

**Maintaining the Competitive Edge
in the Estate Agency Trade in Hong Kong
in a Changing Property Market and
Regulatory Environment**

A paper for presentation at the 5th Annual Conference of the
Asian Real Estate Society

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I. Preamble

The purpose of this study is to address the many issues relating to the estate agency trade arising from the changing property market and the new regulatory system recently introduced by the Government.

With the enactment of the Estate Agents Ordinance and the licensing of practitioners, the estate agency profession in Hong Kong has entered an entirely new phase of development. A long-established trade that was pretty much a law unto itself, estate agents were previously free from any form of regulation. The abuses and irregularities thus engendered prompted the government to introduce legislation that would make for the regularization of estate agents' practice, and greater consumer protection. The Estate Agents Ordinance was passed in May 1997, and the Estate Agents Authority became operative in 1998. The first licensing exercise conducted in January 1999 recorded a total of some 20,000 individuals and close to 4,000 firms being licensed in early 1999.⁽¹⁾

Property market in Hong Kong as in elsewhere is largely dominated by the political, economic, social as well as technological environment. The fact that many

Footnotes:

- (1) *The number of licensees has dropped about 20% a year afterwards, owing mainly to the floodgate effect during the first licensing exercise and the decline in the real estate market.*

in Hong Kong prefer real properties as a medium for investment has rendered the local property market somewhat different from most other countries in the world. Nevertheless, property price levels are fundamentally determined by long term supply and demand, although short-term external factors such as political events, mortgage lending rates, Government's supply of land and policy in housing and regulatory measures, etc. would all have an impact on the property market.

As property prices began to surge since early 1990's, the Government has introduced various measures to suppress speculative activities which include issuing guidelines on capping mortgage loan at 70% of the valuation ratio to all authorized institutions in Hong Kong.⁽²⁾ These measures together with the Government's pronounced policy of producing adequate public housing to augment any deficiency arising from the private market have successfully brought prices of property to a lower level in recent years. Provision in residential accommodation alone has increased by 10.6% in term of usable floor area from 1997 to 1999.⁽³⁾

According to recent surveys, the main bulk of the more recent purchases are for self-occupation purposes. It is thus inevitable that demand of the services provided by estate agents in locating the right properties have changed. They are no longer purchasing just for gain but for their own occupation. They would actually move into the premises and after-sale services become more important than a purchase for investment purpose alone. Any unscrupulous misrepresentation put forward by the agents are unlikely to escape substantiation as in the cases of properties undergoing numerous transactions within a short period of time.

Footnotes:

- (2) In 1995, the Hong Kong Monetary Authority (HKMA) has issued a policy guideline limiting all authorized institution to have a first legal charge over new property and do not lend in excess of 70% of the valuation of the property. In 1997 when speculative activities were at their height, the HKMA urged strict compliance to the capping of mortgage loan to 60 - 70% of the valuation ratio.
- (3) Please refer to pp. 53-75 of the "Hong Kong Monthly Digest of Statistics", HKSAR (March 2000).

On the economic front, since mid 1990's, economic growth of the territory has slowed down with the median monthly household income in 1999 reduced to slightly lower than the 1996's level.⁽⁴⁾ Mortgage rate has been on the rise until recently and the curb in PRC's investment in Hong Kong properties; all these not only affect the price levels of the properties but at the same time weaken the citizen's affordability to acquire real properties. Indeed the number of property transactions has decreased substantially since the last quarter of 1997. Agents have to be much more persuasive in closing a deal for the vendors.

On the demographic side, population growth over the years has been modest despite the number of PRC immigrants and return of migrants from abroad have been on the rise. Nevertheless, the trend of newly wed young couples aspiring to living apart from their parents has boosted the demand for smaller premises.

Technological advancement, particularly in the field of e-commerce will no doubt have great impact on the property market and no less on the operation of the estate agency trade. Dissemination of market information as well as efficiency and efficacy in management depend crucially on the agents' ability to exploit the benefit of technological application.

Implementation of the regulatory system in January 1999 has significant impact on the operation of the trade. Agents except those qualified by the grandfather rules, will have to pass the corresponding professional examinations. Entry academic qualification for all new entrants to the trade after the implementation date is set at the completion of Form 5 or equivalent. Practitioners in the trade are required to a Code

Footnotes:

- (4) Please refer to General Household Survey conducted by the Census and Statistics Department (1996 - 1999).

of Ethics and comply with the Practice Regulations issued by the Estate Agents Authority.

This paper is organized in seven sections. The second section is a dedicated section on tracing the development of the property market since the post-war years. The third and fourth sections give a brief account of the establishment of the Estate Agents Authority and the impact of the Estate Agents Ordinance on the estate agency trade. The fifth section discusses the changing role of an estate agent in the shifty property market in Hong Kong. The sixth section is an analysis on how estate agents should adapt to the current changes in order to maintain their competitive edge.

II. The Real Estate Market in Hong Kong

Real estate is a highly valued commodity, particularly in a place like Hong Kong, where the population density is amongst the highest in the world. Walker et al (1995)⁽⁵⁾ has demonstrated the significant part played by the real estate market in the economy of Hong Kong. He cited in his book some key figures which include: more than 30% of total bank loan are for real estate; 1/3 of total government income are related to real estate, the real estate sector alone contributes more than 20% of GDP, etc. In 1998, real estate and related activities contributed to 14.2% of the GDP⁽⁶⁾ and the amount of bank loan related to construction and purchase of properties accounts for over 50% of all loans given out by authorized institutions in Hong Kong.⁽⁷⁾

Footnotes:

- (5) For a detailed discussion on the relationship between real estate returns and the price indexes, please refer to "How Efficient are Hong Kong's Real Estate Markets" by K. W. CHAU, et al (1996).
- (6) Please refer to "Report on 1998 Annual Survey of Building Construction and Real Estate Sectors Gross Domestic Product (1961 - 1999)" published by the Census and Statistics Department.
- (7) Please refer to "Hong Kong Annual Digest of Statistics 1999" published by the Census and Statistics Department.

It is further noted that price fluctuations in the Hong Kong real estate market is probably without parallel in any other parts of the world. Property development takes a time span of several years to complete and is a commodity that cannot possibly make a timely response to short thrust in the growth or decline of demands for whatever reasons. It is not uncommon that when constructions commenced in anticipation of a growing demand are completed, it turns out to be an over supply, and as a result, there will be a drop in prices. On the other hand, where there is a sudden growth in demand which cannot be satisfied within a reasonable time span, prices would go up. Real estate prices therefore normally go in cycles.

Wong Kin Chee⁽⁸⁾ proposed that the real estate market in Hong Kong has gone through 5 cycles since the post-war years. The 1st post-war cycle (1945-1953) which was characterised by the influx of refugees from China in 1947 and hence a great demand for housing. The Government has as early as in 1947, introduced rent control to curb price increase in landed properties. The outburst of the Korean War in 1952 affected the economy in Hong Kong and witnessed a downturn in real estate market. The 2nd cycle (1954-67) saw the rise in the property market in the initial phase as a result of the changing economic pattern and more flexible ways of alienating properties. The decline in the property market during this cycle was mainly caused by the 1965 financial crisis and the 1967 riots in Hong Kong. The rise in the 3rd cycle (1968-1974) was mainly caused by the rise in the stock market, influx of overseas hot money and various urban renewal plans and the establishment of new towns. The downturn was prompted by the 1973 stock market crisis and the surge in oil prices in 1974. The 4th cycle (1975-1984) witnessed an accelerated development in China's open door policy resulting in rapid economic growth in both China and Hong Kong and the downturn

Footnotes:

- (8) For details on the part played by the real estate market in the economy of Hong Kong, please refer to WALKER A., "Hong Kong in China, Real Estate in the Economy" et al (1995).

triggered off by the anticipated change in the sovereignty of Hong Kong.

The 5th cycle (1985-1997) saw Hong Kong enjoying a steady but firm growth in its economy when the future of Hong Kong has become much clearer and the blue print for the Special Administrative Region spelt out in the Joint Declaration. In fact property prices have been on the rise in an incremental basis since the turn of the last century. According to the Rating and Valuation Department,⁽⁹⁾ for domestic properties, price indices have appreciated from 112 in 1990 to 272 in 1995. The increase had sharpened since 1995 and has come to a rocket high (420) in 1997 representing close to a 400% increase over the price index in 1990. The vacancy rates as percentage of the stock however remain rather stable at 4-5 %. This suggested that speculators in the property market had not remained idle. In fact, it is not uncommon in those years for properties to change hands from the vendors through numerous nominees before they were passed on to the genuine purchasers or users.

As the vacancy rate gradually declined to below 4% in 1996, the Government's concern over the situation was obvious. Grievances from all quarters that property price has become altogether disproportionate to the earning power of the population had prompted the Government to review the situation seriously. Apart from the supply and demand factor, it is believed that one of the factors attributing to this continual growth in property prices lies with speculative activities in the property market.

A Task Force on Land Supply and Property was commissioned by the Government in 1994 to review the situation and to introduce measures to curb speculative

Footnotes:

- (9) Please refer to "Hong Kong Property Review" (2000) published by the Rating and Valuation Department.

practices in the property market. The following were some of the major proposals put forward for the Government's consideration:

- (a) To reduce the quota for private sale;
- (b) To shorten the period before completion for forward sale;
- (c) To prohibit resale before the issuance of the compliance certificate or consent to assign;
- (d) To increase the initial deposit to 10% of the purchase price.

In addition, the Government also introduced other fiscal measures, such as capping the maximum mortgage loan given out by the authorized institutions. Another effective measure taken by the Government is to ensure ample supply of housing in the public sector. The Government's decision to sell a portion of its public housing to their sitting tenants at prices far below the current market level further dampen the property market, particularly those pertaining to small private housing units. The global and Asian financial crisis has eventually brought property prices and transactions to a near disaster level in the last quarter of 1997. The Government has relaxed most of the restrictions previously imposed particularly those concerning the presale of uncompleted properties in order to boost the market.

Although there have been signs of recovery in the economy generally in recent months and the local stock market has recovered substantial ground, it is anticipated that as far as the property market is concerned the cycle of recovery will necessarily take a much longer period of time. Property prices in the last quarter of 1999 have on the average,⁽¹⁰⁾ dropped some 43% as compared to the last quarter of 1997. The

Footnotes:

(10) Please refer to "Hong Kong Property Review" (first quarter, 2000) published by the Rating and Valuation Department.

transaction volume has reduced to similar level as in 1995.⁽¹¹⁾ Vacancy rate of domestic properties reached a record high of just over 6% recently.⁽¹²⁾ Loan delinquency ratio has also shown a steady increase since the first quarter of 1998.⁽¹³⁾

This discussion on property prices will not be complete without mentioning the study by K.W. Chau⁽¹⁴⁾ on efficiency of the real estate market in Hong Kong. Chau has noted that the property prices have to be seen in the context of real returns based on actual transactions rather than valuation. He also proposed that the reliability of a transaction based index would depend on the trading volume and the method of controlling different price influencing attributes of the transacted properties.

III. The Establishment of the Estate Agents Authority and its Major Functions

With the background of an unusually active property market in Hong Kong in the early 1990's, and arising from a public demand for a higher standard of service by estate agents generally, the Government assigned in 1994 a special task force to study the related issues. A Working Group on Regulation of the Estate Agency Trade was established with a membership comprising of community leaders, members of the Trade and professionals from cognate fields. While the Trade was concerned about the impact of the proposed legislation on their business operation and income, there was also a strong cry from the public to license and regulate the Trade. A consultation document on the subject was issued by the Planning, Environment and Lands Branch in 1994 to gauge views from the public for its recommendation to establish a regulatory body to supervise the practice of the Trade. The discussion of the

Footnotes:

(11) Please refer to the "First Quarter Economic Report" et al (2000).

(12) Please refer to "Asia Pacific Real Estate Research" et al (first quarter, 2000).

(13) Please refer to page 5 of "Asia Pacific Real Estate Research" et al (first quarter, 2000).

(14) Please refer to K. W. CHAU et al (1996).

Bills Committee was concluded in May 1997⁽¹⁵⁾ when the Estate Agents Ordinance was published.

The Estate Agents Authority was set up under the Estate Agents Ordinance with membership appointed by the Chief Executive of the Hong Kong Special Administrative Region. The membership of the Authority comprises of a Chairman, a Vice-Chairman and 18 ordinary members including 5 trade members and the rest, individuals who are independent of or not directly engaged in the estate agency trade.

The principal functions of the Authority include:

- (a) To regulate and control the practice of estate agents to ensure compliance with the provisions of the Ordinance;
- (b) To promote integrity and competence as well as enhance the status of estate agents;
- (c) To issue licences;
- (d) To draw up practising guidelines and prescribe other regulations and rules pursuant to the Ordinance;
- (e) To liaise with educational institutions for the purpose of providing training to ensure competency and establish standards of conduct;
- (f) To conduct investigations or inquiries, and to handle complaints received;
- (g) To take disciplinary actions against breaches of the Ordinance and its subsidiary legislation; and
- (h) To determine disputes relating to commission.

Footnotes:

(15) *The Estate Agents Ordinance is perhaps one of the most debated ordinances when at the Bills stage. Over 30 sessions of discussion were held by the Bills Committee.*

The Chairman and all the members are serving the Authority on a voluntary basis and as a community service. The administrative arm of the Authority is headed by a Chief Executive Officer appointed by the Authority and reports to the Legislative Council via the Secretary for Housing. A Register of Licensees with the prescribed particulars was maintained by the Authority and made available for public inspection.

IV. The Estate Agents Ordinance and its Impact on the Practice of the Trade

The Estate Agents Ordinance was published as Legal Supplement No. 1 to the Hong Kong Government Gazette on 30th May, 1997. The Ordinance consists of 8 Parts and a Schedule. The Estate Agents Ordinance is not a particularly complex ordinance and is structured in a conventional layout. The Ordinance sets the parameter of how the Trade is to be regulated. There is however much room left for the Authority to prescribe Regulations governing the licensing requirements and the conducts and practice to be observed and followed by licensed estate agents and licensed salespersons in the Trade. The Ordinance further empowers the Authority to create offences in respect of contravention of any of the Regulations so made.

The major gist of the Ordinance comprises the following:

(a) *The establishment of an Estate Agents Authority*

(For details please refer to Section III)

(b) *The Licensing System*

The Ordinance provides that it would be an offence for anyone to practise estate agency work without a licence. The Authority may grant licences for the purposes of the Ordinance. The licensees are to satisfy the age and

the fit and proper criteria as stipulated in the Ordinance, other licensing requirements as prescribed by the Authority and to pay the prescribed licence fees in order to be granted a licence. The Authority may attach conditions to those licences the holders of which have not fully complied with all the licensing requirements as stipulated or to attach such other conditions as it considers appropriate. The Authority may renew, refuse to renew a licence, or revoke or suspend a licence, as it sees fit.

(c) *Investigation*

Where the Authority has reason to believe that a requirement or other provision of the Ordinance may not have been complied with or may have been contravened by a licensee, the Authority may appoint its own staff and/or professional accountants to conduct an investigation. The licensee under investigation shall cooperate with the investigator(s) so appointed and provide all assistance including the disclosure of the requisite information and documents.

(d) *Complaints Handling*

When a complaint that a licensee has failed to comply with or has contravened the Ordinance or its subsidiary legislation is received or if the Chief Executive Officer of the Authority has reasons to believe that a licensee has failed to comply with or has contravened the Ordinance or its subsidiary legislation, facts on the same should be presented to the Authority for disciplinary proceedings. The Authority may either deal with it itself or refer the matter to a disciplinary committee.

(e) *Disciplinary Powers*

The Authority or, where appropriate, the disciplinary committee may after

the due process, admonish or reprimand the licensee concerned; attach or vary the conditions attached; suspend or revoke the licence, impose a fine and order the licensee to pay the costs of the proceedings or the investigator(s). The licensee under investigation will have a defence if he can prove that he had taken all reasonable steps and exercised all due diligence to avoid the non-compliance or contravention or the occurrence of the matter which is the subject of complaint. In the circumstances, the Authority will not exercise its disciplinary powers under the Ordinance.

(f) *Appeals*

A licensee may appeal to the Secretary for Housing against a decision of the Authority relating to licence issuance, renewal, condition(s), revocation or suspension or any disciplinary actions meted out by the Authority. The Secretary shall appoint an appeal panel of 12 who in turn will appoint a tribunal of no less than 3 persons to conduct the appeal hearing on a particular case. Both the Authority and the licensee are free to instruct legal representatives to attend the hearing.

(g) *Estate Agents' Duties*

Estate agents shall as regards every property in respect of which he provides service do the following:

- (i) To provide information concerning the property as prescribed by the Authority;
- (ii) To disclose to a client full particulars of any pecuniary or other beneficial interest which the estate agent has in the property concerned;
- (iii) To inform the parties concerned if he acts for both vendor and purchaser in a particular property transaction;

- (iv) To observe and comply with Regulations prescribed by the Authority;
- (v) To inform the Authority when he ceases to be engaged in estate agency work.

Estate agents shall as regards its management and accounting affairs do the following:

- (i) open and keep a separate account at a bank for all monies received for and on behalf of their client;
- (ii) either by himself or by the appointment of a manager the estate agent shall ensure the proper management of the business of any one of his offices;
- (iii) notify the Authority by the prescribed forms the following personnel movements within 31 days:
 - employment and cessation of employment of salespersons;
 - appointment and cessation of appointment of managers;
 - appointment and cessation of appointment of directors; and
 - on becoming or ceasing to be a member of a partnership which does estate agency work;
- (iv) moneys received for or on account of a client must be paid to the client or in accordance with the client's instruction in writing.

(h) Estate Agency Agreements

The Ordinance provides that standard agency agreements be prescribed by means of subsidiary legislation for use by all agents in the Trade. The purpose is to clearly spell out the duties of the agents and the obligations of the clients. This would afford greater protection to consumers and avoid unnecessary disputes and unwarranted litigation.

(i) *Disputes as Regards Commission*

Disputes over commission may be referred to the Authority for determination if both parties agree to do so. The Authority has jurisdiction over an amount of commission in dispute not exceeding \$300,000.00. An adjudicator (who will be an employee of the Authority) will be appointed by the Authority to conduct the hearing and make determination on the dispute. The proceedings of the hearing will be conducted in an informal manner and no legal representation will be allowed.

The parties will be required to pay a filing fee to commence the proceedings. The filing fee is deductible from the costs of determination, which in principle will be borne by the parties in equal shares.

An appeal shall lie to the District Court from any determination of the Authority. A determination may be registered in the District Court and be enforced as its judgment.

(j) *Offences*

Under the Ordinance, a number of offences have been created and these include the following:

- (i) it would be an offence for any person, without reasonable excuse, to make false or misleading statements or provide false or misleading information in connection with an application for a licence or renewal of a licence issued by the Authority;
- (ii) it would be an offence for any person, without reasonable excuse, to obstruct the Authority in the performance of its functions;
- (iii) it would be an offence for any person who, without reasonable excuse,

defaces or otherwise alters any existing entry in the register, or make any additions therein;

- (iv) it would be an offence for any person who, without reasonable excuse, breaches or fails to comply with Sections 15(1) & (2); 16(1); 28(5) & (9); 38(1)(b)(ii); and 55(1)(h). of the Estate Agents Ordinance;
- (v) it would be an offence for a licensed estate agent or a licensed salesperson who, without reasonable excuse, uses a name other than the name specified in the licence for or in connection with an estate agency business, or breaches Sections 39(1); 43(1), (2), and (3) of the Ordinance:

Depending on the nature of the offence, the penalty would range from a fine, disqualification from holding a licence, to imprisonment.

V. The Role of the Estate Agents in Real Estate Marketing

As in elsewhere, property market in Hong Kong can be broadly categorised into the primary and the secondary market. Recently, Government has decided to sell its public housing to their sitting tenants and allow alienation of the same in the open market after paying the Government extra premium. There is therefore a special market in public housing. Estate agents play an active role in the marketing of both public and private properties.

In Hong Kong, the marketing of properties in the primary market is much more efficient as compared to those in other countries. Normally, properties would be sold in weeks or months. Even in the recent more sluggish market, the unsold units within a development are few and developers would reduce the prices and offer other

incentives to purchasers in order to complete the sale. Previously, developers would deploy their own staff to conduct the marketing. However as competition became much more vigorous since the latter part of 1997, estate agents have been employed to do the job. While the market rate of commission for conveyance in the secondary market is at 1% on each party, some developers would pay a commission as high as 5-6% to the agents who would normally waive the commission of the purchasers. As the agents have built up effective networks of clientele, it is unlikely that the role of the agents in marketing properties in the primary market be dispensed with even if the market should pick up again.

Traditionally, estate agents play a key role in the conveyance of properties in the secondary market and for a number of reasons. They are the ones who have in their possession the largest amount of information in the property market. They would assist the potential purchasers to view properties and to negotiate the purchase price with vendors. It is a common practice in Hong Kong for agents to represent both the vendors and the purchasers in a property transaction. The Ordinance therefore stipulates that full disclosure of any conflict of interest and the commission payable by one party has to be made known to the other party. This undesirable situation has been a prevalent source of consumers' grievance and that it is not uncommon for either parties to blame the agents for misrepresentation or failure to act in their best interest.

Lennon Choy⁽¹⁶⁾ proposed that pricing of properties in Hong Kong hinges largely on 5 factors: quality of the building, the location, ancillary facilities and services, brand name and investment value. Developers when pricing properties in the primary market would largely adopt the purchaser-based strategy in a boom market and a

Footnotes:

(16) Please refer to Chapter 14 of "Real Estate Development in Hong Kong" POON, et al (1998)

competitor-based strategy in a slump market. Estate agents as the front-line service providers are no doubt in possession of abundant first hand information as regards purchasers' demand and their perception of property values at any particular point in time. A number of the larger estate agency firms compile and disseminate for general information transaction prices of properties in the secondary market almost instantaneously after a deal has been closed. It is thus believed that in fact the agents are the chief advisors on property prices and are capable of influencing price trends.

The agents' role in the conveyance of special types of property such as public housing and village housing has also assumed a greater significance recently. As the conveyancing procedures for these special types of properties can be daunting and it is often too late to rectify the situation when the case is taken over by the conveyancing lawyer. Expertise of the agents therefore becomes very useful.

The provision of accurate property information to his clients forms a most important part of an estate agent's work. At the moment the ownership of a property is determined by the deeds involved, and the system whereby such documents are registered. The registration sequence of the documents also has direct bearing on the integrity of the ownership. In the case of many properties a voluminous amount of deeds and documents are involved, and it often takes a professional to obtain a clear and thorough understanding of the ownership and the encumbrances. This in turn means considerable time and money. Thus the government appointed a working party some years ago to study how the existing system of *Title Deed Registration* may be converted to *Land Title Registration*.⁽¹⁷⁾ It is understood that public consultation will be completed by the end of the year and that the legislation process will follow shortly.

Footnotes:

(17) Please refer to "Draft Land Titles Bill Report on Pre-Consultation" HKSAR, et al (1999).

The greatest advantage of the *Land Title Registration* system is a major simplification of the land search process. Under this system, the ownership of a property can, in principle, be confirmed by checking the Land Title Register at the Land Registry, and it is no longer necessary for time to be spent on going through large bundles of deeds and other documents. As a protection for consumers against loss arising from fraud or mistakes in the Register, the government also proposed to set up a special fund to provide compensation for those who sustain loss and seek indemnity from the fraudulent party.

Hong Kong's gradual progress towards the *Land Title Registration* system also signifies that estate agents may assume a bigger and more important role in future property transactions. It is not unreasonable to expect that in future, the estate agent will be a one-stop supplier of property conveyance services. They would provide a comprehensive range of services, including the introduction of properties, arrangement of price negotiation, property information search, the drafting of the sale and purchase agreement, making financial arrangement, right up to the closing of the deal. In this way the role of the estate agent is no longer confined to that of the middleman.

VI. Maintaining the Competitive Edge

Facing drastic changes in the real estate market in Hong Kong and the implementation of the Estate Agents Ordinance, it is inevitable that both practitioners and business owners have to introduce various measures to maintain their competitive edge. Real estate as a major investment tool has no doubt lost its significance since the downturn of the economy in 1998. Previously, the stocking of land by developers would prove to be a sure win by the time when the developments were completed. Since the Government's policy of adopting a more flexible mode of releasing land for sale, land and property prices have become much more stabilised. Recent purchasers

were largely end-users themselves and speculative activities were to a large extent reduced. Appreciation in property prices as a major driving force in boosting local economy has taken a new turn. Property prices in future would probably have to follow the traditional pattern of reliance on the usual economic factors including the employment situation, mortgage rates, and supply and demand, etc.

The Estate Agents Ordinance requires that practitioners should protect the interests of their clients by complying with the Practice Regulations stipulated under the Ordinance. Consumers' expectation has no doubt heightened since the licensing system has been implemented and that they would not hesitate to lodge a complaint against an incompetent or reckless agent. Furthermore, agents are now required to conduct land search once they accept instructions from their clients to act for a certain property to ascertain the ownership of the property. This is also deemed necessary to ensure that purchasers are making informed decisions before too late. The operating costs of the trade would necessarily be increased⁽¹⁸⁾ and the licence fees payable by all shops and practitioners, though modest, would also be an extra burden on the Trade. It is thus imminent that the Trade should consider various measures in cutting down their operating costs and maintaining their competitive edge.

Professionalism

In the longer term, the only effective means of maintaining the competitive edge is by the rendering of quality service by agents. Whether the agents would be acting in the best interests of their clients would no doubt be crucial in keeping their clients. According to a survey of one of the more reputable estate agency firms in town, more

Footnotes:

(18) *There are presently 5 major trade associations in Hong Kong representing a sizeable population of the practitioners.*

than 30% of their business derived from referral by previous clients. As the main bulk of the purchasers nowadays are the end-users of the properties, after sale services are extremely important. In brief, agents in order to maintain their competitive edge are well advised to provide professional services to their clients and act in their best interests. As dual agency is allowed under the Ordinance, disclosure of interests as well as the commission payable by both parties should be disclosed to them. Should there be any insurmountable conflict of interests situation, the agents should refrain from acting for either or both parties concerned. Estate agents are well advised to step up their efforts in equipping themselves in all aspects of knowledge legitimately expected of them in order to maintain their competitiveness. This is particularly so in view of the anticipated expansion in their role after the change in the property title registration system should be in place. If it should be their aspiration to provide a comprehensive range of services to their clients, they may have to strengthen their knowledge in the legal and financial aspects of conveyance.

Segmentation of Market

In order to develop the requisite expertise and professionalism, agents may also consider specialising on the services of specific segment of the users. Some would argue that Hong Kong geographically is not a huge place that needs to be segmented as such. However there are agents concentrating on a particular community reported great success in their business of the close relationship they have developed with the local residents. For instance they would be able to list almost all the properties for sale or rent in the area. The trust generated because of a long-term relationship is also obvious. Apart from geographic segmentation, the type of properties would also attract different clientele. As far as domestic properties are concerned, clients of the super-luxury and the luxury classes of properties apparently are looking for very different kinds of services from the Public Housing or Village Houses clientele.

Commercial or industrial properties warrant separate services. Sometimes even the sale and the rental markets are looking for rather different services. Specialising in a particular segment of the market would no doubt generate the corresponding expertise and clientele to help maintain the competitive edge.

Sharing of Resources to Achieve the Economy of Scale

The pooling of resources by smaller agency firms in order to achieve the economy of scale is another measure that should be contemplated. This is particularly pertinent as far as listing of properties and the property databank are involved. The sharing of property listings would enhance the choice of the purchasers, hence improving the chance of closing a deal. The sharing of property databank would help to reduce operation cost for property information search. Other areas of pooling and sharing of resources would also assist smaller establishments to cut costs and improve their competitiveness. The trade associations should have an important role to play in assisting their members in pooling together their resources. Success has been reported by many small to medium size firms after having adopted such practices. However, it is anticipated that more disputes between competing firms sharing resources are expected as the association is often informal and the relationship loosely defined.

Reduction of overhead

There is little dispute over the fact that the practice of the estate agency trade in Hong Kong has been conducted in a rather labour intensive manner. Agency firms tend to employ a large number of employees and open many branch offices as a means to claiming their market shares, geographically as it may well be the case. As this appears to have worked quite well in the past, management often finds it difficult to change

even though it would mean reduction of overhead by hiring fewer employees and renting less shop space. In actual fact, there has been complaints from property owners that they have been bothered by agents, sometimes in odd hours attempting to list their properties for sale when they have given no indication at all previously as to their intention so to do. It is perhaps worth probing into by management as to how their organisation should be streamlined and restructured to reduce overhead expenditures and yet maintaining their clientele and competitive edge.

Franchising as a competitive mode of operation in the estate agency trade

Franchising activities have been in existence in Hong Kong for a considerable period of time, since the early 70's. According to a survey conducted by the Hong Kong Franchising Association, there were about 90 franchise operations in Hong Kong, of which 48% were local franchise.⁽¹⁹⁾ Catering and retail businesses were amongst those which played a more significant role in franchising activities in Hong Kong. Businesses in the service industry were amongst the late comers. As far as real estate agency services is concerned, up to the present moment there is very few establishments operating in the mode of a franchising system.

One of the reasons why agents were previously more hesitant to organize themselves into franchises is perhaps the apprehension of maintaining a corporate standard which will not put the reputation of the franchise in jeopardy. Previously, when there are no legislation regulating the operation of an estate agency trade, it would be obviously more difficult to monitor and control the practices of franchisees. With the licensing system in place and the Estate Agents Ordinance in full implementation,

Footnotes:

(19) Please refer to section one of "Franchising Operational Guide" Hong Kong Franchise Association et al (1998).

Hong Kong should present outstanding potentials for franchising as a business format to be developed in the estate agency trade.

Estate agency trading in the franchising format could share common resources. Amongst them, the two most important area could be listing of properties and a data bank on property information as required under the new legislation governing the trade. Sharing of property listing would help enhance the opportunities of right matching between a vendor and the potential purchasers or tenants, and hence the chances of closing a deal. The advantages of sharing a property databank are obvious and needs little elaboration. Other common activities such as computer system, advertising, training of employees, customer service, particularly the handling of complaints, etc could all be more economically provided collectively under the franchise system. It is thus proposed that by deploying a business format of franchising, small or medium sized estate agents may seek to improve their competitive edge.

Multiple-listing as a means to enhance transactions

Traditionally, estate agents have attached great importance to listing information and they would be most reluctant to share the same with their counterparts in the trade. However, this practice obviously has its shortcomings. It would mean that the advertising and marketing of the listed properties would be confined to a single agent and the speed of their disposal would perhaps require a longer time. On the other hand, all agents would have to put in more efforts to build up their clientele repository and spend more resources on marketing. Should a multiple-listing system be established, both the agents and the consumers should be able to benefit and at the end of the day, it would serve to expedite and hence enhance the volume of transactions.

VII. Conclusion

It is anticipated that the estate agency trade will continue to undergo a phase of evolution in response to the changing market situation as well as the new regulatory environment. Competition will not only become more rigorous, but its modes more multifarious. Trade management and practitioners alike, are well advised to sharpen their professional knowledge and review their service attitudes in order to maintain their competitive edge. The previous labour intensive approach to recruiting clients call for a strenuous overhaul in order to cut down on operational expenditures. New modes of operations fully exploiting the benefits of e-commerce should be explored. The Multiple Listing System as an instrument to enhance transactions and as a means to reduce operating costs should be seriously considered by the trade associations. It is no doubt an opportune time for the trade to undergo a metamorphosis to bring it in line with demands of the community in real estate services.

June 2000

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