

立法會
Legislative Council

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Bills Committee on Residential Properties (First-hand Sales) Bill

Background brief prepared for the meeting on 30 March 2012

Purpose

This paper gives a summary of discussion by the Panel on Housing (the Panel) on the regulation of the sales of first-hand private residential properties.

Introduction

2. Inadequate and misleading sales information on uncompleted residential properties is of concern to prospective buyers as they have no opportunity to view the properties before purchase. Problems such as inaccurate size of the property, misleading descriptions of fittings and finishes, sketchy layout and location plans were rampant in Hong Kong in the 80s and early 90s. In recent years, concerns have been raised about the provision and dissemination of misleading information on the prices of property transactions and sales figures. As the number of such complaints grows, there are increasing calls for measures to address the problems.

3. To strengthen the regulation of the sales of first-hand private residential properties, the Transport and Housing Bureau (THB) 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 sales of first-hand properties by legislation. The Steering Committee completed its work and submitted its report to the Secretary for Transport and Housing in October 2011. The Steering Committee recommended that legislation should be introduced to regulate the sale of all types of first-hand residential properties, including projects developed under old lease conditions, Consent Scheme projects, and projects outside the Consent Scheme. It also came up with detailed recommendations on the requirements

on sales brochures, price lists, show flats, transaction information, advertisement, sales arrangements, prohibition on misrepresentation and dissemination of false and misleading information, penalties, enforcement agency, and exemption arrangements. To expedite the legislative process, THB planned to consult the public on the recommendations in the form of a White Bill with a view to having the legislation enacted in 2012.

4. In November 2011, the Administration launched a two-month public consultation on the proposed legislation to regulate the sale of first-hand residential properties. According to the Administration, there was widespread support for regulating the sales of first-hand residential properties by legislation, and that the proposals set out in the draft legislation were generally acceptable to the public and relevant stakeholders, with the exception of the Real Estate Developers Association of Hong Kong .

The Bill

5. The Bill seeks to provide a framework to regulate the sale of first-hand residential properties in respect of the following areas –

- (a) saleable area (SA);
- (b) sales brochure;
- (c) price list;
- (d) show flats for uncompleted development or phase;
- (e) viewing of property in completed development or phase;
- (f) sales arrangements;
- (g) conveyancing procedures and related matters;
- (h) disclosure of information on transactions;
- (i) exceptions and additional requirements;
- (j) advertisements;
- (k) misrepresentation and dissemination of false or misleading information;

- (l) penalties and defence provisions;
- (m) liability of company officers for offence committed by company and prosecution time limit;
- (n) enforcement authority; and
- (o) online property information platform.

Details of the legislative proposals are set out in the Legislative Council Brief issued by the Transport and Housing Bureau on 13 March 2012.

Major concerns raised by the Panel

6. The Consultation Paper on the Proposed Legislation to Regulate the Sale of First-hand Residential Properties was discussed at the Panel meetings on 5 December 2011 and 5 January 2012. Deputations, including the trades and professional bodies, expressed their views at the meeting in January 2012. The Panel generally supported the proposed legislation which was considered a step forward in the right direction.

7. On the scope of the proposed legislation, the Panel noted that some deputations (including a developers' association) considered it more desirable to confine the scope to uncompleted flats because there was no difference between first-hand and second-hand completed flats as both of which could be viewed by potential purchasers. Some other deputations (including the Consumer Council) considered that there should be a clear definition of first-hand residential properties to prevent circumvention by developers through sale of new flats to its subsidiary companies to make these second-hand flats. However, there was a general consensus that developments constructed by the Housing Authority should not be exempted from the control regime.

8. On the adoption of SA as the only basis to quote unit prices of first-hand flats, the Panel noted that some deputations (including estate agencies) expressed concern about the difficulty which purchasers might have in making comparison between first-hand flats and flats in the secondary market since the latter used gross floor area (GFA) for price quotation. Consideration should be given to allowing the use of both GFA and SA in the sales brochures, price lists and advertisements. Some other deputations (including professional institutes) however pointed out that different developers might include different items in their calculation of GFA. It would be very difficult to enforce the proposed

legislation in the absence of a standardized definition of GFA.

9. On enforcement authority, the Panel noted that there were concerns about the power and source of funding for the enforcement authority to discharge its duties. If the funding were to be shared by developers and relevant stakeholders, the cost would be reflected in the flat prices which would not be in the interest of consumers.

Relevant papers

10. A list of relevant papers is in the **Appendix**.

Council Business Division 1
Legislative Council Secretariat
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Appendix

Residential Properties (First-hand Sales) Bill

List of relevant papers

Council/ Committee	Date of meeting	Paper
Housing Panel	5 December 2011 5 January 2012	<p>Information paper on "public consultation on the proposed legislation to regulate the sale of first-hand residential properties" provided by the Administration (LC Paper No. CB(1) 479/11-12(01)) http://www.legco.gov.hk/yr11-12/english/panels/hg/papers/hg1205cb1-479-1-e.pdf</p> <p>Minutes of meeting (LC Paper No. CB(1) 910/11-12) http://www.legco.gov.hk/yr11-12/english/panels/hg/minutes/hg20111205.pdf</p>