

Legislative Council Panel on Housing

An overview of the work of the Estate Agents Authority

Purpose

This paper gives an overview of the work of the Estate Agents Authority (EAA)⁽¹⁾.

Background

2. Estate agents can promote the orderly operation of the property market in Hong Kong. The quality of their service has a direct bearing on the transparent and fair conduct of property transactions.
3. Following the enactment of the Estate Agents Ordinance and the establishment of EAA in 1997, estate agents in Hong Kong have been brought under a statutory regulatory regime.

EAA's Work and New Initiatives

4. The major functions of EAA are to regulate and control the practice of the estate agency trade, to promote the integrity and competence of practitioners, and to enhance their status.
5. In its early years, EAA focused its efforts on establishing a structure for examination, licensing and regulation. Building on this foundation, EAA aims to strengthen oversight and promote professionalism in the estate agency sector in the years to come.

⁽¹⁾ EAA is an independent statutory body set up in November 1997 under the Estate Agents Ordinance (Cap 511). It is currently operating on a self-financing basis. The 20 members of EAA are appointed by the Chief Executive of the Hong Kong Special Administrative Region and consist of the Chairman, the Vice-Chairman and 18 Ordinary Members from various sectors of the community, including five from the estate agency trade.

(i) ***Examinations and licensing***

6. Any individual or company carrying out estate agency work in Hong Kong must hold a valid licence⁽²⁾.

7. The number of licensees fluctuates along with the property market. With the revival of the market over the past two years, the number of licensees has surged, as follows:

	Estate Agent⁽⁴⁾ (Individual)	Salesperson⁽⁴⁾	Total	Estate Agent (Company) and SPOB⁽⁵⁾
2005 ⁽³⁾	9,580	12,304	21,884	3,860
2004 ⁽³⁾	9,166	9,509	18,675	3,341
2003 ⁽³⁾	8,937	6,516	15,453	2,982

8. Though more and more individuals with higher educational credentials are now entering the trade, the overall educational standard of licensees remains generally low. Currently, about 20% of the licensees have tertiary level education while the educational level of 13% of the licensees is below Form 5.

9. To raise the overall standard of practitioners in the longer term, it is necessary to ensure that new entrants are knowledgeable about all major areas of estate agency work so that they can competently discharge their duties.

(2) To be eligible for an Estate Agent's or a Salesperson's licence, an individual must

- be at least 18 years of age;
- fulfil the "fit and proper" requirement;
- have completed Form 5 or its equivalent; and
- have passed the relevant qualifying examination within 12 months immediately prior to the date of his/her application.

(3) As at 31 December of the specified year.

(4) Both licensed Estate Agents and Salespersons may perform estate agency work. Each estate agency business shall be under the effective control of a manager. Only licensed Estate Agents, but not licensed Salespersons, may be appointed as managers.

(5) That is, Statement of Particulars of Business. According to the law, all estate agents must obtain a SPOB for each place of business.

10. Hence, EAA revamped the Estate Agents Qualifying Examination in July 2005, introducing a new format, wider scope and more in-depth case studies. The pass rate for the examination has dropped significantly since the change⁽⁶⁾. It is hoped that future candidates will prepare better for the examination.

11. In a bid to further ensure that only those who have the required professional knowledge and skills enter the trade, EAA will also raise the level of the Salespersons Qualifying Examination in July this year.

(ii) Law enforcement

12. Practitioners' compliance with the law is of paramount importance. EAA adopts the following measures :

- (a) Issue practice circulars to provide guidelines and directives on estate agency practice as and when necessary⁽⁷⁾.
- (b) Investigate complaints from the public about alleged breaches of the law or misconduct by licensees.
- (c) Conduct compliance checks at estate agency shops and first-sale sites.

13. The number of complaint cases received by EAA has gone up considerably in recent years. Details are as follows:

	Complaint cases
2005	746
2004	588
2003	496

The nature of the complaints has been varied, such as providing wrong, misleading or inadequate information about a property, failing to provide land search documents, and failing to sign or explain an estate agency agreement, failing to explain the provisional sale and purchase agreement or tenancy agreement.

⁽⁶⁾ From 2004's average of 42% to an average of 21% for the two examinations held in the second half of 2005.

⁽⁷⁾ In 2005, EAA issued eight Practice Circulars which covered a variety of areas, including agents' practice at first-sale sites.

14. In 2005, EAA completed investigations into a total of 689 complaint cases⁽⁸⁾, of which 142 (21%) were substantiated.

15. With regard to compliance checks, action was stepped up at first-sale sites in 2005 as a result of more first-sales and growing public concern about order at first-sales sites. Details are as follows:

	Compliance checks at first-sale sites	Compliance checks at agency shops	Total
2005	983	405	1,388
2004	490	477	967
2003	662	350	1,012

16. In 2005, a total of 178 cases of non-compliance were uncovered and substantiated. These mainly involved unlicensed estate agency work, issuing advertisements about a property without the vendor's consent, advertising at a price different from the vendor's instructions, and failing to possess information about the property.

(iii) Exercise of disciplinary powers

17. EAA exercises disciplinary powers in accordance with the law. EAA's Disciplinary Committee will consider each and every suspected case of non-compliance in a fair and just manner, and determine whether an Inquiry Hearing is necessary. At the hearing, the licensee concerned has the opportunity of being heard and may engage a lawyer to represent him/her.

18. Over the years, a series of disciplinary sanctions have been meted out to licensees, including reprimand or admonishment, fines, attachment or variation of conditions to licences, and suspension or revocation of licences. In 2005, a total of 33 licences were revoked or suspended. Details are as follows⁽⁹⁾:

⁽⁸⁾ Some cases were carried over from previous years.

⁽⁹⁾ Including action taken on bankrupt licensees. For some minor non-compliance, EAA issues warning letters or advisory letters.

	Licences revoked	Licences suspended	Licences with conditions attached/ varied	Fine imposed	Admonishment/ Reprimand
2005	5	28	124	11	18
2004	1	16	93	20	6
2003	14	21	170	4	6

In determining the appropriate sanction, the Disciplinary Committee will take into account a number of factors including the evidence submitted and arguments presented, the seriousness of the breach, the licensee's attitude and his/her track record, and other mitigating factors.

19. Where appropriate, cases involving potential criminal offences will be referred to other relevant law enforcement agencies for further action.

(iv) Professional development

20. Continuing professional development (CPD) is practised in many regulated industries in Hong Kong and mandatory participation is the norm. To encourage estate agency practitioners to acquire more knowledge and skills on an ongoing basis, EAA launched the CPD Scheme in May 2005. The scheme is being run on a voluntary basis.

21. Under the scheme, all licensees are encouraged to earn at least 10 CPD points (about 10 learning hours) each year. Attainment certificates will be awarded to those who meet the 10-point target and these practitioners will be allowed to print an EAA-endorsed CPD attainment symbol on their business cards.

22. So far, EAA and other organisations including educational/ training institutes, trade associations and individual agencies⁽¹⁰⁾ have conducted over 70 CPD activities, about half of which were free of charge. EAA will continue to organise more free and web-based activities, as well as arrange seminars and workshops in districts close to practitioners' places of work. EAA will also encourage other organisations to provide varied CPD activities for the trade. It is hoped that implementation of the CPD Scheme will in the longer term enhance the competence of practitioners and the currency of their professional knowledge.

⁽¹⁰⁾ EAA reimburses \$2,500 of the accreditation fee paid by CPD course providers, including trade associations and agencies, for each CPD activity accredited by the Hong Kong Council for Academic Accreditation

(v) ***Community education***

23. As the examination, licensing and regulatory systems of the estate agency trade have been in place for eight years, EAA deems it important to promote public awareness of their legal rights and obligations in engaging estate agents in property transactions.

24. In the coming years, EAA will continue to devote resources to fostering community support for the work of EAA and understanding of the Estate Agents Ordinance through various activities and different media channels. Besides disseminating its messages through the print and electronic media, EAA will conduct more roadshows and community talks, and extensively distribute educational booklets and leaflets for consumer education.

25. It is hoped that members of the public will become more conscious of their rights and obligations when dealing with estate agents and, indirectly, raise the standard of service and professional conduct of the trade.

Conclusion

26. Looking ahead, EAA will continue to promote professionalism of the estate agency trade, and regulate the trade with vigour and in a fair and just manner.

Estate Agents Authority
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