

在《專業天地》內，我們會解答持牌人的一些常見提問。

In *Horizons*, we will answer questions commonly asked by licensees.

問 倘若某地產代理公司收到業主的指示放盤出租其住宅物業，業主只以書面同意地產代理公司就該物業發出廣告，但沒有與該地產代理公司簽立地產代理協議，該地產代理公司可否為該業主的物業作廣告宣傳？

答 根據《地產代理常規（一般責任及香港住宅物業）規例》（《常規規例》）第9(2)條，持牌地產代理就賣方的住宅物業發出廣告之前，須取得該賣方的書面同意。

雖然《常規規例》並沒有對地產代理就賣方（或業主）的住宅物業發出廣告之前，須取得該賣方（或業主）的書面同意的格式作任何訂明，但持牌人應注意，根據《常規規例》第6(1)條，為賣方（或業主）行事的持牌地產代理須在以下情況與該賣方（或業主）訂立地產代理協議：

- (a) 接受出售或出租有關的住宅物業的指示後7個工作日內；或
- (b) 就該物業的出售或出租而作廣告宣傳之前；或
- (c) 就該物業簽署買賣協議或租契之前（三者之中以最早者為準）

住宅物業的地產代理協議是《地產代理條例》訂明的表格，釐定消費者與地產代理的權責，對雙方都有保障。因此，持牌人在處理住宅物業交易時，應與客戶訂立地產代理協議。

Q Is an estate agency company, which has received the landlord's instructions to lease out his residential property, allowed to issue an advertisement for the landlord's property if the landlord has only given written consent for the estate agency company to issue advertisement for the property but did not enter into an estate agency agreement with the estate agency company?

A According to section 9(2) of the Estate Agents Practice (General Duties and Hong Kong Residential Properties) Regulation ("Practice Regulation"), a licensed estate agent shall obtain a vendor's written consent prior to the issue of an advertisement in respect of the vendor's residential property.

Although there is no stipulation in the Practice Regulation on the format of the written consent prior to the issue of an advertisement in respect of the vendor's (or landlord's) residential property, licensees should note that under section 6(1) of the Practice Regulation, a licensed estate agent who acts for a vendor (or landlord) shall enter into an estate agency agreement with the vendor (or landlord):

- (a) within seven working days after accepting an instruction to sell or lease the residential property concerned; or
- (b) prior to advertising the property for sale or lease; or
- (c) prior to signing an agreement for sale and purchase or a lease of the property, whichever is the earlier.

Estate agency agreements for residential properties are prescribed forms under the Estate Agents Ordinance. They set out the rights and duties of consumers and estate agents, and help protect the interests of both parties. Therefore, licensees should enter into an estate agency agreement with their clients when they deal with residential properties.

