



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

來函檔號 YOUR REF :
本函檔號 OUR REF : LS/B/15/11-12
電話 TELEPHONE : 3919 3508

傳真 FACSIMILE : 2877 5029
電郵 E-MAIL : kcheng@legco.gov.hk

By Fax (2761 5404)

25 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

I enclose herewith some questions on the legal and drafting aspects of Part 2 to Part 6 of the Residential Properties (First-hand Sales) Bill and would be grateful for your reply in bilingual form before 30 April 2012.

Yours sincerely,

Kitty Cheng
Assistant Legal Adviser

Encl

c.c. LA
CCS(1)1

Residential Properties (First-hand Sales) Bill

(Parts 2 - 6)

Clause 26

1. Clause 26(4) provides that if there is any change to the price of a specified residential property, the vendor must revise the price list that sets out the price to reflect the change. Is there any requirement as to the time within which the vendor should revise the price list when there is a price change?
2. Please also explain the time requirement for the revision of price list and its operation in the light of the requirement under clause 29 which provides that the vendor must make the relevant price list available to the general public during a period of at least 3 days before the date of sale of a specified residential property (both hard copies and on website).

Clause 28

3. Is the notice which may be issued by the Secretary for Transport and Housing and published in the Gazette with respect to the number of properties to be covered in the price list under the various sub-clauses of clause 27 subsidiary legislation and subject to the scrutiny of the Legislative Council under the Interpretation and General Clauses Ordinance (Cap. 1)?
4. Please explain (and illustrate with examples, if possible) the operation of clause 28(1)(b), and in particular, whether the order as stated should be in ascending or descending order for the compliance with the requirement "(must state its order) in terms of the date of preparation".
5. What is required to be included in the "description of the residential property" contained in the price list under clause 28(2)(a)?

Clause 33

6. The term "show flat" is not defined in the Bill. Clause 32 provides for the interpretation of "unmodified show flat". Clause 33 provides that a show flat is a modified show flat if the requirements specified in sub-clauses (a), (b) and (c) are met. Under clause 34, for residential properties in an uncompleted development or in an uncompleted phase, the vendor must set up an unmodified show flat before he may set up a modified show flat. Is the vendor permitted to set up a show flat which is neither a "modified

show flat" nor an "unmodified show flat" as prescribed under the Bill? If the answer is yes, is the type of show flat regulated under the Bill?

Clause 35

7. Does the "corresponding projected height of the residential property" in clause 35(5) refer to "the floor-to-ceiling height of the show flat"?

Clause 38

8. Please explain why the vendor may not restrict a person who views a modified show flat from taking measurements of the show flat (sub-clause (2)) whilst the vendor may not restrict a person who views an unmodified show flat from taking measurements, taking photographs or making video recordings of the show flat (sub-clause (1))?

Clause 40

9. Is there any express provision in clause 40 which states that clause 40 applies only to completed development or phase?
10. Although clause 41 provides for the mandatory requirements for comparable residential property for viewing (e.g. display of a plan), please explain what constitutes a "comparable residential property" under clause 40(2)(b)(i).

Clause 46

11. Please explain why the requirements relating to the scale and furniture provided in clause 46(1) do not apply to a floor plan that is made available in the sales brochure (clause 46(2)).

Clause 48, 49 and 50

12. Please explain why reference is made to the "owner" (and not the vendor) as a party to a preliminary sale and purchase agreement.
13. Is the notice which may be issued by the Secretary for Transport and Housing and published in the Gazette to amend the percentage of the purchase price as preliminary deposit under clause 48(3) subsidiary legislation and subject to the scrutiny of the Legislative Council under Cap. 1?

Clause 66

14. Is there any difference between an act "that is likely to induce ..." (as in clause 66(1)(a)) and "with the view to inducing ..."? Please explain the mental element(s) involved in the 2 situations.

Clause 68

15. Please explain (and illustrate with examples, if possible) what is meant by "publishing, circulating, distributing or otherwise disseminating materials or their contents... by any other means, whether ... *magnetically, optically, manually...*" as provided in clause 68(4)(a)(vii).

Clause 83

16. Is the notice which may be issued by the Secretary for Transport and Housing and published in the Gazette to amend the Schedules under clause 83 subsidiary legislation and subject to the scrutiny of the Legislative Council under Cap. 1?