

Transparent and Fair Transactions Safeguard Home Buyers' Rights

Sales of First-hand Residential Properties Authority



Residential Properties (First-hand Sales)
Ordinance is now in operation

Who should read this pamphlet?

Prospective purchasers of first-hand residential properties situated in Hong Kong.



What is this pamphlet about?

The Residential Properties (First-hand Sales) Ordinance (the Ordinance) (Cap. 621) came into effect on 29 April 2013. The Sales of First-hand Residential Properties Authority (the SRPA) commenced operation on 29 April 2013. We wish to let prospective purchasers of first-hand residential properties know in what way the Ordinance and the SRPA will help protect their interest in the purchase of first-hand residential properties.

The Ordinance

The objective of the Ordinance is to further enhance the transparency, fairness and consumer protection of the sales arrangements and transactions of first-hand (uncompleted and completed) residential properties.

The Ordinance sets out detailed requirements for vendors of first-hand residential properties (vendors) to comply with in relation to sales brochures, price lists, show flats, disclosure of transaction information, advertisements, sales arrangements, and the mandatory provisions for the Preliminary Agreement for Sale and Purchase (PASP) and Agreement for Sale and Purchase (ASP) for the sales of first-hand residential properties. It also provides for prohibitions against misrepresentation and the dissemination of false or misleading information. Offences are created for the contravention of the provisions in the Ordinance.

The SRPA

The SRPA is set up under the Transport and Housing Bureau to implement the Ordinance. Its major functions include -

- supervising compliance with the provisions of the Ordinance;
- handling complaints and public enquiries on matters relating to the Ordinance, and conducting investigations;
- carrying out public education and publicity on matters relating to the Ordinance;
- issuing practice guidelines for stakeholders; and
- setting up and maintaining an electronic database containing the sales brochures, price lists, and registers of transactions of individual first-hand residential developments.

TRANSPARENCY, FAIRNESS AND CONSUMER PROTECTION

Saleable Area only

Under the Ordinance, saleable area will be the only basis that can be used to quote property size and property price per square foot/per square meter in the **sales brochures, price lists and advertisements** of first-hand residential properties.

"Saleable area", as defined in the Ordinance, means the floor area of the residential property including the floor area of a balcony, a utility platform and a verandah, but excluding the area of an air-conditioning plant room, a bay window, a cockloft, a flat roof, a garden, a parking space, a roof, a stairhood, a terrace and a yard.



Sales Brochures

Vendors must prepare and make available the sales brochure for collection by the public free of charge during a period of at least **seven days** immediately before the commencement of sale and on every day of sale. Also, vendors should make available the sales brochure on its own designated website for inspection by the public during the same period of time.

Sales brochure made available to the public should be updated once every three months.

The sales brochure should set out information on any matter that is likely to materially affect the enjoyment of the residential property or the development.

The sales brochure must not set out information other than required or authorized by the Ordinance, e.g. picture or image of an artist's impression.

Price Lists

Vendors must prepare and make available the price list for collection by the public free of charge during a period of at least **three days** immediately before the commencement of sale and on every day of sale. Also, vendors should make available the price list on its own designated website for inspection by the public during the same period of time.

Each price list should set out the prices of the minimum number of residential properties as required by the Ordinance in the format prescribed by the SRPA.

If a vendor has already set out the price of a residential property in a price list and subsequently wishes to make changes to the price of that property, he has to make changes on that relevant price list. Also, the residential property concerned should not be sold earlier than three days after the issue of the revised price list.

Reservation of specific residential property is prohibited before the first date of sale of that particular residential property.



Show Flats for Uncompleted Developments

Vendors are not required to provide show flats. But if show flats are provided, the show flats should be constructed according to the requirements in the Ordinance.

For any "modified show flat" for a residential property to be provided for viewing by the general public, there must first be an "unmodified show flat" for the same property.

For unmodified show flats, the vendor should not restrict the viewers from taking measurements, photographs and videos of the show flats. For modified show flats, the vendor should not restrict the viewers from taking measurements of the show flats.

Sales brochures must have been made available to the public by the vendors when the show flats are made available for viewing.

Viewing of Property in Completed Developments

Vendors should, before the signing of the preliminary agreement for sale and purchase, arrange the purchaser to view the particular property that he/she wishes to purchase. If it is not reasonably practicable to arrange viewing of that particular property, the vendor should arrange the prospective purchaser to view a comparable property.

Sales Arrangements

Vendors should make available for collection, and on its own designated website for inspection, by the public for a period of at least **three days** immediately before the commencement of sale the following information on sales arrangements -

- the date, time and the place for the commencement of sales of the residential properties;
- which residential properties will be offered to be sold on that date; and
- the method to be used to determine the order of priority among prospective purchasers for the selection of residential properties.

Preliminary Agreements and Agreements for Sale and Purchase

If a purchaser decides not to proceed to the signing of the Agreement for Sale and Purchase (ASP) within 5 working days after the signing of the Preliminary Agreement for Sale and Purchase (PASP) :

- the PASP is terminated;
- the preliminary deposit, which amounts to 5% of the purchase price, will be forfeited; and
- the vendor does not have any further claim against the purchaser.

Registers of Transactions

On each day of sale, the vendor must keep a register of transactions (the Register) of the development or a phase of the development at the sales office and on the vendor's own designated website.

The Register should include key transaction information of the development or a phase of the development such as the dates on which the agreements (including PASP and the ASP) were signed, the transacted prices, and the dates on which the agreements were terminated (if applicable), the terms of payment and whether a transaction involves a related party to the vendor.

The vendor should disclose in the Register information on a PASP within 24 hours after the PASP is signed, and disclose information on an ASP within 1 working day after the ASP is signed.

Advertisements

If an advertisement is published by the vendor or by another person with the consent of the vendor, the advertisement must state that fact.

Advertisements must not contain false or misleading information.

Printed advertisements showing artist impressions of the development or its surrounding area must carry a statement reminding prospective purchasers to make reference to the sales brochures and to conduct on-site visits.



Misrepresentation and Dissemination of False or Misleading Information

A person who makes a fraudulent misrepresentation or a reckless misrepresentation for the purpose of inducing another person to purchase first-hand residential properties commits an offence under the Ordinance.

A person who disseminates or authorizes information that is likely to induce another person to purchase first-hand residential properties and if he knows that, or is reckless as to whether, the information is false or misleading as to a material fact, commits an offence.

Penalties

Maximum penalties for offences under the Ordinance are a fine at \$5,000,000 and imprisonment up to 7 years.

Centralised Database on First-hand Residential Properties

The SRPA has an electronic database i.e. the Sales of First-hand Residential Properties Electronic Platform (www.srpa.gov.hk) where the public may view the sales brochures, price lists and registers of transactions of all first-hand residential properties that are subject to the regulation of the Ordinance.

*This pamphlet is for general reference only. Please refer to the Ordinance for details.

Sales of First-hand Residential Properties Authority
Website : www.srpa.gov.hk
Hotline : 2817 3313
April 2013

