

## **Residential Properties (First-hand Sales) Bill**

### **Administration's Response to Issues Raised by Members at the Bills Committee Meeting held on 29 May 2012**

At the meeting of the Bills Committee on the Residential Properties (First-hand Sales) Bill (the Bill) held on 29 May 2012, Members raised enquires on a number of issues relating to the Bill. The Administration's responses are set out below.

**(1) To include in the speech to be delivered by the Secretary for Transport and Housing at the resumption of Second Reading debate on the Bill an undertaking that despite being exempted from the application of the Bill, the Hong Kong Housing Authority will endeavour to follow the requirements under the Bill as far as practicable in the sale of flats under the Home Ownership Scheme.**

2. We have proposed for Members' consideration a Committee Stage Amendment to Clause 10(6) of the Bill, which relates to the proposed exemption of developments constructed by the Housing Authority (HA). Under the proposed CSA, developments constructed by the HA will be exempted from Part 2 of the Bill only. Part 2 of the Bill is about the requirements on sales brochures, price lists, show flats for uncompleted development or phase, viewing of property in completed development or phase, sales arrangements, the mandatory provisions for Preliminary Agreement for Sale and Purchase and Agreement for Sale and Purchase (ASP), and the dissemination of transaction information. As we have explained at the Bills Committee meetings, there are technical difficulties in applying various requirements under Part 2 of the Bill to the HA.

3. On the other hand, the effect of the CSA will be to require the HA to comply with the requirements on advertisements and be criminally liable for breaching the provisions in Part 3 of the Bill. Also, the HA will commit an offence if it makes any misrepresentation, or disseminates false or misleading information. If it is proved that an offence was aided, abetted, counseled, procured or induced by, or committed with the

consent or connivance of or was attributable to any recklessness on the part of, an “officer” (meaning the director, secretary or manager of the HA and includes any person who occupies the position of director, secretary or manager (by whatever name called) of HA), the officer commits an offence.

4. As we have explained at the Bills Committee meetings, the HA has observed the administrative regulatory measures applicable to the sale of uncompleted first-hand residential properties in the sale of HOS flats in the past. Notwithstanding that under the proposed CSA, the HA will not be subject to Part 2 of the Bill, it will continue to sell HOS flats in accordance with the principle of transparency as reflected in Part 2 of the Bill in future. The Secretary for Transport and Housing will assure Members of this at the resumption of the Second Reading debate on the Bill.

**(2) To consider including in the proposed section 27 of Schedule 5 and similar sections of other Schedules a provision to enable the Purchasers to serve a notice to request the Vendor to remedy any defects relate to or affect the Property or the common areas or common parts and common facilities of the Development, and the time limit within which the Vendor shall make good these defects.**

5. Section 27 of Schedule 5 to the Bill is modelled on the Agreement for Sale and Purchase (ASP) currently used under the Lands Department Consent Scheme (Consent Scheme). The same clause appears in the ASP of the Law Society of Hong Kong for first-hand residential uncompleted developments outside the Consent Scheme where the vendor and the purchaser engage the same solicitor. As the clause reflects established conveyancing practice, we propose adopting the current drafting of the clause as the mandatory provisions under Schedules 5 to 7 of the Bill.

Transport and Housing Bureau  
June 2012