

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.

監管局早前接獲涉及內地學生租賃香港物業的查詢及投訴。部分個案涉及持牌人先以香港持牌地產代理身份向內地學生介紹租賃物業，繼而以二房東身份簽訂租約並收取物業按金及租金，有部分學生在到港後被拒入住相關物業，亦未能取回全數按金及租金，他們在翻查租約後才發現他們並非與業主直接簽訂租約。

監管局提醒持牌人，若持牌人同時以業主或二房東身份出租物業，他必須向租客披露其業主或二房東的身份，作出詳盡的利益披露。同時，若該出租物業屬《業主與租客(綜合)條例》第IVA部下的分間單位（俗稱劏房），如持牌人以此雙重身份行事，亦其不得向租客收取佣金，否則有可能觸犯該條例下的罪行。

除有可能會被監管局紀律處分外，如持牌人涉嫌詐騙按金、租金或有其他屬刑事性質的行為，監管局亦會轉介相關個案予警方作刑事調查。

此外，亦有內地學生不滿持牌人未有於租約期內妥善處理物業維修的事宜，或不滿退租時就退還按金作出的安排而投訴。一般而言，當持牌人就有關物業與客戶達成租賃協議後，其他向客戶提供的服務包括租務管理事宜，並不屬於「地產代理工作」的範疇。但若持牌人曾向客戶作出提供這些服務的承諾，則其有責任履行相關承諾。

為免產生誤會，持牌人應向內地學生清楚解釋其在租約期內的角色，例如應清楚說明是否僅作為業主及租客的溝通橋樑。反之，如持牌人承諾協助處理維修及退租事宜，則應以書面具體說明其服務範圍，以免日後出現爭議。

The EAA recently received enquiries and complaints from Mainland students concerning property rental issues in Hong Kong. In some cases, the concerned licensee firstly acted as a licensed estate agent in Hong Kong and introduced properties for lease to Mainland students, and later signed the tenancy agreements and collected the deposits as a principal tenant. Some students were refused to move into the relevant properties when they arrived in Hong Kong and were not reimbursed a full refund of their deposits and rental payments. Only when they checked the tenancy agreements did they realise that they did not enter into the tenancy agreements with the landlord directly.

The EAA would like to remind licensees that if they are the landlord or principal tenant of leased properties while acting as estate agents, they must disclose their capacity as the landlord or principal tenant and make a full disclosure of interests to their tenant clients. If the leased property is a subdivided unit under Part IVA of the Landlord and Tenant (Consolidation) Ordinance ("the Ordinance"), the licensee, who acts in such a dual capacity, is not allowed to charge commission from the tenant, or else he/she may commit an offence under the Ordinance.

Apart from the possibility of being disciplined by the EAA, if a licensee is suspected of defrauding deposits, rents or committing any other acts of a criminal nature, the EAA may also refer the relevant cases to the Police for criminal investigation.

In addition, some Mainland students also lodged complaints against licensees for failing to properly handle matters relating to property maintenance during the tenancy period or failing to make arrangements for the return of their deposits when the tenancy agreements ended. In general, after the signing of a tenancy agreement, other services provided by an estate agent to his/her client, such as services related to tenancy matters are not considered as "estate agency work". However, if the licensee had promised his/her client that he/she would provide such services, he/she must honour the relevant promises.

In order to avoid misunderstandings, licensees should clearly explain to the Mainland students their role during the tenancy period; for example, clearly explaining that they only act as the middlemen to facilitate communication between the landlord and tenant. In cases where licensees agree to assist in handling repair works or surrender of tenancy, they should specify the scope of services in writing to avoid disputes in the future.