



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

Purchasing uncompleted properties situated outside Hong Kong (“UPOH”) is complicated. Since 1 April 2018, licensed estate agents are required to follow guidelines issued by the Estate Agents Authority (“EAA”) when handling the sale of UPOH. With a view to further enhancing the professionalism of the estate agency trade so as to provide consumers with better protection, the EAA issued updated guidelines (practice circular No. 23-02 (CR)), which have taken effect on 1 July 2024.

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?

There are certain things that licensed estate agents “must do” and “must not do” when handling the sale of UPOH. Although it is not an exhaustive list, consumers may use the following list to check if their licensed 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, issue 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) that are not based solely on 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** obtain a legal opinion issued by a lawyer practising in the place where the UPOH is situated, covering:
 - ▶ due diligence on the vendor and the UPOH;
 - ▶ whether there is any form of restriction(s) for foreign purchasers to purchase, resell, lease and mortgage the UPOH; and if so, the nature of such restriction(s); and
 - ▶ whether there is any mechanism in place to safeguard the deposits or part payments made by the purchasers.
- ✔ They **must** ensure that any UPOH advertisements or promotional materials prepared, issued or distributed by them must be displayed in a specified manner and contain certain information including the EAA’s bilingual caution to consumers: “To buy or not to buy non-local off-plan properties? Assess the risks before you buy! 境外樓花買唔買? 計過風險先好買!”.
- ✔ They **must** provide the following documents to purchasers before they enter into any agreement or make any payment in relation to the purchase of UPOH (whichever is the earlier):
 - ▶ a copy of the legal opinion and the valid practising certificate of the issuing lawyer;
 - ▶ a separate written warning statement; and
 - ▶ a sales information sheet.
- ✔ They **must** ensure that the sales information sheet must include all the details as required by the EAA.
- ✔ They **must** inform purchasers in writing (before they make any payment) to whom the payment will go, its purpose, and whether it is refundable.

