

在《專業天地》內，我們會分享近期常見的投訴個案或違規情況，作為對持牌人的提醒。

In *Horizons*, we will share some recent common complaints or malpractice as a reminder to licensees.

**臣** 管局早前接獲懷疑有無牌人士涉嫌從事地產代理工作及有地產代理公司涉嫌僱用非持牌人士作為營業員的投訴。

個案中，有懷疑非持牌人士涉嫌於地產代理公司的店舖外或一手住宅銷售點向潛在買家介紹物業以招攬生意；亦有地產代理公司涉嫌僱用非持有有效牌照人士為營業員，並於物業廣告上顯示該人士的姓名及其已失效的牌照號碼。

根據《地產代理條例》第15及16條，任何人士未持有由監管局批出的有效牌照，不得從事地產代理工作，否則可能犯罪。此外，根據第39條，任何持牌地產代理僱用或繼續僱用當其時並非持有有效地產代理或營業員牌照的人作為營業員，亦可能犯罪；而根據第42條，如證實有關罪行是在該持牌地產代理公司的管理層的一名董事或其他高級人員的同意或縱容下干犯，則該董事或該其他高級人員亦可能犯了同樣的罪行。

此外，根據監管局執業通告（編號18-03（CR）），地產代理公司不得調派非持牌員工到一手樓盤銷售點進行任何形式的推廣活動，而所有調派往一手樓盤銷售點的員工均須佩戴地產代理證及/或職員證，以作識別。

監管局曾揭發一宗涉及一名前持牌人於其牌照失效期間處理租賃交易的個案。該個案經法院審理後，該前持牌人最終被裁定干犯違反《地產代理條例》第16條而被定罪，被判處10天監禁，緩刑12個月，並留有案底。

監管局藉此提醒持牌人，當其牌照失效後切勿從事地產代理工作；而地產代理公司亦須確保其營業員持有有效的牌照，否則雙方均有可能違反相關法例而被定罪。

The EAA recently received complaints concerning suspected unlicensed individuals engaging in estate agency work and estate agency companies suspected of employing unlicensed persons as salespersons.

In these cases, the suspected unlicensed individuals were allegedly introducing properties to potential purchasers outside estate agencies shops or solicit business at the first-sale sites. There were also allegations that estate agency companies employed individuals without valid licences as salespersons and displayed the names of these unlicensed individuals along with their expired licence numbers in property advertisements.

Under Sections 15 and 16 of the EAO, any individual who does not hold a valid licence issued by the EAA is prohibited from engaging in estate agency work and doing so may commit a criminal offence. Under Section 39, any licensed estate agent that employs or continues to employ individuals without valid estate agent's or salesperson's licences may commit an offence. Furthermore, under Section 42, if it is confirmed that the offence was committed with the consent or connivance of a director or other officer in the management of the licensed estate agency company, the person concerned may also commit the same offence.

According to the EAA's practice circular (No. 18-03(CR)), estate agency companies must not assign any unlicensed staff to first-sale sites for any form of promotional activities. All staff deployed to the first-sale sites must wear an estate agent card and/or a staff card for identification.

The EAA previously uncovered a case involving a former licensee who handled leasing transactions after his licence had expired. After the case was heard by the Court, the former licensee was convicted of contravening Section 16 of the EAO, and was sentenced to 10 days' imprisonment suspended for 12-month, and left with a criminal record.

The EAA reminds licensees not to engage in estate agency work after their licences have expired. Estate agency companies must also ensure that their salespersons hold valid licences. Otherwise, both parties may violate the relevant laws and be convicted of criminal offences.