

17th April, 2012

Bills Committee on Residential Properties (First-hand Sales) Bill
 Legislative Council Secretariat
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 Central
 Hong Kong

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Dear Sirs,

Re: Proposed Treatment of Phased Developments in Sales Brochures

Thank you for the invitation to comment on the Residential Properties (First-hand Sales) Bill. As the District Council Member representing the owners and residents of Discovery Bay, a multi-phase residential property development on Lantau Island, I am very concerned about the proposed regime for disclosure of information in Sales Brochures in respect of phased developments. As the Bill now stands, it appears that important information on obligations and responsibilities in respect of the development as a whole – as distinct from the phase under sale – will not be highlighted in the Sales Brochure.

Introduction

Part 2, Division 2 of the Bill, supplemented by the detailed provisions at Schedule 1, establishes a comprehensive framework for the information proposed to be included in all future Sales Brochures for residential developments.

The proposal is extensive, and will greatly improve transparency once the legislation comes into force. Unfortunately, the Bill also stipulates that, for phased developments, the information to be provided shall be restricted to that related to the phase offered for sale. Thus, with only limited and specific exceptions, important information related to the development as a whole will not be provided at the time of the sale of each phase. This may unwittingly create false comfort for purchasers, who may trust the Sales Brochure as it stands, and not be aware of all the shared responsibilities and obligations that they will assume in respect of the development as a whole.

Structure of the Exceptions

Part 2, Division 2, Clause 24 of the Bill states that, for phased developments, any reference to

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the development shall instead be taken as a reference to the particular phase being offered for sale. Thus, in respect of the sale of a phase, the Bill provides a blanket exemption from providing information on the development as a whole. The only exceptions are Part 2, Division 2, Clause 18, Paragraphs (f), (h), and (i), which cover, respectively, a location plan of the development; the relevant outline zoning plan or similar plan; and a layout plan of the development.

These exceptions are insufficient. For example, they do not include Clause 18, Paragraph (p), which concerns the facilities or open space that are to be constructed and provided for the Government or for public use.

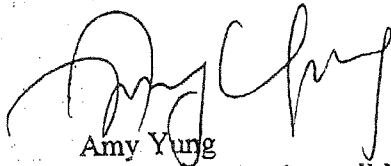
Clause 18, Paragraph (p), Subparagraph (ii) makes reference to "any facilities or open space that is required under the land grant to be managed, operated or maintained for public use at the expense of the owners of the residential properties *in the development*; [emphasis added]". If we must substitute "development" with "phase" for phased developments, as required by Part 2, Division 2, Clause 24, it may be interpreted that the legislation would restrict information in the Sales Brochure to those public facilities and open space that must be maintained etc by the owners of the phase only.

This cannot be the intent; it must be the intent that public facilities to be maintained etc by all owners be disclosed in the Sales Brochure. To avoid confusion, an amendment should be introduced to ensure that obligations that fall on owners of all phases in the development as a whole are properly described in any Sales Brochure. If there is a separate obligation for the phase only, this should be described separately.

Conclusion

It is accepted that certain information differs from phase to phase, and only the information pertinent to the relevant phase should be included in the Sales Brochure. However, other information is relevant to all phases. I hope that Members and the Administration will examine the relationship between a phase and the development as a whole critically, to ensure that a proper description of responsibilities and obligations that fall on owners in all phases is included in the Sales Brochure for each phase. In addition to responsibility for public facilities and open space as described above, this may include, for example, responsibility for common areas of the development as a whole and responsibility for slopes both within and outside the Lot.

Yours sincerely,



Amy Yung
Islands District Council Member (Discovery Bay)