

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

**List of follow-up action arising from the discussion
at the meetings on 15 May 2012**

Meeting at 10:45 am

- (1) To advise the requirements under the Bill which cannot fit squarely into the mode of sale of Home Ownership Scheme (HOS) flats, and the rationale for the Bill to cover Private Sector Participation Scheme flats which adopt the same mode of sale as HOS. To also advise if the exemption for the Hong Kong Housing Authority under clause 10(6) could apply to private developers if the latter adopt the same mode of sale as HOS in disposing of their residential flats.
- (2) To advise if there is provision in the Bill which prohibits the inclusion of important information (such as rider or proviso) in the footnote (the font size of which is 8 point Times New Roman/新細明體), which can qualify or restrict the main context (the font size of which is 10 point Times New Roman/新細明體).
- (3) To further consult the Consumer Council and the trade on clause 43(3) to ensure that this will not unduly affect the actual operation of the trade.
- (4) To review clause 44(1)(a) to avoid confusion as "gross floor area (GFA)" is used in building plans for property which is different from "saleable area" for flats under the Bill. To this end, consideration should be given to formulating a standardized definition of GFA.
- (5) To provide overseas regulation and experience on the cooling period and forfeiture of deposit in the event of rescission of agreement for sale and purchase, as well as the arrangement for these matters under HOS and Tenants Purchase Scheme. To also consider extending the cooling period to five days and reducing the preliminary deposit from 5% to 2%.

Meeting at 2:30 pm

- (6) To review the threshold for non-application of the Bill under clause 10(3) in consultation with the trade.
- (7) To advise with illustrations the application of "owner" under clauses 48, 49 and 50 in the sale and purchase agreement for specified residential properties in different situations, including sale by the agent of an owner, sale under a power of attorney, sale by the liquidator of a developer company, and sale by the person/representative of the estate of a deceased

owner. For the sake of clarity, consideration should be given to replacing the term "owner" with "vendor" under these clauses with proper adaptation.

- (8) To advise the rationale for using different time limits for clauses 52(2) (within 24 hours) and 52(3) (within one working day), and the circumstances if the specified day falls on a Sunday, public holiday or a day when the black rainstorm signal/typhoon signal number 8 is hoisted.
- (9) To consider requiring the provision of additional particulars (including unusual date of completion and cancellation clauses) in clause 52(2). To cater for the situation where no preliminary agreement for sale and purchase is entered into before the signing of an agreement for sale and purchase, consideration should be given to including the particulars required under clause 52(2)(a) to (e) in clause 52(3).
- (10) To consider reviewing clause 56(2)(b) such that it applies to any sitting tenant so long as the specified residential property has been leased out for a continuous period of at least one year (regardless of the number of tenants involved).
- (11) To consider providing a definition of "advertisement" in the Bill. To review clause 59 as the purpose of all advertisements is to promote the sale of the related specified residential properties.
- (12) To advise the rationale for requiring a person under clause 61(1) to state in an advertisement that the information set out in that advertisement is provided by the vendor, and how to deal with the circumstances where part of the information in the advertisement is provided by the vendor and part of it is not.
- (13) To consider applying all the provisions in the Securities and Futures Ordinance (Cap. 571) in relation to misrepresentation to clause 65, inter alia, full disclosure of material information and instigation of civil proceedings by the enforcement authority on behalf of consumers.
- (14) To consider including in the Bill a requirement for vendors to update the sales brochures (say in the form of corrigendum) in the event of changes in material facts (such as change in building plan).