

Residential Properties (First-hand Sales) Bill

**Administration's Response to Issues Raised by Members at
the Bills Committee Meeting held on 22 May 2012**

At the meeting of the Bills Committee on the Residential Properties (First-hand Sales) Bill (the Bill) held on 22 May 2012, Members raised enquires on a number of issues relating to the Bill.

2. As per the Bills Committee's request, a table setting out the Committee Stage Amendments (CSAs) being contemplated by the Administration is at **Annex**.

3. We will respond to the remaining questions separately in due course.

Transport and Housing Bureau
May 2012

Residential Properties (First-hand Sales) Bill

The Committee Stage Amendments being contemplated by the Administration

Clause No	Amendments to be made
Long title 10(1)	To improve the Chinese rendition of the phrases “no agreement for sale and purchase has ever been entered into” and “no assignment has ever been made” in the long title as well as in clause 10(1).
2	To expand the meaning of “company” in the Bill to cover a company incorporated outside Hong Kong.
2	To exclude “Saturday” from the definition of “working day” for the purpose of signing an Agreement for Sale and Purchase (ASP) after the signing of Preliminary Agreement for Sale and Purchase (PASP).
6(1)	To make clear that the definition of “residential property” will exclude real property used or intended to be used for human habitation if the use contravenes the land grant or the occupation permit (if any). Any other contravention of the land grant or occupation permit is not relevant for this purpose.
10	To make the Bill applicable to residential properties <u>in respect of which no PASP</u> , no ASP and no assignment has ever been entered into and made.
11 Division 9	To exempt the sale of first-hand residential properties among immediate family members, and the sale of first-hand residential properties between a body corporate and an associate corporation or a holding company of the body corporate from certain requirements of the Bill.
11(6)	To improve the drafting of clause 11(6) to clarify the date on which the Bill becomes applicable to a residential property in the case where an agreement for sale and purchase has been subsequently terminated or declared void by the court.

16(1)	To improve the drafting of clause 16(1) so that the publication refers to the one that is prepared “for the purpose of making it available to the public”.
16(2)	To improve the drafting of clause 16(2) so that the offences set out in 16(2)(a) and (b) will stand alone instead of conjunctive.
18	To make it mandatory for vendors to provide a plan showing all elevations of the development in the sales brochure.
18, 19	To rationalise the grouping of the provisions between clauses 18 and 19 of the Bill.
18(2)	To improve the Chinese rendition of the term “then” in clause 18(2) and other relevant clauses in the Bill.
22	To stipulate that the footnotes and remarks should be of an explanatory nature only.
26(4)	To improve the clarity of clause 26(4) on the requirement relating to revised price lists.
28(2)	To improve the Chinese rendition of the term “description” in clause 28(2).
28(4)(b)	To change the Chinese rendition for “prospective purchasers” from “潛在買方” to “準買方”.
30	To make clear that the vendor may seek and accept specific expression of intent on and after the first day on which the specified residential property is offered to be sold.
31	To state that the price of the residential properties may be changed after the signing of the ASP under certain specified circumstances. The relevant provisions on disclosure of transaction will also be amended accordingly.

32, 33	To address the problem that the actual dimensions of the show flats may not be exactly the same as shown in the sales brochure which is prepared on the basis of the latest approved building plans, since show flats will likely include wall finishes (e.g. plaster) but building plans will not take such features into account.
34	To plug the possible loophole that a vendor may set up a show flat which is neither a “modified show flat” nor an “unmodified show flat”.
42	To address the privacy issue if the vendor is required to allow the prospective purchasers to take measurement, take photos or make video recordings in a property which has a sitting tenant.
49 Sections 4 &7 of Schedule 4	To provide five working days, instead of three working days, for a purchaser to sign an ASP after signing the PASP.
51(1)	To improve the drafting of clause 51(1) to require that one (and only one) register is required to be kept for a development or a phase of development.
52	To specify that the register of transactions should include information on parking spaces if the sale of the parking space forms part of a PASP or ASP.
52	To cater for the situation where no PASP is entered into before the signing of an ASP.
61(1)	To improve clause 61(1) such that the vendor should state in the advertisement on whether the advertisement is published by the vendor or published by another person with the vendor’s consent.
61(4)	To improve the drafting of clause 61(4) to require that apart from “property price”, “property size” should also be quoted on the basis of saleable area only.

63(3) section 2(2) of Schedule 1	To revise the relevant provisions in the Bill to the effect that , in the case of a specified NT development, when stating the names of Authorized Persons (AP) and building contractor in the sales brochures (a requirement under section 2(2) of Schedule 1 to the Bill) and printed advertisements (a requirement under clause 63(3) of the Bill), the vendor should also state the period of which the AP has been appointed to supervise the construction of the development and the period of which the building contractor has been appointed to construct the development.
section 10(2) of Schedule 1	To apply the requirement on dimensions of furniture under clause 46 of the Bill to the floor plan in a sales brochure.
Schedules 4 to 7	To amend the Bill to avoid the possible conflict with sections 13 and 13A of the Conveyancing and Property Ordinance (Cap. 219).
Schedule 5	To extend the time limit within which the vendors must notify purchasers in writing that it is in a position validly to assign a residential property after the issue of the Occupation Document.
Schedules 5 & 6	To revise the use of a number of terms in Schedule 5 (e.g. “the description “Blocks” in the definition of ‘Phase” is too restrictive).
Schedule 5	To revise the Bill to cater for cases which are subject to the Demolished Buildings (Re-development of Sites) Ordinance (Cap. 337) or the Lands (Compulsory Sale Order for Redevelopment) Ordinance (Cap. 545).
Schedule 7	To revise the stakeholding provisions for completed development not pending compliance (i.e. residential development which has obtained the Occupation Permit and the Certificate of Compliance or Consent to Assign).
--	To allow vendors to provide information that is specific to a residential property in a development or the development in sales brochure.