



立法會秘書處 法律事務部  
LEGAL SERVICE DIVISION  
LEGISLATIVE COUNCIL SECRETARIAT

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By Fax (2761 5404)

12 April 2012

Mrs Chu Poon Kit Man, Hedy  
Principal Assistant Secretary (Special Duties)  
Housing Department  
Special Duties Unit  
11/F, Block 2  
Housing Authority Headquarters  
33 Fat Kwong Street  
Ho Man Tin, Kowloon

Dear Mrs Chu,

### **Residential Properties (First-hand Sales) Bill**

The Residential Properties (First-hand Sales) Bill seeks to introduce important regulatory measures governing the sale of first-hand properties in Hong Kong and various new offences are created for contravention of the provisions of the Bill.

At the Bills Committee meetings held on 30 March 2012 and 11 April 2012, members of the Bills Committee have raised enquiries about the time limit for prosecution of the different offences provided in the Bill, in particular, the application of clause 73 to these offence provisions.

For the information of the Bills Committee, I wonder if the Administration would provide a table setting out all individual offences created by the Bill, including the particulars of each of the following -

- (a) Criminal act to be prohibited (the offence);
- (b) The relevant provision of the Bill (clause number);
- (c) Penalty; and

- (d) The time limit (or date) for prosecution starts to run.

I look forward to your reply in bilingual form before 17 April 2012.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Kitty Cheng', written in a cursive style.

Kitty Cheng  
Assistant Legal Adviser

c.c. LA  
CCS(1)1



中華人民共和國香港特別行政區  
Hong Kong Special Administrative Region of the People's Republic of China



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33 Fat Kwong Street  
Ho Man Tin, Kowloon

Dear Mrs Chu,

**Residential Properties (First-hand Sales) Bill**

I enclose herewith some questions on the legal and drafting aspects of Part 1 of the Residential Properties (First-hand Sales) Bill and would be grateful for your reply in bilingual form before 17 April 2012.

Yours sincerely,

Kitty Cheng  
Assistant Legal Adviser

Encl

c.c. LA  
CCS(1)1

# Residential Properties (First-hand Sales) Bill

## (Part 1)

### Clause 2(1)

#### ***"building", "development", "phase"***

1. Clause 2(1) provides for, inter alia, signposts for the interpretation of ***"building"***, ***"development"*** and ***"phase"*** in that the reader should "see section (clause 3)" of the Bill. The heading of clause 3 provides for the interpretation of "development, phase and building". Please identify the sub-clause(s) which is relevant for the applicable interpretation of "building", "development" and "phase" respectively.

#### ***"house"***

2. Under clause 2(1), ***"house"*** means "a building that contains only one residential property". Clause 6(1) provides that ***"residential property"***, "in relation to a development or a phase of a development, means any real property in the development or the phase constituting a separate unit used, or intended to be used, solely or principally for human habitation without contravening the land grant and the occupation permit (if any)". Please clarify whether "a house" under the Bill is same as "a separate unit" under clause 6(1).
3. Please also explain the relationship of these 2 interpretation provisions in, for example, a development consists of a number of houses.

### Clause 2(2)

4. Please explain why a note located in the text of the Ordinance (after the Bill is enacted), which is said to be "provided for information only and has no legislative effect", has to be included in the Ordinance.
5. Does LegCo have power to scrutinize or make Committee Stage Amendments to the note(s) located in the Bill?
6. What is the difference between such a note located in the Bill and the Explanatory Memorandum of a Bill?

7. Please clarify whether such "note(s)" is(are) provided administratively. What will be the procedure involved for the future amendment of such a note?
8. Please advise that, apart from the text of the Ordinance, whether any other note(s) for information are or will be provided elsewhere; and if so, whether there is any difference in the status between the notes in the Ordinance and those provided elsewhere.

#### Clauses 10 and 11

9. For the purposes of clause 10(1) (application of the Bill), clause 11(1)(a) provides that an agreement for sale and purchase in respect of a residential property is not to be regarded as having been entered into in respect of the residential property in the situation where the agreement for sale and purchase has been terminated or has been declared void by the court (clause 11(2)).
10. Please clarify the date on which the Bill becomes applicable to the relevant residential property, for example -
  - (a) in the case of termination of agreement, whether it is the date on which the sale and purchase agreement is made, or the date of termination of such agreement; or
  - (b) in the case of a declaration by the court, whether it is the date on which the sale and purchase agreement is made, the date of the court order, or the date on which the court order specifies such agreement is void.

#### Transitional provisions

11. Are there any transitional provisions in the Bill to cater for the situation where the sale of individual residential properties (i.e. individual units) of a development or a building takes place in different stages which straddles over the periods before and after commencement of operation of the Bill?