

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), and new initiatives recently taken or planned to raise the standards of the estate agency trade.

Background

2. The quality of the service of estate agents has a direct bearing on the fair and transparent conduct of property transactions in Hong Kong.

3. The EAA is an independent statutory body set up in November 1997 under the Estate Agents Ordinance (EAO) (Cap 511)⁽¹⁾. Its principal functions are to regulate the practice of estate agency trade, promote integrity and competence of practitioners, and facilitate training for practitioners to ensure competence and proper standard of conduct.

4. In its early years, the EAA focused its efforts on establishing a structure for examinations, licensing and regulation. Core activities of the EAA now cover examinations, licensing, practice guidance, complaints investigation, compliance inspection, disciplinary sanctions, licensee training and community education.

EAA's work and new initiatives

(i) Examinations and licensing

5. Any individual or company carrying out estate agency work in Hong Kong must hold a valid licence⁽²⁾. The number of licensees is as

⁽¹⁾ The EAA is operating on a self-financing basis. The 20 members of the EAA are appointed by the Chief Executive of Hong Kong Special Administrative Region and comprise the Chairman, the Vice-Chairman and 18 Ordinary Members from various sectors of the community, including five from the estate agency trade.

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

follows:

Year⁽³⁾	Estate Agent⁽⁴⁾ (Individual)	Salesperson⁽⁴⁾	Total	Statement of Particulars of Business (SPOB)⁽⁵⁾
2005	9,580	12,304	21,884	3,860
2006	9,851	11,485	21,336	4,061
2007	10,251	11,519	21,770	4,093
2008 (1st quarter)	10,371	11,717	22,088	4,086

6. While the educational requirement for obtaining a licence is Form Five, more and more individuals with higher educational credentials are now entering the trade. Currently, about 24% of the licensees have tertiary level education, while the educational level of only about 8% of the licensees is below Form 5⁽⁶⁾.

7. It is important to ensure that only people with the necessary knowledge of estate agency work are admitted to the trade. Hence, the EAA revamped the Estate Agents Qualifying Examination and the Salespersons Qualifying Examination in 2005 and 2006 respectively, introducing a new format with a wider scope and more case studies of real-life situations. The EAA also produced a study guide in 2007 to provide a handy yet comprehensive reference on estate agency law and

requirements:

- 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. For 2008, as at 31 March.

⁽⁴⁾ Both licensed Estate Agents and Salespersons may perform estate agency work. Each place of 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⁾ According to the EAO, all estate agents must obtain a SPOB for each place of business.

⁽⁶⁾ These individuals were qualified for licences because of exemption measures introduced during the three-year transition period from 1999 to 2001.

practice for people interested in joining the trade.

8. In 2007, the average pass rate for the Estate Agents Qualifying Examinations was about 39%; the average pass rate for the Salespersons Qualifying Examinations was 47%.

(ii) Guidance on estate agency practice

9. As and when necessary, the EAA issues circulars to provide guidelines and directives on estate agency practice.

10. From 2006 to the first quarter of 2008, the EAA issued a total of 14 circulars covering a variety of topics, including the following:

- (a) land search;
- (b) disclosure of interest by estate agents;
- (c) unlawful transfer of clientele / listings;
- (d) duties of management in estate agencies;
- (e) order during first-sale of residential properties; and
- (f) accuracy of advertisement and property information on new residential projects.

11. In the next few months, the EAA will provide practice guidelines and directives to address issues of public and trade concern. These issues include anti-money laundering in property transactions, effective management of branch agency shops, and provision of accurate property information in promotion leaflets supplied by estate agents for first-sales.

(iii) *Complaints investigation*

12. Practitioners' compliance with the law is of paramount importance. The EAA investigates complaints from the public about alleged breaches of the law or misconduct by licensees. The number of complaint cases received by the EAA is as follows:

Year	Number of complaint cases
2005	746 (43)
2006	669 (80)
2007	608 (75)
2008 (1 st quarter)	163 (7)

() related to first-hand properties

13. The nature of the complaints varied, such as issuing misleading advertisements or giving false or inadequate property information, failing to conduct a land search or provide land-search documents, failing to enter into or explain an estate agency agreement, failing to explain the provisional sale and purchase agreement or tenancy agreement, and improper practices when dealing with Home Ownership Scheme flats or properties subject to building orders.

14. There have been an increasing number of cases of substantial complexity involving management and effective control issues. The EAA has to collect evidence from more sources in the course of investigations. In 2007, the EAA decided to invoke the investigative powers conferred on it under section 28 of the EAO, whereby EAA investigators may, in cases where an estate agency practitioner is suspected to have breached the EAO, require any person who has any documents containing information relevant to the investigation to produce the documents and to assist in the investigation⁽⁷⁾.

⁽⁷⁾ A Section 28 Investigation Committee was also set up to establish a fair and effective mechanism to exercise these powers.

15. In 2007, the EAA completed investigations into a total of 722 complaint cases⁽⁸⁾, of which 214 (about 30%) were substantiated.

(iv) Compliance inspection

16. Also, the EAA undertakes inspections related to sale of first hand properties and agency shops. Details are as follows:

Year	Compliance checks related to sale of first hand properties	Compliance checks at agency shops	Total
2005	978	405	1,383
2006	738	499	1,237
2007	724	980	1,704
2008 (1st quarter)	214	98	312

17. In 2007, a total of 80 cases of non-compliance were uncovered and eventually substantiated. These mainly involved unlicensed estate agency operation, issuing advertisement about a property without the vendor's consent, advertising a price different from the vendor's instructions, failing to possess property information when acting for the vendor, and poor order at first-sale sites.

18. The EAA requires estate agency practitioners to carry out their business in a law-abiding manner. Recently, the EAA has stepped up co-ordination with the Police. The EAA enforcement team has inspected agency shops to ascertain whether anti-money laundering measures have been taken. The EAA will also pass on to the Police any case in which estate agency practitioners may be involved in assisting vice syndicates to rent, purchase or sell properties used as vice establishments.

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

19. The EAA has strengthened its liaison with the Mass Transit Railway Corporation with a view to maintaining order at sales sites and nearby areas around train stations.

(v) *Exercise of disciplinary powers*

20. In cases where the EAA's investigation reveals the possibility of criminal offence, the EAA may refer such cases to the Police or other law enforcement agencies for follow-up action. Where the investigation discloses a breach of the EAO, the case is referred to the EAA Disciplinary Committee. The 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. Legal representation is allowed.

21. Over the past few years, a series of disciplinary sanctions have been meted out to licensees⁽⁹⁾. Details are as follows:

Year	No. of inquiry hearings	Disciplinary sanction				
		Admonishment/ Reprimand	Fine imposed	Licences with conditions attached/ varied ⁽¹⁰⁾	Licences suspended	Licences revoked
2005	65	18	11	64	28	5
2006	139	66	22	77	51	2
2007	210	177	35	105	36	1
2008 (1 st quarter)	32	30	10	19	3	0

⁽⁹⁾ For some minor non-compliance cases, the EAA issued advisory letters.

⁽¹⁰⁾ In addition, in connection with bankruptcy of licensees, conditions were attached to 60 licences in 2005, 79 in 2006, 75 in 2007 and 23 in 2008 (1st quarter) by virtue of EAA's exercise of power under section 17(3) of the EAO.

22. In determining the appropriate sanction, the Disciplinary Committee will take into account various factors, including the evidence submitted and arguments presented, the nature and gravity of the breach, the licensee's attitude and his/her previous disciplinary record, and other mitigating factors.

(vi) Licensee training

23. To encourage estate agency practitioners to acquire more knowledge and skills on an ongoing basis, the EAA launched a voluntary Continuing Professional Development (CPD) Scheme in May 2005.

24. Under the scheme, licensees are encouraged to earn at least 10 CPD points⁽¹¹⁾, including at least six points from core subjects, each year. Modes of learning include seminars, lectures, workshops, web-based learning and multi-session training activities. Attainment certificates are awarded to those who meet the 10-point target and these practitioners are allowed to print an EAA-endorsed CPD attainment symbol on their business cards.

25. So far, the EAA, educational / training institutes, trade associations and individual agencies have conducted over 1,000 CPD activities. The participation rate⁽¹²⁾ is as follows:

Year	No. of activities held	Enrolment	CPD points
2005	67	3,534	10,466
2006	486	27,327	75,374
2007	442	22,398	65,193

26. The trade has gradually adapted to the training regime and the response to many of the CPD activities has been positive. To meet the needs of the trade, the EAA will be strengthening training in the following areas in the next couple of months:

- (a) land-search case studies;

⁽¹¹⁾ About 10 learning hours

⁽¹²⁾ Figures for the 1st quarter of 2008 are not yet available / verified.

- (b) disciplinary case studies;
- (c) legal and practical knowledge for new entrants;
- (d) management skills for branch managers;
- (e) protection of data privacy;
- (f) anti-money laundering; and
- (g) language and business communication skills.

(vii) Community education

27. The EAA deems it important to promote the public's awareness of their legal rights and obligations in engaging estate agents in property transactions. Resources have been devoted to foster community support for the work of the EAA and understanding of the EAO through activities, media channels, educational booklets and leaflets, etc. To enhance public awareness of the key issues when purchasing first-hand properties, the EAA published jointly with the Consumer Council the *Notes to Purchasers of First-hand Residential Properties* in July 2007. The pamphlet is distributed at the sales offices of new residential developments together with the sales brochure. The EAA will continue to commit resources on public education.

Conclusion

28. Looking ahead, the EAA will continue to promote professionalism of the estate agency trade, and strengthen enforcement against malpractices and misconducts of practitioners with a view to enhancing protection of the interests of flat buyers.

**Estate Agents Authority
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