



Dear Licensees,

**Re: Improper handling of Subsidised Sale Flats and  
Public Rental Housing**

The Estate Agents Authority (“EAA”) is writing to caution licensees not to participate in the sale or leasing of subsidised sale flats (“SSFs”) and public rental housing (“PRH”) which involves breach of the Housing Ordinance (Cap. 283) or abuse of public housing resources.

*Unlawful alienation of SSFs*

In a recent court case, a licensed estate agent was convicted of a criminal offence for aiding and abetting an owner of a SSF, who has not paid a premium to the Hong Kong Housing Authority (“HA”) for removal of the alienation restrictions, in the letting of the flat, which constitutes the offence of unlawful alienations under section 27A of the Housing Ordinance. The EAA is very concerned about the licensee’s contravention of the relevant law in that case.

The EAA has, over the years, issued a number of practice circulars and various letters to licensees in relation to disposition of SSFs. Hence, licensees should be well aware that sale and leasing of SSFs are subject to alienation restrictions under sections 17B and 27A of the Housing Ordinance<sup>1</sup> and the Schedule to the Housing Ordinance, or the terms of the Deed of Assignments and the terms and covenants and conditions in the Government leases as appropriate; and unlawful alienation of SSFs is an offence.

Considering the above, the EAA would like to warn licensees against handling the selling or letting of SSFs which violates the alienation restrictions for SSFs. Licensees should also bear in mind that an estate agent who aids or abets the commission of an offence under section 27A of the Housing Ordinance may be guilty of the same offence and on establishing the

---

<sup>1</sup> Section 17B of the Housing Ordinance stipulates where a SSF owner purports to mortgage or otherwise charge the land or assign or otherwise alienate the flat, without obtaining prior approval from the HA or paying the premium, the purported mortgage or other alienation together with the relevant agreement shall be void. Section 27A of the Housing Ordinance further stipulates where a person, whether as lender, borrower or otherwise purports to mortgage or alienate the SSF or enter into relevant agreement which is void under section 17B of the Housing Ordinance, the person commits an offence.



offence, he/she could be fined up to HK\$500,000 and sentenced to imprisonment for one year. In addition, the EAA will take appropriate actions against the relevant licensee and such actions could include suspension or even revocation of his/her licence.

#### *Sale of SSFs which have breached the live-in requirements*

Licensees' attention is drawn to the fact that, apart from the alienation restrictions for SSFs, an owner of a SSF is also required to comply with the live-in requirements<sup>2</sup> under the Agreement for Sale and Purchase entered into between the SSF owner and the HA. If the SSF owner or any family member ceases to actually or permanently live in the flat without the prior written consent of the HA, the HA has the right to require the SSF owner to assign the flat back to the HA at the costs and expenses of the SSF owner. Therefore, if licensees are aware that the SSF owner is in breach of the live-in requirements, they should not participate in the sale of the SSF concerned which involves the abuse of public housing resources.

#### *Improper handling of PRH*

Licensees should also bear in mind that public housing resources are valuable to the society where subletting (or assigning or parting with the possession) of PRH is prohibited under the terms of the tenancy agreement entered into between the tenants and the HA. The HA has endorsed a series of measures to enhance efforts to combat tenancy abuse with a view to safeguarding the rational use of PRH resources. In this regard, licensees must be vigilant and mindful not to participate or assist tenants in the sub-letting or any purported sub-letting of their PRH units.

#### *Warning*

If a licensee participates in the sale of SSFs where the owner has breached the live-in requirements or the sub-letting of PRH units, not only may the licensee concerned be disciplined by the EAA for breach of the *Code of Ethics* which may result in suspension or even revocation of his/her licence, he/she may also be sued in civil actions in the event of any damage to the

---

<sup>2</sup> The live-in requirements stipulate that the SSF concerned shall be occupied by the SSF owner and all members of the family named in the application form for the purchase of the SSF.



地 產 代 理 監 管 局  
ESTATE AGENTS AUTHORITY

interests of their clients.

The EAA will take the matter seriously if there is any breach of the Housing Ordinance or the *Code of Ethics* by licensees in their improper handling of SSFs and PRH.

Estate Agents Authority

5 July 2024