



Estate Agents Authority reminds practitioners to pay special attention to properties with alienation restrictions

(10 August 2004) The Estate Agents Authority (the EAA) is aware that some landlords of Home Ownership Scheme flats have rented out their properties before the alienation restriction is removed. It is also suspected that such transactions have been facilitated with the assistance of estate agents.

2. A spokesman of the EAA explains that “according to the Housing Ordinance, flats which are under the Home Ownership Scheme, the Private Sector Participation Scheme and the Tenants Purchase Scheme of the Hong Kong Housing Authority, may not be sold, leased or re-mortgaged before the alienation restriction is removed.”

3. The spokesman further points out that “ the EAA has issued circulars to remind estate agents to pay particular attention while handling flats which are subject to alienation restriction. Whether the properties being listed is for sale or lease, practitioners must clarify with the vendor whether the alienation restriction of the flat has been removed, or whether arrangement has been made for its removal.”

4. Section 17B of the Housing Ordinance stipulates that any agreement purporting to assign or otherwise alienate such flats in contravention of the requirements of the Housing Ordinance shall be void. Further, section 27A of the Ordinance provides that a person who purports to assign or alienate such flats or enter into an agreement relating to the same shall commit an offence. Landlords, prospective buyers and tenants therefore should understand their respective obligations. Estate agents are reminded that any person who aids or abets the commission of the offence might be guilty of the same offence.

5. Earlier today (10 August 2004) the EAA had a meeting with representatives of five major estate agency trade associations. The Authority emphasised at the meeting that practitioners, when accepting listings of Home Ownership Scheme properties and other properties which are subject to alienation restrictions, should note the relevant terms and conditions carefully and advise their clients accordingly. Representatives of the trade associations were unanimously in agreement



with the Authority and promised to disseminate the message to their respective members to help prevent practices that might breach the law.

6. The spokesman adds that “ apart from the practice circulars, the EAA will revive the seminars for estate agents at which representatives of the Housing Department will explain in detail the alienation restriction under the Housing Ordinance and procedures leading to its removal. Video recordings of previously held seminars on this topic are kept at the EAA Resource Centre and are available for viewing by estate agents and the general public. Reservation may be made by calling the Resource Centre at 2151 2900.”

7. At the EAA’s meeting with the trade associations, discussion was also focused on the maintenance of order at first-sale sites, the release of incorrect market information by some practitioners and the unlicensed operation of shops. The EAA attaches great importance to all these issues and follow-up actions will be taken as appropriate.

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