# 立法會 Legislative Council

LC Paper No. CB(1)905/07-08(05)

Ref: CB1/PL/HG

#### Panel on Housing Meeting on 3 March 2008

### Background brief on disclosure of saleable area in sales description for residential properties

#### **Purpose**

This paper sets out major views and concerns relating to the disclosure of saleable area (SA) in sales descriptions for residential properties expressed by members of the Panel on Housing (the Panel) at the meetings on 2 April and 17 July 2007.

# Existing practices for disclosure of floor area information for residential properties and improvement measures to enhance transparency of information

- 2. Recognizing the importance of providing prospective property buyers with sufficient and accurate information to make informed purchase decisions, the Panel has all along followed closely issues relating to the subject of sales arrangements for uncompleted first-hand residential properties. Details of previous discussions on the subject by LegCo Members have been set out in the background brief on sales arrangements for uncompleted first-hand residential properties (LC Paper No. CB(1)394/06-07(06)).
- 3. Information on floor area of residential properties, particularly that on SA and Gross Floor Area (GFA), is essential to prospective property buyers in making purchase decisions. The Administration has adopted a multi-pronged approach involving the Government, the Consumer Council (CC), the Estate Agents Authority (EAA) and The Real Estate Developers Association of Hong Kong (REDA) in enhancing the disclosure of floor area information in sales descriptions for residential properties. However, in recent years, there have been growing public concern about confusion caused by different calculation methods of floor area, the practices of some developers to include common areas and ancillary facilities in the calculation of SA when putting up

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residential properties for sale thus enabling developers to "inflate" SA to make more profits. There have been increasing calls for measures to address problems relating to the disclosure of floor area information. The existing practice and relevant improvement measures in this regard are set out below.

#### Lands Department's Consent Scheme

4. Where the residential developments are governed by the Lands Department (LD)'s Consent Scheme, developers are required to disclose in sales brochures the typical floor plan and SA of each individual unit in accordance with the definition prescribed in the Consent Scheme. Details of the definition and measurement method of SA are in **Appendix I**. Such definition is in line with the Code of Measuring Practice (the Code) published by the Hong Kong Institute of Surveyors (HKIS). Furthermore, developers need to specify separately in sales brochures the SA of bay windows, utility platforms, roof, open yards, etc., and are required to provide a clear breakdown of SA in the Agreement for Sale and Purchase.

#### REDA's self-regulatory regime and its guidelines

- 5. The definition of SA under the Consent Scheme is adopted by REDA in its guidelines for Sales Descriptions of Uncompleted Residential Properties (REDA's Guidelines) for compliance by its members. Both GFA and SA of a residential unit are made known in sales brochures. REDA's Guidelines also state that GFA of a unit disclosed in sales brochures should be the sum of SA, the apportioned share of common areas and areas for the exclusive use of the purchaser. The Administration, REDA and CC will examine sales brochures and price lists of uncompleted residential properties to ensure that the required information is disclosed. REDA will be required to rectify discrepancy or omission of information. Where the development is covered by the Consent Scheme, the case will be referred to LD for necessary follow-up action.
- 6. To improve the disclosure and clarity of information, REDA has asked its members to highlight information on SA in sales brochures, for example by using larger font size, and disclose GFA and SA in price lists, and list out separately in the price lists the area of facilities, such as balcony, bay window, roof, flat roof, utility platform, etc. Members of REDA are also asked to include the complaint hotline numbers of REDA, CC, EAA and the Government in sales brochures and display the numbers prominently in the sales office. The up-dated version of REDA's Guidelines is in **Appendix II**.

<sup>1</sup> The Lands Department (LD)'s Consent Scheme was introduced in 1961 and a major review was undertaken in 2004. Developers are required to comply with the relevant requirements under the Consent Scheme before they can obtain LD's pre-sale consent. Requirements for protecting buyers' interests include demonstrating developer's financial ability to cover balance of the construction costs, mandatory disclosure of information in advertisements and sales brochures and purchaser's right of

rescission in the event of non-completion of development, etc.

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7. To enhance the credibility of the self-regulatory regime, REDA established in early 2007 a Compliance Committee<sup>2</sup>. In order to further improve sales arrangements, starting from end 2006, REDA also imposed a requirement on its members to submit an independent auditor's report certifying that the documentation is in order before pre-sale of development can proceed.

#### Regulation of estate agents' practice

8. Estates agents play an important role in enhancing buyers' understanding and awareness of floor area information. EAA has issued circulars requiring estate agents to provide to prospective buyers accurate information, including SA about the property, only price lists given by the developers, as well as to advise prospective buyers to consult sales brochures before committing to purchase. In addition to conducting inspections of sales sites to ensure compliance by estate agents, EAA has also tightened licence qualifying examination requirements of estate agents and stepped up enforcement actions against professional misconduct of estate agents.

#### Consumer education

CC and EAA have jointly published a consumer checklist to remind property purchasers of the need to, among others, study carefully area information in the sales descriptions, including SA. The property purchaser is also reminded to seek professional advice should he have doubt about floor area information of the flat he intends to purchase. The checklist was subsequently published as the Notes to Purchasers of First-hand Residential Properties (the Notes). The Notes have been revised to remind consumers to pay particular attention to SA of the properties they intend to buy. revised Notes also promote the channels of public comments or complaints by listing out the hotlines and fax numbers of CC, EAA, REDA and Transport and Housing Bureau. The up-dated version of the Notes as at July 2007 is in **Appendix III.** To help consumers to know more about REDA's Guidelines, CC and EAA have uploaded the Guidelines on their websites for public access. The Administration has also established a hot line and website to collect public opinions and receive complaints about sales of first-hand residential properties.

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The Compliance Committee comprises members nominated by members of REDA's Executive Committee and independent members invited from solicitor firms. Allegations of non-compliance with REDA's Guidelines will be referred to the Compliance Committee for investigation. Substantiated cases will be referred to a Hearing Panel, which will be made up of five members to be drawn from the Compliance Committee on a rotation basis. With at least one of its members being an independent member, the Hearing Panel can decide on the case and mete out disciplinary measures ranging from warning letter, private reprimand to public reprimand as appropriate.

# HKIS's proposal to enhance disclosure of SA information in sales descriptions for residential properties

- 10. To remove the existing grey areas and other unclear areas created by the evolution of new building technologies and terminologies, HKIS has established a working group to initiate a review on the Code. The first stage of the review was related to SA, and the working group also wished to review GFA at a later stage. The Panel met with the Administration and representatives of REDA, HKIS, CC and EAA at the meetings held on 2 April and 17 July 2007 and was briefed on HKIS's proposal to revise SA. Members noted that HKIS was considering replacing the sections in the Code covering SA and "Ancillary Accommodation" with "Core Area" (CA) and "Ancillary Area" (AA) in order to remove grey areas surrounding SA that were subject to different interpretations. Details of CA and AA are as follows:
  - (a) CA comprises roofed area with full head-room of not less than two metres contained within the enclosing walls, and area that could be used for full normal occupation without any restrictions on use; and
  - (b) AA comprises the floor area exclusively allocated to the unit not qualified as CA and includes components such as cockloft, bay window, yard/terrace/garden/flat roof/roof/unroofed balcony, garage, carparking space, plant room/meter room and others to be specified by HKIS, which should be separately stated.
- 11. HKIS's proposal as at July 2007 is in **Appendix IV**. Given the significant implications of the proposal, members noted that HKIS would further examine the proposal in detail with other stakeholders, including the Administration, CC, EAA and REDA, in the hope of achieving a consensus before taking it further. The Administration considers that a clear definition on SA and a standardized calculation method by all parties concerned would help dispel misunderstanding and enhance transparency in floor area information. It has agreed to examine the implications of the revised Code and consider the need to review the relevant provisions of the Consent Scheme as well as the viability of providing it in REDA's Guidelines upon completion of the review by HKIS.

# Major views and concerns expressed by members on disclosure of floor area information

#### Views on HKIS's proposal

12. At the Panel meetings on 2 April and 17 July 2007, members and deputations expressed different views about HKIS's proposal. While CC and some members expressed support for the proposal which would enable

property purchasers to clearly understand the efficiency ratio of a unit and hence facilitate comparison of the prices of different units, REDA and some other members were concerned that the new definitions might mislead the public and have impact on the valuation of the some 1.3 million properties in the secondary market. They opined that HKIS's proposal would need further discussion as developers had made improvements in the provision of sales information in recent years to enable buyers to make informed purchase decisions. REDA and HKIS were urged to discuss the proposal with stakeholders, including professionals such as the Hong Kong Institute of Architects. Some members also urged that the revised Code should be applied to uncompleted first-hand residential properties under both the Consent Scheme and the Non-Consent Scheme.

#### The need for statutory regulation

- 13. Some Panel members considered REDA's self-regulatory regime ineffective and stressed the need to put in place statutory measures for governing the sale of residential properties in protecting the interests of buyers. In this regard, the Panel passed a motion at the meeting on 2 April 2007 requesting the Administration to reopen the discussion on the Sales Descriptions of Uncompleted Residential Properties White Bill and legislate on the arrangements of sales descriptions for residential properties on the basis of the relevant discussion. Some members also considered that compliance with REDA's Guidelines should be included as a requirement of the Consent Scheme so that the Government could withdraw the consent for the sale and impose penalties on developers for breaching the Guidelines, sales brochures issued by developers should be made legally binding, and developers should be required to post sales information such as the price lists for units in their websites to enhance market transparency.
- 14. The Administration responded that the multi-pronged approach in improving the sales arrangement for residential properties had struck a reasonable balance between protecting consumers and maintaining a free business environment. While undertaking to continue keeping the existing regulatory regime under review, the Administration would not rule out the option of introducing appropriate administrative or legislative measures to reinforce the existing control should the existing mechanism prove to be ineffective in achieving the expected result.

#### The need for a standardized method for calculating the per square foot price

15. Currently different methods are adopted by developers for calculating the per square foot price of uncompleted residential flats, such as per square foot price of SA and per square foot price of GFA. In the absence of a common basis for making a meaningful and objective comparison of different properties, consumers would get confused easily. Some members therefore urged that the components of SA and GFA of individual units be provided in

sales brochures, consideration be given to providing legal backing to the definition of SA and requiring developers to specify the per square foot price of GFA and SA of each unit in the price list and the provisional Agreement for Sale and Purchase.

#### Floor height information

- 16. In view of public concern about the floor height information, there are calls for improvement to the clarity of such provided in sales descriptions. Members noted that "floor height", as defined in the building sector, included the thickness of the floor slab. Since consumers would not have information on the thickness of the floor slab, it was suggested that the actual "floor-to-ceiling" height be included in sales descriptions to avoid possible disputes. According to REDA, it was the established practice of the Buildings Department to measure storey heights between structural components regardless of finishes such as plastering and flooring, and the thickness of both the ceiling and floor slab was taken into account in the measurement. As regards the suggestion that the actual height of the flat from floor to ceiling be included in sales descriptions, REDA advised that there would be difficulty in implementation as the thickness of the ceiling and floor slab might vary according to workmanship and whether the floor was tiled.
- 17. The Administration advised that it had already requested REDA to improve the clarity of floor height information disclosed in sales descriptions and would liaise with it on possible improvement measures.

#### **Latest developments**

18. In February 2008, HKIS endorsed the issue of a supplement entitled "Supplement to the Code of Measuring Practice" to clarify information relating to SA. The Panel has invited representatives from the Administration, HKIS, REDA, EAA and CC to further discuss at the coming meeting on 3 March 2008 the progress in enhancing the accuracy and transparency of SA information in sales descriptions for residential properties.

#### Reference

19. A list of relevant papers with their hyperlinks at the LegCo Website is in **Appendix V**.

Council Business Division 1
<u>Legislative Council Secretariat</u>
29 February 2008

# Definition of "Saleable Area" prescribed in Legal Department's Legal Advisory and Conveyancing Office Consent Scheme

"Saleable area" means –

- (i) in relation to a unit enclosed by walls, the floor area of such unit (which shall include the floor area of any balconies and verandahs), measured from the exterior of the enclosing walls of such unit except where such enclosing walls separate two adjoining units in which case the measurement shall be taken from the middle of those walls, and shall include the internal partitions and columns within such unit; but shall exclude the common parts outside the enclosing walls of such unit Provided That if any of the enclosing walls abut onto a common area, then the whole thickness of the enclosing walls which so abut shall be included;
- (ii) in relation to any cockloft, the floor area of such cockloft measured from the interior of the enclosing walls of such cockloft;
- (iii) in relation to any bay window which does not extend to the floor level of a unit, the area of such bay window measured from the exterior of the enclosing walls or glass windows of such bay window and from the point where the bay window meets the wall dropping to the floor level of a unit but excluding the thickness of such wall;
- (iv) in relation to any carparking space, the area of such carparking space (the dimensions of which should be separately set out) measured from the interior of its demarcating lines or enclosing walls, as the case may be;
- (v) in relation to any yard, terrace, garden, flat roof or roof, the area of such yard, terrace, garden, flat roof or roof measured from the interior of their boundary lines, and where the boundary consists of a wall, then it shall be measured from the interior of such wall; and
- (vi) in relation to any utility platform not enclosed by a solid wall, the floor area measured from the external boundary and if it is enclosed by walls, the floor area of the said utility platform measured from the exterior of the enclosing walls or boundary of the said utility platform except where such enclosing walls or boundary separate two adjoining utility platforms, in which case the measurement shall be taken from the middle of those walls or boundary, and shall include the internal partitions and columns within the said utility platform; but shall exclude the common parts outside the enclosing walls or boundary of the said utility platform and exclude the whole thickness of the enclosing walls or boundary which abut onto any units provided that if any of the enclosing walls or boundary which so abut shall be included.

(Source: Annex A to the Administration's information paper (CB(1)1221/06-07(03)) for the meeting of the Panel on Housing on 2 April 2007.)

## Guidelines for Sales Descriptions of Uncompleted Residential Properties By The Real Estate Developers Association of Hong Kong

Subject	Date of Issue	Annex
Guidelines for Sales Descriptions of Uncompleted Residential Properties	May 17, 2007	I
Guidelines for Sales Descriptions of Uncompleted Residential Properties	April 25, 2007	II
Guidelines for Sales Descriptions of Uncompleted Residential Properties - Supplementary Guidelines on Private Sales (English version only)	August 25, 2006	III
Sales of Uncompleted Residential Properties (English version only)	June 01, 2006	IV
Sales of Uncompleted Residential Properties (English version only)	October 05, 2005	V
Sales Descriptions of Uncompleted Residential Properties (English version only)	September 23, 2004	VI
Payment Methods and Financial Arrangements in respect of Residential Properties offered for Sale (English version only)	September 09, 2003	VII
Guidelines for Sales Descriptions of Uncompleted Residential Properties (English version only)	/	VIII

(Source: Extract from the Consumer Council's website at http://www.consumer.org.hk/website/ws\_chi/shopping\_tips/services/ READGuideline.html)



Annex I

## THE REAL ESTATE DEVELOPERS ASSOCIATION OF HONG KONG

香港中環德輔道中十九號環球大廈 1403室 Room 1403, World-Wide House, 19 Des Voeux Road Central, Hong Kong. Tel: 2826 0111 Fax: 2845 2521

To

**REDA Corporate Members** 

(Members of Executive Committee & Legal SubCommittee via fax)

Date

17 May 2007

Subject:

Sale Descriptions of Uncompleted Residential Properties

Dear Members,

I wish to elaborate on my earlier note of 25 April 2007.

In the disclosure of saleable area, members are requested to list out separately on their price lists as in their sales brochures the saleable area of a unit, including the area of

set out under the LACO Presale Consent Scheme.

This is to come into effect on or before 1 June 2007. As a matter of good practice, you are also advised to adopt the same requirement for your completed projects.

Your cooperation and continued support is much appreciated.

Stewart Leung



Annex II

## THE REAL ESTATE DEVELOPERS ASSOCIATION OF HONG KONG

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To

REDA Corporate Members

(Members of Executive Committee & Legal SubCommittee via fax)

Date

25 April 2007

Subject

Sales Descriptions of Uncompleted Residential Properties

#### Dear Members

As you are aware, our Guidelines for Sales Descriptions of Uncompleted Residential Properties provide that both the saleable area and gross floor area are to be listed in our sales brochures.

We have recently been requested by the Housing, Planning and Lands Bureau to enhance the conspicuousness of floor area presentation in sales brochures (e.g. with larger font sizes) and to disclose the saleable area as well as the gross floor area in price lists. You will appreciate that their request was intended to enhance the clarity of information provided and in this spirit, we would recommend that they be adopted as soon as practicable.

Please also be reminded to make available the pamphlet "Notes to Purchasers of First-hand Properties" from the Consumer Council and the Estate Agents Authority at your sales offices. As a matter of good practice, you are also requested to display the number of your customer service hotline prominently at your sales offices.

Your cooperation and continued support is much appreciated.

Stewart Leung



Annex III

## THE REAL ESTATE DEVELOPERS ASSOCIATION OF HONG KONG

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To REDA Corporate Members

(Members of Executive Committee & Legal SubCommittee via fax)

Date 25 August 2006

Subject: Guidelines for

Sale Descriptions of Uncompleted Residential Properties

- Supplementary Guidelines on Private Sale

At the meeting with the Housing, Planning and Lands Bureau, the Consumer Council and the Estate Agents Authority today, we have agreed to introduce the following revisions to the subject Guidelines with immediate effect:

The price list of the flats to be offered in first launch (which should not be less than 20 flats or 20% of the total number of flats on offer at the first batch, whichever is the higher) should be provided to potential purchasers at least 24 hours before such flats are put up for sale.

For subsequent batches, an up-to-date price list should be made available and posted at the sales office immediately prior to the time when such flats are put up for sale.

Enclosed please find an updated version of the Guidelines for your attention.

Needless to say, your continued cooperation and support in complying with our Guidelines is essential to preserving the integrity and credibility of our self-regulatory regime.

Stewart Leung



# THE REAL ESTATE DEVELOPERS ASSOCIATION OF HONG KONG

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# **Guidelines for Sales Descriptions of Uncompleted Residential Properties**

Supplementary Guidelines on Private Sale

To enhance the transparency of the private sale mechanism, the following supplementary guidelines are to be adopted by all members of The Real Estate Developers Association of Hong Kong with immediate effect. Should there be any conflict between these guidelines and the conditions of the LACO Consent Scheme, the LACO Consent Scheme shall prevail.

Please note that these guidelines do not apply to sales to investors and staff.

#### Provision of Sales Brochures and other Essential Information

- 1. Sales brochures should be made available to prospective purchasers at least 24 hours before the private sale.
- 2. Sales brochures should contain essential information in respect of the property offered for sale, including but not limited to the following:
  - o Floor area and floor plan
  - o Prominent fittings and finishes
  - o Location plan drawn to scale
  - o Disposition plan
  - o Salient conditions of the Government lease
  - o Salient provisions of the draft DMC
  - o Obligations for slope maintenance if any
  - o Anticipated completion date
  - o Management fee details



## THE REAL ESTATE DEVELOPERS ASSOCIATION OF HONG KONG

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- 3. A copy of the draft DMC and the Government lease should be provided at the sales office for free inspection by prospective purchasers.
- 4. An enquiry counter should be set up at the sales office and a hotline be made available to provide information relating to the property being offered for sale.
- 5. Leaflets on useful information for flat purchasers published by the Consumer Council and/or the Estate Agents Authority should be made available at the sales office.
- 6. Reasonable steps should be taken to inform purchasers of subsequent material changes with regard to the information provided in the sales brochures.

#### **Provision of Price List**

- 7. The price list and the list of flats on offer should be made available at the sales office to prospective purchasers and also through estate agents (if engaged).
- 8. The price list of the flats to be offered in first launch (which should not be less than 20 flats or 20% of the total number of flats on offer at the first batch, whichever is the higher) should be provided to potential purchasers at least 24 hours before such flats are put up for sale. (w.e.f. 25 August 2006)
- 9. For subsequent batches, an up-to-date price list should be made available and posted at the sales office immediately prior to the time when such flats are put up for sale. (w.e.f. 25 August 2006)

#### **Announcement of Sales Performance**

10. Members are free to decide on whether or not to make public the results of their sales. If they choose to publicize, any information provided must be as accurate as possible.



## THE REAL ESTATE DEVELOPERS ASSOCIATION OF HONG KONG

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#### Conduct of Sale

11. Members should ensure that their sales activities are conducted in an orderly manner.

#### **Engagement of Estate Agency**

Members should specify in their promotional materials the name of any estate agency engaged by them.

Clear instructions on sales arrangements must be provided to the engaged estate agency.

14. Appropriate action should be taken against any estate agent (if estate agency is engaged) who is found to have adopted unprofessional sales practices.

## **Monitoring**

15. Random check on the compliance with these Guidelines by members will be conducted by the REDA Secretariat.

(First issued on 24 June 2005 Revised on 25 August 2006)



Annex IV

# THE REAL ESTATE DEVELOPERS ASSOCIATION OF HONG KONG

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To :

**REDA** Corporate Members

(Members of Executive Committee & Legal

SubCommittee via fax)

From:

1 June 2006

Subject:

Sale of Uncompleted Residential Properties

With the view of enhancing the credibility of our self-regulatory regime, we have agreed with the Housing, Planning and Lands Bureau that the following measures will be implemented in the sale of uncompleted residential properties with immediate effect:

- In the announcement of sales results, the definition of a "sale" is
  to be standardized to refer to the "signing of a Preliminary
  Agreement of Sales and Purchase". Please be reminded that
  under our Guidelines, members are free to decide on whether or
  not to make public the results of their sales, but if they choose to
  publicize, any information provided must be as accurate as
  possible.
- For phased developments, in order that prospective purchasers of subsequent phases may gain a knowledge of the house rules introduced in the earlier phase(s), our members will provide a copy of such house rules (if available) at the sales office for inspection upon request.
- Members are requested to refamiliarize themselves with our 1998
  Guidelines (attached) on the maintenance of order at the time of
  sales.
- Larger prints or coloured text should be used in sales brochure to draw prospective purchasers' attention to owners' responsibilities regarding maintenance of public facilities.



# THE REAL ESTATE DEVELOPERS ASSOCIATION OF HONG KONG

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In addition, we have recently received a number of complaints from the Bureau that on occasions our members had failed to provide them and the Consumer Council with a set of their sales brochure and price list of their uncompleted residential property projects under private sale. Please note that our Supplementary Guidelines on Private Sale of June 2005 and a further reminder dated 5 October 2005 (attached) provide that members should forward a set of sales brochure and price list to these two parties as soon as they become available to prospective purchasers.

Your attention is also drawn to the requirement of the provision of a location plan in the sales brochure to show all free-standing and purpose built facilities within 0.25km of a development. In relation to this requirement our Guidelines of June 2001 remain effective, and your reference to the Annex B therein (copy attached) for the specification of a location plan is requested.

Your continued cooperation and support in this matter is much appreciated.

Stewart Leung



# THE REAL ESTATE DEVELOPERS ASSOCIATION OF HONG KONG

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- 1. This Guideline is prepared by the Real Estate Developers of Hong Kong (REDA).
- REDA recommends all its members to adopt this Guideline as a supplementary
  document to an Appointment letter in the circumstance of their commissioning
  real estate agencies to promote, assist, or participate in the marketing and selling
  exercise of their residential projects.
- 3. Members are reminded to exercise their own commercial discretion in adopting this Guideline and are welcome to insert additional terms to the contents of which to suit the individual character of their projects. However, it is strongly recommended that 2.a to 2.f be retained to ensure order is maintained throughout the selling exercise.

#### Disclaimer

In providing this Guideline REDA bears no responsibility or liability for the real estate developers and/or the real estate agencies who have entered into such agreements. It is also recommended that members should refer to the land lease documents, the consent letters or any other relevant documents, and consult their own legal advisors to gain a full view of significance in designing their own sales exercise.

22 October 1998



# THE REAL ESTATE DEVELOPERS ASSOCIATION OF HONG KONG

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To

**REDA Corporate Members** 

(Members of Executive Committee & Legal SubCommittee via fax)

Date

5 October 2005

Subject :

Sale of Uncompleted Residential Properties

#### Dear Members

Under the LACO Presale Consent Scheme, developers are required to provide one copy of the sales brochure of their uncompleted residential property projects under public sale to the Housing, Planning & Lands Bureau and the Consumer Council. Most of our members are also adopting the same practice for their projects under private sale or those not subject to the LACO Presale Consent Scheme.

The Bureau and the Consumer Council are now requesting our members to regularise this practice and forward to them sales brochures, irrespective of the type of sales, as soon as they become available to prospective purchasers.

Whilst this is not a requirement under the Presale Consent Scheme, members will appreciate that complying with this request will enhance the credibility of REDA's self-regulatory regime. Your cooperation and support in this matter will be much appreciated.

Stewart Leung

# Guideline for the Selling Exercise of the:

Name of the Developer

Name of the Development Project

Address of the Development Project :

Address of the Sales Office

Name of the External Real Estate Agency Under Appointment

Appointment & Duration of the Sales Exercise

Other Commercial Terms

: (To be specified by individual developers)

## Regulations for Maintaining Order at the Project Site And/Or Sales Office

The Developer will station its own security team to maintain order in the sales
office and/or the project site.

 The real estate agency under commission should appoint not more than (to be specified by individual developer) employee(s) as the responsible person(s) to be in charge of this selling exercise. This/These person(s) should have the responsibility to

 ensure that not more than real estate agents of their company are sent and stationed at the same time in the sales office and/or the project site to participate in the exercise;

b. ensure the true identity of their staff in the said area and that all of them wearing the company uniforms or any other forms of identity are full-time employees of their company. No part-time employees would be allowed to participate in the selling exercise. Sub-contracting the job is forbidden;

 ensure that their employees behave in a professional and orderly manner at all times in their conduct with staff of the developer, prospective purchasers and representatives of other real estate agencies;

 d. ensure that their employees in the said area must observe and comply with the directions of the developer and/or its security team regarding the maintenance of order for the selling exercise;

 ensure that the agents designated to staff the project site and/or sales office shall use their best efforts to promote the above mentioned project only and not any other projects;

f. ensure that the appointed estate agents and their staff must reflect accurately and only those information of the development project provided by the developer;

g. (other terms: to be specified by the Developer as required)

 Upon prior notice to the appointed real estate agency the developer has full discretion and freedom to revise or amend the content of the Guideline as and when the situation requires.

The developer shall be entitled, without liability of compensation, to terminate the
appointment in the event that any of the above terms is breached by the appointed
real estate agency.



# THE REAL ESTATE DEVELOPERS ASSOCIATION OF HONG KONG

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#### Annex B

The location plan should show clearly and identify all free standing and purpose-built facilities, such as:-

i. clinics;

fire stations and ambulance depots;

iii. funeral parlours and cemeteries;

iv. judicial facilities;

v. refuse collection points;

vi. hospitals;

vii. markets;

viii. police stations;

ix. public carparks and lorry parks;

public conveniences;

xi. public transport terminals and rail stations;

xii. public utility installations;

xiii. religious institutions;

xiv. schools;

xv. social welfare facilities and

xvi. sports facilities and sports grounds

within 0.25km from the boundary of the lot.



Annex V

## THE REAL ESTATE DEVELOPERS ASSOCIATION OF HONG KONG

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To REDA Corporate Members

(Members of Executive Committee & Legal SubCommittee via fax)

Date

5 October 2005

Subject:

Sale of Uncompleted Residential Properties

#### **Dear Members**

Under the LACO Presale Consent Scheme, developers are required to provide one copy of the sales brochure of their uncompleted residential property projects under public sale to the Housing, Planning & Lands Bureau and the Consumer Council. Most of our members are also adopting the same practice for their projects under private sale or those not subject to the LACO Presale Consent Scheme.

The Bureau and the Consumer Council are now requesting our members to regularise this practice and forward to them sales brochures, irrespective of the type of sales, as soon as they become available to prospective purchasers.

Whilst this is not a requirement under the Presale Consent Scheme, members will appreciate that complying with this request will enhance the credibility of REDA's self-regulatory regime. Your cooperation and support in this matter will be much appreciated.

Stewart Leung



Annex VI

## THE REAL ESTATE DEVELOPERS ASSOCIATION OF HONG KONG

香港中環德輔道中十九號環球大厦1403室

Room 1403, World-Wide House, 19 Des Voeux Road Central, Hong Kong. Tel: 2826 0111 Fax: 2845 2521

Date

23 September 2004

To

**REDA** Corporate Members

Subject:

Sales Descriptions of Uncompleted Residential Properties

The practice of bundling telecommunication services with property management was the subject of a recent meeting with the Consumer Council, and consequently an understanding was reached by both sides.

It was agreed that our members would state wherever possible in their sales brochures the respective payment terms and contract periods for any telecommunication services to be made available with their property should the management fee be inclusive of such services. It was also understood that this might not always be possible as the terms of such services may not be finalized at the time of the pre-sale. Our overriding objective however is to make such offers of services as transparent as possible. Likewise, facilities that are to be "carved-out" from the common areas will also be specified clearly in the sales brochures.

Details of our understanding with the Consumer Council can be found in the enclosed letter. Your cooperation in putting such understanding into practice would be appreciated.

Stewart Leung Vice Chairman

**Executive Committee** 

Enclosure

# THE REAL ESTATE DEVELOPERS ASSOCIATION OF HONG KONG

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Date:

9 September 2003

To

**REDA** Corporate Members

Subject:

Payment Methods and Financial Arrangements

In respect of Residential Properties offered for Sale

Our Legal SubCommittee has met recently to consider a case of complaint received from the Consumer Council/Estate Agents Authority that the information provided to a prospective purchaser by an estate agent on the payment methods and financial arrangements in respect of a residential project was confusing.

To avoid unnecessary dispute in these sensitive areas, the Legal SubCommittee has proposed the following practice which, upon adoption, should strike the right balance in the process of sale:

Information on payment methods and financial arrangements (including first and second mortgages if any) in respect of residential properties offered for sale by members will be made available in writing at members' sales offices to prospective purchasers and estate agents, where applicable.

We believe it is in the interest of members that the above practice is put in place as soon as practicable. Your cooperation and support would be much appreciated.

Stewart Leung

Vice Chairman

Executive Committee



# THE REAL ESTATE DEVELOPERS ASSOCIATION OF HONG KONG

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# Guidelines for Sales Descriptions of Uncompleted Residential Properties

- These Guidelines which were prepared by The Real Estate Developers Association of Hong Kong ("REDA") are recommended for the adoption by all its members as soon as practicable.
- Should there be any conflict between these Guidelines and the conditions of the LACO Consent Scheme, the LACO Consent Scheme shall prevail.
- Responsibility for the compliance of these Guidelines will rest with individual developers.
- 4. Sales brochures issued prior to 1 October 2001 will not be affected.



# THE REAL ESTATE DEVELOPERS ASSOCIATION OF HONG KONG

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# Guidelines for Sales Descriptions of Uncompleted Residential Properties

# A. Information on residential properties for sale

The following information concerning the residential properties should be provided in sales brochures:

## 1. floor area of the residential properties

The calculation of the saleable area and gross floor area of the residential properties should be standardized as follows:

- The saleable area of a residential property shall be calculated in accordance with the definition set out in the standard form of Agreement for Sale and Purchase as provided in LACO Circular Memorandum 40A. The criteria of calculation are listed out in Annex A.
- ii. The gross floor area of a residential property shall be the sum of its saleable area, its apportioned share of the common areas, together with any other area which is for the exclusive use of its purchaser. The apportionment to the individual residential property attributable to common areas such as clubhouses, lift lobbies, management offices, etc shall be listed clearly.

## 2. floor plan

Floor plans of typical and non-typical floors should be shown. It is sufficient to show only one plan to represent a number of floors with similar layout and external dimensions. The floor plan should contain dimensions of compartments of the residential properties and the floor-to-floor height of the residential properties in each case in accordance with the latest building plan approved by the Building Authority. A note should be inserted at a conspicuous place adjacent to the floor plan to bring to the reader's attention that the internal areas of upper floors may be slightly greater than that of the lower floors.

## prominent fittings and finishes



## THE REAL ESTATE DEVELOPERS ASSOCIATION OF HONG KONG

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Room 1403, World-Wide House, 19 Das Voeux Road Central, Hong Kong, Tal: 2826 0111 Fax: 2845 2521

#### B. Information on the development and adjacent areas

Location plan

The location plan should show existing communal facilities as listed under Annex B located within a distance of 0.25km from the boundary of the development. Existing and proposed land uses of an area within 0.5km of the boundary as shown in the latest Outline Zoning Plan should be included. The location plan should indicate the location of public transport terminals and rail stations and any pictorial presentations should be drawn to scale.

2. Disposition plan

The disposition plan should show the location and layouts of buildings, open areas and facilities within the boundary of the development and the expected completion date of the buildings and facilities.

Conditions of the Government lease

The sales brochures should contain information on salient conditions of the Government lease including user restrictions, expiry date, any community facilities to be constructed and any obligations to construct or maintain structures or landscape inside or outside the boundary of the land on which the development is to be constructed, etc.

Deed of mutual covenant

The sales brochures should contain information on salient provisions of the Deed of Mutual Covenant including common parts, undivided shares, sharing of management fees, appointment of manager, retained areas, etc.

5. Slope maintenance

The sales brochures should set out clearly the obligations of owners to maintain slopes etc. together with a plan showing such slope etc. and the undertakings, if any, of the developer to carry out any work on any slopes etc.



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## C. Timing of provision of sales brochures

The sales brochures and price list should be made available before the date of public sale of the residential properties. For additional residential properties to be offered at the same sale exercise, the price list of such residential properties should be provided before the date of their public sale.

#### D. Notice as to possible changes

The sales brochures should state their date of printing. The latest version of the sale brochures should be made available at the sales office immediately on the first date of public sale. A conspicuous note should be inserted to alert readers about information which is subject to change.



## THE REAL ESTATE DEVELOPERS ASSOCIATION OF HONG KONG

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Extracted from LACO Circular Memorandum 40A, Appendix XII A

Annex A

#### Definition Of "Saleable Area"

"Saleable area" means :-

(i) in relation to a unit enclosed by walls, the floor area of such unit (which shall include the floor area of any balconies and verandahs), measured from the exterior of the enclosing walls of such unit except where such enclosing walls separate two adjoining units in which case the measurement shall be taken from the middle of those walls, and shall include the internal partitions and columns within such unit; but shall exclude the common parts outside the enclosing walls of such unit Provided That if any of the enclosing walls abut onto a common area, then the whole thickness of the enclosing walls which so abut shall be included;

in relation to any cockloft, the floor area of such cockloft measured from the interior of the enclosing walls of such cockloft;

in relation to any bay window which does not extend to the floor level of a unit, the area of such bay window measured from the exterior of the enclosing walls or glass windows of such bay window and from the point where the bay window meets the wall dropping to the floor level of a unit but excluding the thickness of such wall;

in relation to any carparking space, the area of such carparking space (the dimensions of which should be separately set out) measured from the interior of its demarcating lines or enclosing walls, as the case may be;

(v) in relation to any yard, terrace, garden, flat roof or roof, the area of such yard, terrace, garden, flat roof or roof measured from the interior of their boundary lines, and where the boundary consists of a wall, then it shall be measured from the interior of such wall.



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# 香港地產建設高會

# THE REAL ESTATE DEVELOPERS ASSOCIATION OF HONG KONG

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Annex B

The location plan should show clearly and identify all free standing and purpose-built facilities, such as:-

i. clinics;

ii. fire stations and ambulance depots;

iii. funeral parlours and cemeteries;

iv. judicial facilities;

v. refuse collection points;

vi. hospitals;

vii. markets;

viii. police stations;

ix. public carparks and lorry parks;

x. public conveniences;

xi. public transport terminals and rail stations;

xii. public utility installations;

xiii. religious institutions;

xiv. schools;

xv. social welfare facilities and

xvi. sports facilities and sports grounds

within 0.25km from the boundary of the lot.

# Notes to Purchasers of First-hand Residential Properties

July 2007

0000	Before you decide to purchase a first-hand residential property, you should: remember that buying uncompleted flats is not the same as acquiring completed properties; calculate the total expenses of the purchase, such as solicitors' fees, mortgage charges, insurance fees and stamp duties; check with the banks to find out if you will be able to obtain the needed mortgage loan, select the appropriate payment method, calculate the amount of the mortgage loan to ensure it is within your repayment ability; visit the development site and get to know the surroundings of the property (including transportation and community facilities), and check town planning proposals and decisions which may affect the property;
	pay attention to the information on the saleable area and gross floor area of the property in the Sales Brochure and the price list. For example, you should check whether the saleable area of the property includes the area of the balcony, flat-roof, roof, garden, cockloft, yard, terrace, bay window, utility platform, air-conditioning room, structural prefabricated wall, etc., and the size of each of them. When calculating the per-square-foot price, you should be aware that the saleable area and gross floor area of the property may comprise different parts. If you have any questions, you should consult a surveyor or lawyer and make enquiries with the developer;
	study the Sales Brochure carefully for other details such as the interior and exterior fittings and finishes, the expected completion date, management fees (e.g. whether items such as internet fees and club house fees are included) and find out the salient terms of the Government Lease, terms of the Deed of Mutual Covenant (DMC)(e.g. whether animals can be kept in the unit), etc.;
	read the Government Lease and the draft DMC. For example, information such as ownership of the rooftop and external walls can be found in the DMC. Copies of both documents should be provided by the developer at the sales office for free inspection; check recent transaction prices of comparable properties for comparison; ensure that any important matters explained or guaranteed to you by the developer's staff or other persons are written into
	(1) both the provisional and formal agreements for sale and purchase as part of the contractual terms; or (2) a separate written agreement; understand that the provisional agreement for sale and purchase is a legally binding agreement. If you withdraw from it after signing and, (1) if the flat is under the Consent Scheme, your deposit of up to 5% of the property price may be forfeited, or (2) if the flat is not under the Consent Scheme, the developer may take proceedings to enforce specific performance of
0 0 0	the agreement or retain your deposit and claim for damages for breach of the agreement.  Before you appoint an estate agent to look for a property, you should: find out whether the agent will act on your behalf only (if the agent also acts for the developer, he may not be able to protect your interests in the event of a conflict of interest); find out whether any commission is payable to the agent and, if so, its amount and the time of payment (all of these to be agreed between the agent and you); note that only licensed estate agents or salespersons may accept your appointment. If in doubt, you should request the estate agent or salesperson to produce his Estate Agent Card, or check the Licence List on the Estate Agents Authority website: www.eaa.org.hk; note that some developers handle sales themselves and you can decide whether to appoint an estate agent.
0	Before you purchase an uncompleted flat under the Consent Scheme, you should: seek confirmation from the developer whether a "Consent to Sell" has been issued by the Lands Department; note that the developer and estate agent are not allowed to receive any deposit or "reservation fee" before the developer has obtained the "Consent to Sell"; note that the deposit should be made payable to the solicitors' firm responsible for stakeholding purchasers' payments for the development.
	Before you engage a solicitor, you should: consider engaging your own solicitor to protect your interests (if the solicitor also acts for the developer, he may not be able to protect your interests in the event of a conflict of interest); compare the charges of different solicitors.
	You may express your views or make a complaint with regard to the sales arrangements or the practice of estate agents by calling or faxing the following numbers:



Transport and Housing Bureau

The Real Estate Developers Association of Hong Kong

Consumer Council

Estate Agents Authority



2929 2222

2111 2777

2186 8322

2826 0111

Fax

2590 6271

2598 9596

2509 3770

2845 2521

Appendix IV (English version only)



#### Submission by The Hong Kong Institute of Surveyors

# Panel meeting on "Disclosure of saleable area in sales description for residential properties" 17 July 2007

#### Saleable Area - Proposal Version 5 (5 July 2007)

#### (A) Background

In order to cope with the changing market condition and to address the diversified market views, the Hong Kong Institute of Surveyors ("HKIS") has formed a Working Group to review the existing "Code of Measuring Practice". A revised "Code" will be published to supersede the existing "Code".

HKIS intends to replace the sections covering the "Saleable Area" and "Ancillary Accommodation" with the following:-

#### (B) Core Area (主體面積)

"Core Area" of a unit comprises the floor area exclusively allocated to that unit but excluding common areas such as staircases, lift shafts, lobbies and communal toilets. It shall be the area contained within the enclosing walls of the unit measured up to the exterior face of an external wall or the center line of a separating wall between adjoining units, as the case may be. Enclosing walls separating a unit from a lightwell, a lift shaft or any similar vertical shaft, or a common area, shall be deemed an external wall and its full thickness shall be included. All internal partitions and columns within the unit shall be included.

Core Area of a unit should be roofed, of full head-room and should be capable for full normal occupation.

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### (C) Ancillary Area (附屬面積)

"Ancillary Area" of a unit comprises the floor area exclusively allocated to that unit not qualified as "Core Area".

Ancillary Area comprises the following components and their respective measurement criteria are mentioned below:

Components	Measurement Criteria (if any)
(1) Cockloft (of clear headroom less	To be measured from the interior of the
than 2.0m)	enclosing walls of such cockloft.
(2) Bay Window	To be measured from the exterior of the enclosing walls or glass windows of such bay window and from the point where the bay window meets the wall dropping to the floor level of a unit but excluding the thickness of such wall.
(3) Yard/Terrace/Garden/Flat Roof/Roof/Unroofed Balcony	To be measured from the interior of their boundary lines, and where the boundary consists of a wall, then it shall be measured from the interior of such wall.
(4) Garage	To be measured from the interior of its enclosing walls.
(5) Carparking Space	Carparking Spaces are not included for area calculation. They shall be counted by number of spaces.
(6) Plant Room, Meter Room	To be measured from the interior of its enclosing walls.
(7) Others	To be further advised by HKIS.



#### (D) Notes

- 1. Pipe Duct, A/C Platform, mouldings, flower boxes and architectural fins are not Core Area or Ancillary Area.
- 2. Voids in duplex flats and houses are not counted as Core Area or Ancillary Area.
- 3. Area occupied by internal staircases connecting different levels of areas which are qualified to be counted as Core Areas (or Ancillary Area, as the case to be) shall counted as Core Area (or Ancillary Area), irrespective of its headroom.
- 4. Enclosing walls includes external walls, party walls, boundary walls (in the form of fences, parapet and etc.) and (in the absence of physical walls) boundary lines.
- 5. Members shall separately state the measurement results of Core Area and Ancillary Area. For Ancillary Area, members shall separately state the respective Ancillary Areas of the components as classified above.
- 6. Full headroom is defined as having clear headroom of not less than 2 meters.
- 7. Full normal occupation is defined as the use of the premises for its primary function (e.g. habitation, office use, factory, shop, etc.).

Prepared by The Hong Kong Institute of Surveyors 10 July 2007

# Disclosure of saleable area in sales descriptions for residential properties

## List of relevant papers

Council/Committee	Date of meeting	Paper
Housing Panel	4 December 2006	LC Paper No. CB(1) 394/06-07(05)
		(http://www.legco.gov.hk/yr06-07/english/panels/hg/papers/hg1204cb1-394-5-e.pdf)
		LC Paper No. CB(1) 394/06-07(09) (Chinese version only)
		(http://www.legco.gov.hk/yr06-07/chinese/panels/hg/papers/hg1204cb1-394-9-ec.pdf)
		LC Paper No. CB(1) 422/06-07(01)
		(http://www.legco.gov.hk/yr06-07/english/panels/hg/papers/hg1204cb1-422-1-e.pdf)
		LC Paper No. CB(1) 394/06-07(06)
		(http://www.legco.gov.hk/yr06-07/english/panels/hg/papers/hg1204cb1-394-6-e.pdf)
		LC Paper No. CB(1) 436/06-07(01)
		(http://www.legco.gov.hk/yr06-07/english/panels/hg/papers/hg1204cb1-436-1-e.pdf)
		LC Paper No. CB(1) 712/06-07(01)
		(http://www.legco.gov.hk/yr06-07/english/panels/hg/papers/hg1204cb1-712-1-e.pdf)
		Minutes
		(http://www.legco.gov.hk/yr06-07/english/panels/hg/minutes/hg061204.pdf)
		LC Paper No. CB(1)617/07-08(01)
		(http://www.legco.gov.hk/yr06-07/english/panels/hg/papers/hg1204cb1-617-1-e.pdf)

Council/Committee	Date of meeting	Paper
Housing Panel	2 April 2007	LC Paper No. CB(1) 1221/06-07(03) (http://www.legco.gov.hk/yr06-07/english/panels/hg/papers/hg0402cb1-1221-3-e.pdf)
		LC Paper No. CB(1) 1265/06-07(01) (Chinese version only) (http://www.legco.gov.hk/yr06-07/chinese/panels/hg/papers/hg0402cb1-1265-1-c.pdf)
		LC Paper No. CB(1) 1265/06-07(02) (Chinese version only) (http://www.legco.gov.hk/yr06-07/chinese/panels/hg/papers/hg0402cb1-1265-2-c.pdf)
		LC Paper No. CB(1) 899/06-07(01) (Chinese version only) (http://www.legco.gov.hk/yr06-07/chinese/panels/hg/papers/hg0205cb1-899-1-c.pdf)
		LC Paper No. CB(1) 1301/06-07(01) (http://www.legco.gov.hk/yr06-07/chinese/panels/hg/papers/hg0402cb1-1301-1-ec.pdf)
		LC Paper No. CB(1) 1303/06-07(01) (Chinese version only) (http://www.legco.gov.hk/yr06-07/chinese/panels/hg/papers/hg0402cb1-1303-1-c.pdf)
		LC Paper No. CB(1) 1303/06-07(02) (http://www.legco.gov.hk/yr06-07/chinese/panels/hg/papers/hg0402cb1-1303-2-c.pdf)
		LC Paper No. CB(1)1433/06-07(01) (English version only) (http://www.legco.gov.hk/yr06-07/english/panels/hg/papers/hg0402cb1-1433-1-e.pdf)
		LC Paper No. CB(1)1466/06-07(01) (http://www.legco.gov.hk/yr06-07/english/panels/hg/papers/hg0402cb1-1466-1-e.pdf)
		Minutes ( <a href="http://www.legco.gov.hk/yr06-07/english/panels/hg/minutes/hg070402.pdf">http://www.legco.gov.hk/yr06-07/english/panels/hg/minutes/hg070402.pdf</a> )

Council/Committee	Date of meeting	Paper
Council meeting	4 July 2007	LegCo question (http://www.info.gov.hk/gia/general/200707/04/P200707040144.htm)
Council meeting	11 July 2007	LegCo question (http://www.info.gov.hk/gia/general/200707/11/P200707110125.htm)
Housing Panel	17 July 2007	LC Paper No. CB(1)2084/06-07(01) (English version only) (http://www.legco.gov.hk/yr06-07/english/panels/hg/papers/hg0717cb1-2084-1-e.pdf)
		LC Paper No. CB(1)2084/06-07(02) (http://www.legco.gov.hk/yr06-07/english/panels/hg/papers/hg0717cb1-2084-2-e.pdf)
		LC Paper No. CB(1)2084/06-07(03) (Chinese version only) (http://www.legco.gov.hk/yr06-07/chinese/panels/hg/papers/hg0717cb1-2084-3-c.pdf)
		LC Paper No. CB(1)2135/06-07(01) (http://www.legco.gov.hk/yr06-07/english/panels/hg/papers/hg0717cb1-2135-1-e.pdf)
		LC Paper No. CB(1)2158/06-07(01) (English version only) (http://www.legco.gov.hk/yr06-07/english/panels/hg/papers/hg0717cb1-2158-1-e.pdf)
		Minutes (http://www.legco.gov.hk/yr06-07/english/panels/hg/minutes/hg070717.pdf)

Council Business Division 1
<a href="Legislative Council Secretariat">Legislative Council Secretariat</a>
29 February 2008