

Legislative Council Panel on Housing

The work of the Sales of First-hand Residential Properties Authority

This paper provides Members with an update on the latest work of the Sales of First-hand Residential Properties Authority (SRPA).

Background

2. The Residential Properties (First-hand Sales) Ordinance (“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.

4. Contraventions of various provisions in the Ordinance are criminal offences. There are altogether 120 criminal offences under the Ordinance.

5. To ensure the Ordinance is implemented efficiently, the Transport and Housing Bureau established the SRPA. The SRPA undertakes tasks including the following:

- (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 provisions of the Ordinance;
- (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.

An overview of the current first-hand residential property market

6. The SRPA considers that the Ordinance has been effective in facilitating prospective purchasers of first-hand residential properties to get hold of information in relation to first-hand residential properties offered for sale and the relevant transaction information in the first-hand residential property market. As a result, prospective purchasers of first-hand residential properties are now more aware of their rights. Moreover, the sales of first-hand residential properties have become more transparent, fairer and more orderly. Vendors of first-hand residential properties and related parties have demonstrated that they have been able to adapt to the requirements of the Ordinance and have been able to offer first-hand residential properties for sale without significant problems. Most of the vendors have made good efforts to comply with the requirements of the Ordinance and have taken prompt remedial actions upon being alerted of possible contravention of the Ordinance.

7. Since the full implementation of the Ordinance on 29 April 2013 and up to 9 December 2013, vendors have offered for sale 7 439 first-hand residential properties in 50 residential developments¹. Of these 7 439 first-hand residential properties, 5 647 properties were sold (i.e. the parties have either signed the Preliminary Agreements for Sales and Purchase (PASPs) or have signed both the PASPs and the Agreements for Sales and Purchase (ASPs)).

8. Another nine residential developments (comprising a total of about 1 100 unsold first-hand residential properties) have their sales documents made available to the public and the properties will likely be offered for sale shortly.

¹ According to SRPA's record, there were altogether 10 566 unsold first-hand residential properties in those 50 residential developments as at 29 April 2013 when the Ordinance came into effect. Vendors of those 50 residential developments have not yet offered all of the first-hand residential properties in those developments for sale as at 9 December 2013.

Work of the SRPA

Compliance checks on sales documents

9. Meanwhile, the SRPA has examined all the sales brochures (including the revised sales brochures), price lists, documents containing the sales arrangements, registers of transactions and the designated websites which were made available to the public by vendors. Also, the SRPA has examined printed advertisements on first-hand residential properties in major local newspapers, and other forms of printed promotional materials on first-hand residential properties.

10. As at 9 December 2013, the SRPA examined 153 sales brochures (including the revised sales brochures), 267 price lists, 176 documents containing the sales arrangements, and 1 309 printed advertisements. The SRPA also conducted 457 inspections on registers of transactions.

Compliance checks on sales offices and show flats

11. The SRPA has inspected all of the sales offices and show flats of first-hand residential properties which are open to the public on or after 29 April 2013. As at 9 December 2013, the SRPA conducted 484 inspections on those sales offices and show flats.

Results of the compliance checks

12. The compliance check results indicated that there were some contraventions of the requirements of the Ordinance in almost each of the first versions of the sales brochure of the residential developments which had made available sales documents. There were also contraventions of the requirements of the Ordinance regarding the price list(s), the document(s) containing the sales arrangements, the register of transactions, printed advertisements and show flats in relation to the sales of some, though not all, of those residential developments.

13. Most of the contraventions found during compliance checks were technical and minor in nature, and may be committed out of carelessness. The SRPA's view is that the contraventions in most of those cases do not seem to have materially and adversely affected the transparency and fairness in the sales of first-hand residential properties and the interest of purchasers of first-hand residential properties.

14. There are, however, a few suspected cases of contravention which the SRPA considers to be of a more serious nature. Investigation work on those cases is ongoing.

Handling enquiries

15. Between the period from early April 2013 when the SRPA commenced operation to 9 December 2013, the SRPA received 1 229 enquiries. 144 of them were received on or before 28 April 2013, and the remaining 1 085 enquiries were received on or after 29 April 2013 when the Ordinance came into full implementation.

16. 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 promptly responded to enquiries which are straight-forward, and not later than 21 days for the majority of those more complicated cases.

Handling complaints

17. As at 9 December 2013, the SRPA received 29 complaints and has completed processing 25 of them. A breakdown in terms of the objects of the complaints is set out below:

Objects of the complaints	Number of complaints received	Number of complaints with processing completed
Sales brochure	5	5
Price list	1	1
Sales arrangements	9	7
Show flats	0	0
Viewing of completed residential properties	0	0
PASP and/or ASP	1	1
Register of transactions	1	1
Advertisements	2	2
Website	1	1
Misrepresentation and/or dissemination of false or misleading information	6	4
Others	3 ^{Note}	3 ^{Note}
Total	29	25

Note: The three cases were on matters outside the purview of the SRPA.

Investigations and prosecutions

18. The SRPA has carried out investigations on suspected contraventions of the Ordinance in the light of the results of the compliance checks, complaints and reports in the media.

19. After completing the fact finding, evidence collection and investigation process of a suspected case of contravention, the SRPA will forward each and every case with its recommendations on whether or not to initiate prosecution, with justifications, to the Prosecutions Division of the Department of Justice (DOJ) for consideration.

20. In coming up with its recommendations, the SRPA will take into account all relevant factors, including but not limited to the seriousness of the contravention and offence, whether it is a first-time or repeated contravention of the particular provision of the Ordinance by the vendor concerned, whether the vendor has taken prompt remedial actions so far as practicable to rectify the contravention, the reasonableness of the explanation provided by the vendor, whether complaints have been received on the contravention concerned, and the assessment as to

whether the offences involved will materially and adversely affect the transparency and fairness in the sales of first-hand residential properties and significantly affect the interest of purchasers or prospective purchasers of those residential properties in the development. The decision of whether or not to prosecute is vested with the Prosecutions Division of DOJ in each case.

Reacting promptly and efficiently to issues of public concern

21. There have been occasions since the implementation of the Ordinance when the arrangements of the sale of first-hand residential properties in individual developments have caused public concern relating to crowd management inside and outside the sales offices on the date of pre-registration, date of balloting and/or date of sale, and ambiguities in the method in determining the priority of prospective purchasers in selecting residential properties. The SRPA reacted promptly and firmly on those occasions. The SRPA's action has prompted the vendors concerned to take effective remedial actions to avoid chaos and enhance the transparency of the sales activities.

Efforts of the SRPA to facilitate the trade to understand the Ordinance

22. The SRPA spares no effort to help vendors and related parties (e.g. solicitors, architects and surveyors) to understand the requirements of the Ordinance. Guidelines, Practice Notes and Frequently Asked Questions and Answers (FAQs) were issued to the trade. Workshops were organised for the trade. The SRPA will issue shortly another 18 additional FAQs for the trade, in addition to the previous 107 FAQs. The SRPA maintains close liaison with the trade and relevant stakeholders to understand their concern and to exchange views.

23. The SRPA received verbal and written enquiries from individual vendors, solicitors' firms, surveyors' firms, architects' firms, the Law Society of Hong Kong and the Real Estate Developers Association of Hong Kong from time to time, and provided responses to them as appropriate. For issues which deserve the attention of the entire trade, the SRPA will alert the trade as a whole in the form of FAQs.

Public education

24. The SRPA attaches importance to promoting the awareness among the general public on the protection provided by the Ordinance to prospective purchasers. The SRPA website, the SRPE as mentioned in paragraph 5(f) above, and the SRPA Resource Centre² provide prospective purchasers and members of the public with access to information useful to them. On average, there are around 850 visitors to the SRPA website every day, and around 470 visitors to the SRPE every day.

25. Furthermore, 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 commencement of the Ordinance.

Looking ahead

26. The SRPA expects another challenging year ahead, given that more and more first-hand residential properties are expected to be offered for sale. The SRPA will step up its efforts to conduct compliance checks, handle complaints, carry out investigations, educate the trade and the public, with a view to further enhancing the transparency and fairness in the sales of first-hand residential properties, strengthening consumer protection, and providing a level playing field for vendors of first-hand residential properties.

Sales of First-hand Residential Properties Authority Transport and Housing Bureau December 2013

² 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.