

Legislative Council Panel on Housing

Proposed Legislation to Regulate the Sale of First-hand Residential Properties

Purpose

This paper briefs Members on the measures taken by the Administration to ensure that first-hand residential property buyers will have access to comprehensive, accurate and transparent property information for making informed decisions.

Existing Administrative Measures

2. For many years, Government has been closely monitoring the arrangements undertaken by developers relating to the sale of first-hand residential properties, particularly those involving uncompleted residential properties. Various administrative practices and measures have been devised and implemented by different bodies, comprising the Lands Department's Consent Scheme (the Consent Scheme), the guidelines issued by the Real Estate Developers Association of Hong Kong (REDA) for compliance by its member developers, the regulatory work of the Estate Agents Authority (EAA) on the estate agency trade, and consumer education undertaken by the Consumer Council. In recent years, the Transport and Housing Bureau (THB) has implemented, through the Consent Scheme and REDA's guidelines, a number of measures to enhance the transparency and clarity of property and transaction information provided for uncompleted residential properties. Most notable was the implementation of the "nine new measures" on sales brochures, price lists, show flats and the disclosure of transaction information introduced with effect from 1 June 2010.

3. On floor numbering, the Building Authority (BA) has promulgated a Practice Note for Authorized Persons, Registered Structural Engineers and Registered Geotechnical Engineers on "Standardization of Floor Numbering" (the Practice Note) with a view to formulating a reasonable approach and a code of good practice for floor numbering for the industry to adopt. In view of public concerns on floor numbering systems, the BA conducted a review on the Practice Note in 2009 and introduced revisions in May 2010 following a thorough

discussion with stakeholders. Under the prevailing Practice Note, when submitting plans to the BA for approval, the Authorized Person must clearly and unequivocally indicate the numbering of each floor on the plans. If the BA or other government departments concerned consider that the floor numbers of a building as shown on the plans are not arranged in a logical sequence or the numbering arrangement may cause confusion, the BA would advise the applicant to make appropriate amendments to the plans.

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4. To further enhance the transparency and fairness of the sales arrangements and transactions of first-hand residential properties, the Chief Executive announced in the 2010-11 Policy Address that a Steering Committee would be set up to discuss specific issues on regulating the sale of first-hand residential properties by legislation. The Steering Committee was set up in October 2010, and came up with practical recommendations on how to regulate the sales of first-hand residential properties in October 2011. THB consulted the public on the legislative proposals in the form of draft legislation, refined the draft legislation taking into account the views received during the public consultation exercise, and submitted the Residential Properties (First-hand Sale) Bill (the Bill) to the Legislative Council (LegCo) for First Reading on 21 March 2012. LegCo has formed a Bills Committee to scrutinize the Bill.

5. The Bill sets out detailed requirements in relation to sales brochures, price lists, show flats, disclosure of transaction information, advertisements, sales arrangements and conveyancing procedures for the sale of all types of first-hand residential properties. Beyond this, it contains prohibitions against misrepresentation and the dissemination of false or misleading information. Offences for breaching the provisions in the Bill and the levels of penalties are clearly set out. Finally, the Bill provides for the creation of an enforcement authority with appropriate powers to investigate and take action against breaches of the Bill when the Bill comes into operation.

6. The Bill is the top priority work for THB. THB will work closely with the Legislative Council in the months ahead in order for the Bill to be enacted as soon as possible.

A Recent Case

7. Recently, there have been complaints about the floor numbering of the residential blocks in a first-hand residential development in Ma On Shan. The public is concerned that insufficient information was provided in the sales brochure of that development regarding the difference in levels between the lowest residential floor of the buildings and the adjacent streets.

Follow up Actions

Follow up action by BD

8. The Buildings Department (BD) has recently reminded stakeholders through its established consultation/discussion channels on the requirements set out in the revised Practice Note, and requested them to revisit the building plans that have been approved prior to the promulgation of the revised Practice Note, and to make necessary amendments to comply with the prevailing requirements. The BD is also separately reviewing the building plans approved prior to the promulgation of the revised Practice Note. If the floor numbering system shown on the approved plans does not meet the requirements of the revised Practice Note, the BD will advise the applicant to make appropriate amendments.

Additional requirement in the Bill

9. Following the existing requirements under the Consent Scheme, the Bill requires that the sales brochure must state, among other things, the total number of floors of each multi-storey building in a first-hand residential property development, the floor numbering in each multi-storey building as provided in the approved building plans for the development, the omitted floor numbers in each multi-storey building in which the floor numbering is not in consecutive order, and the refuge floors (if any) of each multi-storey building in the development.

10. In order to further enhance the transparency of information on the difference in levels between the lowest residential floor of a building and the adjacent streets, we have added in a new provision when refining the Bill that the sales brochure must, in relation to every building in the development, set out a plan showing a cross-section of the building in relation to every street adjacent to the building, and the level of every

such street in relation to a known datum and to the level of the lowest residential building. This will help the public to visualize the relationship between the lowest residential floor of a building and the street level, regardless of how that lowest residential floor is named.

Additional requirement in the Consent Scheme

11. To prevent similar occurrences between now and the coming into effect of the Bill, the Lands Department issued a Circular Memorandum on 22 March 2012 to incorporate into the Consent Scheme a similar requirement for sales brochure as mentioned in paragraph 10 above. The requirement applies to the pre-sale of all uncompleted residential properties approved by the Lands Department on or after the date of the Circular Memorandum.

**Transport and Housing Bureau
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