

**Legislative Council Panel on Housing
meeting on 4 May 2015**

Supplementary Information

PURPOSE

This paper provides supplementary information requested by Members at the Panel meeting held on 4 May 2015 in relation to the work of the Sales of First-hand Residential Properties Authority (SRPA), as well as the role and positioning of the Hong Kong Housing Society (HKHS) in the Government's housing policy.

WORK OF THE SRPA

Complaints received by the SRPA

2. As at 31 March 2015, the SRPA received 119 complaint cases. 86 complaint cases are related to the Residential Properties (First-hand Sales) Ordinance (“the Ordinance”) while the remaining 33 complaint cases are not.

3. The SRPA has conducted investigations on all of the 86 complaint cases which are related to the Ordinance (i.e. about 72% of the 119 complaint cases received by the SRPA as at 31 March 2015). The subjects of the complaints include vendors of first-hand residential properties, estate agents and estate agency companies.

Number of investigations conducted by SRPA since the Ordinance came into force

4. The SRPA carries out investigations on suspected contraventions of the Ordinance detected during compliance checks and inspections and those arising from complaints or media enquiries. The SRPA has been referring investigation reports on suspected contraventions of the Ordinance to the Prosecutions Division of the Department of Justice (DoJ) for consideration. The DoJ is now considering the matter and will revert to the SRPA once a final decision is made.

5. As is the practice of law enforcement agencies, the SRPA does not make public the number of investigations it has conducted or the number and percentage of referrals made to the Prosecutions Division of the DoJ.

Names of the vendors or the persons who are the subjects of investigations

6. Members asked for the names of the vendors who were the subjects of the complaints which the SRPA had conducted investigations.

7. As mentioned in the paper on the Work of the SRPA for the 4 May 2015 meeting of the Housing Panel, the SRPA carried out investigations on suspected contraventions of the Ordinance not just arising from complaints, but also from those detected during compliance checks and inspections and those arising from media enquiries.

8. To give Members a full picture, we will explain the SRPA's position on the issue regarding the disclosure of the names of the developments/phases of development, the vendors or any persons who are the subjects of the SRPA's investigations arising from the aforementioned three sources.

9. Under normal circumstances, a government department will not disclose information relating to a case which is under investigation in relation to criminal offences, lest it will adversely affect and prejudice ongoing investigations or undermine any future actions that the Government may take upon completion of the investigations.

10. As far as sales of first-hand residential properties is concerned, taking into consideration there is wide support among the public in general for strengthening the protection to property purchasers, the SRPA has been adopting a pragmatic approach. For situations which the vendors or any persons are suspected of having contravened the Ordinance and the suspected contravention may possibly affect prospective purchasers' interest seriously, the SRPA will, while carrying out investigations, alert prospective purchasers of the situations through the media in the first instance, while being mindful that doing so shall not adversely affect and prejudice ongoing investigations or undermine any future actions that Government may take upon completion of the investigations.

11. For situations in which the vendors or any persons may not have contravened the Ordinance but may have done something in the sales of first-hand residential properties which are undesirable and may possibly affect prospective purchasers' interest seriously, the SRPA will alert prospective purchasers of the situations through the media in the first instance while being mindful of any civil liability that may ensue on the part of the SRPA.

12. As at 31 March 2015, the SRPA has issued reminders to the public on 13 occasions in respect of the sales of first-hand residential developments/phases, to draw their attention to issues which may deserve their consideration in making an informed decision. We have categorically mentioned the names of the developments/phases of developments concerned on 10 out of the 13 reminders, as the issues concerned were specific to individual developments/phases of developments. Nine developments/phases of developments were involved and were being named (two of the reminders involve the same development/phase of a development).

13. We have not mentioned the names of any developments/phases of developments in the remaining three reminders because the issues concerned were generic in nature (e.g. reminding prospective purchasers to be aware of "fixed windows" which are becoming a common noise mitigation measures in the first-hand residential properties in new residential developments/phases of developments, reminding prospective purchasers that they should clarify with their estate agents on whether the estate agents are representing the vendor or them, and reminding prospective purchasers that show flats for completed residential properties are not subject to the requirements of the Ordinance and are not a substitute for the viewing of the completed residential properties).

14. The SRPA had mentioned only the names of the developments/phases of developments, but not the names of the vendors, in the aforementioned 10 reminders to prospective purchasers because the SRPA considered that the mentioning of the names of the developments/phases of developments should have served the purpose of drawing prospective purchasers' attention to the development/phase of a development.

15. In view of Member's suggestion that the SRPA should also mention the names of the vendors instead of simply mentioning the names of the developments/phases of developments concerned, the SRPA will in future mention both the names of the developments/phases of developments and the names of the vendors when issuing reminders to prospective purchasers on specific developments/phases of developments. As a matter of fact, the name(s) of the vendor(s), and if a vendor is a corporation, the name of every holding company of that vendor is a piece of information which the sales brochure for a development/phase of a development must contain as required under the Ordinance, which should have already been made available to the public by the time of the sales of the first-hand residential properties concerned.

16. However, it is not appropriate for the SRPA to disclose the names of developments/phases of developments, the vendors or the persons involved in each and every investigations during the investigation stage, except for those situations as mentioned in paragraphs 10 and 11 above. If a vendor or any person is being charged under the Ordinance, information on the name(s) of the defendants and the related offences would be shown on the daily cause list published by the Judiciary which is available for public inspection.

ROLE AND POSITIONING OF HKHS IN THE GOVERNMENT'S HOUSING POLICY

17. In view of the tight housing supply, the Government has been actively exploring ways to increase the supply of subsidised housing through engaging different organisations including HKHS. In the 2013 Policy Address, the Government invited HKHS to develop subsidised sale flats and public rental units in Sha Tin and Sha Tau Kok respectively. Also, in the 2015 Policy Address, two sites in Tseung Kwan O and Tuen Mun respectively have been set aside for the development of subsidised sale flats by HKHS.

18. Sites are granted to the HKHS at concessionary land premium by way of private treaty grants for the development of subsidised housing. Depending on the nature of the housing development projects, the Government includes in the relevant land grants specified conditions or requirements, so as to ensure that the projects are delivered as planned. For example, for subsidised sale flat projects, the land grant conditions provide that HKHS may only sell the residential units to those categories of purchasers approved by the Secretary for Transport and Housing.

19. HKHS is an independent, financially autonomous, self-financing and not-for-profit organisation. With regard to the provision of affordable housing and related services for the general public of Hong Kong, HKHS has all along been a close partner of the Government. Such role has been reaffirmed in the Long Term Housing Strategy promulgated in December 2014. The Government has no intention, and does not consider it appropriate, to intervene directly in the internal operation of HKHS.

Transport and Housing Bureau
July 2015