

**For discussion  
on 11 April 2017**

## **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 work of the Sales of First-hand Residential Properties Authority (“SRPA”).

#### **Background**

2. The Residential Properties (First-hand Sales) Ordinance (Cap. 621) (“the Ordinance”) 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, sales arrangements, register of transactions, show flats, viewing of completed residential properties, advertisements, and the mandatory provisions for the preliminary agreement for sale and purchase (“PASP”) and agreement for sale and purchase (“ASP”) for the sales of first-hand residential properties. It also provides for prohibitions against misrepresentation and the dissemination of false or misleading information.

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

5. To implement the Ordinance effectively, the Secretary for Transport and Housing has, in accordance with section 86(1) of the Ordinance, established the SRPA and appointed public officers to implement the Ordinance. The functions of the SRPA include:

- (a) monitor whether vendors and related parties have complied with the requirements of the Ordinance in the sales of first-hand residential properties;
- (b) issue guidelines for stakeholders;

- (c) handle complaints and public enquiries;
- (d) conduct investigations on cases of suspected contravention of the Ordinance;
- (e) educate the public on matters relating to the provisions of the Ordinance; and
- (f) establish and maintain the Sales of First-hand Residential Properties Electronic Platform (“SRPE”) which contains the sales brochures, price lists, and registers of transactions made available by vendors of individual first-hand residential developments/phases.

### **An overview of the current first-hand residential property market under the Ordinance**

6. The requirements on the sales of first-hand residential properties as set out in the Ordinance primarily serve to address the undesirable situations in the sales of first-hand residential properties in the past which the public has denounced. For example, vendors in general presented the area of a residential property in terms of the “gross floor area” of the residential property; vendors put emphasis on making available modified show flats as a means to attract prospective purchasers; and it was not convenient for prospective purchasers to have access to various types of sales documents.

7. The Ordinance has made considerable achievements in reversing the undesirable situations and enhancing consumer protection since its implementation. Generally speaking, vendors have strictly complied with the requirements of the Ordinance which include:

- (a) presenting the area, and price per square foot and per square metre of a first-hand residential property in terms of saleable area only;
- (b) if any show flat for a first-hand residential property in an uncompleted development/phase is to be made available, the vendor must first make available an unmodified show flat of that residential property before making available a modified show flat;
- (c) making available the sales brochure for a period of at least 7 days immediately before the date of sale, making available the price list(s) and the sales arrangement(s) for a period of at least 3 days

immediately before the date of sale, and waiting for 3 days before offering to sell those first-hand residential properties if there are amendments made to the price list(s) and the document(s) containing the sales arrangement(s) of those residential properties;

- (d) on each date of sale, making available the register of transactions for inspection by the general public free of charge at the sales office irrespective of whether there is a transaction; from the first date of sale until the date on which the first assignment of the last property of the development sold is registered in the Land Registry, making available the register of transactions for inspection on the designated website irrespective of whether there is a transaction on a particular day, and at the same time, providing an electronic copy of the register of transactions to SRPE after an entry into the register of transactions has been made; and
- (e) purchasers may make use of the SRPE and the website designated by the vendor at any time to inspect the various sales documents and the register of transactions for a development/phase to get to know the sales situation of the development/phase.

8. The SRPA considers that the Ordinance has been effective in facilitating prospective purchasers of first-hand residential properties to get hold of the sales information on first-hand residential properties and the relevant transaction information in the first-hand residential property market. The sales of first-hand residential properties have become more transparent, fairer and more orderly. Most of the vendors have made good efforts to comply with the requirements of the Ordinance. The public education efforts of the SRPA make prospective purchasers of first-hand residential properties more aware of their rights.

9. The SRPA will follow up those individual cases in which the vendors may fail to fully comply with the requirements of the Ordinance during the sales of first-hand residential properties. If there are any suspected contraventions of the Ordinance, the SRPA would carry out investigations.

10. There has been a smooth supply of first-hand residential properties since the Ordinance has come into implementation. In the period from the full implementation of the Ordinance on 29 April 2013 to 28 February 2017, vendors have offered to sell about 58 600 first-hand residential properties in about 280 residential developments/phases. The breakdown in terms of calendar year is as follows:

Year	Number of first-hand residential properties offered for sale by vendors
2013 (since 29 April 2013)	8 295
2014	15 944
2015	16 423
2016	15 482
2017 (as at 28 February 2017)	2 477
Total	58 621 (Around 58 600)

11. The Ordinance has struck a balance between enhancing the transparency and fairness in the sales of first-hand residential properties, and allowing vendors the flexibility in making business decisions and disposing of their properties lawfully.

### **Work of the SRPA**

12. Initiating compliance checks and inspections, conducting investigations and educating the public on matters relating to the Ordinance are the three pillars of work of the SRPA to ensure the transparency and fairness of the sales of first-hand residential properties. The SRPA also facilitates the trade to understand the requirements of the Ordinance; and handles public enquires and complaints promptly.

#### ***Compliance checks on sales documents***

13. The SRPA examined the 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 examined printed advertisements on first-hand residential properties in major local newspapers, and other forms of printed promotional materials on first-hand residential properties.

14. As at 28 February 2017, the SRPA has examined sales documents of 296 developments/phases, including sales brochures, price lists, documents containing the sales arrangements and printed advertisements. Also, the SRPA has conducted inspections on registers of transactions and vendors' designated websites of these developments/ phases.

### *Inspections to sales offices and show flats*

15. The SRPA has inspected all the sales offices and show flats of first-hand residential properties open to the public on or after 29 April 2013. As at 28 February 2017, the SRPA has conducted about 2 740 inspections on those sales offices and show flats, including those jointly conducted with the Estate Agents Authority (“EAA”).

### *Investigations and prosecutions*

16. It is the function and work of the SRPA to conduct investigations on whether the vendors or any persons are suspected of contravening the Ordinance during the sales of first-hand residential properties. The authority to decide whether there is sufficient evidence to prove whether the vendors or any persons are suspected of contravening the Ordinance and whether prosecution action is to be taken is vested with the Prosecutions Division of the Department of Justice (“DOJ”).

17. The SRPA has spared no efforts in implementing the Ordinance and carrying out investigations on persons suspected of contravening the Ordinance. Apart from conducting investigation arising from complaints and media enquiries received, the SRPA would initiate compliance checks on all sales documents concerning first-hand residential property developments to see if they comply with relevant provisions of the Ordinance. If there are any suspected contraventions of the Ordinance, the SRPA would carry out investigations.

18. For cases involving estate agents, the SRPA and the EAA have established a notification mechanism. The SRPA would, apart from conducting investigations on whether the estate agents concerned have contravened the Ordinance, refer the cases to the EAA for follow up action in parallel and vice versa.

19. As at 28 February 2017, prosecution action has been taken against the vendors of three developments (including one arising from a complaint case and two from self-initiated investigations) involving 53 counts of offence. The charges are mainly about contraventions of the provisions of the Ordinance in respect of sales brochures, price lists, advertisements and the mandatory provisions for PASP and ASP. The vendors concerned were convicted and fined a total of HK\$1.7 million. The SRPA has uploaded information of the offences concerned to its website for public viewing.

## *Educating the public on matters relating to the Ordinance*

20. The SRPA attaches great 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 Centre<sup>1</sup> provide prospective purchasers and members of the public with access to information useful to them. As at 28 February 2017, there were on average about 16 000 and 26 000 visits per month to the SRPA website and the SRPE respectively.

21. At present, visitors to the SRPE may search for information on developments/phases conveniently and efficiently by categories of the district, the first date of printing of the sales brochures, or the sales status of the developments/phases (i.e. being offered for sales/pending for sales/sales suspended/sales terminated). Also, the SRPE allows searching for developments/phases of which the vendors have uploaded the first edition of the sales brochure and/or any price lists onto the SRPE in the past 30 days. It provides hyperlinks to the websites designated by vendors for the developments/phases. The SRPA has also designated a page on the SRPE setting out developments/phases with sales terminated for 18 months or more, so that the general public can browse developments/phases available for or pending sales more conveniently and efficiently.

22. From December 2016 to March 2017, the SRPA staged its first roving exhibition to promote the Ordinance in ten locations across Hong Kong Island, Kowloon and New Territories. It has been well-received by the public. The exhibition has showcased the protection brought by the implementation of the Ordinance to purchasers of first-hand residential properties and points to note for them. The SRPA aims to enhance public awareness of the Ordinance and foster consumers' understanding of the protection afforded by the Ordinance.

23. Besides, the SRPA has published the "Notes to Purchasers of First-hand Residential Properties" to remind prospective purchasers of the issues they should pay particular attention to when purchasing first-hand residential properties. Also, the SRPA has published a leaflet to set out in layman terms the major requirements of the Ordinance. There are Frequently Asked Questions and Answers ("FAQs") for prospective purchasers in the SRPA's website. Announcements in the Public Interest (API) are broadcasted on TV and radio channels to remind prospective purchasers to think thoroughly before signing a PASP. The SRPA has also from time to time issued advice to prospective purchasers through the media.

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

### ***Facilitating the trade to understand the requirements of the Ordinance***

24. According to section 88(1) of the Ordinance, the SRPA issues guidelines, practice notes and FAQs to help the trade understand the requirements of the Ordinance. As at 28 February 2017, the SRPA has issued 6 sets of guidelines covering matters on sales brochures, price lists, sales arrangements, register of transactions and how to submit documents to the SRPA and the SRPE; and 8 sets of practice notes and 126 FAQs to the trade. The SRPA will continue to maintain close liaison with vendors, related parties and relevant stakeholders to understand their concern and to exchange views.

25. The SRPA attaches great importance on whether the sales arrangements adopted by the vendors are in line with the principles of transparency and fairness. For sales arrangements which do not contravene the Ordinance but may possibly cause order problem and affect purchasers' interest, the SRPA will advise the concerned vendors on improvement measures and issue guidelines to the trade.

### ***Handling enquiries***

26. As at 28 February 2017, the SRPA has received about 5 200 enquiries.

27. The enquiries were made by vendors, stakeholders relating to the sales of first-hand residential properties such as conveyancing solicitors and authorised persons, and members of the public. The enquiries were diversified in nature, including the application of the Ordinance, the interpretation of specific provisions of the Ordinance, and how individual first-hand residential developments/phases might comply with the Ordinance. The SRPA has promptly responded to enquiries which are straight-forward in nature, and has responded to the majority of those more complicated enquiries within 21 days from the date of receipt of the enquiries. For enquiries on subject matters which deserve the attention of the trade, the SRPA will issue FAQs to bring the issues to the attention of the trade.

### ***Handling complaints***

28. The SRPA will issue a brief reply or an acknowledgement of receipt to the complainant within 10 days from the date of receipt of the complaint. For complaints of a straight-forward nature, the SRPA has replied within 21 days from the date of receipt of the complaint. For complaints of a complicated nature, the SRPA will have to collect evidence and conduct investigations, and may have to seek the advice of DOJ in the process. If a substantive reply cannot be made within 21 days from the date of receipt of the complaint, the

SRPA will inform the complainant in writing on or before the prescribed due date for a substantive reply and inform the complainant the progress of the complaint case on a monthly basis.

29. As at 28 February 2017, the SRPA has received 237 complaint cases. Among them, 189 cases are related to the Ordinance while the remaining 48 cases are not. Amongst those 189 complaint cases relating to the Ordinance, the offender of one case was prosecuted and convicted. 144 complaint cases are not substantiated. The SRPA is still following up the remaining 44 cases. A breakdown in terms of the objects of the complaint cases is set out below:

Object of complaint	Number of complaint cases received
Sales brochure	36
Price list	6
Sales arrangements	37
Show flats	3
Viewing of completed residential properties	6
PASP and/or ASP	2
Register of transactions	3
Advertisements	54
Website	1
Misrepresentation and/or dissemination of false or misleading information	41
Others	48 <sup>Note</sup>
Total	237

Note: The 48 complaint cases are on matters outside the purview of the SRPA.

**Looking ahead**

30. Based on the actual operational experience in the past few years, the SRPA has a good grasp of some undesirable areas that vendors may easily commit during the sales of first-hand residential developments. The SRPA will, according to the experience gained, issue reminders to vendors on different issues as required to facilitate them to make improvements.



31. The SRPA expects more new challenges ahead given that more and more first-hand residential properties will be offered for sales. The SRPA will continue the three-pronged approach to step up compliance checks and inspections; improve the trade's compliance with the Ordinance; and foster public awareness of the Ordinance, with a view to further enhancing the transparency and fairness of the sales of first-hand residential properties, strengthening consumer/purchaser 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  
April 2017**