

Legislative Council Panel on Housing

Implementation of the Residential Properties (First-hand Sales) Ordinance and the work of the Sales of First-hand Residential Properties Authority

This paper briefs Members on the implementation of the Residential Properties (First-hand Sales) Ordinance (Cap. 621) (the Ordinance) and the work of the Sales of First-hand Residential Properties Authority (SRPA).

Background

2. The Ordinance was enacted in June 2012, and came into full implementation on 29 April 2013. The Ordinance aims to enhance the transparency and fairness of the sales of first-hand residential properties, strengthen consumer protection, and provide a level playing field for vendors of first-hand residential properties.

3. The Ordinance sets out detailed 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 and Agreement for Sale and Purchase for the sale of first-hand residential properties. It also provides for prohibitions against misrepresentation and the dissemination of false or misleading information. Offences are created for the contravention of the provisions in the Ordinance.

4. To ensure the Ordinance is implemented efficiently, the Transport and Housing Bureau established the SRPA under section 86(1) of the Ordinance. The SRPA performs the following functions:

- (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 sales of first-hand residential properties;
- (e) conduct investigations on cases of non-compliance with the Ordinance; and

- (f) maintain the Sales of First-hand Residential Properties Electronic Platform (SRPE) which contains the sales brochure, price lists, and Registers of Transactions made available by vendors of individual first-hand residential developments.

Efforts of the SRPA to facilitate vendors to understand the Ordinance

5. The SRPA has been helping vendors and related parties (e.g. solicitors, architects and surveyors) to understand the requirements of the Ordinance. We started the discussion with relevant stakeholders, including the Real Estate Developers Association of Hong Kong, the Law Society of Hong Kong, the Hong Kong Institute of Surveyors, the Hong Kong Institute of Architects, the Consumer Council and the Estate Agents Authority, on the draft guidelines, practice notes and Frequently Asked Questions and Answers (FAQs) in November 2012. The SRPA issued the Guidelines, Practice Notes and FAQs in advance of the full implementation of the Ordinance. Also, the SRPA organised nine workshops for the trade before the full implementation of the Ordinance.

6. Following the full implementation of the Ordinance, the SRPA issued reminders to the trade, and organized another two workshops in June 2013 (the third one will be organized on 3 July 2013), to share with them the SRPA's observations and advice arising from examining the various sales documents made available by the vendors on or after 29 April 2013. Also, the SRPA has been maintaining close liaison with the trade and relevant stakeholders to understand their concern and to exchange views.

Compliance check on sales documents

7. The SRPA has examined all the sales brochures (including the revised sales brochures), price lists, documents containing the sales arrangements, register of transactions and the designated websites which were made available to the public by vendors. The SRPA also carried out compliance check on the printed advertisements on first-hand residential properties in major local newspapers, and the promotional materials prepared by vendors.

8. The SRPA considers that the sales documents and advertisements made available by vendors under the Ordinance have generally complied with the requirements of the Ordinance. That said, vendors have made careless technical mistakes in some of those documents, in particular the sales brochures and advertisements. For example, some of the measurements showing the internal and external dimensions of residential properties on the floor plans of residential properties in the sales brochures were missing. There was inconsistency between the floor plans of various residential properties and the electrical and mechanical plans for the corresponding residential properties in the first version of some of the sales brochures. The vendors of two of the residential developments had not made available the blank Register of Transactions for inspection by the general public on the first day of sale as required by the Ordinance. Also, the descriptions of the floor area of the club house of a residential development in an advertisement do not tally with that mentioned in the sales brochure.

9. The SRPA has followed up the mistakes identified in the sales documents and advertisements with the vendors. The vendors concerned had responded quickly to amend the sales documents and advertisements in response to the SRPA's enquiries. Also, the SRPA has given advice on those issues to the trade and relevant stakeholders.

Compliance check on sales offices and show flats

10. The SRPA has conducted compliance check on all of the sales offices and show flats of first-hand residential properties which have come into operation since 29 April 2013. As at 20 June 2013, the SRPA has conducted 49 visits to those sales offices and show flats.

11. The SRPA considers that the sales offices and show flats have generally complied with the requirements of the Ordinance. Nevertheless, there is room for improvement on a few aspects. For example, more notices can be displayed in the show flats to inform prospective purchasers that the internal dimensions of the show flats are different from those as specified in the sales brochure because there are finishes on the walls in the show flats.

12. The SRPA has given advice on the above to the vendors concerned. The vendors concerned responded quickly to improve the situation in response to the SRPA's advice.

Handling enquiries

13. Between the period from early April 2013 when the SRPA commenced operation to 20 June 2013, the SRPA has received 475 enquiries. 144 of them were received on or before 28 April 2013, and the remaining 331 enquiries were received on or after 29 April 2013 when the Ordinance has come into full implementation. The enquiries were made by vendors, stakeholders relating to the sales of first-hand residential properties such as conveyancing solicitors and authorized persons, and members of the public. The enquiries are diversified in nature, including the application of the Ordinance, the interpretation of specific provisions of the Ordinance, and how individual first-hand residential developments may comply with the Ordinance. The SRPA has responded to enquiries which are straight-forward promptly, and not later than 21 days for the majority of those more complicated cases.

Handling complaints

14. As at 20 June 2013, the SRPA has received four complaints. One complaint is on the websites of two first-hand residential developments. The complainant complained that the websites should not be made available to the public as the vendors had not yet made available any of the sales documents to the public. After investigation, the SRPA considered that the websites have not breached any provisions of the Ordinance. The Ordinance does not prohibit vendors from publicising a residential development before making available any sales documents.

15. The other three complaints are from members of the public who have purchased first-hand residential properties in a residential development before the implementation of the Ordinance. The purchasers were dissatisfied that, among other things, the location of the air-conditioning outdoor unit on the utility platform of the residential properties they had purchased, as shown in the sales brochure made available to them before the implementation of the Ordinance, was different from that shown in the sales brochure made available under the Ordinance. Sales of first-hand residential properties before the full implementation of the Ordinance are not subject to the regulation of the Ordinance. The SRPA has looked into the issue from the perspective of whether there is inaccurate information in the sales brochure of the residential development made under the Ordinance, and required the vendor to clarify which is the accurate location of the air-conditioning

outdoor unit on the utility platform of the residential properties concerned. The vendor has made available a revised sales brochure to show the accurate location of the air-conditioning outdoor unit. Also, the vendor has not yet commenced the sale of first-hand residential properties in that residential development since 29 April 2013.

Public education

16. The SRPA attaches importance to promoting the awareness of the general public on the protection provided by the Ordinance to prospective purchasers. The SRPA website, the SRPE as mentioned in paragraph 4(f) above, and the SRPA Resource Centre¹ provide prospective purchasers and members of the public with access to information useful to them. On average, there are 650 visitors to the SRPA website every day, and 600 visitors to the SRPE every day.

17. Also, the SRPA published the “Notes to Purchasers of First-hand Residential Properties” to alert prospective purchasers on areas they should pay particular attention to when purchasing first-hand residential properties, and a leaflet which sets out in layman terms the key requirements of the Ordinance on vendors. There are also FAQs for prospective purchasers on the SRPA website. Announcement of Public Interests are broadcast on TV and radio channels, and advertisements are placed in the media to publicise the coming into operation of the Ordinance.

The first-hand residential property market following the implementation of the Ordinance

18. Since the full implementation of the Ordinance on 29 April 2013 and up to 20 June 2013, vendors have offered for sale 228 first-hand residential properties in four residential developments. There were 98 Preliminary Agreements for Sales and Purchase being entered into. 89 of them have entered into Agreements for Sales and Purchase.

¹ The SRPA Resource Centre keeps hard copies of the sales brochures and price lists of individual first-hand residential developments the sale of which is subject to the Ordinance. Also, visitors may use the computer terminals in the Resource Centre to browse the SRPE and the SRPA website.

19. Another nine residential developments comprising a total of about 1 600 unsold first-hand residential properties have their sales documents made available to the public and will likely be offered for sale shortly. Another 70 residential developments have opened accounts with the SRPE, which indicates that the vendors concerned are planning to put those developments on sale in the near future.

20. Hong Kong developers are quick to adapt to change. We believe that they are gearing up for the Ordinance and will offer new residential developments and resume the sales of the remaining stock of first-hand residential properties in an orderly manner. It is however the business decision of individual vendors as to when to offer their first-hand residential properties for sale, having taken into account all relevant factors.

**Sales of First-hand Residential Properties Authority
Transport and Housing Bureau
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