

在《專業天地》內，我們會分享近期常見的投訴個案或違規情況，作為對持牌人的提醒。

In *Horizons*, we will share some recent common complaints or malpractice as a reminder to licensees.

監管局不時巡查持牌地產代理舉辦的香港境外未建成物業展銷活動，期間發現部分持牌人未有依循監管局發出的指引行事。因此，監管局希望透過近期一宗違規個案，向持牌人作出相關提醒。該個案中，涉事的持牌地產代理公司因沒有遵守相關銷售香港境外未建成物業的執業通告指引而被監管局重罰165,000港元。

個案中，該地產代理公司在樓盤展銷會中展示了一個馬來西亞未建成物業的宣傳資料。然而，監管局調查後發現，該地產代理公司在進行上述銷售或推廣活動前，並沒有對該境外物業的賣方及/或該境外物業進行盡職審查；同時，在發出該等宣傳資料前，該公司並沒有取得該境外物業所在地的執業律師就該境外物業所在地的法律和法規對境外買家於購買、轉售、出租或按揭該境外物業是否有任何形式的限制發出的書面意見。

此外，該地產代理公司在發出該等宣傳資料前，並沒有取得該境外物業的賣方就該等宣傳資料所載資料的準確性及完整性的明確書面批署；及該等宣傳資料內沒有載有清楚及顯眼的警告聲明等指明事項。

監管局紀律委員會認為該地產代理公司沒有遵守相關執業通告的指引，違反了監管局發出的《操守守則》第3.2.1段，決定向該公司罰款合共165,000港元。

局方提醒持牌人，有關銷售香港境外未建成物業的指引已推出多時，而相關的新執業通告（編號23-02(CR)）亦已於去年12月發出，並已於今年7月1日生效。持牌人應仔細閱讀新執業通告的內容及就其相關工作作出修訂，以符合通告要求。違反新執業通告的持牌人有機會被監管局紀律處分。

The EAA conducts inspections from time to time on property expos for the sale of uncompleted properties situated outside Hong Kong ("UPOH") organised by licensed estate agents. During inspections, the EAA discovered that some licensees did not comply with the guidelines issued by the EAA. The EAA would like to share a recent non-compliant case as a reminder for licensees. In this case, the licensed estate agent involved failed to comply with the guidelines of the relevant practice circular on the sale of UPOH and was fined HK\$165,000 by the EAA.

In the case, the estate agency company displayed some promotional materials of an uncompleted property in Malaysia at a property expo. However, upon investigation, the EAA found that the estate agency company did not conduct due diligence on the vendor and/or the uncompleted property prior to the sale or promotional activities. At the same time, before issuing the promotional materials, the company failed to obtain any written legal opinion from a lawyer practising in the location where the uncompleted property is situated, on whether there is any form of restriction(s) for foreign purchasers to purchase, resell, lease or mortgage the uncompleted property according to the laws and regulations of the place where the uncompleted property is situated.

In addition, the estate agency company failed to obtain the vendor's express endorsement in writing of the accuracy and completeness of the information contained in the promotional materials of the uncompleted property before issuing the materials; the promotional materials also failed to contain a clear and prominent caution statement and other specified information.

The EAA Disciplinary Committee was of the view that the estate agency company failed to comply with the guidelines in the relevant Practice Circular and had breached section 3.2.1 of the *Code of Ethics* issued by the EAA and decided to impose a total fine of HK\$165,000 on the company.

The EAA would like to remind licensees that the guidelines on the sale of UPOH had been issued for a long time and the relevant new Practice Circular (No. 23-02(CR)) was also issued in December last year and came into effect on 1 July this year. Licensees should read the new Circular in detail and make proper adjustments to their relevant work to ensure compliance with the new requirements. Licensees who fail to comply with the new Circular may be disciplined by the EAA.