

Legislative Council Panel on Housing

**Steering Committee on Regulation of Sale of First-hand
Residential Properties by Legislation**

Issues Discussed by the Steering Committee and its Subcommittees

The Administration briefed the Panel on Housing on the progress of the Steering Committee on Regulation of the Sale of First-hand Residential Properties by Legislation (the Steering Committee) at its meeting on 4 April 2011 via LC Paper No. CB (1) 1738/10-11 (03). At Annex B of that paper is a list of issues discussed by the Steering Committee and its Subcommittees. At the request of Members, we set out below more details on the items discussed and the general consensus reached for Members' reference.

**DELIBERATIONS OF THE STEERING COMMITTEE AND ITS
SUBCOMMITTEES**

(A) Scope of Legislation

2. The Steering Committee has discussed the scope of the proposed legislation. Members agreed that all first-hand uncompleted residential properties should be covered, including projects developed under old lease conditions, Lands Department's Consent Scheme (the Consent Scheme) projects and projects outside the Consent Scheme.

3. The Steering Committee generally agreed in principle that first-hand completed flats should be covered by the proposed legislation. That said, having regard to the fact that there can be specific circumstances pertaining to completed flats and which are not applicable to uncompleted flats (for example, flats which have been leased out for a long period of time before they are put on sale in the market), members considered that certain requirements which are applicable to uncompleted flats may not be applicable or may need to be modified for completed flats. The Steering Committee will further discuss the requirements for completed flats prior to coming up with proposals.

(B) Requirements on Sales Brochure

4. Currently, developers selling uncompleted flats are required to comply with the Consent Scheme's requirements and the guidelines issued by the Real Estate Developers Association of Hong Kong (REDA) as appropriate¹. The requirements on sales brochure have been discussed by the Steering Committee from the following two aspects –

- (a) whether to make it a statutory requirement for the developers to provide the sales brochure, and if yes, the timing for the release of the sales brochure; and
- (b) what information should be included in the sales brochure.

5. Members have generally agreed that the existing requirements relating to the sales brochure should be incorporated into the proposed legislation as appropriate, i.e. developers should be required to provide the sales brochure with specified information at least seven days before the sale commences. As regards the required contents of the sales brochure, some enhancement measures have been proposed to increase transparency, for example, information on gross floor area concessions and energy efficiency of buildings should be provided in sales brochures; and the “sequence of information” in the sales brochures should be so arranged that “Matters relating to Preliminary Agreement for Sale and Purchase” and “Notes to Purchasers of First-hand Residential Properties” are placed in the front.

(C) Requirements on Price Lists

6. At present, developers selling first-hand uncompleted flats are required to comply with the requirements of the Consent Scheme and the REDA's guidelines on price list as appropriate². The Steering

¹ The existing requirements are set out in (i) Annex I to LACO CM No. 62 as amended by LACO CM No. 63; and (ii) the REDA's guidelines issued on 7 October 2009 and 1 June 2010.

² The existing requirements are set out in (i) Annex I to LACO CM No. 62 as amended by LACO CM No. 63; and (ii) the guidelines of the Real Estate Developers Association of Hong Kong (REDA) issued on 7 October 2009 and 1 June 2010.

Committee has discussed the requirements on price lists from the following aspects –

- (a) the timeframe for developers to issue price lists ;
- (b) the minimum number of units to be included in each price list;
and
- (c) the information to be provided in the price list.

7. The Steering Committee agreed that, as with the existing requirements, developers should issue the price list at least three days before the sale commences. To increase the level of transparency, the majority of the Steering Committee members considered that prices of more number of units should be disclosed in the first and subsequent price lists.

8. The Steering Committee is still considering the price list template, i.e. what information should be provided in the price list.

(D) Requirements on Show Flats

9. At present, if show flats are provided, the developers should comply with the requirements of the Consent Scheme and the REDA's guidelines as appropriate³. The Steering Committee has discussed the requirements on show flats in respect of first-hand uncompleted flats from the following aspects –

- (a) if developers decide to provide show flats for the reference of consumers, whether the developers should be required to provide unmodified show flat(s) and if yes, what would be the specific requirements; and
- (b) the requirements on fitting and finishes, ceiling, furniture, doors, etc. of the show flats.

³ The existing requirements on show flats are set out in (i) LACO's Circular Memorandum No. 62; and (ii) REDA's guidelines issued on 1 June 2010.

10. Members agreed that the existing requirements relating to show flats for uncompleted residential properties should be incorporated into the proposed legislation. Some enhancement measures have been proposed with a view to ensure that the show flats would, as far as practicable, resemble the exact units to be handed over to the buyers. For example, for any type/size of show flats to be provided, there should first be an unmodified show flat, and that for modified show flats, only those walls and/or doors the removal of which does not require the prior approval of the Buildings Department (BD) could be removed.

11. The Steering Committee will further discuss the requirements on show flats for first-hand completed flats at its subsequent meeting(s).

(E) Requirements on Disclosure of Transaction Information

12. At present, developers are required to disclose transaction information by way of a standard template pursuant to the requirements of the Consent scheme or the REDA's guidelines as appropriate⁴. The Steering Committee has discussed the requirements on disclosure of transaction information from the following aspects –

- (a) whether the developers should be required to disclose transaction information, and if yes, when to disclose and what to disclose; and
- (b) whether a template should be specified to facilitate developers to provide the required transaction information.

13. Members have generally agreed that the existing requirements in respect of disclosure of transaction information should be incorporated into the proposed legislation. Moreover, more information should be disclosed to increase market transparency. The key recommendations include -

⁴ The existing requirements on disclosure of transaction information are set out in (i) LACO CM No. 62; and (ii) REDA's guidelines issued on 1 June and 10 August 2010.

- (a) developers should disclose transaction information within one working day after the signing of the Preliminary Agreement for Sale and Purchase (PASP), instead of five working days after the signing of the PASP as required at present;
- (b) Agreement for Sale and Purchase (ASP) must be signed within six working days after the signing of the PASP⁵. If the PASP has not proceeded to the ASP within six working days, developers should make public such information on the seventh day; and
- (c) developers should maintain records on each transaction, including information on cancelled transactions, in a single standard register until the assignment of the last unit of the development or a phase of the development being offered for sale has been registered with the Land Registry.

(F) Requirements on Disclosure of Area Information in Price List and Sales Brochure

14. Currently, in accordance with the requirements under the Consent Scheme or the REDA's guidelines, developers have to disclose area information for each unit to be sold in price list and sales brochure by way of a standard template⁶.

15. The Steering Committee has discussed whether the existing requirements relating to disclosure of area information in sales brochure and price list should be incorporated into the proposed legislation, and whether any enhanced measures should be introduced. It was generally agreed that developers should continue to provide such information in the

⁵ Under the existing requirements of the Consent Scheme, an ASP should be signed within five working days after the signing of the PASP. Having considered that Saturday is regarded as a working day and that some legal firms may not operate on a full day basis on Saturday, the Steering Committee endorsed that the ASP should be signed within six working days after the signing of the PASP.

⁶ Currently, developers selling uncompleted flats are required to comply with the requirements on the disclosure of area information as set out in (i) LACO CM No. 62; and (ii) the REDA's guidelines issued on 7 October and 23 November 2009 as appropriate.

form of a standard template, but the Steering Committee has yet to endorse the format of the template, i.e. what exact information is required/permitted to be disclosed.

REFERENCES

16. The aforementioned existing requirements under the Consent Scheme and the REDA's guidelines may be found in the following websites:

Requirements under Consent Scheme

Lands Department

<http://www.landsd.gov.hk/en/legco/lcm.htm#consent>

Requirements under REDA's Guidelines

Estate Agents Authority

<http://www.eaa.org.hk/consumers/rede.htm>

Consumer Council

http://www.consumer.org.hk/website/ws_en/shopping_tips/services/READGuideline.html

WAY FORWARD

17. The Steering Committee will continue its deliberations on a number of important issues. A Report with practicable recommendations will be submitted to the Secretary for Transport and Housing in October 2011. Members may wish to note that while items (A) to (F) in paragraph 2 to 15 above have been deliberated by the Steering Committee and/or its Subcommittee, in view of the fact that the discussions on many issues are ongoing the proposals may be subject to change before the Steering Committee Report is formally endorsed in October 2011.

Transport and Housing Bureau

June 2011