



Appoint licensed estate agents to deal with the purchase of uncompleted properties situated outside Hong Kong

Purchasing properties situated outside Hong Kong is complicated. With a view to enhancing the professionalism of the estate agency trade so as to provide consumers with better protection, the Estate Agents Authority ("EAA") issued guidelines (practice circular No. 17-03(CR)) requiring licensed estate agents to follow, as from 1 April 2018, when handling the sale of uncompleted properties situated outside Hong Kong ("UPOH").

Why appoint licensed estate agents?

Consumers should note that according to the Estate Agents Ordinance ("EAO"), if a person engages in estate agency work exclusively in relation to properties outside Hong Kong and states in all his letters, accounts, receipts, pamphlets, brochures and other documents and in any advertisement that he is not licensed to deal with any property situated in Hong Kong, he shall be exempted from the requirement for obtaining a licence from the EAA and his conduct is not regulated by the EAA.

Hence, consumers are recommended to appoint licensed estate agents to deal with the purchase of properties situated outside Hong Kong for better protection as licensed estate agents are regulated by the EAA and must comply with the EAO and all the EAA's guidelines when handling the sale of UPOH.

How to know if a person is licensed?

If you wish to check whether an individual or a company is licensed by the EAA and the validity of their licences, you may search and obtain the information from the "licence list" at the EAA's website: www.eaa.org.hk/en-us/licence-search



What to note if I appoint a licensed estate agent?

According to the EAA's guidelines, there are certain things that licensed estate agents "must do" and "must not do" when handling the sale of UPOH. Consumers may use the following list to check whether your appointed licensed estate agent has complied with the EAA's guidelines.

Licensed estate agents **MUST NOT** do the following:

- ✘ They **must not** make any representation that may mislead purchasers when they promote the sale of UPOH.
- ✘ They **must not** prepare or distribute any advertisements or promotional materials giving purchasers the impression that purchasing UPOH is "safe", "low-risk" or "risk-free", or able to obtain "fast", "easy", or "high" yields or returns with little or no risk.
- ✘ They **must not** provide information to purchasers on payment arrangements (e.g. payment schedules and amounts) and the details (e.g. payment to be made to which party and in what currency) other than the information provided by the vendor.
- ✘ They **must not** guarantee, assure, or otherwise state to purchasers that purchasers will be able to obtain the desired financing or at the desired terms.

Licensed estate agents **MUST** do the following:

- ✔ They **must** perform due diligence on the UPOH and its vendor and provide a copy of the due diligence report(s) to purchasers, confirming:
 - ▶ that the vendor is in existence and legally entitled to develop and sell the UPOH;
 - ▶ the vendor's source of funds/financial arrangement with regard to the completion of the UPOH; and
 - ▶ the key information of the development of which the UPOH form part.
- ✔ They **must** obtain a legal opinion on the material information of the UPOH issued by a lawyer practising in the place where the UPOH is situated and provide a copy to purchasers.
- ✔ They **must** provide a written warning statement to purchasers before they enter into any agreement or make any payment in relation to the purchase of the UPOH (whichever is the earlier).
- ✔ They **must** provide purchasers with a sales information sheet that contains all the necessary information required by the EAA, including but not limited to the following:
 - ▶ basic information of the development (e.g. address, location, tenure, etc.);
 - ▶ property details (e.g. description, area, estimated handover date, etc.);
 - ▶ payments (e.g. purchase price, fees and expense incidental to the purchase, etc.);
 - ▶ cooling-off period, if any, and details;
 - ▶ defect liability warranty period, if any, and details;
 - ▶ financial incentives, if any, and details;
 - ▶ legal and interpretation service, if any, and details;
 - ▶ governing law and dispute resolution venue, and details;
 - ▶ the afore-mentioned due diligence report(s), legal opinion and warning statement attached.

In case of doubt and for more information, please visit the EAA website: www.eaa.org.hk

