



地產代理如何避免種族歧視

What estate agents should know to prevent race discrimination

監管局早前推出「5A代理」宣傳計劃，推廣專業地產代理應具備的「5A」特質，包括「言出必行」(Adherence)、「言之有物」(Ability)、「言而有信」(Accountability)、「與時並進」(Advancement)及「與客同行」(Affinity)。當中的「與客同行」，不單止代表地產代理要陪同客戶視察物業，亦泛指代理應向各種客戶提供同樣的優質服務，不應因他們的性別、婚姻狀況、懷孕或傷殘、家庭崗位及種族而有所差別。

地產代理須遵守香港所實施的反歧視條例。當中，監管局特別提醒地產代理，為不同種族的客戶提供服務時，不應涉及任何歧視行為。今期《專業天地》我們會提醒持牌人，在面對不同種族的客戶時要注意的事項。

The EAA previously launched a “5A Agent” publicity campaign to promote the “5A” qualities of professional estate agents, namely, “Adherence”, “Ability”, “Accountability”, “Advancement” and “Affinity”. Among which, “Affinity” with clients does not only mean that estate agents should accompany their clients during property inspections, but it also means that they should provide the same quality service to all kinds of clients irrespective of their sex, marital status, pregnancy, disability, family status and race.

There are anti-discrimination ordinances in Hong Kong that estate agents should comply with. In particular, the EAA would like to remind estate agents again that they should provide services to clients of different races without any discrimination. In this issue of *Horizons*, we will remind licensees what to pay attention to when providing services to clients of a different race.

甚麼行為可能構成種族歧視？

根據監管局發出的執業通告（編號09-07(CR)），地產代理不得基於種族而拒絕向準買家/租客提供地產代理服務，例如，他們不應因準買家/租客是某特定種族而拒絕安排他視察單位。

此外，地產代理也不應刊登帶有歧視內容的廣告，例如包含「特定種族的人士免問」的字眼；他們亦不應對任何準買家/租客作出較差待遇，例如向他們收取較高佣金、開價較高、或不向他們提供物業查冊等。

倘若從業員作出上述行為，有可能違反《種族歧視條例》及監管局《操守守則》第3.1.1段，即「地產代理和營業員在執業時必須避免從事可能觸犯法律的活動。」

不要協助業主作出歧視行為

你可能會問，倘若地產代理依照業主的指示，拒絕將物業出租予少數族裔，他們會因此觸犯《種族歧視條例》嗎？

答案是「會」的。即使地產代理只是依照業主的指示行事，也會因協助業主作出歧視行為而負上法律責任。舉個例子，倘若業主指示代理不准讓某特定種族人士視察單位，而代理按照指示拒絕了該特定種族準租客視察

What behaviour might constitute race discrimination?

According to Practice Circular (No. 09-07(CR)) issued by the EAA, estate agents should not refuse to provide estate agency services to any prospective purchasers/tenants on the grounds of race. For example, they should not refuse to arrange a visit to a flat for a prospective purchaser/tenant of a particular race.

In addition, they should not publish advertisements containing discriminatory statement, such as “not letting to persons of a particular race” and they should not discriminate against prospective purchasers or tenants of a different race by treating them less favourably, for example, asking them to pay a higher commission, quoting a higher price to them, or not providing them with a land search of a property on the ground of their race etc.

Practitioners who have engaged in such behaviour may violate the Race Discrimination Ordinance (“RDO”) and may be in breach of paragraph 3.1.1 of the *Code of Ethics* of the EAA, which stipulates that “Estate agents and salespersons shall refrain from activities during their practice which may infringe the law”.

Do not aid a landlord's discriminatory act

You may wonder whether estate agents would violate the RDO if they follow a landlord's instructions and refuse to lease the property to ethnic minorities.

The answer is “yes”. The estate agent will be liable for aiding a landlord's discriminatory act even if he/she acts according to the landlord's instructions. For instance, if the landlord gives an instruction that no persons of a particular race should be allowed to view a flat which is available for lease and the estate agent carries out such instruction by refusing a prospective tenant of a particular race the opportunity to view the flat, the estate agent may violate the RDO by aiding an unlawful act.

Therefore, estate agents should think twice when following their clients' instructions, and consider whether carrying out such instructions on their part will



單位，該地產代理有可能因協助作出違法行為而觸犯了《種族歧視條例》。

因此，地產代理在跟循業主指示前應三思，並考慮執行那些指令會否構成地產代理協助他人作出歧視行為。事實上，作為「5A代理」，他們應提醒業主何種行為會觸犯《種族歧視條例》。業主或代理都不應基於種族而剝奪他人尋找居所的權利。

地產代理公司在防止種族歧視方面所扮演的角色

此外，地產代理公司也可能要為員工的歧視或騷擾行為負上責任，除非地產代理公司能證明他們已採取合理的方法防止員工作出該等行為。因此，地產代理公司的管理層應實施可行的措施，以防止員工作出任何違法的歧視行為。

當中的措施包括：制定公平機會的政策、確立投訴機制的程序、監察員工遵守《種族歧視條例》的情況，以及向員工提供有關平等機會的培訓等。

總結

香港是一個多元文化的城市，不同性別、年齡、種族的人士在日常生活各方面都應享有平等權利、待遇及機會。公平社會及對小眾的尊重，是香港其中兩個珍貴的特質。

專業的「5A代理」應時刻謹記「與客同行」的特質，並對社會各階層人士提供專業的地產代理服務。這不但能加強代理與社區的聯繫，亦有助提升業界的公眾形象，為代理及其客戶達致雙贏的局面。

constitute assisting another person in committing a discriminatory act. In fact, as a professional “5A agent”, he/she should remind the landlord that certain conduct may violate the RDO. Neither a landlord nor an estate agent should infringe other people’s right to accommodation based on their race.

The role of estate agency companies in preventing race discrimination

In addition, an estate agency company may also be liable for its employees’ acts of unlawful discrimination or harassment unless the company can show that it has taken reasonable steps to prevent its employees from doing so. Thus, the management of estate agencies are advised to implement practicable measures to ensure that their staff do not carry out any unlawful discriminatory acts.

Measures include: formulating an equal opportunities policy and providing appropriate staff training on the policy, establishing procedures for a complaint mechanism, and monitoring staff compliance with the RDO etc.

Conclusion

Hong Kong is a culturally diverse city. People of different sex, age and race should possess equal rights, enjoy equal treatment and opportunities in various aspects of their daily lives. Social equality and respect to different minorities are two of the valuable attributes in Hong Kong.

Professional “5A estate agents” should always remember the quality of “Affinity” with their clients and provide professional estate agency services to persons from all walks of life. Provision of professional services by estate agents will not only tighten the bond between them and their communities, it will also enhance the public’s image of the trade thereby resulting in a win-win situation for both the estate agents and their clients.

