

For information

Legislative Council Panel on Housing

**Review of the Self-Regulatory Regime
for Sale of First-hand Uncompleted Residential Properties**

Purpose

At the meeting of this Panel on 4 December 2006, the Administration undertook to review the improvement measures under real estate developers' self-regulatory regime and report the findings to the Panel in one year's time. This paper summaries the outcome of the review.

Background

2. We have been adopting a multi-pronged approach to improve the transparency of the property market. Specific measures include developers' self-regulatory regime, consumer education by the Consumer Council (CC), regulation of estate agents' practices by the Estate Agents Authority (EAA), requirements in the Lands Department's Consent Scheme and periodical release of information about the private property market by us. Over the past few years, a number of improvement measures have been introduced under different aspects of the approach. The details and operation of these measures, as well as an assessment of their effectiveness are set out below.

Improvements in the self-regulatory regime of the Real Estate Developers Association of Hong Kong

Disclosure of sale information

3. In June 2005, the Real Estate Developers Association of Hong Kong (REDA) promulgated a set of revised guidelines requiring developers to disclose in sale descriptions specific information about uncompleted residential properties (e.g. floor plan, master layout plan, information on fitting and finishes, etc.). The guidelines are under

constant review with a view to refining them to meet the changing circumstances of the property market. The latest amendments include, among others, the requirement to disclose in price lists the saleable areas of units, as well as the areas of other facilities, such as balcony, bay window, utility platform, etc. A chronology summarizing the developments of REDA's guidelines since June 2005 is at **Annex**.

4. To ensure that the required information is disclosed in sale descriptions, the Administration, REDA and CC examine sale brochures and price lists of uncompleted residential property. In the event of discrepancy or omission of information, we would ask REDA for explanation and rectification. Where the development is covered by the Lands Department's Consent Scheme, the case will be referred to the Lands Department for necessary follow-up action.

REDA's Compliance Committee

5. Apart from improving information transparency, REDA has also strengthened the credibility of the self-regulatory regime by setting up a Compliance Committee, which comprises independent outside members, to handle complaints against developers' sale arrangements. REDA has established a complaint hotline to handle complaints and the hotline has been published in the Notes to Purchasers of First-hand Residential Properties (the Notes) jointly issued by CC and EAA. According to REDA, they received 9 cases from December 2006 to November 2007, but all of them have been dealt with at the working level without the need to escalate to the Compliance Committee for investigation.

Submission of auditors' certificate to REDA

6. Starting from end 2006, REDA members are required to submit an auditor's certificate of compliance with REDA's guidelines. According to REDA, its members have fully complied with the arrangements and have submitted the required certificates in time.

Enhancing regulation of estate agents' practice

7. EAA has been putting efforts in enforcing its statutory regulatory regime of the estate agency trade so as to protect consumers' interests. To further enhance the regulation of practitioners, EAA has recently issued new practice guidelines, setting out various rules for estate agents to follow when dealing with sale of first-hand residential properties. EAA also requires practitioners to comply with the rules and regulations set down by developers for maintaining order at sale sites. For example, if the developer has specified the maximum number of estate agents who may be sent by an estate agency company to station at the sale site at a particular time, the management of the estate agency companies should comply with the number.

8. EAA has continued to take enforcement actions against misconduct of practitioners. From 2005 to November 2007, EAA imposed disciplinary sanctions against 47 estate agents for breaches of the relevant laws/regulations/practice guidelines in relation to the sale of first-hand residential units. The sanctions ranged from reprimand to suspension of licence.

Promoting consumer education

9. With deeper understanding about the obligations and rights of a buyer in the course of property transactions, consumers can better protect their own interests and make an informed purchase decision. In this regard, the Administration has been working together with CC to promote consumer education. A major tool to achieve this goal is the Notes to Purchasers of First-hand Residential Properties. The Notes aim at reminding prospective property buyers of the essential information they need to pay particular attention to before making purchase decisions. The Notes would be updated from time to time in response to changing consumer expectations. Moreover, to help consumers know more about REDA's guidelines on sale arrangements, CC and EAA have uploaded the guidelines on their web sites¹ for public access.

¹ The REDA's guidelines have been uploaded to EAA's web site at <http://www.eaa.org.hk/consumers/veda.htm> and CC's website at http://www.consumer.org.hk/website/ws_chi/shopping_tips/services/READGuideline.html

10. CC will continue to review the effectiveness of the current measures concerning consumer education and identify room for improvement in this area.

Lands Department's Consent Scheme

11. The Lands Department carried out a review of the Consent Scheme in 2004 and enhanced its provisions to protect consumer interests. These enhancements include the requirements to demonstrate developers' financial ability to cover the balance of the construction costs, use of standard Agreement for Sale and Purchase, mandatory disclosure of information in advertisements and sale brochures, disclosure of potential conflicts of interest between the developer and its professional advisors, purchaser's right of rescission in the event of non-completion of development etc.

12. Since the review of the Consent Scheme, the Lands Department has received 16 complaints from the public and 2 of them were found to have breached the Consent Scheme.

Public Opinions

13. Public opinions and complaints represent important channels to enable us to know more about consumers' expectations and to assess the effectiveness of the self-regulatory regime. Therefore, the Administration has established a hotline and website to collect public opinions and receive complaints about sale of first-hand uncompleted residential units². In 2007, we further promoted our complaint channels through publishing the various hotline numbers in the Notes to Purchasers of First-hand Residential Properties.

14. Since the promulgation of REDA's revised guidelines on 24 June 2005, we have received 23 complaints relating to the sale of residential properties, around 9 cases on average each year. The figure has declined when compared to the annual average of 12 complaint cases before June 2005.

² Web site: <http://www.housingauthority.gov.hk/en/contactus/salesdescription/0,,1-0-0-.00.html>

Conclusion

15. The multi-pronged approach seeks to improve market transparency and protect consumer interests whilst maintaining a free environment in the residential property market. Developers' self-regulatory regime has been strengthened in recent years to match the increasing expectations from the community as a result of more consumer education and awareness. In this respect, REDA's guidelines, EAA's practice circulars and the Notes to Purchasers of First-hand Residential Properties are flexible and responsive in meeting the changing needs of the market. The Administration will keep the regime under constant review in cooperation with all parties concerned, and continue to explore room for further improvement.

Transport and Housing Bureau
January 2008

**Chronology of enhancement measures
to improve REDA's guideline since June 2005**

Date	Enhancement measures
June 2005	<p>REDA issued a set of revised guidelines on private sale, requiring its members to –</p> <ul style="list-style-type: none"> ➤ make available sales brochures to prospective purchasers at least 24 hours before the commencement of private sale; ➤ provide a copy of the draft DMC and the Government lease at the sales office for free inspection by prospective purchasers; ➤ provide price list of the first batch of the units on offer at least 24 hours before the private sale ; and ➤ provide updated price list as soon as possible if prices be subsequently changed or additional units offered for sale.
Oct 2005	<p>REDA's members should send a copy of sales brochures and price lists to CC, EAA and the Government before the commencement of private sale.</p>
Jan 2006	<p>Members of REDA would list separately various features (such as bay window, A/C platforms, etc.) in the calculation of Saleable Area of residential units.</p>
June 2006	<p>REDA strengthened its guidelines by requiring developers to-</p> <ul style="list-style-type: none"> ➤ standardize the definition of “sale” to refer to “signing of a Preliminary Agreement for Sale and Purchase”; ➤ provide a copy of the latest house rules for free inspection at the sales office (if house rules have been adopted); and ➤ highlight in sale brochures the information on owners' responsibility for maintenance of public facilities.
Aug 2006	<p>REDA strengthened its guidelines by requiring developers to –</p> <ul style="list-style-type: none"> ➤ release the price lists for at least 20 flats or 20% of the total number of flats on offer in the first batch, whichever is the higher, prior to commencement of private sale; and ➤ post at the sales offices the price lists of subsequent batches of units on offer.

Date	Enhancement measures
April 2007	REDA issued supplementary guideline, requiring members to – <ul style="list-style-type: none">➤ highlight information on floor area in sales brochures; and➤ disclose both saleable area and gross floor area in price lists.
May 2007	REDA issued a supplementary guideline, requiring members to disclose in price lists the floor area of other facilities, such as balcony, bay window, utility platform, etc.