

Legislative Council Panel on Housing

Regulation of the Release of Sales Information on the First-hand Private Residential Properties

Purpose

This paper sets out the measures taken by and the position of the Administration on the regulation of the accuracy of the sales information on first-hand private residential properties.

Background

2. The Government is committed to maintaining the healthy development of the private residential property market and safeguarding the reasonable rights of consumers, to ensure consumers have access to accurate and comprehensive property information. The Government will not tolerate any person affecting the fairness of property transactions by disseminating inaccurate and incomplete information relating to the sale of first-hand private residential properties to mislead the market and prospective flat buyers.

3. For uncompleted first-hand residential properties approved for pre-sale under the Consent Scheme of the Lands Department (LandsD), developers concerned have to comply fully with all the requirements under the Consent Scheme. Requirements set out in the guidelines issued by the Real Estate Developers Association of Hong Kong (REDA) have been reflected in the provisions of the Consent Scheme as appropriate.

4. As far as the regulation of estate agents is concerned, the Estate Agents Authority (EAA) has issued Practice Circulars requiring estate agents involved in the sale of properties to provide to prospective flat buyers accurate property information. If it is found and confirmed that estate agents are in breach of the Practice Circulars issued by the EAA on the sale of properties, or have released false and misleading property information to prospective flat buyers, the EAA may take disciplinary action against the estate agents concerned in accordance with provisions in the Estate Agents Ordinance (Cap. 511).

5. In addition, there are various pieces of legislation regulating misrepresentation or fraudulent acts which mislead the market. These are applicable to misrepresentation or fraudulent acts committed in the course of property transactions. Under the Theft Ordinance (Cap. 210), committing a

fraudulent act is a criminal offence, and an offender may be liable to prosecution. Pursuant to the Misrepresentation Ordinance (Cap. 284), a person who makes a misrepresentation inducing another person to enter into a contract may be legally liable for damages. On the other hand, under the common law, where a misrepresentation amounts to fraud, the person concerned may be required to compensate victims of that fraud.

Latest Position

6. To further strengthen the regulation of the sale of first-hand private residential properties, the Transport and Housing Bureau (THB) has established a Steering Committee on the Regulation of the Sale of First-hand Residential Properties by Legislation (the Steering Committee) to discuss specific issues pertaining to the regulation of the sale of first-hand properties by legislation. The Steering Committee comprises 14 members from three different sectors. Five members are representatives of professional bodies, namely the Consumer Council, the EAA, the Hong Kong Institute of Surveyors, the Law Society of Hong Kong and the REDA; five members are appointed in their own capacity; and the remaining representatives come from relevant Government departments, namely the Buildings Department, the LandsD and THB. The Steering Committee is chaired by the Permanent Secretary for Transport and Housing (Housing).

7. The Steering Committee held its first meeting on 15 November this year. Members agreed at the meeting to set up three sub-committees under the Steering Committee to deliberate on related issues. The three sub-committees are the Sub-committee on Property Information and Show Flats, the Sub-committee on Sales Arrangements and Practices, and the Sub-committee on the Enforcement Mechanism and Penalties. The Steering Committee and its sub-committees will examine and discuss a range of matters, including the scope of the legislation (e.g. the definition of first-hand properties to be covered under the legislation), the requirements on sales brochures, the requirements on price lists, the requirements on property area information, the requirements on sales arrangements and order in the sales offices, the requirements on show flats, the requirements on promotional materials, the enforcement mechanism and the nature and levels of penalties, and the enforcement agency, etc. The Steering Committee and its relevant sub-committees will also examine misrepresentation relating to transactions of residential properties and the release of misleading information.

8. The Administration understands the public's aspiration that the study on the regulation of the sale of first-hand residential properties by legislation should be completed as soon as possible. The Steering Committee

will expedite the process as far as practicable, with a view to completing the work by October 2011 and coming up with practicable proposals for submission to the Secretary for Transport and Housing. We aim to take forward the subsequent public consultation in the form of a White Bill in order to expedite the consultation and legislative processes.

A Recent Case

9. Recently, it was alleged that a senior staff member of a major developer made a misleading statement in his online blog by stating that the purchase of any uncompleted residential flats of its development project in Tai Wai, Shatin on 19 November 2010 would not be affected by the new measures against speculation on residential properties announced by the Administration on the same day. We are very concerned about such remarks and conveyed our concerns to REDA, requesting it to follow the matter up with the developer concerned.

10. A few days ago, the REDA forwarded to us a reply. Since the reply did not address our concerns, we have written again to REDA requesting prompt follow-up action. We will closely monitor developments in this case.

**Transport and Housing Bureau
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