complaints. Besides, the new Practice Circular about the tenancy of subdivided units and the sale of non-local properties are also brought up during the interview.



12/2010

監管局接待成都市房地產經紀協會的代表團。

The EAA receives delegates from the Chengdu Real Estate Broker Association.



11/2012

為慶祝成立15周年，監管局首次舉辦專業論壇，探索地產代理業界的發展方向。

In celebration of the EAA's 15<sup>th</sup> Anniversary, the EAA held the first professional forum to explore the development direction for the estate agency trade.

2/2018

監管局舉行春茗，一眾管理層向傳媒朋友拜年。

The EAA holds a luncheon to celebrate Chinese New Year with journalists.



## 考試 Examinations

營業員資格考試（電腦應考模式） Salespersons Qualifying Examination (Computer-based)	
參加人數 No. of candidates	合格率 Pass rate
考試日期 Examination date 12/2021	
202	35.6%
考試日期 Examination date 1/2022	
170	34.7%

營業員資格考試（筆試應考模式） Salespersons Qualifying Examination (Paper-based)	
參加人數 No. of candidates	合格率 Pass rate
考試日期 Examination date 12/2021	
1,791	23.6%

## 牌照數目 (截至2022年2月28日) Number of licences (As at 28/02/2022)

營業員牌照 Salesperson's Licence	23,316
地產代理(個人)牌照 Estate Agent's Licence (Individual)	19,092
個人牌照總和 Total no. of Individual Licences	42,408
地產代理(公司)牌照 Estate Agent's Licence (Company)	3,933

## 營業詳情說明書 (截至2022年2月28日) Number of statements of particulars of business (As at 28/02/2022)

合夥經營 Partnerships	161
獨資經營 Sole proprietorships	1,564
有限公司 Limited companies	5,470
總數 Total	7,195

## 開立的投訴 (2022年1月至2月) Number of complaint cases opened (January to February 2022)

36
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## 已處理的投訴個案結果\* (2022年1月至2月) Results of completed complaint cases\* (January to February 2022)

其他(例如投訴人撤回投訴或  
因其他原因而終止調查)  
Others (include cases  
withdrawn or closed  
because of other reasons)

資料不足  
Insufficient  
information to  
pursue

指稱不成立  
Unsubstantiated



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

## 巡查次數 (2022年1月至2月)

## Number of compliance inspections

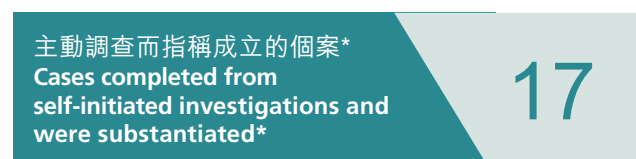
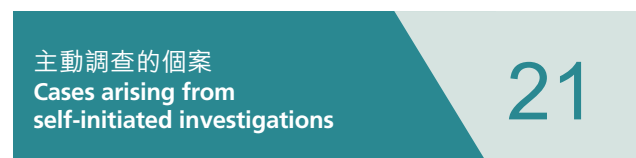
(January to February 2022)



## 巡查發現主動調查的個案 (2022年1月至2月)

## Number of cases arising from self-initiated investigations during inspections

(January to February 2022)

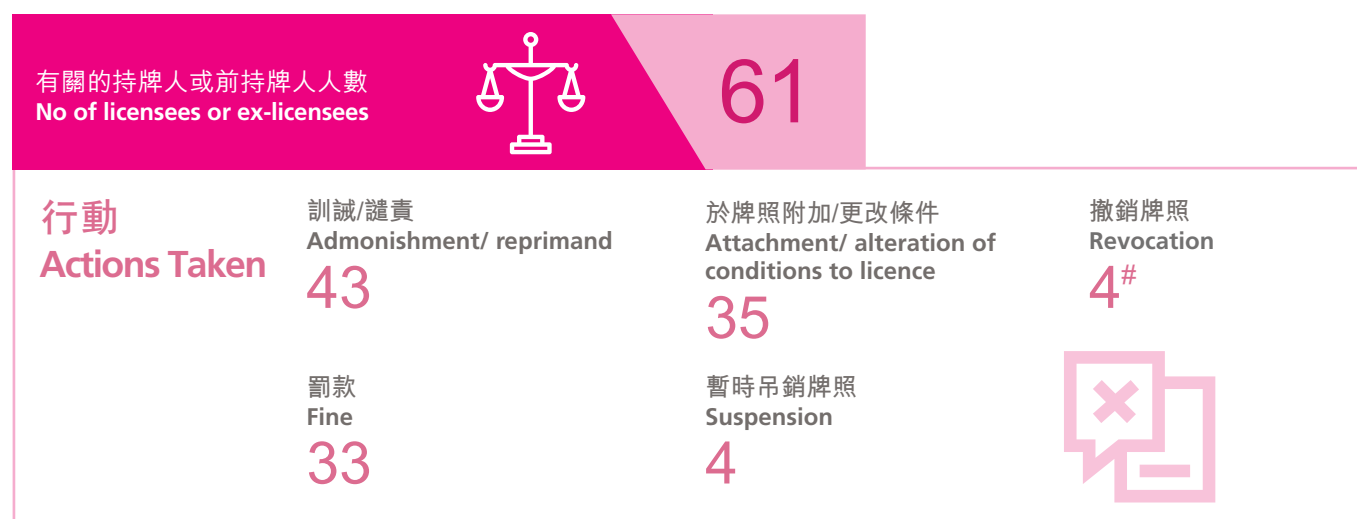


\* 部分是往年展開調查的個案  
Some cases were carried over from previous years



## 向持牌人或前持牌人採取的行動\* (2022年1月至2月)

## Actions taken against licensees or ex-licensees\* (January to February 2022)



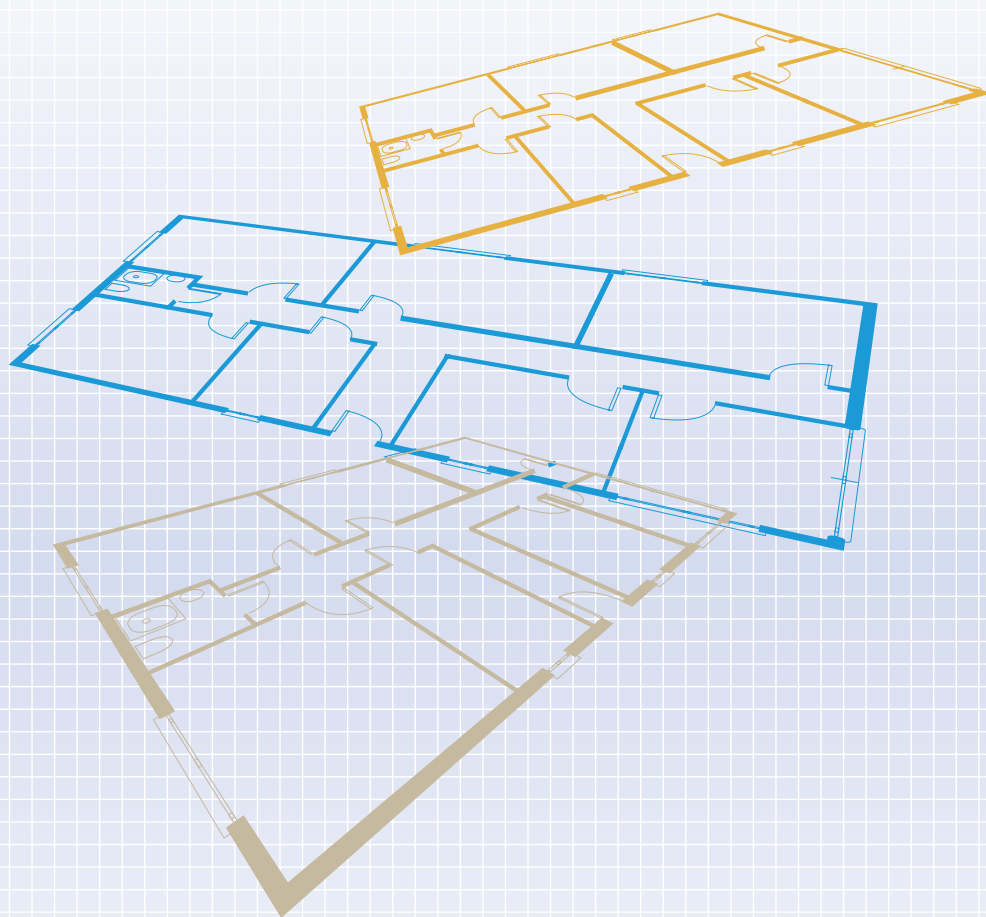
\* 以上行動是根據《地產代理條例》所賦予的權力而採取的。當中部分行動屬紀律性質，其他則是由牌照委員會裁定的，包括在批出牌照時在牌照上附加條件。部分是往年接獲的個案。

\* These actions were taken pursuant to powers under the Estate Agents Ordinance. Some actions were disciplinary in nature whereas others were decided by the Licensing Committee which actions included the attachment of conditions to licences upon issuance. Some cases were carried over from previous years.


# 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 met the relevant licensing requirements.





**EAA** 地產代理監管局  
ESTATE AGENTS AUTHORITY

 (852) 2111 2777

 [www.eaa.org.hk](http://www.eaa.org.hk)

