

Comments on the Sales Descriptions of Uncompleted Residential Properties White Bill

by

The Real Estate Developers Association of Hong Kong

1. General

- 1.1 The Real Estate Developers Association of Hong Kong would like to submit our views on the Sales Description of Uncompleted Residential Properties White Bill. In general we are in support of the objective of the Bill, namely, to enhance the accuracy, uniformity and transparency of information provided in sales brochures and advertisements regarding the public sale of local uncompleted residential flats.
- 1.2 In this regard, we find the major proposals reasonable and acceptable, and reflective of a balance between consumer protection and an understanding of the technicalities behind the sale and purchase of uncompleted residential flats. However, we believe that there is room for improvement of certain detailed proposals which, in the current form, are impractical and impracticable from an operational point of view.

2. Floor Area

- 2.1 We agree with the proposals that developers should provide information of areas of residential units in terms of saleable area and gross floor area. Both terms are widely used presently in sales brochures and agreement of sale and purchase, and are easily understood by purchasers. We also agree with the proposal to standardise the calculation of gross floor area according to the statutory definition provided by the Building (Planning) Regulation and as approved by the Building Authority. We believe that the adoption of both terms for description of areas will enable prospective purchasers to fully grasp the size of a residential unit, and will help dispel confusion and conflict arising from different practice and representation of unit areas.

- 2.2 While we appreciate the concern of some Honourable Members on whether the internal floor area of a unit should also be provided in the sales brochures, we would like to point out that the provision of such information is not practicable for the simple reason that it is not available at the time when the sales brochures are prepared as the property is being sold as uncompleted residential units.
- 2.3 Whilst the gross floor area and saleable area of uncompleted buildings may be measured from the building plans, it is not possible to do so for the internal floor area during the construction stage, as the actual construction and finishing process can affect the thickness of walls, and thus the internal floor area of a unit. We have also heard the suggestion of making certain allowance of discrepancy to address this problem, but must point out that a departure from the originally provided figure would become incentive for disputes, litigation, and even renegeing of the sale and purchase agreement, adversely affecting the normal operation of the property market.
- 2.4 We should not lose sight of the fact that the external walls are sold as an integral part of the unit together with the area so encased. It would be preposterous to assume that developers would build walls with excessive thickness, thereby deliberately reducing the internal floor area, as this act, whilst detrimental to the image of their own companies, is also disadvantageous because of the additional labour and material cost incurred.

3. Location Plan

- 3.1 We have no problem with the requirement to provide the most up-to-date Outline Zoning Plans (“OZP”) of the vicinity of the residential development and find the boundary set at within 0.5km reasonable. We would however wish to point out that with their best intention, developers can only provide information within their sphere of control and /or of a public nature. In this regard the definition of “Town Plan” in section (1) should be amended to remove the requirement to provide “a non-statutory plan including an outline development plan and a layout plan”, as unlike

OZPs published by the Town Planning Board (“TPB”), these plans are in most cases restricted information and accessible by public servants only.

- 3.2 Another very common situation is that the actual usage of a site is apt to change from time to time due to the nature of Hong Kong’s planning and zoning mechanism. For sites zoned as Government/Institution/Community (“G/I/C”), it is not uncommon that Government have yet to decide on their exact use. The permissible use may vary from school, to swimming pool to public toilet to refuse collection point. As well, Government also have the right to rezone these G/I/C sites to other uses such as residential use.
- 3.3 The same situation applies to sites owned by private owners who enjoy every right and freedom to apply for change of zoning. While developers will endeavour to include the most up-to-date information accessible to the public at the time when sales brochures are being prepared, they should not be liable to prosecution, litigation, or cancellation of purchase due to unintended mis-representation of facts, which changes are beyond their control.

4. Disposition Plan

- 4.1 The contents of the Disposition Plan are required in such level of details that any subsequent changes would likely lead to legal disputes. It should be noted that changes in plans are fairly common in the development process due to:
 - a. physical constraints that cannot be foreseen in the plan drawing stage, such as site-formation, cutting and filling of slopes.
 - b. changes in statutory regulations.
- 4.2 Nowadays many residential projects are developed by phases spanning over years. Asking developers to provide a disposition plan with such details and stick to it will take away the flexibility of the developers to refine the overall design of the project and change the provision of facilities to meet the ever-changing aspiration of the market.

- 4.3 We would recommend that a caveat be allowed to the effect that changes of the disposition plan subsequent to the printing of sales brochures are acceptable provided that such changes will be reflected in the revised printing and an updated plan is displayed in the sales office.
- 4.4 We would like to point out that it is not in the best interests of the consumers to include a disposition plan in such superfluous details in the sales brochure. Either the scale is too large to be contained or too small to be legible. To address this practical problem we would recommend the alternative of displaying a disposition plan in the sales office, following the arrangement of town plans and buildings plans as provided by Section 10 (1) b.

5. Fitting and Finishes

- 5.1 The recommendation that all sales brochures shall specify the brands and countries of origin of the fitting and finishes to be used will not work in practice. It will be difficult in many cases to state the country of origin of a piece of equipment at the time of pre-sale when the construction is still at an early stage. It will also reduce the flexibility for developers to select other types of furnishings to suit the changing taste of the customers, e.g., a quest for more environmental-friendly materials.

6. Floor Plans

- 6.1 We do not object to the proposal to provide floor plans showing the thickness of load bearing walls at the lowest, median, and the top levels of the building, but find it too stringent and impracticable to require the thickness of the walls to be expressed in millimetres. We recommend that a reference to the thickness defined in the general building plans as approved by the Building Authority will suffice.

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