



ESTATE AGENCY AFFAIRS BOARD
OF SOUTH AFRICA

05 September 2014

**NOTICE TO: HOUSING-OWNERS ASSOCIATIONS (HOAs)
ALL ESTATE AGENTS, MANAGING AGENTS AND STAKEHOLDERS**

1. PURPOSE

The Estate Agency Affairs Board (EAAB) together with representative bodies of estate agents and estate agencies and of HOA's has met in order to provide guidance in respect of practices relating to the payment of fees/sharing of commission to procure any degree of exclusivity in the marketing of properties for sale or for letting.

2. PRACTICE NOTE DATED 28 FEBRUARY 2014 REGARDING PROHIBITED PRACTICES WITHIN HOA'S

2.1 Despite the Practice Note dated 28 February 2014 as issued by the Estate Agency Affairs Board (EAAB), the practice of estate agents paying Home-owners Associations registration fees for exclusive property marketing arrangements continues. The consequence of this practice is the unfair exclusion of a vast number of estate agents and particularly new entrants to the sector.

2.2 Secondly, the practice as stated above, infringes on a home-owner's freedom of choice in the appointment of estate agents.

2.3 Moreover, the payment of any fees (including the sharing of any commission or the payment of any penalties by the seller **to the estate agent**) contravenes the ethical provisions of the Code of Conduct of the EAAB as issued in terms of the Estate Agency Affairs Act, 1976, **as well as the Competition laws as it** has the effect of limiting competition.

3. PERMISSIBLE REGISTRATION AND MARKETING ARRANGEMENTS

Notwithstanding every home-owner's freedom of choice to appoint his/her estate agent of choice for the marketing, selling or letting of his/her property, entering into marketing arrangements by Home-owners Associations with estate agents who choose to do so is permissible on condition that that any fees payable constitute a reasonable cost recovery for services rendered by the HOA for, inter alia, but not limited to:

- Supply of security access cards;
- Supply/erection of advertising boards;
- Supply of maps/directions to properties; or
- Branding opportunities.

4. LEGAL CONSEQUENCES

4.1 An estate agent acting in any way in contravention of the ethical provisions of the Code of Conduct may be subjected to a disciplinary process which may result in him/her being sanctioned, upon a guilty finding, by a Committee of Enquiry of the EAAB.

4.2 The EAAB is working together with stakeholder bodies to reach proper enforcement of common and acceptable business practices relating to this matter.

ISSUED BY:

A handwritten signature in black ink, appearing to be 'B S CHAPLOG', written in a cursive style.

B S CHAPLOG

CHIEF EXECUTIVE OFFICER

ESTATE AGENCY AFFAIRS BOARD