

Taking Steps To Change





CEA provides various channels for public enquiries and feedback.

Taking Steps To **Change**

Singapore's success in developing an environment for fair and informed real estate transactions hinges on the existence of a robust legislative and regulatory framework – a system that can safeguard consumer interests and elevate the professionalism of the real estate agency industry. The formation of CEA was a transformative move towards establishing the much needed system to cultivate a safe, informed and transparent property marketplace for all consumers and the real estate agency industry alike.



CEA holds briefings to update the industry on its regulations and guidelines.



CEA officers processing documents for licensing and registration applications.

The Ministry of National Development (MND) mooted the development of a new regulatory framework for the real estate agency industry in July 2009. After extensive consultations with the industry and the public, and three readings of the Estate Agents Bill 2010 in Parliament, the Estate Agents Act was passed and the Council for Estate Agencies (CEA) was set up on 22 October 2010 to administer, implement and enforce the new regime.

The key elements of the framework comprise new regulations and codes of conduct, stricter licensing conditions for estate agents, mandatory registration of salespersons, a mechanism for discipline and dispute resolution, and a thorough and proactive enforcement system that takes errant estate agents and salespersons to task.

CEA formulated and put into effect a series of regulations under the Estate Agents Act. These regulations essentially covered two Codes of Estate Agency Work, Licensing and Registration, Fees, Composition of Offences, Disciplinary Proceedings and Dispute Resolution. At the same time, MND also established two subsidiary legislations covering Appeals and an Exemption Order for Land Banking.

The two Codes, namely the Code of Ethics and Professional Client Care and the Code of Practice, provide a benchmark for ethical behaviour and professional standards for estate agents and salespersons in conducting estate agency work.



CEA has issued three Practice Guidelines for the industry. (Photo: MND)

In addition, the Council issued Practice Guidelines and Circulars aimed at refining and reinforcing professional and ethical practice. Practice Guidelines on Ethical Advertising, use of Prescribed Estate Agency Agreements, Options to Purchase, and Sale and Purchase Agreements were issued in 2011.

Collectively, the Estate Agents Regulations, Practice Guidelines and Circulars formed the framework to engender professional conduct and practice by the industry and to protect consumer interests. The key provisions include a ban on dual representation, no referrals to moneylenders, ban on handling transaction monies, usage of prescribed estate agency agreements, provisions relating to the service rendered to consumers and requirements for advertisements.

In the maiden 18 months of operation, CEA has been focusing on transiting the major stakeholders of the industry to meet the higher standards of the enhanced framework of governance and accountability.

There were frequent contact and dialogues with estate agents, and instructions and Licensing Circulars were issued to the industry to guide them on the conduct and actions expected of them under the new regulatory system.

The CEA Council is the key decision maker and decides on key policy matters. There are four



CEA Executive Director, Chionh Chye Khye (left) visiting Dennis Wee Realty's office.

committees formed to assist the Council and management – Licensing & Practice Committee, Examination & Professional Development Committee, Disciplinary Panel and Audit Committee.

A New Order

With the regulatory framework in place, CEA is focused on establishing a good governance structure that is participatory, inclusive, transparent and responsive. Above all, the strategy is to create a structure for accountability that will ensure the rules of law are followed and that the best interest of the industry and its practitioners are met.

To this end, the Council introduced the role of Key Executive Officer (KEO) as a critical position in the organisational structure of an estate agent. A set of requirements are imposed so that only those suitable are allowed to assume the role of a KEO.

Under the new regime, the KEOs are responsible for the supervision and management of salespersons in their estate agents. They are also expected to identify skills gaps in their salespersons and ensure that they fulfil the mandatory requirements for continuing professional development (CPD). They also have to comply with CPD upgrading. The KEOs

are the Council's gateway to keeping salespersons and estate agents informed and updated on policies and practices in a timely and effective manner. The KEOs drive the professional leadership in the estate agents and their effectiveness will be key to raising professionalism in the industry.

Plans are underway by the Council to develop a set of guidelines that will further define the roles and responsibilities of the KEOs.

Stricter Licensing and Mandatory Registration

One of the most significant exercises that CEA has embarked on to date was the review and enhancement of the estate agent licensing system and implementation of a mandatory registration system for salespersons.

The former estate agent licensing system, which previously came under the purview of the Inland Revenue Authority of Singapore, has been bolstered with enhanced conditions.

The enhanced system aims to ensure estate agents are competent and fulfil a set of criteria, which includes a proper system and process for the supervision and management of their salespersons. In addition to complying with a Code of Practice that stipulates systems and processes for areas such as supervision of salespersons, complaints handling and dispute resolution, estate agents are required to have professional indemnity insurance to adequately cover any financial liabilities that may arise from their business transactions.

Under the mandatory registration system, each salesperson can only be contracted to one estate agent, thereby streamlining the accountability of estate agents to the actions of their sales force. The onus is on the estate agents to ensure that the salespersons registered under them are competent and able to perform their duties in compliance with the new Codes and Regulations.

In October 2010, the Council initiated the first mass licensing and registration exercise to transit the existing estate agents and salespersons in the industry to the new regulatory framework. At the end of the exercise, a total of 1,454 estate agents were licensed and 31,400 salespersons were registered.

The initial licence and registration periods of two and three years were staggered for different estate agents and salespersons. This was to facilitate the industry and CEA administratively in the subsequent renewal for all estate agents and salespersons on a two-yearly basis.

Each month, CEA processes an average of five licence applications, 300 registration applications from new entrants and 300 registration applications from salespersons who switch estate agents.

As at 31 March 2012, there were 1,493 licensed estate agents and 31,769 registered salespersons.

The Estate Agencies System, an IT system with e-services for estate agents and a public website, was built in 2010 to support the licensing and registration operations of CEA. Since then, the system underwent much enhancement to support the needs of the regulatory system.



CEA officers at a familiarisation visit to CBRE Realty Associates' office.

Systematic Resolution of Complaints and Disputes

In its aim to foster a more consumer-centric mindset in the industry, CEA has developed a system for managing complaints and resolving disputes.

In the year of review, a total of close to 90,000 enquiries, feedback and complaints were received from members of the public. These came through various channels, including CEA's customer service counter, website, emails, phone calls, faxes and letters. As at 31 March 2012, CEA received 1,656 complaints. Of these, 1,080 cases had been concluded by CEA, including two that ended in court prosecutions, five in disciplinary actions, and 177 with the issuance of Letters of Advice.

Under the new regime, estate agents are responsible for putting in place a comprehensive and integrated mechanism for managing complaints with the aim of addressing, resolving and reducing them.

On receipt of a complaint against a salesperson, CEA will require the estate agent to carry out its own investigation and provide a report to CEA within 14 days. The involvement of the estate agent in the complaint management process is necessary as they are responsible for managing their salespersons. Their involvement also helps ensure fairness for both the complainant and the salesperson involved. CEA will also conduct its independent investigation to establish the facts, gather evidence and evaluate the report from the estate agent before deciding if a complaint warrants disciplinary or other action.

For cases where a satisfactory resolution cannot be achieved through the in-house system of the estate agent, CEA has introduced the Dispute Resolution Scheme (DRS) which aims to help resolve disputes by way of mediation and arbitration. Consumers can use the DRS to resolve contractual disputes such as commission payable, if they have signed

the Estate Agency Agreements prescribed by CEA. The four Dispute Resolution Centres appointed by CEA are the Consumers Association of Singapore, Singapore Institute of Surveyors and Valuers, Singapore Mediation Centre and Singapore Institute of Arbitrators.

From 2011 to the end of March 2012, 14 cases have gone for mediation/arbitration under the DRS.

Proactive Enforcement

All the regulations in the world will come to naught without a comprehensive and effective enforcement regime.

To ensure estate agents and their salespersons are in compliance with the Estate Agents Act and its regulations, guidelines and Codes, CEA plays a proactive role in monitoring industry operations.

The Council formed its Inspection & Compliance Division in June 2011 to carry out checks on estate agents to identify infringements and unethical behaviour of individuals in conducting estate agency work. These audits help to ensure that proper systems are in place within the individual estate agent's business processes in areas of management and supervision of salespersons, complaint handling, advertisement control and maintenance of proper records.

A series of familiarisation visits to 14 estate agents was conducted by CEA from August 2011 to March 2012. At each visit, CEA officials were given a tour of the estate agent's main operation facilities and interacted with its senior management and key personnel. These visits serve as a feedback channel for estate agents to share their views with CEA on issues such as areas of training, operations, communications, management, information technology systems, service excellence and complaint management.

CEA conducts compliance checks of advertisements by estate agents and salespersons to ensure adherence with laws and regulations. As at 31 March 2012, there were 119 cases of compliance checks and 61 Letters of Advice were issued to those who had committed the infringement and one ended in court prosecution. Checks are also done for advertisements by unlicensed estate agents or unregistered salespersons, in the internet and other media and follow up investigations conducted where necessary.

CEA also conducts on-site compliance checks at property launches, seminars and exhibitions on a regular basis. The practices on the ground, such as the conduct and actions of salespersons, estate agents' management of salespersons, advertising and marketing efforts are checked so as to maintain and enhance professional standards. Any breach of the Regulations by estate agents/salespersons will be acted upon and any unlicensed activities detected will be investigated. Checks are also done on internet property portals. The portals are engaged and asked to incorporate CEA requirements in the design of the services such as incorporating features to display the estate agent licence numbers and salesperson registration numbers.

The new regulatory regime endows CEA with enforcement power. It can investigate and prosecute offenders under the Estate Agents Act. It can also take disciplinary action against salespersons or estate agents if there is a breach of the Code. The range of disciplinary actions includes warnings, fines and suspension and revocation of licence or registration of agents and their salespersons. Letters of Advice may be issued if disciplinary action is not undertaken. Serious offences such as fraud or cheating, which are not under CEA's purview, are escalated to the Police. As part of its enforcement role, the Investigation Division has been actively looking into allegations of breaches of the Estate Agents Act and its Regulations.



A CEA customer service officer ready to attend to telephone enquiries from the public.

During the period of review, CEA filed charges in court to prosecute three individuals for breaches of the Estate Agents Act. One of the cases had concluded and two were ongoing. In the decided case, the accused was convicted for operating as a salesperson without registration and without written authorisation from an estate agent. He was also convicted of making a false declaration to CEA. He was sentenced to imprisonment of one month and fined a total of \$32,000.

The Council also commenced disciplinary proceedings against five salespersons for breaches of the Code of Ethics and Professional Client Care. Two of the cases had concluded while the rest were still ongoing.

In one case concluded in June 2012, the salesperson who acted for the buyer pleaded guilty to charges of not declaring conflict of interest, as she did not reveal to the buyer that she was related to the seller, and not complying with HDB resale procedures. The Disciplinary Committee imposed a suspension of three months and a financial penalty of \$3,000.

For the other case, the salesperson pleaded guilty to using harassing tactics by sending offensive

and vulgar SMS messages to a potential client. The Disciplinary Committee imposed a financial penalty of \$2,500 on the salesperson and awarded costs of \$1,000 to CEA. He was also asked to apologise to the complainant.

In order to adopt a whole-of-government approach to resolving issues, CEA has established liaisons with various law enforcement agencies. These include the Singapore Police Force, Immigration and Checkpoints Authority, Ministry of Manpower, Central Narcotics Bureau and Registry of Moneylenders. The close working with other enforcement agencies was evident in the first CEA prosecution case. The accused was wanted by the Police and faced criminal charges from them, and operational coordination was done between CEA and Police, which led to the court prosecution. With continued collaboration with these agencies, CEA aims to further enhance the effectiveness of its enforcement activities.

On the Horizon

In the year ahead, CEA will continue to review the Estate Agents Act and its Regulations to enhance the regulatory framework and address pertinent consumer and industry issues. In particular, the Council will review the Estate Agents (Estate Agency Work) Regulations 2010 and the Estate Agents (Dispute Resolution Schemes) Regulations 2011.

In the pipeline is the development of a Professional Service Manual which provides guidelines on service standards and ethical behavior in the conduct of real estate agency work.

CEA also plans to continue upgrading the skills of its investigation and enforcement teams. In addition, the Council will explore more ways of using information technology to improve the efficiency and effectiveness of the teams' performance and work processes.