

Legislative Council Panel on Housing

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

Purpose

This paper updates Members on the work progress of the Steering Committee on Regulation of Sale of First-hand Residential Properties by Legislation (the Steering Committee).

Background

2. To further strengthen the regulation of the sale of first-hand residential properties, a Steering Committee was formally established in October 2010 to discuss specific issues on regulating the sale of first-hand residential properties by legislation. The Administration last reported the work progress of the Steering Committee to the Housing Panel at its meeting held on 4 April 2011 via LC Paper No. CB(1) 1738/10-11(03). At the request of Members, we issued a follow-up paper in June 2011 (LC Paper No. CB(1) 2467/10-11(01)) which gave an account of the details on the items discussed and the general consensus reached by the Steering Committee for Members' reference.

Progress of the Steering Committee

3. The Steering Committee and its Subcommittees have held 15 meetings since November 2010. Some key matters, such as the legislative framework (i.e. the definition of first-hand properties to be covered under the legislation), the main features to be regulated under the proposed legislation (including the requirements on sales brochures, price lists, show flats and disclosure of transaction information) have been discussed. A gist of the items discussed and the general consensus reached by the Steering Committee as at early-July 2011 are set out in the ensuing paragraphs.

Scope of Legislation

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

5. As regards the sale of first-hand completed flats, the Steering Committee has agreed in principle that they should also be covered by the proposed legislation. 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 consider 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.

Requirements on Sales Brochure

6. At present, developers selling uncompleted flats are required to comply with the requirements of the Lands Department Consent Scheme (the Consent Scheme) 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.

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.

7. Members have generally agreed that the existing requirements relating to the sales brochure should be incorporated into the proposed legislation as appropriate, including 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 -

- (a) information on gross floor area concessions and energy efficiency of buildings should be provided in sales brochures;
- (b) an aerial photo showing the development and its vicinity should be provided in sales brochures; and
- (c) 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.

Requirements on Price Lists

8. Currently, developers selling first-hand uncompleted flats are required to comply with the Consent Scheme’s requirements and the REDA’s guidelines on price list as appropriate². The Steering 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.

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.

9. The Steering Committee has 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 consider that prices of more number of units should be disclosed in the first and subsequent price lists. The existing price list template should also be enhanced to enable potential purchasers to compare unit prices of flats in different developments readily.

Requirements on Show Flats

10. 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.

11. On first-hand uncompleted flats, the Steering Committee has proposed that, apart from incorporating the existing requirements into the new legislation, some enhancement measures should also be included. This is to ensure that the show flats would, as far as practicable, resemble the exact units to be handed over to the buyers. Some proposed enhancements are as follows –

- (a) for any type/size of show flats to be provided, there should first be an unmodified show flat; and

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.

- (b) for modified show flats, only those walls and/or doors the removal of which does not require the prior approval of the Buildings Department could be removed.

12. The Steering Committee has noted that the requirements on show flats for uncompleted flats may not be applicable to completed flats. It would further discuss the appropriate arrangements at its subsequent meetings.

Requirements on Disclosure of Transaction Information

13. 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.

14. The Steering Committee is generally content with the existing requirements and recommends that the requirements be incorporated into the proposed legislation. Moreover, more information should be disclosed to increase market transparency. The key recommendations include –

- (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;

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.

- (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.

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

15. 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. The Steering Committee has discussed whether the existing requirements relating to disclosure of area information in price list and sales brochures should be incorporated into the proposed legislation, and whether any enhanced measures should be introduced.

16. It is generally agreed that developers should continue to provide area information of the units in the form of a standard template. The Steering Committee will further discuss the format of the template, i.e. what exact information is required/permitted to be disclosed.

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 has 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.

17. 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

18. Members may wish to note that the recommendations set out in paragraphs 4 to 16 above are only interim proposals of the Steering Committee. 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.

Way Forward

19. The Steering Committee and its Subcommittees will continue to deliberate on other important matters such as sales arrangements and order, penalties and the enforcement mechanism, etc. We expect the work of the Steering Committee will be completed on schedule, and a report containing recommendations on a practicable way forward will be submitted to the Secretary for Transport and Housing in October 2011. The target of the Transport and Housing Bureau is to take forward the subsequent consultation on the Report in the form of a White Bill in order to expedite the consultation process.

**Transport and Housing Bureau
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