



非本地學生在香港租屋指南

Tenancy Guide for Non-local Students in Hong Kong



地產代理監管局
ESTATE AGENTS AUTHORITY



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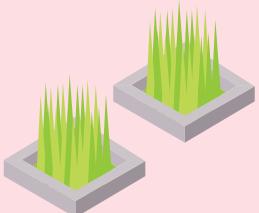
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前言

不少非本地學生來港讀書，基於大學宿位短缺，一些非本地學生無法在校內寄宿，而需要在其他地方另租地方居住。大部分這些年輕的非本地學生並不熟悉香港的住屋和租賃情況。因此，他們在租樓的過程中可能會出現問題或遇上困難。

地產代理監管局（「監管局」）根據《地產代理條例》於1997年11月成立，負責規管香港地產代理的執業。監管局為非本地學生出版本小冊子，向他們介紹在香港租屋時要注意些甚麼。

聲明

本小冊子的資料僅作一般參考，並非法律意見。如讀者就個別情況有疑問，應尋求法律意見。對於因本小冊子全部或部分內容而引起或與之有關的損失，監管局恕不負責。



背景

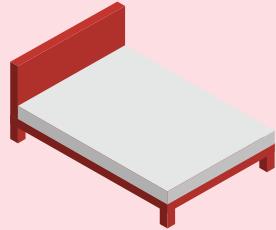
香港地少人多，政府提供公共租住房屋及資助出售房屋計劃（例如居者有其屋計劃），但這些房屋在未解除轉讓限制前是不可在二手市場上自由分租或出租的，因此市場上大部份可供租住的物業均來自私人住宅。

除了住宅物業，香港還有其他種類的物業，例如工業用或商用的物業。個別業主會將物業分間成獨立單位（俗稱「劏房」）出租，由於劏房面積細小，租金相對較低，部分更可能涉及違例建築及安全問題。

在香港進行物業交易，可直接由賣方／業主與買方／租客完成，但交易各方通常會委託地產代理放售／放租或物色物業，並完成交易。

在香港，業主和租客的權益受《業主與租客（綜合）條例》保障，該條例由差餉物業估價署負責執行。另外，地產代理的執業則受監管局所規管。非本地學生可參閱這兩個機構在其網站上提供的相關資料（有關連結刊於本小冊子最後一部份）。





委託持牌地產代理

雖然準租客可直接與業主交易，例如透過在香港頗為流行的網上物業平台，但自行放盤／租樓涉及安全及法律問題等潛在風險。由於持牌地產代理受監管局規管，故委託他們行事會有更大的保障。

持牌地產代理具備物業租賃的專業知識，他們的執業及操守也受到監管局規管。

每位持牌地產代理／營業員可獲發一張A4大小的牌照及一張地產代理證，代理證上載有其姓名、牌照號碼和牌照屆滿日期。



此外，公眾亦可透過監管局網頁的「牌照目錄」，以查核相關人士是否持有有效牌照。

請瀏覽：www.eaa.org.hk/zh-hk/licence-search





訂立《地產代理協議》的重要性

非本地學生應留意，在香港，就住宅物業而言，當客戶決定委託一名地產代理，該地產代理必須：

- 與客戶訂立訂明的《地產代理協議》
- 解釋協議的條款，包括協議有效期、代理的職責、雙方協議的佣金金額等
- 向業主和租客提供已填妥的《出租資料表格》

《地產代理協議》註明立約方與地產代理的權責，保障業主和租客。

另一方面，客戶若在協議有效期內，與物業的業主訂立租賃協議，法例上便須向其委託的代理支付佣金。

因此，在簽署《地產代理協議》前，應釐清所有條款內容。

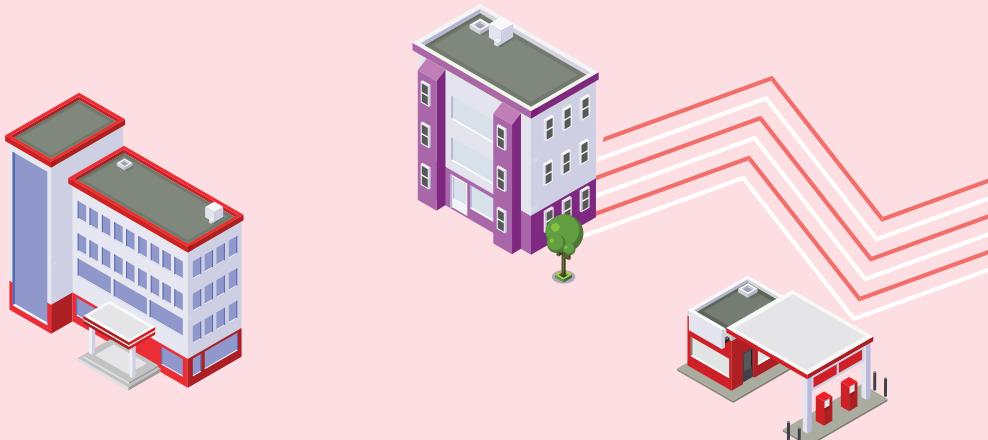


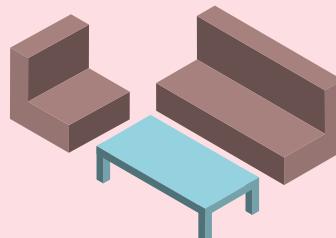


揀選物業時應注意及考慮的事項

違例建築工程

在香港，物業可能註有拆卸／還原違例工程的建築命令。違建工程常見於「劏房」或舊式樓宇。倘若地產代理在土地查冊中發現該物業註有任何建築命令，他／她須告知租客有關事實及當中所涉及的風險（如：政府可行使收回土地的權利，物業的安全問題、物業可能被封閉）。租客應詳細考慮是否選擇居於帶有違建工程的物業內。

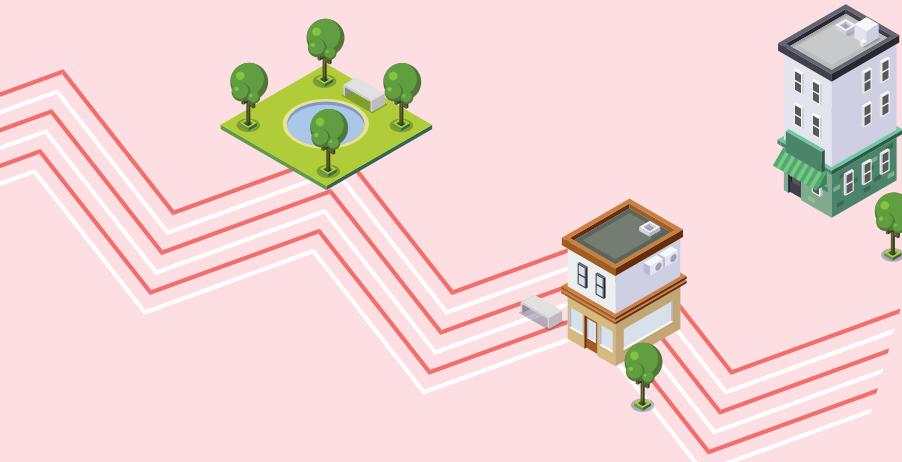


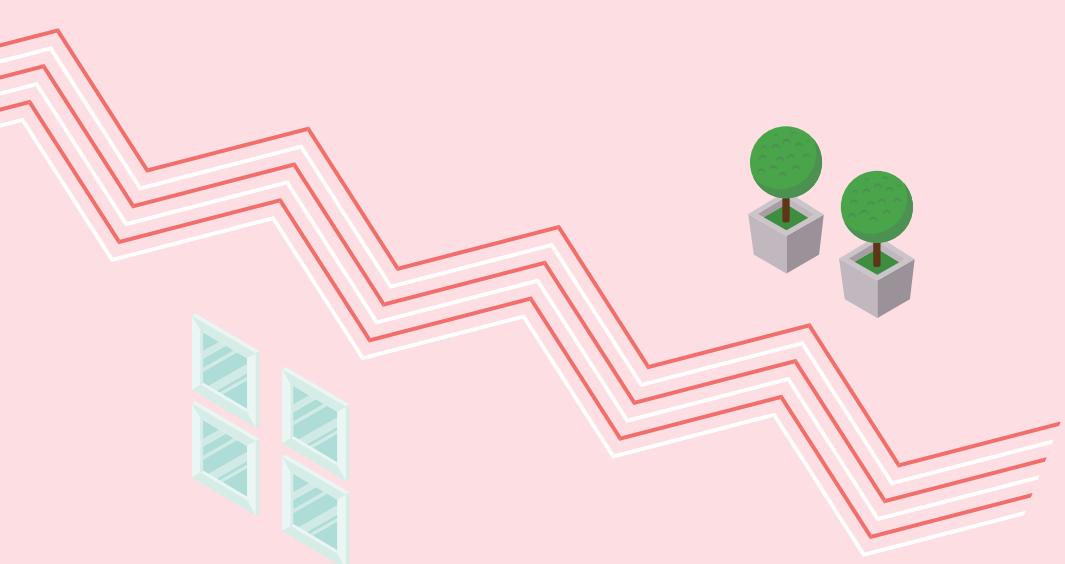


物業用途

非本地學生應留意，香港的建築物的用途設有限制，即使屬同一建築物，每個單位的用途限制也有可能不同。一般而言，物業的佔用許可證（俗稱「入伙紙」）、大廈公契或政府租契內會註明該物業的用途限制，業主和租客皆須遵守。地產代理須向準租客提供有關資料。

當物色物業租住時，非本地學生應只選擇住宅物業。居住於工業用或商用的物業內，不單可能有安全風險，也要承受政府有權收回或封閉物業的風險，以及該物業不獲保險公司承保的可能性。





出租限制

非本地學生須注意，一些住宅物業設有出租限制。例如，公共租住房屋是不准分租的，而資助出售房屋計劃轄下的單位，以居者有其屋計劃（「居屋」）為例，因受《房屋條例》所限，未解除轉讓限制前是不得出租的。透過土地查冊可得知單位的解除轉讓限制證明書是否經已發出。





分租

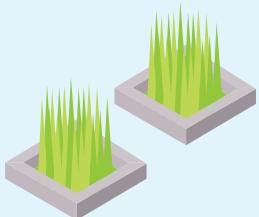
由於分租情況較為複雜，非本地學生應特別留意物業究竟是由業主所出租，抑或是由二房東分租。就分租的情況而言，在簽署分租租約前，二房東和三房客須先取得原業主同意，並確保業主與二房東之間的租約，有否設有分租限制，如原租約註明不可分租，須取得業主的書面同意才可分租單位。

此外，分租租約條款一般受制於原租約條款，同時分租租期也不可超過原有租期。

地產代理須在《出租資料表格》中提供原有租約的資料，例如租約立約人，租約有效期及任何分租客必須知道的資料，並向客戶提供已填妥的表格。

假如業主／二房東要求大額預繳租金，三房客應提高警覺，仔細考慮後才決定是否承租。





前言

不少非本地学生来港读书，基于大学宿位短缺，一些非本地学生无法在校内寄宿，而需要在其他地方另租地方居住。大部分这些年轻的非本地学生并不熟悉香港的住屋和租赁情况。因此，他们在租楼的过程中可能会出现问题或遇上困难。

地产代理监管局（「监管局」）根据《地产代理条例》于1997年11月成立，负责规管香港地产代理的执业。监管局为非本地学生出版本小册子，向他们介绍在香港租屋时要注意些甚么。

声明

本小册子的资料仅作一般参考，并非法律意见。如读者就个别情况有疑问，应寻求法律意见。对于因本小册子全部或部分内容而引起或与之有关的损失，监管局恕不负责。



背景

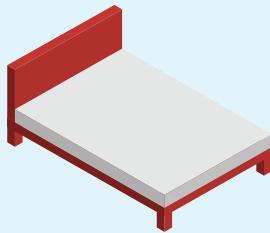
香港地少人多，政府提供公共租住房屋及资助出售房屋计划（例如居者有其屋计划），但这些房屋在未解除转让限制前是不可在二手市场上自由分租或出租的，因此市场上大部份可供租住的物业均来自私人住宅。

除了住宅物业，香港还有其他种类的物业，例如工业用或商用的物业。个别业主会将物业分间成独立单位（俗称「劏房」）出租，由于劏房面积细小，租金相对较低，部分更可能涉及违例建筑及安全问题。

在香港进行物业交易，可直接由卖方／业主与买方／租客完成，但交易各方通常会委托地产代理放售／放租或物色物业，并完成交易。

在香港，业主和租客的权益受《业主与租客（综合）条例》保障，该条例由差饷物业估价署负责执行。另外，地产代理的执业则受监管局所规管。非本地学生可参阅这两个机构在其网站上提供的相关资料（有关连结刊于本小册子最后一部份）。





委托持牌地产代理

虽然准租客可直接与业主交易，例如透过在香港颇为流行的网上物业平台，但自行放盘／租楼涉及安全及法律问题等潜在风险。由于持牌地产代理受监管局规管，故委托他们行事会有更大的保障。

持牌地产代理具备物业租赁的专业知识，他们的执业及操守也受到监管局规管。

每位持牌地产代理／营业员可获发一张A4大小的牌照及一张地产代理证，代理证上载有其姓名、牌照号码和牌照届满日期。



此外，公众亦可透过监管局网页的「牌照目录」，以查核相关人士是否持有有效牌照。

请浏览：www.eaa.org.hk/zh-cn/licence-search





订立《地产代理协议》的重要性

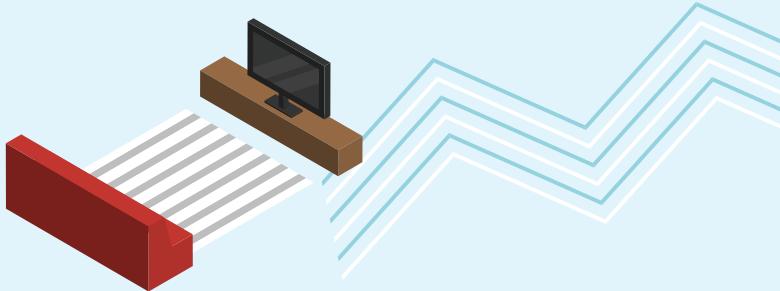
非本地学生应留意，在香港，就住宅物业而言，当客户决定委托一名地产代理，该地产代理必须：

- 与客户订立订明的《地产代理协议》
- 解释协议的条款，包括协议有效期、代理的职责、双方协议的佣金金额等
- 向业主和租客提供已填妥的《出租资料表格》

《地产代理协议》注明立约方与地产代理的权责，保障业主和租客。

另一方面，客户若在协议有效期内，与物业的业主订立租赁协议，法例上便须向其委托的代理支付佣金。

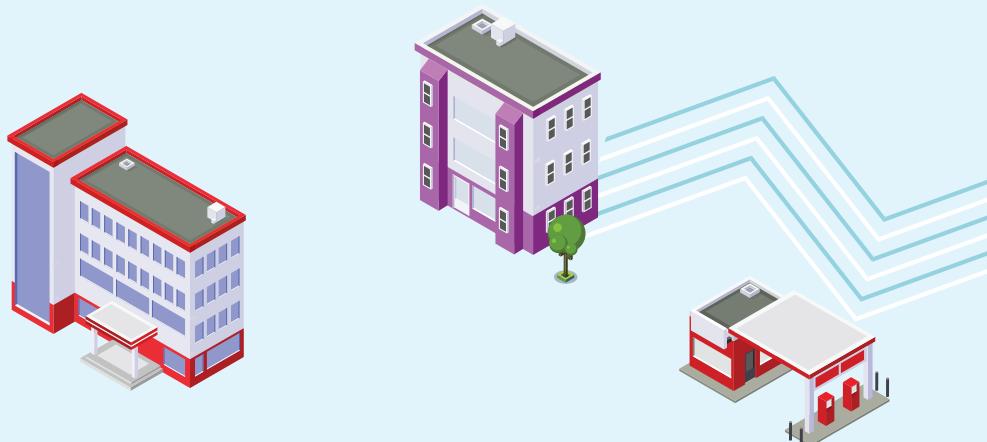
因此，在签署《地产代理协议》前，应厘清所有条款内容。

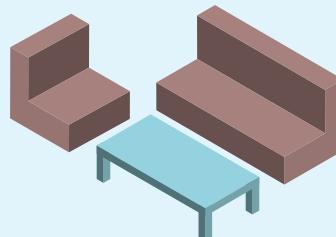


拣选物业时应注意及考虑的事项

违例建筑工程

在香港，物业可能注有拆卸／还原违例工程的建筑命令。违建工程常见于「劏房」或旧式楼宇。倘若地产代理在土地查册中发现该物业注有任何建筑命令，他／她须告知租客有关事实及当中所涉及的风险（如：政府可行使收回土地的权利，物业的安全问题、物业可能被封闭）。租客应详细考虑是否选择居于带有违建工程的物业内。



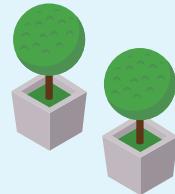


物业用途

非本地学生应留意，香港的建筑物的用途设有限制，即使属同一建筑物，每个单位的用途限制也有可能不同。一般而言，物业的占用许可证（俗称「入伙纸」）、大厦公契或政府租契内会注明该物业的用途限制，业主和租客皆须遵守。地产代理须向准租客提供有关资料。

当物色物业租住时，非本地学生应只选择住宅物业。居住于工业用或商用的物业内，不单可能有安全风险，也要承受政府有权收回或封闭物业的风险，以及该物业不获保险公司承保的可能性。

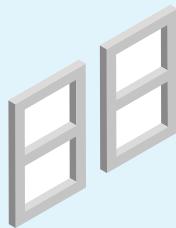




出租限制

非本地学生须注意，一些住宅物业设有出租限制。例如，公共租住房屋是不准分租的，而资助出售房屋计划辖下的单位，以居者有其屋计划（「居屋」）为例，因受《房屋条例》所限，未解除转让限制前是不得出租的。透过土地查册可得知单位的解除转让限制证明书是否经已发出。





分租

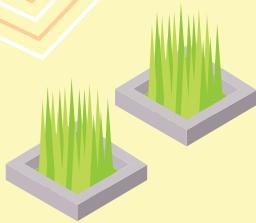
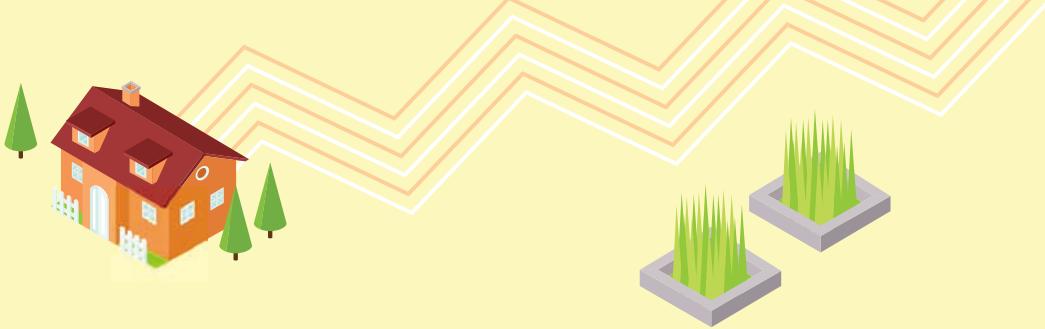
由于分租情况较为复杂，非本地学生应特别留意物业究竟是由业主所出租，抑或是由二房东分租。就分租的情况而言，在签署分租租约前，二房东和三房客须先取得原业主同意，并确保业主与二房东之间的租约，有否设有分租限制，如原租约注明不可分租，须取得业主的书面同意才可分租单位。

此外，分租租约条款一般受制于原租约条款，同时分租租期也不可超过原有租期。

地产代理须在《出租资料表格》中提供原有租约的资料，例如租约立约人，租约有效期及任何分租客必须知道的资料，并向客户提供已填妥的表格。

假如业主／二房东要求大额预缴租金，三房客应提高警觉，仔细考虑后才决定是否承租。





Foreword

With the high number of non-local students coming to Hong Kong to study and the scarcity of hostel places in universities, some non-local students are unable to accommodate in the campus and need to rent a place elsewhere. Most of these young non-local students are not familiar with the housing situation and the tenancy practice in Hong Kong. Therefore, there might be issues or difficulties in the process of renting a flat.

The Estate Agents Authority (“EAA”), which was established in November 1997 under the Estate Agents Ordinance (“EO”) to regulate the practice of estate agency in Hong Kong, published this booklet for non-local students to introduce to them what to pay attention to when renting a place in Hong Kong.

Disclaimer

The information provided in this booklet is for reference only. There is no intention whatsoever to provide legal opinion. Readers are strongly advised to seek legal advice on matters encountered in specific situations. The EAA shall not be held liable for any loss or damage incurred or suffered in connection with, arising from, or in reliance on, the whole or any part of this booklet.



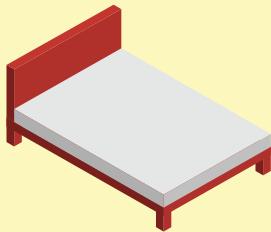
Background

Hong Kong is a densely populated city with a limited supply of land. The government provides public rental housing and subsidised housing schemes (e.g. the Home Ownership Scheme) and these flats cannot be freely sublet or leased in the secondary market before the removal of alienation restrictions. Hence, most of the properties available in the market for renting are from private housing.

In addition to residential properties, there are also other types of properties such as industrial and commercial properties in Hong Kong. Some of these properties have been subdivided into small flats by the property owners for renting. While the rent of these subdivided flats is usually lower due to their small size, there might be unauthorised building works and safety issues.

Property transactions in Hong Kong can be made directly between the vendor/landlord and the purchaser/tenant, but the parties usually appoint estate agents to list/search properties and complete the deal.

In Hong Kong, the rights of landlords and tenants are protected by the Landlord and Tenant (Consolidation) Ordinance, which is administered by the Rating and Valuation Department. On the other hand, the practice of estate agents is regulated by the EAA. Non-local students are advised to take a look at the relevant information provided by these two organisations in their websites (related links are available in the last section of this booklet).



Appointing licensed estate agents

Though potential tenants may directly deal with the landlord, for example, through online property platforms which are quite popular in Hong Kong, there are potential risks, such as safety and legal issues, in seeking or listing a flat by oneself. For your own protection, it is better to appoint licensed estate agents as they are regulated by the EAA.

Licensed estate agents have the professional knowledge in property leasing and their practice and conduct are regulated by the EAA. If an estate agent/salesperson is licensed, an A4-sized licence and an estate agent card with his/her name, licence number and the expiry date of the licence, will be issued to the licensed estate agent/salesperson.



Please visit: www.eaa.org.hk/en-us/licence-search

In addition, the licence list on the EAA's website facilitates the public to ascertain whether the person concerned is a holder of a valid licence.





Importance of entering into an estate agency agreement

Non-local students should note that in Hong Kong, with regard to residential properties, when a client decides to appoint an estate agent, the estate agent is required to:

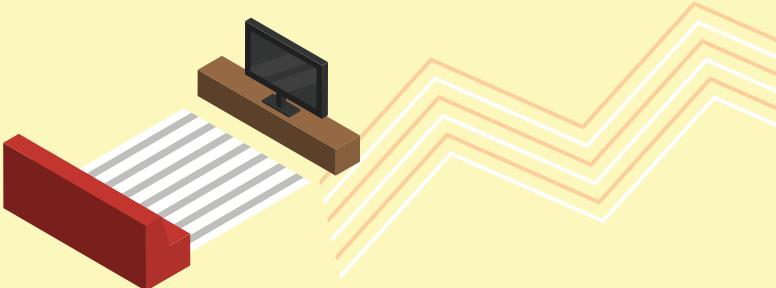
- enter into a prescribed estate agency agreement with the client;
- explain the terms in the agreement, including the validity period of agreement, the duties of the estate agents, the amount of commission agreed by both parties etc.;
- provide the completed Leasing Information Form to the landlord and tenant.

An estate agency agreement can protect the landlords and the tenants by stating the rights and duties of both parties clearly.

On the other hand, clients are legally obliged to pay commission to their appointed estate agent if the lease of the property mentioned in the agreement is made during the validity period.

Hence, it is important to clarify all the terms before signing the estate agency agreement.

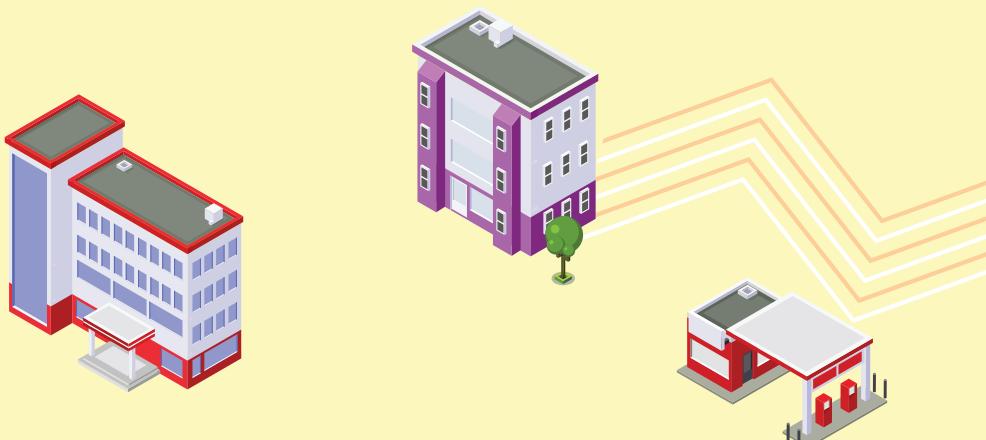


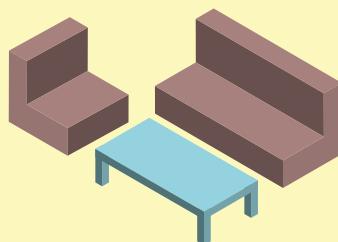


Points to note and consider when selecting a property

Unauthorised building works

In Hong Kong, a property may be subject to building orders for the demolition/rectification of unauthorised building works (“UBWs”). UBWs are more commonly seen in subdivided flats or old properties. If the estate agent discovers any building orders in a land search of the property, he/she should inform the prospective tenants of the fact and also the risks involved (e.g. the government’s exercising its right of re-entry, safety problems in the property, and closure of the property). Tenants should consider thoroughly whether to choose to live in a property with UBWs.



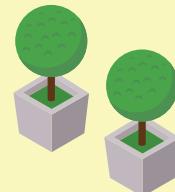
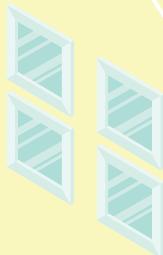


Use of property

Non-local students should note that there are restrictions on the use of buildings in Hong Kong. Different units within a building might even have different restrictions. In general, the user restriction of a property is stated in the occupation permit, the Deed of Mutual Covenant or the government lease with which both landlord and tenant should comply. Estate agents should provide such information to the prospective tenants.

When selecting a property to rent for residence, non-local students should only choose a residential property. There might be safety issues residing in an industrial or commercial property and there is also the risk of the government's exercising its right of re-entry or closure of the property, and the possibility of the property not being covered by insurance.

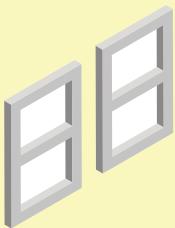




Restrictions on leasing

Non-local students should note that there are leasing restrictions for certain types of residential properties in Hong Kong. For example, subletting is not allowed in public rental housing and the renting of flats under subsidised housing schemes such as the Home Ownership Scheme (“HOS”) is subject to the Housing Ordinance. HOS flats can only be leased after the alienation restriction is removed. A person can ascertain from the land search whether a Letter of Removal of Alienation Restriction in respect of a HOS flat has been issued.





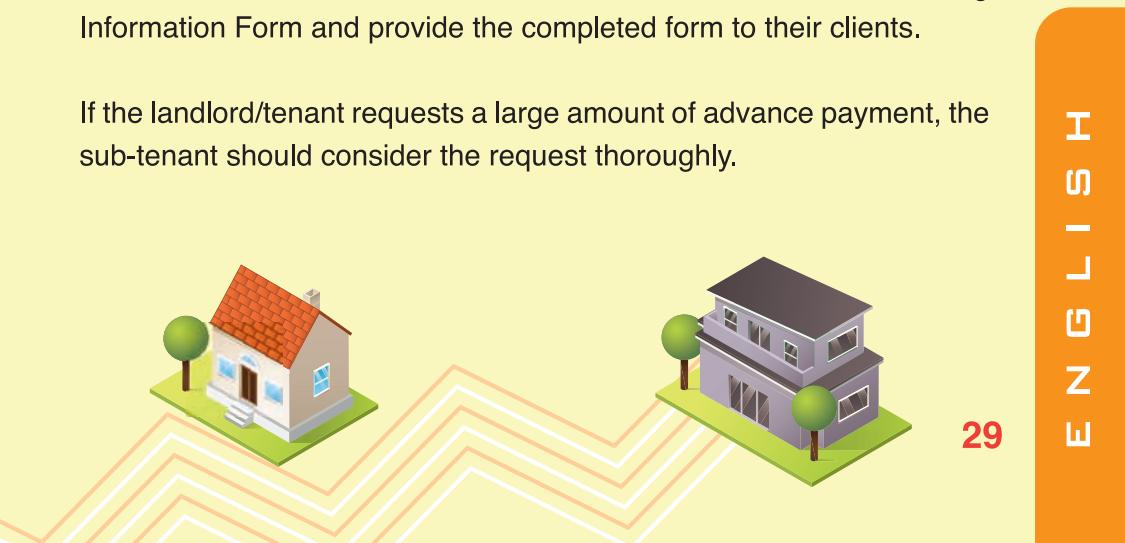
Subletting

Non-local students should pay extra attention whether the property is leased by the principal landlord or sublet by original tenant as subletting is more complicated. In the case of subletting and before signing a sub-tenancy agreement, the tenant and sub-tenant should obtain consent from the principal landlord and ascertain from the principal tenancy agreement whether there are any prohibition against subletting. If the principal tenancy agreement prohibits subletting, the tenant has to obtain the written consent of the landlord before he/she can sublet the property.

In addition, the terms of the sub-tenancy agreement will usually be subject to the terms of the principal tenancy agreement and the term of it shall not exceed that under the principal tenancy agreement.

Estate agents should provide the particulars of the principal tenancy agreement such as the parties thereto, the period of tenancy and any other information the sub-tenant should know in the Leasing Information Form and provide the completed form to their clients.

If the landlord/tenant requests a large amount of advance payment, the sub-tenant should consider the request thoroughly.



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