

**立法會**  
**Legislative Council**

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**Panel on Housing**

**Meeting on 10 May 2016**

**Updated background brief on  
"The work of the Sales of First-hand Residential Properties Authority"  
prepared by the Legislative Council Secretariat**

**Purpose**

This paper provides updated background information on the implementation of the Residential Properties (First-hand Sales) Ordinance (Cap. 621) ("the Ordinance") as well as the work of the Sales of First-hand Residential Properties Authority ("SRPA"), and gives a brief account of the views and concerns expressed by members of the Panel on Housing ("the Panel") on the subject.

**Background**

2. The Ordinance was passed by the Legislative Council on 29 June 2012 and came into full implementation on 29 April 2013. The Ordinance seeks to enhance the transparency and fairness of the sales arrangements and transactions of first-hand residential properties and consumer protection, and provide a level playing field for vendors of first-hand residential properties.

3. Under the Ordinance, there are statutory requirements 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. The Ordinance also provides for prohibitions against misrepresentation and the dissemination of false or misleading information. Contraventions of the Ordinance are criminal offences.

4. To ensure that the Ordinance is implemented effectively, the Transport and Housing Bureau has set up SRPA under section 86(1) of the Ordinance. SRPA undertakes the following tasks –

- (a) monitor compliance with the Ordinance;
- (b) issue guidelines for stakeholders;
- (c) handle complaints and public enquiries;
- (d) educate the public on matters relating to the provisions of the Ordinance;
- (e) conduct investigations on cases of non-compliance with the Ordinance; and
- (f) maintain the Sales of First-hand Residential Properties Electronic Platform which contains the sales brochures, price lists, and registers of transactions made available by vendors of individual first-hand residential developments.

#### The work of SRPA

5. According to the Administration, since the full implementation of the Ordinance on 29 April 2013 and up to 31 March 2015, vendors had offered for sale about 27 900 first-hand residential properties in 160 residential developments/phases. About 25 500 first-hand residential properties were sold (i.e. the parties had either signed PASPs or had signed both PASPs and ASPs). As at 31 March 2015, SRPA had –

- (a) examined about 760 sales brochures, about 1 900 price lists, about 1 100 documents containing the sales arrangements, and about 6 200 printed advertisements;
- (b) conducted about 2 600 inspections on registers of transactions and regular inspections on the websites designated by vendors;
- (c) conducted about 2 000 inspections on the sales offices and show flats, some of the inspections were conducted jointly with the Estate Agents Authority ("EAA");
- (d) received about 2 800 enquiries;

- (e) received 119 complaint cases, of which 86 were related to the Ordinance while the remaining 33 were not;
- (f) issued 126 frequently asked questions and answers to the trade;
- (g) collaborated with EAA to organize two seminars for estate agents on the Ordinance and EAA's Practice Circulars in respect of the sales of first-hand residential properties;
- (h) issued reminders to the public on 13 occasions in respect of the sales of individual first-hand residential developments/phases; and
- (i) provided prospective purchasers and members of the public with information useful to them.

### **Deliberations of the Panel on Housing**

6. The Panel received briefings by SRPA on the implementation of the Ordinance and its work on 2 July 2013, 6 January 2014 and 4 May 2015. The major views and concerns expressed by members at these meetings are summarized in the ensuing paragraphs.

#### Tackling undesirable trade practices

7. Members were concerned about the dissemination of false or misleading information about the sales situation by estate agency companies and vendors of first-hand residential properties. SRPA advised that it had been reminding prospective purchasers that the register of transactions for a development/phase, instead of the number of registrations of intent, was the most reliable source of information on the sales situation. EAA had also repeatedly reminded estate agency companies not to make loans to prospective purchasers. EAA was considering requiring estate agents who had submitted registrations of intent for themselves to make appropriate declarations.

8. Members also expressed concern on some vendors' sales tactics to withhold information on the units available for selection, and to arrange for a large number of estate agents to prompt prospective purchasers to make a purchase decision in a very short time. SRPA advised that under the Ordinance, vendors were required to make available the sales brochure at least seven days immediately before the date of sale and make available the price lists and the sales arrangements at least three days immediately before the date of sale. SRPA had issued a practice note advising vendors to display, starting from

1 June 2015, at the sales office on each date of sale a "consumption table" to show clearly the status of the first-hand residential properties offered for sale for that day.

9. In response to members' concern about the sales tactic of some vendors to sell first-hand residential properties by batches with selling prices raised for each subsequent batch, SRPA advised that the Ordinance stipulated that each price list of a development/phase should set out the prices of not less than a specified number of properties. Also, guidelines issued by SRPA required that any change to the prices should be reflected in a revision mode. Vendors were also required to indicate in the documents containing the sales arrangements the units to be offered for sale.

10. Noting that the Consumer Council ("CC") had released a report in November 2014 of its study about unscrupulous trade practices impacting on the interests of prospective purchasers, members asked whether SRPA would consider implementing CC's recommendations, such as sending mysterious shoppers to inspect and participate in the sales arrangements of vendors. SRPA advised that it had carried out inspections on all of the sales offices and show flats of first-hand residential properties which were opened to the public on or after the implementation of the Ordinance, and some of the inspections were conducted jointly with EAA without making known to the vendors beforehand. In most cases, the SRPA staff members' identity was not revealed. It was not practically possible for SRPA to carry out covert compliance checks to the extent of submitting registrations of intent as disguised purchasers since it would require the presentation of cashier orders.

#### Handling cases of contravention

11. Some members held the view that SRPA should act in line with CC's practice to make public the details of the complaint cases including the names of the companies under complaint to alert prospective purchasers. There were also views that SRPA should release the names of vendors suspected of having contravened the Ordinance for cases which had been referred to the Prosecutions Division of the Department of Justice. SRPA advised that the proposal would give rise to legal implications. It was considered more effective to mention the names of the residential developments/phases rather than the names of the vendors concerned in the reminders to prospective purchasers, because developers would normally set up a new company to be the vendor of a development/phase, and the public might not recognize the identity of the developer from the name of the vendor.

## **Council questions**

12. At the Council meetings of 23 January and 15 May 2013, and 21 May and 3 December 2014, Hon Frederick FUNG Kin-kee, Hon Tony TSE Wai-chuen and Hon James TO Kun-sun raised questions relating to the Ordinance. Issues covered in the questions included whether the Administration would consider providing the public free access to information on the saleable areas of residential flats from the Rating and Valuation Department; whether the Administration had assessed if the quantity and transaction volume of first-hand residential properties to be put up for sale would be affected by the implementation of the Ordinance; and the number of complaints received by SRPA and EAA. The Council questions and the Administration's replies are hyperlinked in **Appendix**.

## **Latest development**

13. The Administration will update members on the implementation of the Ordinance and the work of SRPA at the Panel meeting on 10 May 2016.

## **Relevant papers**

14. A list of relevant papers is in **Appendix**.

Council Business Division 1  
Legislative Council Secretariat  
4 May 2016

## The work of the Sales of First-hand Residential Properties Authority

### List of relevant papers

Council/ Committee	Date of meeting	Paper
Panel on Housing	2 July 2013	<p>Administration's paper on "Implementation of the Residential Properties (First-hand sales) Ordinance and the work of the Sales of First-hand Residential Properties Authority" (LC Paper No. <a href="#">CB(1)1391/12-13(02)</a>)</p> <p>Background brief on "Residential Properties (First-hand Sales) Ordinance and the Sales of First-hand Residential Properties Authority" prepared by the Legislative Council Secretariat (LC Paper No. <a href="#">CB(1)1391/12-13(03)</a>)</p> <p>Minutes of meeting (LC Paper No. <a href="#">CB(1)1766/12-13</a>)</p>
Panel on Housing	6 January 2014	<p>Administration's paper on "The work of the Sales of First-hand Residential Properties Authority" (LC Paper No. <a href="#">CB(1)622/13-14(04)</a>)</p> <p>Background brief on "The work of the Sales of First-hand Residential Properties Authority" prepared by the Legislative Council Secretariat (LC Paper No. <a href="#">CB(1)622/13-14(05)</a>)</p> <p>Minutes of meeting (LC Paper No. <a href="#">CB(1)1188/13-14</a>)</p>
Panel on Housing	4 May 2015	<p>Administration's paper on "The work of the Sales of First-hand Residential Properties Authority" (LC Paper No. <a href="#">CB(1)787/14-15(03)</a>)</p> <p>Background brief on "The work of the Sales of First-hand Residential Properties Authority" prepared by the Legislative Council Secretariat (LC Paper No. <a href="#">CB(1)787/14-15(04)</a>)</p> <p>Minutes of meeting (LC Paper No. <a href="#">CB(1)1024/14-15</a>)</p>

**Hyperlinks to relevant Council Questions:**

<b>Date</b>	<b>Council Question</b>
23 January 2013	<a href="#">Council question</a> raised by Hon Frederick FUNG Kin-kee
15 May 2013	<a href="#">Council question</a> raised by Hon Frederick FUNG Kin-kee
21 May 2014	<a href="#">Council question</a> raised by Hon Tony TSE Wai-chuen
3 December 2014	<a href="#">Council question</a> raised by Hon James TO Kun-sun