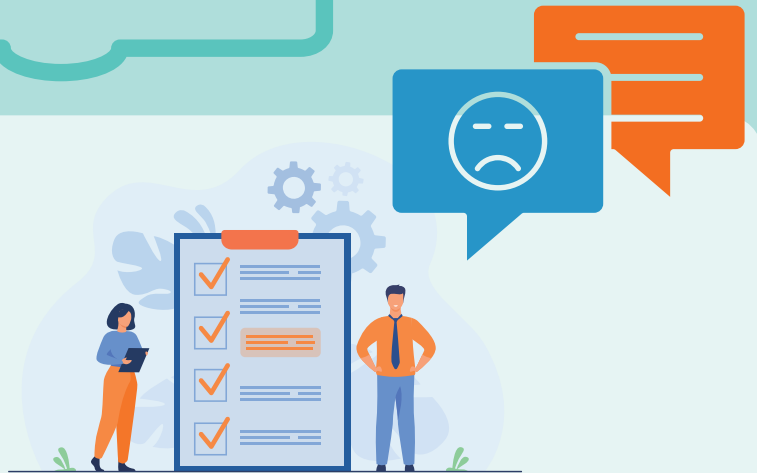


在《專業天地》內，我們會分享近期常見的投訴個案或違規情況，作為對持牌人的提醒

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



持牌人進行任何地產代理業務的活動都必須守法循規，不但要遵守《地產代理條例》(《條例》)、其附屬法例、《操守守則》及監管局發出的執業通告，同時也必須遵守其他相關的法例。地產代理公司亦有責任設立妥善的程序或制度進行監督和管理工作，確保僱員及轄下的人遵守法規，避免做出可能令地產代理行業信譽及／或名聲受損的行為。

監管局接獲九龍城區議會轉介居民的投訴，指有地產代理於何文田區內公眾地方張貼宣傳海報，攔截途人推銷，對居民構成滋擾。監管局在9月執行巡查期間，發現一名持牌人在公眾地方張貼街招廣告，涉嫌違反《公眾衛生及市政條例》第104A條、監管局發出的執業通告(通告編號09-04(CR))及《操守守則》第3.7.2段；另有一名無牌人士向途人推銷樓盤，涉嫌違反《條例》第16條的刑事罪行，而僱用其之地產代理公司及管理層則涉嫌違反《條例》第39條，即僱用非持牌人士作為營業員的刑事罪行，監管局已將個案轉介警方作刑事調查。

同時，當日監管局職員在執行職務時，相關人士採取不合作態度，妨礙監管局職員工作，警方隨後到場協助監管局職員。監管局在此提醒，根據《條例》第55(1)(j)條，任何人無合理辯解而在監管局或任何人行使或執行其任何職能時妨礙監管局或該人，即屬犯罪。因此，監管局已要求警方跟進。

監管局非常重視持牌人行事操守。過往曾有持牌人因在公眾地方張貼多張街招廣告而被紀律委員會重罰超過8萬元。個人的違法行為不僅會招致相應的法律及紀律制裁，亦損害地產代理行業聲譽。地產代理公司及其管理層亦必須做好把關工作，妥善監督和管理轄下人員。

Licensees must conduct estate agency business activities in accordance with the law and regulations. They must comply not only with the Estate Agents Ordinance ("EAO"), its subsidiary legislation, the *Code of Ethics*, and the Practice Circulars issued by the EAA, but also all other relevant laws. Estate agency companies also have a responsibility to establish proper procedures or systems for supervision and management to ensure that their employees or persons under their control comply with the law and regulations, and avoid any practice which may bring discredit and/or disrepute to the estate agency trade.

The EAA received a complaint from residents referred by the Kowloon City District Council alleging that estate agents posted promotional posters in public places and intercepted passers-by to solicit business in Ho Man Tin, causing a nuisance to residents. During an inspection in September, the EAA discovered a licensee posting advertisements in a public place, suspected of violating Section 104A of the Public Health and Municipal Services Ordinance, the Practice Circular (No. 09-04(CR)) issued by the EAA and paragraph 3.7.2 of the *Code of Ethics*. An unlicensed person was also found pitching real estate listings to passers-by, suspected of violating Section 16 of the EAO, which is a criminal offence. The estate agency company employing the unlicensed person and its management are suspected of violating Section 39 of the EAO by employing an unlicensed person as a salesperson. The EAA has referred the case to the Police for criminal investigation.

On that day, when the EAA staff were carrying out their duties, some of the involved individuals adopted an uncooperative attitude and obstructed the EAA staff performing their duties. Police officers subsequently arrived at the scene to assist the EAA staff. The EAA hereby reminds that pursuant to Section 55(1)(j) of the EAO, any person, without reasonable excuse, obstructs the EAA or any person in the exercise or performance of any of its or his functions commits an offence. The EAA has therefore requested the Police to follow up on the matter.

The EAA attaches great importance to the conduct of licensees. Previously, a licensee was heavily fined over \$80,000 by the Disciplinary Committee for posting numerous advertisements in public places. Individual unlawful acts not only incur legal and disciplinary sanctions but also damage the reputation of the estate agency trade. Estate agency companies and their management must perform a gatekeeping function, exercising proper oversight and supervision over persons under their control.