

# 立法會 *Legislative Council*

LC Paper No. CB(1)749/17-18(05)

Ref. : CB1/PL/HG

## **Panel on Housing**

### **Meeting on 10 April 2018**

#### **Updated background brief prepared by the Legislative Council Secretariat on the work of the Sales of First-hand Residential Properties Authority**

#### **Purpose**

This paper provides updated background information on the implementation of the Residential Properties (First-hand Sales) Ordinance (Cap. 621) ("the Ordinance") as well as the work of the Sales of First-hand Residential Properties Authority ("SRPA"), and gives a summary of the views and concerns expressed by members of the Panel on Housing ("the Panel") on the subject.

#### **Background**

2. The Ordinance was passed by the Legislative Council on 29 June 2012 and came into full implementation on 29 April 2013. The Ordinance seeks to enhance the transparency and fairness of the sales arrangements and transactions of first-hand residential properties, strengthen consumer protection, and provide a level playing field for vendors of first-hand residential properties.

3. Under the Ordinance, there are statutory requirements in relation to sales brochures, price lists, sales arrangements, registers of transactions, show flats, viewing of completed residential properties, advertisements, and the mandatory provisions for the preliminary agreement for sale and purchase and agreement for sale and purchase for the sales of first-hand residential properties. The Ordinance also provides for prohibitions against misrepresentation and the dissemination of false or misleading information. Contraventions of the relevant provisions in the Ordinance are criminal offences.

4. To ensure that the Ordinance is implemented effectively, the Secretary for Transport and Housing has, in accordance with section 86(1) of the Ordinance, appointed public officers to implement the Ordinance. SRPA undertakes the following tasks –

- (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 suspected contraventions of the Ordinance; and
- (f) 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.

#### The work of SRPA

5. According to the Administration, since the full implementation of the Ordinance on 29 April 2013 and up to 28 February 2017, vendors had offered to sell about 58 600 first-hand residential properties in about 280 residential developments/phases.<sup>1</sup> As at 28 February 2017, SRPA had –

- (a) examined sales documents of 296 development/phases, including sales brochures, price lists, documents containing the sales arrangements and printed advertisements;
- (b) conducted inspections on vendors' designated websites and registers of transactions;

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<sup>1</sup> In the period from 29 April 2013 to 31 March 2016, vendors have offered to sell about 42 400 first-hand residential properties in about 230 residential developments/phases (LC Paper No. [CB\(1\)861/15-16\(01\)](#)).

- (c) conducted about 2 740 inspections on the sales offices and show flats of first-hand residential properties, some of the inspections were conducted jointly with the Estate Agents Authority ("EAA");
- (d) received about 5 200 enquiries;
- (e) received 237 complaint cases, of which 189 were related to the Ordinance<sup>2</sup> while the remaining 48<sup>3</sup> were not;
- (f) issued eight sets of practice notes and 126 frequently asked questions and answers to the trade, six sets of guidelines covering matters on sales brochures, price lists, sales arrangements, registers of transactions and how to submit documents to SRPA and SRPE;
- (g) collaborated with EAA to organize seminars for estate agents, aiming at enhancing their awareness on the Ordinance and EAA's Practice Circulars in respect of the sales of first-hand residential properties;
- (h) issued reminders to the public in respect of the sales of first-hand residential developments/phases;
- (i) provided prospective purchasers and members of the public with information useful to them;<sup>4</sup> and
- (j) carried out investigations on suspected contraventions of the Ordinance, and referred investigation reports on suspected contraventions to the Prosecutions Division of Department of Justice.<sup>5</sup>

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<sup>2</sup> According to the Administration, among the 189 complaint cases relating to the Ordinance, the offender of one case was prosecuted and convicted.

<sup>3</sup> According to the Administration, the remaining 48 complaint cases were on matters outside the SRPA's purview.

<sup>4</sup> According to the Administration, the SRPA website, SRPE and the SRPA Resource Centre provided prospective purchasers and members of the public with access to information. As at 28 February 2017, there were on average about 16 000 and 26 000 visits per month to the SRPA website and SRPE respectively.

<sup>5</sup> According to the Administration, as at 28 February 2017, prosecution action had 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 vendors concerned were convicted and fined a total of HK\$1.7 million.

## **Deliberations of the Panel on Housing**

6. The Panel received briefings by SRPA on the implementation of the Ordinance and its work each year<sup>6</sup>, and SRPA last updated the Panel on the subject at the meeting on 11 April 2017. The major views and concerns expressed by members are summarized in the ensuing paragraphs.

### Sales practices of vendors of first-hand residential properties

7. Members were concerned about how SRPA would deal with cases in which the first-hand residential property purchased by a household did not correspond to the sales descriptions provided by the vendor, such as in the advertisements. Some members opined that SRPA should review whether vendors should provide more information about the first-hand residential development concerned in the sales brochures to facilitate consumers in making purchase decisions, such as details about the adjacent buildings/facilities, whether dog keeping was allowed, etc.

8. SRPA advised that the Ordinance had stipulated the information that should be contained in sales brochures, and SRPA might from time to time issue guidelines covering matters on sales brochures for the industry to follow. Vendors might commit an offence under the Ordinance if their advertisements contained false or misleading information.

### Prosecutions and convictions

9. Noting that since the full implementation of the Ordinance, the Administration had taken prosecution actions against the vendors of three developments only, some members were concerned whether the requirements under the Ordinance were not stringent enough to combat irregularities.

10. SRPA advised that to support a prosecution, there must be legally sufficient evidence. Of the vendors prosecuted so far, all had been convicted and hence the rate of conviction was high. The fact that there were few cases of prosecution might reflect that vendors had made good efforts to comply with the Ordinance.

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<sup>6</sup> The Panel received the briefings at the meetings on 2 July 2013, 6 January 2014, 4 May 2015, 10 May 2016 and 11 April 2017.

### Requirements under the Ordinance

11. Some members opined that the requirements under the Ordinance were stringent, given that there were about 120 criminal offences under the Ordinance. To meet the relevant legal requirements, developers might have to allocate considerable resources in providing information on their developments such as publication of sales brochures. Members enquired whether SRPA had a target date for reviewing the requirements under the Ordinance.

12. SRPA advised that the requirements under the Ordinance had balanced the interests of different stakeholders including purchasers and vendors. The Ordinance had been in full operation for a few years and SRPA was accumulating implementation experience. SRPA would continue to monitor the effectiveness of the Ordinance, and communicate with the industry with a view to identifying the areas that required improvement.

### Public awareness of the Ordinance

13. Some members opined that SRPA should step up efforts to foster public understanding of the protection afforded by the Ordinance and assist the industry players to understand the requirements of the Ordinance. SRPA advised that apart from providing information to the public through its website, SRPA had staged a roving exhibition to promote the Ordinance in different locations across the territory, and would continue to carry out other public education activities. SRPA had also uploaded information on the offences committed by the vendors which had been convicted under the Ordinance to its website for public viewing.

### **Latest development**

14. The Administration will update members on the implementation of the Ordinance and the work of SRPA at the Panel meeting on 10 April 2018.

### **Relevant papers**

15. A list of relevant papers is in **Appendix**.

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

### List of relevant papers

Committee	Date of meeting	Paper
Panel on Housing	2 July 2013	Administration's paper on "Implementation of the Residential Properties (First-hand sales) Ordinance and the work of the Sales of First-hand Residential Properties Authority" (LC Paper No. <a href="#">CB(1)1391/12-13(02)</a> )  Minutes of meeting (LC Paper No. <a href="#">CB(1)1766/12-13</a> )
Panel on Housing	6 January 2014	Administration's paper on "The work of the Sales of First-hand Residential Properties Authority" (LC Paper No. <a href="#">CB(1)622/13-14(04)</a> )  Minutes of meeting (LC Paper No. <a href="#">CB(1)1188/13-14</a> )
Panel on Housing	4 May 2015	Administration's paper on "The work of the Sales of First-hand Residential Properties Authority" (LC Paper No. <a href="#">CB(1)787/14-15(03)</a> )  Minutes of meeting (LC Paper No. <a href="#">CB(1)1024/14-15</a> )
Panel on Housing	10 May 2016	Administration's paper on "The work of the Sales of First-hand Residential Properties Authority" (LC Paper No. <a href="#">CB(1)861/15-16(01)</a> )  Minutes of meeting (LC Paper No. <a href="#">CB(1)1060/15-16</a> )
Panel on Housing	11 April 2017	Administration's paper on "The work of the Sales of First-hand Residential Properties Authority" (LC Paper No. <a href="#">CB(1)765/16-17(04)</a> )  Minutes of meeting (LC Paper No. <a href="#">CB(1)1056/16-17</a> )