
FACT SHEET

A summary of local press reports on views of various sectors in Hong Kong on sales arrangements for first-hand private residential properties announced by the Government from 12 April to 17 May 2010

1. Sales arrangements for first-hand private residential properties

1.1 On 12 April 2010, the **Secretary for Transport and Housing** advised that a series of measures had been implemented by the Government for the sale of uncompleted flats with a view to strengthening the regulatory measures for the sale of residential properties. These measures included:

- (a) standardization on information on saleable area;
- (b) separate presentation of promotional materials and actual information in the sales brochures; and
- (c) disclosure of transaction details within five working days after the signing of the Preliminary Agreement for Sale and Purchase ("the five-day disclosure rule").

1.2 Apart from the above measures, the **Financial Secretary** announced additional nine enhancement measures to regulate the sale of first-hand private residential properties during the debate on the 2010-2011 Budget at the Legislative Council meeting held on 21 April 2010. These enhancement measures are listed as follows:

- (a) developers should duly observe the guidelines issued by the Real Estate Developers Association of Hong Kong when selling either uncompleted or completed first-hand private residential properties;
- (b) developers should provide on-site unit(s) for public inspection when selling completed first-hand residential properties;
- (c) developers should disclose information on transactions made by members of the Board and their immediate family members while releasing information on general transactions under the existing "five-day disclosure rule";

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- (d) show flats should comply with a list of requirements, including the provision of at least one "unmodified show flat", that is, a show flat showing exactly the conditions of the flat to be handed over to buyers upon completion in respect of internal partitions, fittings and finishes, and complimentary appliances;
 - (e) the first price list should provide the pricing of more units. For small-scale developments, pricing of at least 30 units or 30% of the total number of units available for sale, whichever is the higher, should be released. For large-scale developments, pricing of at least 50 units or 50% of the total number of units available for sale, whichever is the higher, should be released;
 - (f) provision of sales brochures should be advanced to seven days prior to the commencement of sale instead of the current 24 hours prior to the commencement of sale;
 - (g) regardless the number of flats to be sold to any parties, developers should release the price list of those flats at least three days prior to the commencement of sale ("the three-day rule");
 - (h) promotional materials of the development project should contain information on the location as well as the address of the development project; and
 - (i) developers should concurrently upload the sales brochures and all price lists onto their websites.

1.3 Apart from the above nine enhancement measures put forward by the Financial Secretary, 12 enhancement measures on regulating show flats were also introduced by the **Secretary for Transport and Housing** (collectively referred to as 「九招十二式」). These 12 measures are listed as follows:

- (a) the size and dimensions of show flats should be identical to those specified in the sales brochures;
- (b) floor plans of flats should be displayed in a prominent location of the show flats;
- (c) show flats should be fitted with enclosing or boundary walls similar to those of completed flats, including locations and thickness of external walls;

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- (d) developers should provide at least one "unmodified show flat" showing the conditions of the completed flat to be handed over to buyers;
 - (e) for show flats with non-structural walls and partitions removed, a solid line should be marked on the floor showing conspicuously the exact position and width of such walls, and diagrams illustrating the layout of the corresponding completed flats should also be displayed at those show flats;
 - (f) bay windows, air-conditioning plant rooms, balconies and utility platforms of completed flats should be featured in show flats. The dimensions of these features should be identical to those specified in the sales brochures and building plans. Balconies should be fitted with boundary walls and parapets;
 - (g) ceiling should be provided in show flats and the height of which should be identical to that of the completed flats. In the event that the height of the ceiling of the show flats is lower than that of the completed flats due to physical constraints, developers should indicate the height of the show flats. Under no circumstances should the height of the ceiling of the show flats be higher than that of the completed flats;
 - (h) show flats should be fitted with entrance doors. In the event that doors of other rooms cannot be fitted in the show flats, door frames should be provided. In the event that door frames cannot be provided due to physical constraints, a solid line should be marked on the floor indicating the position and thickness of those doors;
 - (i) the interior fittings and finishes provided in show flats should be identical to those specified in the Agreement for Sale and Purchase and the sales brochures, or comparable to those being used in the completed flats. Notices should be displayed in the show flats listing the alternative interior fittings and finishes used;
 - (j) developers should list all items (such as electrical appliances) provided in show flats, and specify which are displayed items and will not be provided in completed flats;

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- (k) a certificate issued by an authorized person certifying that the external parameters of the show flats are identical to those of the completed flats should be deposited with the Real Estate Developers Association of Hong Kong. The Association would let prospective buyers inspect the certificate upon request; and
 - (l) developers should allow visitors to take measurements, photos and videos inside the show flats.

2. Views of various sectors on the enhancement measures to regulate the sale of first-hand private residential properties

Views on the overall package of measures

2.1 On 3 May, the **Urban Renewal Authority** announced eight additional enhancement measures on the control of sale of new flats for inclusion into the tender agreements of future projects. Developers failed to observe these measures might be prohibited from bidding for projects of the Urban Renewal Authority for six to 12 months. These eight additional enhancement measures are listed as follows:

- (a) no private sale is allowed;
- (b) consent should be obtained from the Urban Renewal Authority for the first batch of flats selected for sale;
- (c) flats should not be sold to real estate agents and sub-listing agents engaging in the sales and marketing of the development project, including staff members involving in the sale of such project;
- (d) the first batch of flats offered for sale should not be sold to buyers who make the purchase through a company;
- (e) no more than 10% of the total number of flats in a development project should be sold to buyers who make the purchase through a company;

- (f) no more than two flats in a development project should be sold to the same buyer;
- (g) connected persons of joint venture developers purchasing the flats should provide a written declaration to the Urban Renewal Authority prior to the signing of the Preliminary Agreement for Sale and Purchase; and
- (h) sales information should be disclosed on the websites of joint venture developers and displayed at the sales office(s). In addition, the sales information should include the following:
 - (i) a full record of all the flats sold, within 24 hours from the signing of the Preliminary Agreement for Sale and Purchase;
 - (ii) except for the price list of the first batch of flats offered for sale, price lists of other flats should be disclosed and posted at the sales office(s) within one hour from release; and
 - (iii) information on transactions made by senior executives and connected persons of joint venture developers should be disclosed within 24 hours from the signing of the Preliminary Agreement for Sale and Purchase at the Urban Renewal Authority.

2.2 On 14 May, the **Estate Agents Authority** announced and put into effect three practice circulars, consolidating the 11 practice guidelines issued to estate agents over the years for regulations of property sales. The three practice circulars covered three aspects, namely the conduct in sales and marketing of flats, order at sales sites and the provision of property information.

2.3 Some **developers** opined that the enhancement measures regulating the sale of first-hand private residential properties sought to enhance transparency of sales arrangements and protection for buyers. Since the measures were developed after thorough consideration and consultation with the relevant sectors, those developers considered that there should not be any difficulties in their implementation. Nonetheless, the developers did not agree that legislation should be introduced to regulate flat sales. Other **developers** were of the view that the enhancement measures were cosmetic and failed to tackle the cause of the problem. The surge in property prices was in fact brought about by the failure of the Government in putting up land for sale in the past five years, coupled with the low interest rate situation and a huge inflow of hot money, creating much incentive among the public in flat purchasing. As such, the solution to this problem was to increase land supply. There were also **developers** indicating that the Government should not impose further enhancement measures on flat sales. They considered that more enhancement measures would only hamper the property market and the business environment, creating market instability. The **Real Estate Developers Association of Hong Kong**, on the other hand, advised that the Association was collecting views from its members on the regulatory measures and would revert to the Government when the results were available.

2.4 Some **estate agents** opined that the proposed measures would enhance transparency of property transactions, reduce disputes and safeguard the interests of buyers. As potential buyers were provided with more information, they were able to work out a better plan for property purchase. Some other **estate agents** advised that an appropriate degree of regulation by the Government would reduce the risk of forming a property bubble, extend the property market cycle, stabilize the market situation and facilitate property purchase, leading to a healthy development of the property market.

2.5 **The Hong Kong Institute of Surveyors** opined that as the authority of the Director of Lands only applied to projects under the Consent Scheme (i.e. consent has to be obtained from the Director of Lands for sale of uncompleted flats under the provision of the land leases), the Government should consider regulating projects not under the Consent Scheme.

2.6 An **academic** pointed out that the new enhancement measures were developed on the basis of self-discipline among developers. For instance, pricing of the first batch of flats selected for sale (30% to 50% of the total number of flats available for sale) should be provided in the first price list for buyers' reference. As such, developers might sell their flats by way of "pre-arrangement". Through the disclosure of the intended prices to prospective buyers, developers were able to test the market and adjust the prices accordingly. Thus, the effectiveness of the new measures was questionable. The academic, therefore, suggested regulating flat sales by legislation.

2.7 **The Consumer Council** advised that a working group would be set up under the Council to examine other means of regulation with reference to overseas experience. **The former Chief Secretary for Administration** opined that the proposed measures were inadequate. Only regulating by legislation could the Government be able to force developers to provide consumers with detailed information on flat sales, and thereby safeguarding the interests of consumers. **Members of the Social Affairs Committee, Hong Kong Federation of Trade Unions** were of the view that those enhancement measures could not help the lower class in property purchase, as only uncompleted flats were regulated under the enhancement measures which were guidelines and not statutory provisions.

Views on providing show flats showing the same conditions of completed flats

2.8 Some **developers** pointed out that for some small-scale developments, such as those consisted of only one or two housing blocks, there might not be enough space on site to provide two show flats (i.e. one "unmodified show flat" and one furnished/decorated show flat). In the event that only an "unmodified show flat" was provided, it might affect the sales of the development project, leading to unsatisfactory sales performance. The provision of an additional "unmodified show flat" also had cost implications. In any event, **the public** generally supported the provision of "unmodified show flats".

Views on the release of price lists of flats putting up for sale three days prior to the commencement of sale

2.9 Some **developers** advised that the measures put forward by the Government sought to increase the transparency of sales arrangements and enhance protection for buyers. Hence, they expressed no objection to the release of the price lists and sales brochures in advance. Some other **developers**, however, were of the view that in planning for the sale of new flats, developers would generally offer some units for sale to test the market, and adjustments would then be made accordingly. In the event of a favourable market condition, developers would continue to release further price lists following the release of the first price list. If the price lists were required to be released three days prior to the commencement of sale (i.e. the three-day rule), developers would not be able to make any upward adjustments to the released prices on the day of sale. On the contrary, if the market sentiment turned pessimistic, developers would not be able to withdraw the price lists for both the first batch and the subsequent batches of flats putting up for sale, leading to more negative interpretations in the market. As such, the three-day rule should be handled with care.

2.10 There were **developers** worrying that the three-day rule might lead to a chaotic situation. Suppose that all the flats on the price lists were sold out, and there were still a large number of prospective buyers. The prospective buyers might become very frustrated if they had to wait for another three days before they could make any purchase. Besides, many flats were sold to non-local buyers. If those buyers could not make their purchases due to sold out of flats, and additional flats would not be available until three days later, they might not be able to make the purchase, as they might not have the time to stay. This would affect their investment opportunities. Hence, some **developers** hoped that the Government would shorten the number of days for the release of price lists, or consider exemption of the release of the price lists of additional flats for sale from meeting the three-day rule.

2.11 There were also **developers** stating that during the sale of new flats, some interested parties (potential buyers) might ask for the sale of flats not included in the price lists. In the event that other interested parties acted fast and purchased those flats after the cooling off period (i.e. three days after the release of the price lists of additional flats), the original potential buyers might find it unfair. Moreover, if more than one buyer sought to purchase the same flat shown on the price list, developers might not be able to handle such cases with flexibility. Some **developers** pointed out that no restrictions were imposed during the previous land auctions, it would be unfair to developers if regulatory measures were introduced at a later stage.

2.12 Some **estate agents** indicated that the three-day rule would substantially slow down the pace of flat sales. Yet, those measures would help cool down the property market, and buyers would be better protected from making a wrong choice under the "bullish market sentiment". As the number of flats for sale in the first batch increased substantially, developers would set the prices more prudently and buyers would have a better chance of purchasing an ideal first-hand flat at a reasonable price. Besides, the release of sales brochures seven days in advance and the price lists three days prior to the commencement of sale would allow buyers to think thoroughly before making any decision.

2.13 Some **academics** pointed out that the three-day rule would undermine the flexibility of fixing the prices for the sale flats. Developers would not be able to make upward or downward adjustment to the prices in response to the market situation. Therefore, the enhancement measures would affect sales and cause inconvenience to buyers. Some **academics** indicated that the measures might not have the effect of cooling down the property market. The reason was that if the prices listed on the first price list were below market prices, speculators would be attracted to snap up bargain flats, resulting in fuelling the speculative activities in the property market. On the contrary, if developers set the prices for the first batch of flats at a high level for buyers to negotiate and ask for discounts, the measures would fail to serve its intended purposes.

Definition of "completed first-hand residential properties"

2.14 Some **developers** alleged that the definition of "completed first-hand residential properties" as referred by the Government was too broad. It was unclear that whether development projects used to be put up for long-term lease and later put up for sale would be regulated under the new enhancement measures. It was also unclear that whether block purchase of all flats in one building by an investment fund, and later being put up for sale in a retail manner should be categorized as first-hand or second-hand properties.

Views on allowing visitors of show flats to take photos and measurements

2.15 Guidelines had already been issued by the **Real Estate Developers Association of Hong Kong** to its members requiring them to allow visitors to take photos inside show flats. In the event that photo-taking could not be allowed inside the show flats due to the copyright of the designers concerned, developers would have to explain to visitors. However, some **estate agents** indicated that there would be difficulties when the new measures were put into practice. It would be both confusing and chaotic if visitors were allowed to take photos and measurements inside the show flats during heavy visitor flows. Some **developers** alleged that many unsold completed flats had their layouts altered when they were put under lease. Hence, it would be difficult to comply with the new measures where interested buyers were allowed to take measurements and photos inside those flats.

Response to the first land auction of 2010-2011

2.16 The first land auction of 2010-2011 was held on 11 May, which was also the first land sale after the Government's announcement of the new enhancement measures. The auction received a lukewarm response and bidding made by developers was very conservative. There was only one single developer bid for the site and eventually the site was sold at HK\$3.42 billion, 18.9% above its triggering price under the Application List System. **The auctioneer** commented that the price reflected the market situation but he described the atmosphere of the auction as "unusual". **The Real Estate Developers Association of Hong Kong** denied that the lacklustre land sale was a signal from developers expressing their discontent over the series of regulatory measures announced by the Government.

The Government's announcement of the implementation of the new enhancement measures

2.17 On 14 May, the Government announced that the new enhancement measures regulating the sale of first-hand private residential properties would take effect in June. The **Secretary for Transport and Housing** advised that the requirements would be clearly set out in all pre-sale consents issued from that day onwards. Guidelines on the sale of new flats would also be issued by the **Real Estate Developers Association of Hong Kong** on 1 June stipulating various requirements such as releasing the price lists three days prior to the commencement of sale, as well as disclosing transaction information within five days from the signing of the relevant agreements. The **Secretary for Transport and Housing** said that the Government had considered the requests made by developers and agreed that for purchases involving all flats in one or a few blocks, the transactions could be exempted from the new measures as long as retail sale was not involved. However, transaction details of such sales would still have to be disclosed within five days.

References

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