

Consultation on the Proposed Legislation to Regulate the Sale of First-hand Residential Properties

規管一手住宅物業銷售的建議法例 公眾諮詢

1

Scope of Legislation 法例範圍

- The proposed legislation will cover -
建議法例將涵蓋 -
 - all first-hand completed residential properties; and
所有一手已建成的住宅物業；及
 - all first-hand uncompleted residential properties.
所有一手未建成的住宅物業
- Projects developed under old lease conditions, Consent Scheme projects and projects outside the Consent Scheme will be subject to the proposed legislation.
舊租契條款發展項目、「同意方案」項目，以及不屬「同意方案」的項目均受建議法例規管。

2

Major Areas Covered in the Proposed Legislation 建議法例的主要涵蓋範圍

- Sales Brochure
售樓說明書
- Price Lists
價單
- Show Flats
示範單位
- Sales Arrangements
發售安排
- Conveyancing Procedures
業權轉易程序

3

Major Areas Covered in the Proposed Legislation 建議法例的主要涵蓋範圍

- Disclosure of Transaction Information
披露成交資料
- Advertisements
廣告
- Exemptions
豁免
- Misrepresentation and Dissemination of False or Misleading Information
作出失實陳述和傳布虛假或具誤導性的資料
- Penalties and Defence Provisions
罰則和免責辯護條文
- Enforcement Authority
執法當局

4

Sales Brochure 售樓說明書

- Vendors should make public the bilingual sales brochure at least seven calendar days before the sale commences.
賣方必須在開售前至少七個曆日公開派發中、英文版的售樓說明書。
- Key property information should be set out in the first part of the sales brochure in a specified order.
主要物業資料應以特定次序載列於售樓說明書首部分。
- The sales brochure must not contain any promotional material or artist impression picture or graphic.
售樓說明書不得載有任何宣傳資料或構思圖片或圖像。
- No other publication relating to the sale of first-hand residential properties can be called a “sales brochure”.
除售樓說明書外，任何其他刊物一律不得稱作「售樓說明書」。

5

Price List 價單

- Vendors should make public the price list at least three calendar days before the sale commences according to the following requirements –
賣方必須在開售前最少三個曆日，按以下規定公開派發價單 —

6

Price List 價單

Size of Development 發展項目的規模	Units to be disclosed in 1st price list 首張價單須披露的單位數目	Units to be disclosed in each subsequent price list 其後發出的每張價單須披露的單位數目
30 units or fewer 30個單位或以下	All 所有單位	N/A 不適用
31 to 99 units 31至99個單位	At least 30 units 最少30個單位	At least 30 units 最少30個單位
100 units or more 100個單位或以上	50 units or 20% of the whole development, whichever is higher 50個單位，或整個項目單位總數的20%，以數目較高者為準	At least 10% of the whole development 最少為整個項目單位總數的10%

7

Saleable Area 實用面積

- Given that there is no commonly adopted definition on GFA, it is proposed to adopt the **saleable area** which has a standardized definition as the only basis to quote unit areas/unit prices of flats in the sales brochure, price lists and advertisements.

鑑於現時建築面積並無統一定義，因此我們建議在售樓說明書、價單和廣告內，只可採用有標準定義的**實用面積**以表達單位面積/單位呎價。

- This would enable prospective purchasers to better compare flat prices at different new developments calculated on the same basis.

此舉讓準買家可以在相同的計算基礎上，易於比較不同新發展項目的樓價。

8

Saleable Area 實用面積

- Saleable Area實用面積-

(a) means the floor area of the residential property; and

指住宅物業的主體面積；及

(b) includes the floor area of a balcony (if any), a utility platform (if any) and a verandah (if any).

包括露台（如有）、工作平台（如有）及陽台（如有）的面積。

- It excludes other areas, e.g. bay window.

不包括其他設施，如窗台。

Communal Facilities 公用設施

- Vendors are required to provide area information on an aggregate basis in respect of the communal facilities in the sales brochure in a prescribed format.

賣方須依據規定格式，於售樓說明書以整體方式提供公用設施的面積資料。

Show Flats for Uncompleted Developments

未落成發展項目的示範單位

- For uncompleted developments, vendors are not required to provide show flats but if show flats are provided, they have to comply with the specified requirements.

賣方無須為未落成的發展項目提供示範單位。不過，倘提供示範單位，則須符合有關規定。

- There should first be an unmodified show flat provided for any type/size of units before a modified show flat of that same type/size of units can be provided.

無論任何類型/面積的單位，必須先提供一個無改動的示範單位(即「清水房」)，才可為相同類型/面積單位提供經改動的示範單位(即「化妝房」)。

11

Viewing of Property in Completed Developments

參觀已落成發展項目的物業

- The vendor should arrange the purchaser to view the particular property that he/she wishes to purchase.

賣方須安排買方參觀其有意購買的物業。

- If it is not reasonably practicable to arrange viewing of that particular unit, the vendor should arrange a comparable unit for viewing.

倘若並無切實可行的方法安排參觀該單位，賣方須安排一個相若的單位，以供參觀。

12

Sales Arrangements

銷售安排

- Vendors should make public at least three calendar days before the commencement of the sales certain key information relating to logistics arrangements, such as –

賣方須於開售前最少三個曆日，向公眾發布流程安排的若干主要資料，例如–

- the date and time for the commencement of sales;

開售日期和時間；

- the sales venues; and

售樓地點；以及

- the method to be used to determine the order of priority of buyers in selection of flats for purchase.

決定買家優先次序的方法。

13

Sales Arrangements

銷售安排

- We propose to set out in the legislation a specific cut-off date before which reservation of units must not be accepted, whether or not payment of money is involved.

我們建議在法例中訂明，於某一特定時間前，不能作任何預留單位的安排，不論有否涉及支付金錢。

- The Steering Committee has proposed two possible cut-off dates for consideration:

督導委員會提出兩個可供考慮的特定時間：

- (i) the issuance of price list; or

公布價單日期；或

- (ii) the commencement of sale.

開售日期。

14

Conveyancing Procedures

業權轉易程序

Signing of the PASP
(preliminary deposit: 5 % of
the flat price)
簽署臨時買賣合約
(臨時訂金：樓價5%)



Signing of the ASP by the
purchaser within 3 working days
after signing the PASP
買方於簽署臨時買賣合約3個工作
天內簽署買賣合約



Signing of the ASP by the vendor
within 6 working days after
signing the PASP unless the
buyer does not proceed
除非買方放棄，賣方須於簽署臨
時買賣合約6個工作天內簽署買賣
合約。



If the purchaser does
not want to proceed
with the purchase, the
preliminary deposit will
be forfeited.

如買方放棄進行買賣，臨時
訂金將被沒收。

**The proposed arrangements
are made on the basis of the
current arrangements under
the Consent Scheme**

建議安排乃根據現時「同意方案」的
安排而制定。

PASP: Preliminary Agreement for Sale and Purchase
臨時買賣合約
ASP: Agreement for Sale and Purchase
買賣合約

15

Conveyancing Procedures

業權轉易程序

- The new legislation will stipulate certain major provisions as mandatory provisions in the PASP and the ASP, by drawing reference to the existing practices under the Consent Scheme and by the Law Society.

當局參考了「同意方案」和香港律師會的現行相關安排，於新法例規定臨時買賣合約和買賣合約須訂明若干主要條文。

16

Disclosure of Transaction Information

披露成交資料

- For higher transparency, transaction information should be disclosed using a standardized template within 24 hours upon the signing of the PASP.
為提高透明度，賣方須在簽訂臨時買賣合約後24小時內，以指明的標準格式披露成交資料。
- The vendor must also enter information concerning an ASP on the Register within one working day after he enters into an ASP.
賣方亦必須在簽訂買賣合約後一個工作日內，把買賣合約的資料載入紀錄內。
- If the ASP is not duly signed by the purchaser within three working days after the signing of the PASP, the vendor should indicate this information on the Register on the 4th working day.
假如買方未能於簽訂臨時買賣合約後三個工作天內簽妥買賣合約，賣方須於第四個工作天在記錄冊上載明這項資料。

17

Disclosure of Transaction Information

披露成交資料

- The terms of payment (including any discount on the price, and any gift, or any financial advantage or benefit, made available in connection with the flat purchase) should be set out in the Register.
記錄須列出與買樓有關的各種折扣、及就該項購買而連帶的贈品、財務優惠或利益。
- Vendors should disclose whether a transaction involves the board of directors of the developers, their immediate family members or the senior staff of the developers.
賣方須披露成交是否涉及發展商的董事、董事的直系親屬或發展商的高級職員。

18

Advertisements

廣告

- Advertisement must not contain false or misleading information.
廣告不得載有虛假或具誤導性的資料。
- All advertisements should clearly provide the name of the district where the development is located and the address of the development.
所有廣告須清楚提供發展項目的所在地區及地址。
- Printed advertisements showing artist impressions must carry a statement reminding prospective purchasers to make reference to the sales brochures and to conduct on-site visits.
印刷廣告上如提供構思圖，發展商必須附加聲明以提醒準買家須參考售樓說明書及進行實地視察。

19

Exemptions 豁免

- The Steering Committee considers that exemptions for certain requirements of the proposed legislation should be granted under the following circumstances
督導委員會建議在下述情況就法例的若干要求提供豁免-
 - where 95% or more of the units of the development have been leased out for a prescribed period of time (proposed duration: 36 months)
發展項目有 95% 或以上的單位在一段訂明時間內(建議：36個月)一直在租約下持有
 - the vendors are private individuals selling just one first-hand single house, as in the case of New Territories Exempted Houses
私人賣家只出售一幢一手建築物，例如只出售一幢新界豁免管制屋宇
 - units sold to existing tenants who have continuously rented the units for at least a prescribed period (proposed duration: 12 months)
單位售予持續租用單位至少一段訂明期間(建議：12個月)的現有租戶
 - left-over flats 貨尾單位
 - developments sold on an “en bloc” basis under a single transaction
通過單一成交以「整幢樓宇或整期發展項目」方式出售的發展項目
- Apart from the above recommendations of the Steering Committee, we propose granting exemption to developments constructed by the Housing Authority, i.e. Home Ownership Scheme flats as they subsidized flats. 除督導委員會以上建議，我們另建議豁免由房屋委員會興建的發展項目，即「居者有其屋」(居屋)項目，因為居屋單位是資助房屋。

20

Misrepresentation and Dissemination of False or Misleading Information

作出失實陳述和傳布虛假或具誤導性的資料

- In the proposed legislation, 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.

建議法例訂明，任何人如為誘使另一人購買某一手住宅物業，而作出具欺詐性或罔顧實情的失實陳述，即屬犯罪。

21

Misrepresentation and Dissemination of False or Misleading Information

作出失實陳述和傳布虛假或具誤導性的資料

- A person also commits an offence if he 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.

任何人知道或罔顧資料在某事關重要的事實方面是虛假或具誤導性，但仍然傳布或授權傳布該等資料，並相當可能誘使另一人購買一手住宅物業，該人即屬犯罪。

22

Defence Provisions

免責辯護條文

- The proposed legislation provides for defence provisions as appropriate, including that of due diligence, for offences under the legislation.

建議法例就所訂罪行設定適切的免責辯護條文，包括「已作出所有應有努力」的條文。

- Specific defence provisions are provided for false or misleading information which is disseminated or authorized by an issue or a reproduction, retransmission or live broadcast.

我們就因為發出、複製、再次傳送或直播等不同形式傳布或授權傳布虛假或具誤導性資料的情況，設有特定的免責辯護條文。

23

Penalties 罰則

- The penalty for minor offences that are regulatory in nature is proposed to be subject to a fine at level 6 (i.e. \$100,000) (e.g. a failure to provide building plans for free public inspection).

倘罪行屬性質輕微的規章性過失，建議應處第6級罰款（即10萬元）（例如未有提供建築圖則供公眾免費查閱）。

- For offences that may directly affect and potentially bring financial loss to prospective purchasers, the proposed penalties are a fine of \$500,000 to \$1,000,000 (e.g. failure to disclose transaction information).

對準買家可能造成直接影響和為其帶來潛在財務損失的罪行，建議罰款50萬至100萬元（例如未有披露成交資料）。

- Regarding serious offences, proposed penalties range from a fine of \$500,000 to \$5,000,000 plus imprisonment up to a maximum of 6 months to 7 years (e.g. misrepresentation and dissemination of false or misleading information).

至於性質嚴重的罪行，建議罰款由50萬至500萬元不等，另最高可判處監禁六個月至七年（例如作出失實陳述及傳布虛假或具誤導性的資料）。

24

Enforcement Authority

執法當局

- To facilitate early implementation of the legislation and to maximize the use of public resources, we propose to establish a new enforcement authority within the Government structure. The authority will be tasked to –

為方便法例早日實施，並使公共資源得以善用，我們建議在政府架構內設立一個新的執法當局，負責：

- (a) monitor the sales of first-hand residential properties;
監察一手住宅物業的銷售事宜；
- (b) handle complaints and undertake investigations as appropriate;
按情況所需處理投訴和進行調查；

25

Enforcement Authority

執法當局

- (c) issue practice guidelines and prescribe forms;
發出作業指引和制訂表格；
- (d) maintain data and statistics; and
備存數據和資料；以及
- (e) carry out public education.
進行公眾教育工作。

26

Online Property Information Platform

網上物業電子資料庫

- We will establish an online property information platform covering information on the sales of first-hand residential developments provided by vendors (i.e., the sales brochures, price lists and transaction information); and general information and statistics on the residential property market currently provided by different government bureaux/departments.

我們會在網上設立網上物業電子資料庫，包括由賣方提供的本港一手住宅物業的資訊(即售樓說明書、價單和成交資料)；以及現時由政府各政策局/部門提供的住宅物業市場一般資料和統計數字。

27

Timetable

時間表

- Two-month public consultation from 29 November 2011 to 28 January 2012.

在2011年11月29日至2012年1月28日期間，進行為期兩個月的公眾諮詢。

- Aim to introduce the Bill into the Legislative Council in the first quarter of 2012.

目標是在2012年第一季向立法會提交條例草案。

28

Public Consultation Exercise

公眾諮詢

- The consultation document has been uploaded onto the website of the Transport and Housing Bureau. Hard copies are also available for collection at various locations (e.g. District Offices).

諮詢文件已上載運輸及房屋局網頁，並於各個地點派發(例如各區民政事務處)。

29

Public Consultation Exercise

公眾諮詢

- We will meet with the major stakeholders, including –
我們會約見主要的持份者，包括 –
 - (a) the Law Society of Hong Kong ;
香港律師會
 - (b) Hong Kong Institute of Surveyors;
香港測量師學會
 - (c) Hong Kong Institute of Architects;
香港建築師學會
 - (d) Consumer Council;
消費者委員會
 - (e) Real Estate Developers Association of Hong Kong; and
香港地產建設商會；以及
 - (f) various estate agency associations.
各個地產代理組織。

30

Public Consultation Exercise

公眾諮詢

- We will arrange two public forums to listen to the views of the public.

我們會安排兩場公開論壇，聆聽市民的意見。

- Members of the public are invited to send in their views/suggestions through a designated E-forum, by email, fax or mail.

歡迎市民在指定的網上論壇，或以電郵、傳真或郵寄方式提交意見/建議。

- THE END -
完