

Estate Agents Bill - An Analysis  
of Accessibility of Information  
Required under Section 37 (2)

Research and Library Services Division  
Legislative Council Secretariat  
January 1996

**Estate Agents Bill -  
An Analysis of Accessibility of Information  
Required under Section 37 (2)**

**Background**

At the request of the Bills Committee to study the Estate Agents Bill, the Research and Library Services Division of the Legislative Council Secretariat has undertaken a survey to find out the accessibility of official property information specified under Section 37 (2). Such information includes:

- a. Current ownership and subsisting incumbrances
- b. Floor area
- c. Year of completion
- d. User restrictions
- e. Lease expiry date and right of renewal
- f. Proposed lease terms
- g. Vendor statement on structural alterations

The time required and cost incurred in obtaining such information are also studied.

2. The survey was conducted during 11-17 January 1996, thus reflecting largely the current operation of the departments concerned. The methodology is given in the Appendix.

**Availability of property information**

3. Property information is mainly kept by three government departments. The Land Registry allows public access to all documents relating to properties in Hong Kong registered with the department. The Buildings Department issues Occupation Permits, approves building plans and structural calculations of most of the private-owned developments. Its records are open for public inspection. The Rating and Valuation Department also maintains information on the floor area and year of completion of a development but such information is restricted for internal use only.

Land Registry

4. Property information in the Land Registry is recorded in two forms. Land register contains information on the name of current owner, incumbrances, year of completion, lease expiry date and the right of lease renewal of the property. Memorials registered with the Land Registry provide information which may not be available from the land register, including total area, floor plan, lease expiry date, right of lease renewal and user restrictions.

5. At present, register inspection can be done either by on-line computer search, counter computer search or counter manual search. On-line computer search is accessible from 9:00 am - 6:00 pm, Monday to Friday and 9:00 am - 1:00 pm on Saturday. There is no direct access service on Sunday and public holidays. Memorial inspection must be done over the counter during working days or by remote ordering through direct computer access.

6. The Land Registry has nine offices. The Queensway Government Office maintains registers and memorials in respect of properties on Hong Kong Island, Kowloon and New Kowloon. Information on properties in other areas is kept in the seven regional offices scattering over the New Territories. Due to space limitations, some of the memorials in these regional offices are kept in their sub-offices which are located in their vicinity. There is another office in Central for keeping information on the Islands properties. All Land Registry offices operate from 9:00 am - 12:30 pm and 2:00 - 4:15 pm, Monday to Friday for property search. On Saturday, the opening hours are 9:00 - 11:45 am.

#### Buildings Department

7. The Buildings Department provides information on the usage, structural calculations and the building plan of a development. The public can view or request copies of the approved plans and Occupation Permit of a building from this department.

#### Rating and Valuation Department

8. For rating purpose, this department maintains the most updated information on the floor area of all the properties. It also records the property completion date for valuation purpose. Currently, their information is not open for public access.

#### Others

9. The District Survey Office of the Lands Department located in different districts provide the lot number for all properties in Hong Kong which is sometimes necessary for searching of records from the Land Registry and the Buildings Department.

#### **Availability of information listed under Section 37 (2) from the relevant government departments**

10. The following table shows the government departments and their documents involved in obtaining the individual property information items required under Section 37 (2) of the Estate Agents Bill.

Information required under Section 37 (2)	Documents containing data item kept by		
	Land Registry	Buildings Department	Rating & Valuation Department
Current ownership	<ul style="list-style-type: none"> <li>• Land register</li> <li>• Memorials</li> </ul>	<ul style="list-style-type: none"> <li>• Departmental record</li> </ul>	<ul style="list-style-type: none"> <li>• Rating advice</li> </ul>
Subsisting incumbrances	<ul style="list-style-type: none"> <li>• Land register</li> </ul>	<ul style="list-style-type: none"> <li>• Nil</li> </ul>	<ul style="list-style-type: none"> <li>• Nil</li> </ul>
Floor area	<ul style="list-style-type: none"> <li>• Agreement for Sale and Purchase</li> <li>• Assignment</li> <li>• Tenancy Agreement</li> </ul>	<ul style="list-style-type: none"> <li>• Building plan</li> </ul>	<ul style="list-style-type: none"> <li>• Departmental records</li> </ul>
Year of completion	<ul style="list-style-type: none"> <li>• Land register</li> <li>• Occupation Permit</li> </ul>	<ul style="list-style-type: none"> <li>• Occupation Permit</li> </ul>	<ul style="list-style-type: none"> <li>• Departmental records</li> </ul>
User restrictions	<ul style="list-style-type: none"> <li>• Crown Lease <sup>a</sup></li> <li>• Occupation Permit</li> <li>• Deed of Mutual Covenant</li> </ul>	<ul style="list-style-type: none"> <li>• Occupation Permit</li> </ul>	<ul style="list-style-type: none"> <li>• Nil</li> </ul>
Lease expiry date and right of renewal	<ul style="list-style-type: none"> <li>• Computerized register</li> <li>• Crown Lease</li> </ul>	<ul style="list-style-type: none"> <li>• Nil</li> </ul>	<ul style="list-style-type: none"> <li>• Nil</li> </ul>
Lease terms	<ul style="list-style-type: none"> <li>• Computerized register</li> <li>• Crown Lease</li> </ul>	<ul style="list-style-type: none"> <li>• Nil</li> </ul>	<ul style="list-style-type: none"> <li>• Nil</li> </ul>

Remarks:

- a. Including other similar types of documents such as Conditions of Exchange, Conditions of Regrant, Conditions of Sale, Conditions of Renewal, New Grant and Block Crown Lease.

11. It can be noted that information required under Section 37 (2) is available from several departments involving a large variety of documents.

## Survey findings

### I. Properties which have all specified information available from the Land Registry

12. As revealed by the survey, 30% of properties have all information specified under Section 37 (2) available from the Land Registry. For the remaining 70% of properties, further search of documents kept by the Buildings Department is necessary.

Source of information	No. of cases	% of total
Land Registry records only	150	29.6
Land Registry records + Buildings Department records	356	70.4
Total cases	506	100.0

13. Comparing the availability of information from the Land Registry in respect of the Urban, New Territories and the Islands properties, the table below shows that 74% of the Urban properties and 61% of the New Territories and Islands properties have to conduct search in both the Land Registry and the Buildings Department in order to get all the information listed under Section 37 (2).

Source of information	Urban properties		New Territories & Islands properties	
	No. of cases	% of total	No. of cases	% of total
Land Registry records only	96	26.1	54	39.1
Land Registry records + Buildings Departments records	272	73.9	84	60.9
Total cases	368	100.0	138	100.0

14. When the availability of information from the Land Registry is analysed by the year of completion of the developments, it can be noted that properties built after 1990 are more likely to have all information required under Section 37 (2) available from the Land Registry, but the percentage is only 68.5%.

Source of information	Year of completion									
	Before 1960		1960-69		1970-79		1980-89		1990 onwards	
	No.	%	No.	%	No.	%	No.	%	No.	%
Land Registry records	-	-	-	-	15	13.0	74	38.5	61	68.5
Land Registry records + Buildings Department records	16	100.0	94	100.0	100	87.0	118	61.5	28	31.5
Total cases	16	100.0	94	100.0	115	100.0	192	100.0	89	100.0

## II. Availability of individual information items

15. The following analyses the accessibility of individual information items required under Section 37 (2).

### *(a) Current ownership and subsisting incumbrances*

16. The name of current owner should be found in the land register. In case it is not available, it can be located by further searching of the related memorials.

17. Out of the 506 cases surveyed, 2 cases do not have the name of current owner appearing on the register. Further consultation of memorials is needed.

18. The subsisting incumbrances provide a summary of documents relating to the property which have registered with the Land Registry. These documents include court order, building order, mortgage and management charge, Agreement for Sale and Purchase, Assignment, Tenancy Agreement, Occupation Permit, Certificate of Compliance and Deed of Mutual Covenant.

19. Among the 506 surveyed cases, 503 cases (99.4%) have incumbrances. The following table indicates the availability of memorials which may contain the relevant information as required under Section 37 (2).

<b>Memorials listed under incumbrances</b>	<b>No. of cases</b>	<b>% of cases with such memorial available</b>
Agreement for Sale and Purchase with plan	255	50.4
Assignment with plan <sup>a</sup>	29	5.7
Tenancy Agreement with plan	7	1.4
Occupation Permit	181	35.8
Certificate of Compliance <sup>b</sup>	54	10.7
Completion Certificate	21	4.2

Remarks:

- a. Assignment with plan and Tenancy Agreement with plan will be counted only if Agreement for Sale and Purchase with plan is not available.
- b. Certificate of Compliance and Completion Certificate will be counted only if Occupation Permit is not available.

*(b) Floor area*

20. Out of 506 cases, 239 cases (47.2%) have floor plan/area found during the first visit to the Land Registry. For the remaining 267 cases (52.8%), most of them require consultation of floor plans kept by the Buildings Department. These plans provide the measurement but not the exact figure on the floor area.

21. For cases with floor plan/area available from the Land Registry, the following table shows the type of memorials inspected.

<b>Memorials inspected</b>	<b>No. of cases</b>	<b>% of cases with floor plan/area available</b>
Agreement for Sale and Purchase with plan	189	79.1
Assignment with plan	29	12.1
Tenancy Agreement with plan	6	2.5
Others <sup>a</sup>	15	6.3
<b>Total cases with floor plan/area available</b>	<b>239</b>	<b>100.0</b>

Remarks:

- a. Including Agreement for Sale and Purchase, Assignment, Deed of Mutual Covenant with plan.

22. Even if information on the floor area is available, 98% of the cases are presented in the form of floor plan which may not be easy to derive the saleable area accurately. The exact figure on floor area is available for six surveyed cases only. The following table indicates the format in which floor area is presented.

Total area presented in the form of	No. of cases	% of cases with floor area available
Floor plan	233	97.5
Exact figure on floor area <sup>a</sup>	6	2.5
Total cases with floor plan/area available	239	100.0

Remarks:

a. Including saleable area, gross area and net area.

(c) *Year of completion*

23. Out of the 506 surveyed cases, 233 (41.6%) cases have the year of completion found in the Land Registry. For 272 cases (53.9%), the year of completion can be estimated from other related memorials such as Deed of Mutual Covenant, Agreement for Sale and Purchase etc., though the estimates may be later than the actual year of completion. There is no information in the Land Registry for one case.

24. The following table shows the availability of year of completion, analysed by different ages of properties.

Source of information	Age of properties									
	Before 1960		1960-69		1970-79		1980-89		1990 onwards	
	No.	%	No.	%	No.	%	No.	%	No.	%
Directly shown on land register or Occupation Permit/Certificate of Compliance	-	-	-	-	31	27.0	120	62.5	82	92.1
Estimated from other related memorials	15	100.0	94	100.0	84	73.0	72	37.5	7	7.9
Total cases	15	100.0	94	100.0	115	100.0	192	100.0	89	100.0

25. The table above indicates that the year of completion of developments built after 1990 can be easily found. A large proportion of properties built before 1980 do not have information on the exact year of completion. Such information has to be estimated from other related memorials such as Deed of Mutual Covenant or Agreement for Sale and Purchase.



(d) *User restrictions*

26. There are different levels of user restrictions. The restrictions on the use of land where the property is erected can be found in the Crown Lease which is available in the Land Registry. The restrictions on the use of the building are prescribed in the Occupation Permit but may not be available from the Land Registry. In this case, further search is required at the Buildings Department. The general restrictions on the owner of the unit are given in the Deed of Mutual Covenant which may not be available in the Land Registry. Further search is also required.

27. The survey indicates the following:

	<b>Crown Lease (indicates restrictions on use of land)</b>		<b>Occupation Permit (indicates restrictions on use of building)</b>	
	No. of cases	% of total	No. of cases	% of total
Available from Land Registry	503	99.4	181	35.8
Not available from Land Registry	3	0.6	325	64.2
Total cases	506	100.0	506	100.0

(e) *Lease expiry date and right of renewal*

28. If the record has been computerized, this information will be shown on the computer printout. Otherwise, direct inspection of Crown Lease is necessary. The survey shows that such information is available for 502 out of 506 cases.

<b>Lease expiry date and right of renewal</b>	<b>No. of cases</b>	<b>% of total</b>
<b>Available from Land Registry</b>	<b>502</b>	<b>99.2</b>
Documents involved		
• Computerized register	494	97.6
• Sub-division register	1	0.2
• New Grant	6	1.2
• Crown Lease	1	0.2
<b>Not available from Land Registry</b>	<b>4</b>	<b>0.8</b>
<b>Total cases</b>	<b>506</b>	<b>100.0</b>

(f) *Lease terms*

29. Similar to the lease expiry date, the information will appear in the computer printout if the record has been computerized. Otherwise, further search on Crown Lease is required. Again, information for 502 out of 506 cases is available.

<b>Lease terms</b>	<b>No. of cases</b>	<b>% of total</b>
<b>Available from Land Registry</b>	<b>502</b>	<b>99.2</b>
Documents involved		
• Computerized register	494	97.6
• New Grant	7	1.4
• Crown Lease	1	0.2
<b>Not available from Land Registry</b>	<b>4</b>	<b>0.8</b>
<b>Total cases</b>	<b>506</b>	<b>100.0</b>

(g) *Vendor statement on structural alterations*

30. It is the vendor's responsibility to provide information on any structural alterations of a property to the estate agents. To verify statements made by vendors, building plans kept by the Buildings Department can be consulted but not all alterations need to be filed with the Department.

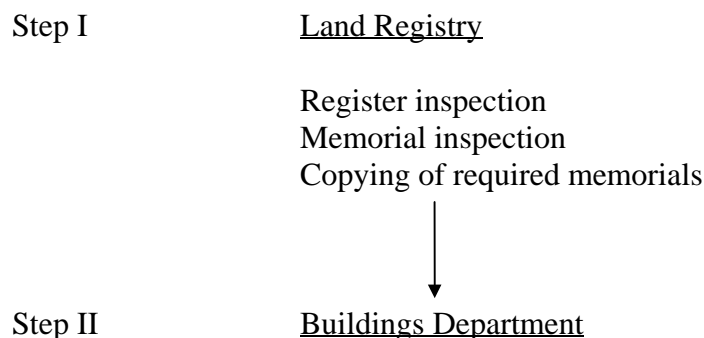
### III Other problems in property search

31. All records are in English and memorials are mostly legal documents. Searching of property information therefore requires knowledge of English and certain degree of understanding about the incumbrances and memorials.

32. There may be discrepancies between records kept by different departments because they may have used different English translations of the properties and the traditional Chinese vs Western floor numbering systems for certain properties, especially the old ones. Further consultation of the lot number at the District Survey Office is necessary to identify the right property.

#### **Procedures to obtain information on all items**

33. As point out in paragraph 10, property information is kept by different departments and in different documents. The searcher must first approach the Land Registry to obtain the land register, inspect and copy the related memorials. If floor plan, year of completion or Occupation Permit is not available, further search at the Buildings Department is required. The following summarizes the procedures to be followed in order to obtain all information specified under Section 37 (2).



#### **Time Required**

34. The time required for the above procedures is analysed below.

#### Land Registry

35. The time spent in the Land Registry for completing a search is given in the following table.

<b>Total time required (in minutes)</b>	<b>No. of cases</b>	<b>% of total</b>
Less than 30	151	29.8
30 - 59	146	28.9
60 - 119	186	36.8
120 and over	23	4.5
<b>Total cases</b>	<b>506</b>	<b>100.0</b>

36. The findings indicate that only one-third of the properties take less than half an hour to complete a search. The remaining two-thirds of the properties require 30 minutes to two hours to obtain the information available from the Land Registry.

37. As pointed out in paragraph 33, the search process involves several activities. The findings on the time spent on each activity are given below.

<b>Search process at Land Registry</b>	<b>Minimum (in minutes)</b>	<b>Maximum (in minutes)</b>	<b>Average (in minutes)</b>
Preparation <sup>a</sup>	Nil	45	5.7
Register inspection <sup>b</sup>			
• on-line computer <sup>c</sup>	1	28	2.5
• counter computer	1	145	28.6
• manual search	2	20	9.0
Memorial inspection	1	70	10.8
Copying	1	101	26.7
<b>Time taken to complete one search <sup>d</sup></b>	<b>1</b>	<b>205</b>	<b>51.6</b>

Remarks:

- a. Including looking up lot number from Street Index Table, consulting District Survey Office, completing necessary search forms etc.
- b. The survey has successfully completed 43 on-line computer searches, 451 counter computer and 12 counter manual searches.
- c. Including leased line and dial-up access. The later may take longer to log on due to heavy traffic of telephone network.
- d. Excluding travelling time.

38. As shown in the above table, the average time required to obtain information for one address at the Land Registry is 51.6 minutes. The minimum time needed is one minute when no document other than the computer printout is available. The maximum time required for completing a search is 3 hours and 25 minutes.

39. The above findings refer only to the net time spent at the Land Registry and have excluded travelling time. If a request is submitted in the late Saturday morning, register or memorials may be available on the following Monday. Such waiting time has also been excluded in the findings. For New Territories properties, the travelling time for inspecting memorials in sub-offices, which takes about 20 minutes, has been disregarded in this study.

### Buildings Department

40. As indicated in paragraph 12, 70% of the properties require searching of records in the Buildings Department to obtain information either on floor area, user restrictions or year of completion. According to the information provided by the department, it usually takes 10 days to obtain a copy of Occupation Permit and three to six weeks to view plans concerning a building. To obtain copies of specified plans will take another week.

41. To study the actual time involved in getting the information from the Buildings Department, four requests on viewing the floor plan of different properties were sent out by the Research and Library Services Division on 12 January 1996 and another two similar requests were sent on 17 January 1996. The floor plans are still not available for viewing.

42. In addition to the requests on viewing floor plan, two requests per day were sent out on 16 and 17 January 1996 ordering copies of Occupation Permits. Up to the time of compiling this report, two orders have been fulfilled and the time taken were 5 and 9 days including a weekend.

### **Cost Implications**

#### Land Registry

43. The cost involved in property search includes cost of inspecting the register and memorials.

Documents inspected	No. of cases	Cost		
		Urban properties <sup>a</sup>	New Territories & Islands properties <sup>b</sup>	
			Computer search	Manual search
Register only	67	\$15	\$15	\$10
Register + 1 memorial	174	\$25	\$25	\$20
Register + 2 memorials	156	\$35	\$35	\$30
Register + 3 memorials	109	\$45	\$45	\$40

Remarks:

- a. Memorial inspection is not available for Urban properties, but microfilm of the related memorial can be purchased at \$10 per copy. The above includes such charges.
- b. Microfilm is not available for such cases and photocopies are usually made. Photocopies are available at \$5 per A4 page and \$10 per A3 page. The above excludes photocopying charges.

44. The survey shows that the average cost involved in searching one address is around HK\$30.

45. Travelling and staff costs are excluded in the above analysis. For companies which prefer to carry out computer search at the office, on-line access to registers can be set up at a minimum cost of HK\$20,500, (which includes a HK\$5,000 application fee for one user identity number, HK\$3,000 for deposit) and US\$1,615 (HK\$12,500) for service connection and annual subscription. Additional user identity number costs HK\$1,000 each.

46. On-line access is available in both leased line and dial-up formats. Leased line connection means installing a separate data line for land search service. There is a communications line charge by Hong Kong Telecom. For dial-up access, subscribers will use the existing public switched telephone network and no additional charge is involved.

47. Other investments required for on-line access is the availability of personal computer and the appropriate software.

#### Buildings Department

48. The Buildings Department charges \$190 for one copy of Occupation Permit and \$320 for each page of building plan reproduced.

## Summary

49. Property search at present involves inspection of records in the Land Registry and the Buildings Department.

50. The survey shows that only 30% of properties have all information as required under Section 37 (2) available from the Land Registry. The remaining 70% of properties require further inspection of records kept by the Buildings Department. The low accessibility of information from the Land Registry is true for properties built even in the 1980s.

51. Some items specified under Section 37 (2) can easily be found in the Land Registry. They include current ownership and subsisting incumbrances, lease expiry date as well as terms, right of renewal and restrictions on land use. Other information items such as floor area, year of completion and usage of buildings are often not available from the Land Registry and further searches at the Buildings Department are required.

52. For items such as year of completion and floor area , even if information is available from the Land Registry, its accuracy is difficult to ensure. As regards records kept by the Buildings Department, only floor plans but not the exact figures on the floor area are available. In fact, information on floor area is maintained by the Rating and Valuation Department but is not released to the public at present.

53. For the 30% properties which have all information available at the Land Registry, the time involved to obtain the information during office hours is reasonable. However, non-working hours, weekends and public holidays will substantially prolong the time required as the register is not available for searching during those times. Also, for the remaining 70% of the properties which need further search at the Buildings Department, the time involved is significant. It takes about one week to obtain an Occupation Permit and around a month to view the building plan.

54. Other problems relating to property search, which include the searcher's understanding of the register and memorials as well as discrepancies in building names and floor number used by different departments are also causes for concern.

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### Methodology

#### Sample

##### *Residential properties*

55. A representative sample of all residential living quarters in Hong Kong was provided by the Census and Statistics Department for this survey. The types of living quarters covered including private residential blocks, Housing Authority Home Ownership (HOS)/ Private Section Participation Scheme Blocks (PPS)/ Middle Income Housing and other private residential quarters. They represent buildings of all ages and the 18 District Board districts are covered.

##### *Commercial, industrial properties and shops*

56. A list of 20 shops, 20 industrial units and 20 commercial units were provided by two international real estate companies in Hong Kong.

#### Data collection

57. The Social Sciences Research Centre of the University of Hong Kong was commissioned to carry out data collection. All the data collection staff are undergraduates of various universities in Hong Kong. They are supervised by the staff of the Research and Library Services Division of Legislative Council Secretariat during the data collection period.

58. A briefing by the Research and Library Services Division of the Legislative Council Secretariat was given on 10 January 1996 on the objective of the survey and the required performance of data collection staff. The briefing was attended by 20 undergraduates to make sure sufficient trained staff would conduct the survey every day. The Land Registry then gave a briefing on the various procedures involved in a property search. All data collection staff had hands-on experience before proceeding to the actual data collection process.

59. The survey was then conducted from 11 January 1996 to 17 January 1996, covering three mornings (including one Saturday morning), two afternoons and one full day.

#### Results of survey

60. The total size of the sample covering all types of properties is 613. During the six-day survey period, data collection of 506 cases was successfully completed. The unsuccessful cases were mainly due to problems with the address or the lot number.



61. The number of samples successfully conducted in each district is given below.

<b>Districts</b>	<b>No. of samples</b>
Eastern	68
Southern	23
Central and Western	43
Wanchai	40
Yau Tsim Mong	54
Sham Shui Po	34
Kowloon City	45
Wong Tai Sin	9
Kwun Tong	39
Kwai Chung	13
Tuen Mun	31
Yuen Long	18
North	9
Tai Po	18
Shatin	26
Sai Kung	1
Tsuen Wan	29
Island	6
<b>Total</b>	<b>506</b>

62. Out of 506 surveyed cases, 65 cases required further visits to the Land Registry due to the fact that memorials were being inspected by other searchers during the survey, being stored in the sub-office or photocopying services were terminated after 4:00 pm. However, such further visits were not made because of time constraint.