

29 DEC 2010

RELEASE OF APPLICATION OUTCOMES FOR ESTATE AGENT LICENCES AND SALESPERSON REGISTRATIONS

Public Register of Agents and Salespersons and Dispute Resolution Scheme Also Launched

The Council for Estate Agencies (CEA) released the outcome of applications for estate agent licences and salesperson registrations today. It also announced the coming launch of its Public Register and the Dispute Resolution Scheme.

Applications for Estate Agent Licences and Salesperson Registrations

2 Since 1 November 2010, CEA has received licensing applications from new and existing estate agents. Estate agents were also required to register salespersons who have met CEA's criteria¹ by 30 November 2010.

3 As part of the new regulatory framework, an individual applying to register as a salesperson must fulfil the fit and proper criteria. This includes not having records of offences involving fraud or dishonesty. For applicants with such records, the Council will assess them on a case-by-case basis, taking into account factors such as the severity of the offence, and when the offence was committed. The set of fit and proper criteria are presented in Annex A.

4 To date, CEA has approved 1,190 estate agent licence applications and 27,754 salesperson registration applications. 210 applicants do not meet the fit and proper criteria and were not granted registration. They were mainly found to have criminal

¹ These salespersons have either passed an industry examination or met the minimum of 3 property transactions over the last 2 years, to qualify for the transitional arrangement given to pass the CEA examination by 31 December 2011.

records or records of offences involving fraud or dishonesty (see Annex B for examples).

Launch of Public Register on CEA's Website from 1 January 2011

5 A Public Register of licensed estate agents and registered salespersons will be made available on CEA's website at www.cea.gov.sg from 1 January 2011. The Register will display the name, licence/registration number, the agent that the salesperson is working for, validity period, and records of offences committed or disciplinary actions taken, if any. Recent photographs of salespersons will be available for easy identification from 1 March 2011.

6 CEA's vision is to build "A Professional and Trusted Real Estate Agency Industry". The introduction of the Public Register will inject greater transparency and confidence into the industry, as members of the public can now obtain relevant information on estate agents and salespersons directly.

Regulatory Scope of Estate Agents Act 2010

7 The Estate Agents Act 2010 applies to all estate agency work for Singapore and foreign properties marketed, sold or leased in Singapore. However, persons selling, buying or leasing properties for themselves, including property developers and their employees, will not be covered under the new framework, as there is no estate agency work involved.

8 In addition, estate agency work pertaining to land banking products will also not be regulated under the Estate Agents Act 2010. This is because estate agents marketing land banking products are more likely to provide financial investment advice than to make representations on a property. Consumers should practice caution and exercise due diligence when investing in land banking products.

Launch of CEA's Mediation-Arbitration Scheme in January 2011

9 CEA will also implement a prescribed dispute resolution scheme in January 2011. The scheme involves mediation and arbitration, and provides a cost-effective and expeditious means to resolve disputes and contractual matters between consumers and estate agents. Estate agents are required to participate in the scheme once the consumer has elected to proceed with mediation or arbitration. The key elements of CEA's Mediation-Arbitration Scheme are summarized in Annex C.

About Council for Estate Agencies

The Council for Estate Agencies (CEA) is a statutory board established under the Estate Agents Act to regulate and promote the development of a professional and trusted real estate agency industry. The key responsibilities of CEA are to license estate agents and register salespersons, promote the integrity and competence of estate agents and salespersons, and equip consumers with the necessary knowledge to make informed decisions in property transactions. For more information, please visit: www.cea.gov.sg

FIT AND PROPER CRITERIA

A person is not fit and proper if the Council after considering any relevant facts or matters is of the view that he is not such a person and unless the Council otherwise determines, he shall not be a fit and proper person if

- i. he has been convicted of an offence involving dishonesty or fraud;
- ii. he has had a judgment entered against him in civil proceedings that involved a finding of fraud, dishonesty or breach of fiduciary duties on his part;
- iii. he has been convicted of any offence under the Estate Agents Act; or
- iv. he is an un-discharged bankrupt or has made a composition or arrangement with his creditors.

EXAMPLES OF UNSUCCESSFUL APPLICANTS

Case 1

Applicant A was involved in several "cash-back" property transactions between 2003 and 2005 and faced the following 16 charges.

- a. 5 counts of Cheating
- b. 1 count of Criminal Breach of Trust
- c. 5 counts of Making a False Declaration
- d. 5 counts of Making a False Statement

Applicant A was convicted in 2007 of the above offences and sentenced to a total of 21 months' imprisonment.

Case 2

Applicant B has a history of criminal convictions (see below).

- a. 1994 - Entering a Protected Place without permission
- b. 1998 - Theft in Dwelling
- c. 1999 - Theft as a servant
- d. 2003 - Driving vehicle without lawful authority, licence, insurance coverage & speeding
- e. 2006 - Criminal Trespass
- f. 2007 - Insulting the modesty of a woman (2 charges) and criminal trespass and was sentenced to 3 months' imprisonment

Case 3

Applicant C has a history of criminal and other unlicensed moneylending convictions (see below).

- a. 1992 - Theft in Dwelling
- b. 1993 - Loitering with intent
- c. 1994 - Theft of motor vehicle parts (3 charges)
- d. 1999 - Unlicensed Moneylender (19 charges),
- e. 2006 - Unlicensed Moneylending offences (33 charges) and was sentenced to 28 months' imprisonment

Case 4

Applicant D has a history of drug and other offences (see below).

- a. 1996 - Drug consumption
- b. 1999 - Drug possession & traffic offence
- c. 2000 - Drug consumption
- d. 2004 - Theft in Dwelling
- e. 2006 - Moneylending harassment (10 charges) and Theft and was sentenced to 21 months' imprisonment

Case 5

Applicant E is a serious sexual offender and was charged in 2004 for 10 counts of having carnal connection with a girl under 16 years old and was sentenced to 7 years' imprisonment.

KEY ELEMENTS OF CEA'S MEDIATION-ARBITRATION SCHEME

Objective

Provide a cost-effective and expeditious means to resolve disputes between consumers and estate agents

Scope

Cover disputes arising from or relating to provision of estate agency work that will be limited to residential transactions and where consumers have entered into the prescribed estate agency agreements

Procedures for Initiating Dispute Resolution Process

- If consumer initiates it,
 - Estate agent and its registered salesperson(s) which is in dispute with consumer are required to participate in the proceedings, failure to do so may constitute a contravention of the Act
 - Choice of dispute resolution centre for mediation and arbitration shall be decided by consumer
 - Consumer may choose to proceed to arbitration without going through mediation and parties can only proceed for mediation once under this scheme
- If estate agent wishes to start an action against consumer, estate agent may ask consumer in writing whether he elects to mediate or arbitrate. If consumer does not respond within 21 days, he would be deemed to have elected not to proceed to mediation or arbitration, and estate agent may then proceed to take other legal action against the consumer.

Costs

- Mediation - estate agent and consumer each pay 50%
- Arbitration
 - estate agent pays minimum 50% and consumer pays maximum 50% of costs
 - actual apportionment to be determined by arbitrator

- arbitrator will have discretion to order consumer to pay up to 100% of costs incurred in arbitration when claim is frivolous, vexatious or an abuse of process
- fees for legal representation are payable by respective parties

Appointed Dispute Resolution Centres

Appointed Mediation Centres	Appointed Arbitration Centres
<ul style="list-style-type: none"> • Consumers Association of Singapore (CASE) • Singapore Institute of Surveyors and Valuers (SISV) • Singapore Mediation Centre 	<ul style="list-style-type: none"> • Singapore Institute of Arbitrators (SI Arb) • Singapore Institute of Surveyors and Valuers (SISV)