

Legislative Council Panel on Housing

Sale Arrangements for Uncompleted First-hand Residential Units

PURPOSE

This paper updates Members on measures taken by concerned parties since the July meeting of this Panel to improve the sale arrangements for uncompleted first-hand residential units.

BACKGROUND

2. In 2001, the Real Estate Developers Association of Hong Kong (REDA) established a self-regulatory regime by asking its members to comply with a set of guidelines when selling uncompleted residential units. With a view to ensuring the effective operation of the regime, the Administration, in conjunction with the Consumer Council and the Estate Agents Authority (EAA), have been meeting regularly with REDA to identify scope for further improvements to REDA's guidelines.

3. In addition to developers' self-regulatory regime, the EAA has been taking measures to improve the standard of estate agents and monitor their practice in sale of uncompleted first-hand residential units. The Consumer Council also plays its important role to promote consumer education and remind prospective property buyers that they should be mindful to protect their own interest when buying properties.

4. Through the above three-pronged approach, we continue to improve the sale arrangements for uncompleted first-hand residential units, whilst striking a reasonable balance between consumer protection and maintaining a free business environment.

DEVELOPMENTS SINCE JULY 2006

Improving the self-regulatory regime

5. In order to further enhance the effectiveness of the self-regulatory regime, the Administration has reflected public concerns over sale arrangements to REDA and has urged REDA to refine its guidelines. REDA responded positively and agreed in August 2006 to

introduce the following new requirements for private sale:

- (a) developers should release the price lists for not less than 20 flats or 20% of the total number of flats on offer at the first batch of private sale, whichever is the higher, at least 24 hours prior to the commencement of private sale; and
- (b) developers should made available and post at the sale offices the price lists of subsequent batches of units on offer immediately prior to the commencement of further private sale.

To reflect the above agreement, REDA issued a new set of supplementary guidelines in August 2006. A copy of the supplementary guidelines is at **Annex A**.

6. REDA further proposed in September 2006 to establish a Compliance Committee to handle complaints against developers' non-compliance with its guidelines. It also proposed in November 2006 to require its members to submit auditor's "certificate of compliance" before they offer a residential development for sale. We hope that REDA's proposed new measures would help to ensure that developers have fulfilled all the necessary requirements prior to the commencement of sale. We have also requested REDA to include as many independent members as possible in its Compliance Committee to enhance the credibility of the Committee. We will monitor the operation of these new measures and assess their effectiveness in achieving the expected results.

Regulating estate agents' practice

7. EAA will continue inspections of sale sites and enforcement actions against improper practices by estate agents. In October 2006, EAA issued a new practice circular on guidelines that estate agents should follow when dealing with sale of first-hand residential properties. Details are at **Annex B**. In brief, the guidelines cover providing information about the development and flat prices; issuing advertisements and making representations on behalf of developers; publishing sales information; handling "deposits"; obtaining purchaser clients' identity cards; and maintaining order at sale sites. Estate agents who do not observe these guidelines may be subject to disciplinary action by EAA.

Consumer education

8. Another key factor in promoting consumer protection is to educate the public on the need to exercise due care and make well-informed decisions when buying properties. In this regard, the Consumer Council has been playing a key role. It has jointly published with the EAA a consumer checklist which serves to remind buyers of the issues they should pay particular attention to before purchasing properties. The checklist will be updated from time to time to meet the changing market circumstances and consumer expectations.

CONCLUSION

9. We will continue to pay close attention to public views towards the sale arrangements for uncompleted first-hand residential units. In consultation with the Consumer Council, EAA and REDA, we will keep under review the operation of the self-regulatory regime of the developers to monitor its effectiveness and identify room for further improvement. If necessary, the Government would not rule out the option of introducing appropriate administrative or legislative measures to reinforce the existing mechanism.

**Housing, Planning and Lands Bureau
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Guidelines for Sales Descriptions of Uncompleted Residential Properties

- **Supplementary Guidelines on Private Sale**

To enhance the transparency of the private sale mechanism, the following supplementary guidelines are to be adopted by all members of The Real Estate Developers Association of Hong Kong with immediate effect. Should there be any conflict between these guidelines and the conditions of the LACO Consent Scheme, the LACO Consent Scheme shall prevail.

Please note that these guidelines do not apply to sales to investors and staff.

Provision of Sales Brochures and other Essential Information

1. Sales brochures should be made available to prospective purchasers at least 24 hours before the private sale.
2. Sales brochures should contain essential information in respect of the property offered for sale, including but not limited to the following:
 - Floor area and floor plan
 - Prominent fittings and finishes
 - Location plan drawn to scale
 - Disposition plan
 - Salient conditions of the Government lease
 - Salient provisions of the draft DMC
 - Obligations for slope maintenance if any
 - Anticipated completion date
 - Management fee details



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3. A copy of the draft DMC and the Government lease should be provided at the sales office for free inspection by prospective purchasers.
4. An enquiry counter should be set up at the sales office and a hotline be made available to provide information relating to the property being offered for sale.
5. Leaflets on useful information for flat purchasers published by the Consumer Council and/or the Estate Agents Authority should be made available at the sales office.
6. Reasonable steps should be taken to inform purchasers of subsequent material changes with regard to the information provided in the sales brochures.

Provision of Price List

7. The price list and the list of flats on offer should be made available at the sales office to prospective purchasers and also through estate agents (if engaged).
8. The price list of the flats to be offered in first launch (which should not be less than 20 flats or 20% of the total number of flats on offer at the first batch, whichever is the higher) should be provided to potential purchasers at least 24 hours before such flats are put up for sale. (*w.e.f. 25 August 2006*)
9. For subsequent batches, an up-to-date price list should be made available and posted at the sales office immediately prior to the time when such flats are put up for sale. (*w.e.f. 25 August 2006*)

Announcement of Sales Performance

10. Members are free to decide on whether or not to make public the results of their sales. If they choose to publicize, any information provided must be as accurate as possible.



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Conduct of Sale

11. Members should ensure that their sales activities are conducted in an orderly manner.

Engagement of Estate Agency

12. Members should specify in their promotional materials the name of any estate agency engaged by them.
13. Clear instructions on sales arrangements must be provided to the engaged estate agency.
14. Appropriate action should be taken against any estate agent (if estate agency is engaged) who is found to have adopted unprofessional sales practices.

Monitoring

15. Random check on the compliance with these Guidelines by members will be conducted by the REDA Secretariat.

(First issued on 24 June 2005
Revised on 25 August 2006)

**Estate Agents Authority's Practice Guidelines on
First Sales of Residential Properties**

In October 2006, the Estate Agents Authority issued a Practice Circular to remind practitioners involved in first sales of residential properties to pay attention to the following matters: -

1. ***Price Lists***

Where the practitioner has been given a price list by the developer, he should provide the same to prospective purchasers without any charge, restriction, or conditions. Also, practitioners should not prepare price lists with other prices without the developer's instruction.

Practitioners who provide additional information to prospective purchasers concerning the price or price calculation such as the "price per square foot", payment methods or mortgage plans, must ensure that such information is accurate and that they have taken all reasonable steps and exercised all due diligence to verify such information.

2. ***"Deposits"***

In cases where the practitioner acts for the developer only or for both the developer and the prospective purchaser, he should not accept any money, whether described as a deposit or not, from a prospective purchaser without the developer's authorisation.

In the case of the Consent Scheme, if the agent is so authorised by the developer, the sum of money should be same as the preliminary deposit payable to the developer referred to in the Government's consent letter in respect of the development concerned.

3. ***Authorisation for advertising***

Unless the practitioner is authorised by the developer in writing, he should not issue any advertisements in respect of a development.

4. ***Accuracy of advertisements***

If the practitioner is authorised by the developer to issue an advertisement in respect of a development, he should ensure that any key features mentioned, such as the location plan, floor area and floor plan, fittings and finishes, anticipated completion date, management and details of amenities/facilities, are correctly described in the advertisement.

5. ***Representations by agents***

If authorised by the developer, the practitioner may, on behalf of the developer, make written and/or oral representations in respect of a development. Nevertheless, the practitioner should restrict such representations made on behalf of the developer to information contained in the sales brochure and documents supplied by the developer and which the practitioner has taken all reasonable steps and exercised all due diligence to verify.

6. ***Publication of sales information***

Practitioners should not publicise information on the sales figures or performance of a development on behalf of the developer, unless they have verified the same by taking all reasonable steps and exercising all due diligence.

7. ***Obtaining potential purchasers' identity cards***

Practitioners must not keep their purchaser clients' identity cards unless they have been given authority to do so by these clients. Practitioners should, therefore, obtain their purchaser clients' authority before keeping purchaser clients' identity cards for verification of identity in preparing preliminary agreements for sale and purchase between the developer and the potential purchaser.

8. ***Number of agents at sales sites***

Estate agency companies should comply with the maximum number of estate agents who may be sent and stationed at the sales site at a particular time as may be specified by the developer.

9. ***Maintaining order at sales sites***

Practitioners should comply with the rules and regulations as may be set by the developer for maintaining order at a sales site.

10. ***Compliance with laws, rules and regulations when conducting sales activities in the vicinity of sales sites***

Practitioners should comply with laws, rules and regulations (such as the Road Traffic Ordinance, bye-laws of the Mass Transit Railway Corporation/Kowloon Canton Railway Corporation, etc.) when conducting sales activities in the vicinity of a sales site.