

Legislative Council Panel on Housing

Regulation of 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 to allow them to make informed decisions.

Existing Administrative Measures

2. For many years, the Government has been closely monitoring the arrangements put in place 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.

4. In light of public concerns about the floor numbering of the residential blocks relative to the level of the adjacent streets in a first-hand residential development in Ma On Shan in February 2012, the Buildings Department (BD) has 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 guidelines. Separately, over the past couple of months, the BD has reviewed the building plans approved prior to the promulgation of the revised Practice Note. Where the floor numbering system shown on the approved plans does not meet the guidelines in the revised Practice Note, the BD has advised the applicant to make appropriate amendments.

Legislation to Regulate the Sale of First-hand Residential Properties

5. To further enhance the transparency and fairness of the sales arrangements and transactions of first-hand residential properties, THB submitted the Residential Properties (First-hand Sale) Bill (the Bill) to LegCo for First Reading in March 2012. The Bill passed through the Legislative Council after Third Reading on 29 June 2012.

6. 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.

7. 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 difference in height between the lowest residential floor of a building and the street level, regardless of how that lowest residential floor is named.

8. The Bill provides for the creation of an enforcement authority to supervise compliance with the legislation, undertake investigations as appropriate, issue practice guidelines, maintain data and statistics, and carry out public education. It will engage an agency to set up an electronic database which provides information on the sales of first-hand residential developments. We expect the enforcement authority will come into operation in about 12 months after the passage of the legislation.

Additional Requirements in the Consent Scheme

9. The Lands Department (LandsD) issued a Circular Memorandum on 22 March 2012 to incorporate into the Consent Scheme a similar requirement for sales brochure as mentioned in paragraph 7 above. The requirement applies to the pre-sale of all uncompleted residential properties approved by the LandsD on or after the date of the Circular Memorandum.

Recent Case

10. Recently, there were concerns that the level of the lowest residential floor (designated as “G/F”) of a first-hand uncompleted residential development in Tai Po is below that of the adjacent street and that there is not sufficient information in the sales brochure on the difference in levels between the lowest residential floor and the adjacent street.

11. The building plans showing the present floor numbering system of the development concerned were approved by BD in August 2009, i.e. before the promulgation of the revised Practice Note in May 2010. Pursuant to the follow-up actions in paragraph 4 above, BD has reviewed the building plans of that development, and considered the present floor numbering system to be consistent with the guidelines in the revised Practice Note.

12. The development concerned was granted pre-sale consent by the LandsD in October 2011, i.e. before LandsD's Circular Memorandum of 22 March 2012 (which requires sales brochure to include 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) as mentioned in paragraph 9 above came into effect. Sale of the residential properties of the development commenced in November 2011.

13. Notwithstanding that the additional requirements in the Consent Scheme as mentioned in paragraph 9 above do not apply to the development concerned, the vendor has voluntarily taken action to insert a supplementary sheet to be attached to the sales brochure, showing the cross-section plan of each building in the development and the level of the lowest residential floor in relation to the level of the adjacent street.

**Transport and Housing Bureau
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