

**Report of the Steering Committee on
Regulation of Sale of First-hand Residential
Properties by Legislation**

October 2011

Foreword

After 11 months of hard work by the Members of the Steering Committee and the three Subcommittees on Regulation of Sale of First-hand Residential Properties by Legislation with a total of 20 meetings held on an almost bi-weekly basis, the Steering Committee has completed its work as scheduled. This Report is the product of extensive discussion among the Members and reflects the detailed and meticulous contribution they have given throughout this exercise.

Comments and suggestions made by Members who come from different professions and sectors of the community have been given freely and debated in detail. The outcome is a series of pragmatic recommendations in relation to the regulation of sale of first-hand residential properties by way of legislation. I believe the Steering Committee's recommendations set out in this Report will allow the Administration to move quickly to carry out a public consultation exercise on the proposed legislation in the form of a White Bill.

I want to take this opportunity to thank all Members of the Steering Committee and the three Subcommittees who have contributed to the successful completion of this demanding exercise within a tight timeframe. I would also like to express my appreciation to the secretariat and all my colleagues who have worked long and hard to prepare papers, to respond to Members' requests, and to ensure that the Steering Committee was kept firmly to the very tight timetable.

D.W. Pescod
Chairman, the Steering Committee on Regulation of
Sale of First-hand Residential Properties by
Legislation

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Executive Summary

To enhance the transparency and fairness of the sales arrangements and transactions of first-hand residential properties, the Chief Executive announced in his 2010-11 Policy Address that a Steering Committee would be set up to discuss specific issues on regulating the sale of first-hand flats by legislation. The Steering Committee on Regulation of Sale of First-hand Residential Properties by Legislation (the Steering Committee) was formally established in October 2010. The Steering Committee has deliberated on various matters including the scope of the legislative framework, the key features to be regulated under the proposed legislation, and the possible enforcement mechanism and penalties with a view to submitting practicable recommendations to the Secretary for Transport and Housing. The key recommendations of the Steering Committee are summarized below.

Scope of Legislation (Chapter 3)

2. The Steering Committee considers the proposed legislation should apply to the sale of all first-hand uncompleted residential properties, including projects developed under old lease conditions, Consent Scheme projects and projects outside the Consent Scheme. As for first-hand completed residential properties, most Members recommend that they should also be regulated as there are no major differences between the sale of uncompleted first-hand residential properties and that of completed first-hand residential properties, since first-hand residential properties often starts off as uncompleted flats for sale, and flats that remain unsold will simply be sold as completed ones. To draw a line between the former and latter types of flats in terms of legislative control is artificial and not defensible. A few Members, however, consider that first-hand completed residential properties are no different from second-hand residential properties since prospective buyers could view the particular units they wish to purchase, and therefore they need not be regulated.

3. While most Steering Committee Members support the sale of first-hand completed residential properties being subject to the proposed legislation, they recognize that when developers lease out residential properties for a reasonably long period of time rather than sell them upon completion, such flats are more akin to second-hand flats. The sale of such flats should not come under the same control regime as first-hand

flats. It is therefore proposed that for residential properties where 95% or more of the units of the development or a phase of the development have been leased out for a prescribed period of time, they could be exempted from the legislation. Most Members consider the prescribed period should be set at 36 months, while a few Members consider a shorter duration of 24 months would be sufficient.

4. The Steering Committee also recommends consideration be given to exempting private individuals selling just one single house from the legislation, on the basis that they are private persons rather than developers and it may be too onerous to require such vendors to meet the requirements of the legislation. That said, Members note the possibility of abuse and caution that if exemption is to be granted, the provisions should be carefully drafted to avoid any loophole.

Requirements on Sales Brochure (Chapter 4)

5. The Steering Committee considers that the existing requirements under the Lands Department Consent Scheme (the Consent Scheme) on the contents of the sales brochure and for developers to make public the bilingual sales brochure at least seven calendar days before the sale commences are appropriate, and recommends such requirements should be included in the proposed legislation. To help prospective purchasers to differentiate the sales brochure from promotional booklets, all the prescribed information must be contained in one booklet entitled “sales brochure” and any other booklet made available to prospective purchasers should not be called “sales brochure”. The sales brochure must not contain any promotional material or artist impression picture or graphic. The printing date of the sales brochure should be stated.

6. The Steering Committee further proposes that the key property information should be set out in the first part of the sales brochure in a specified order. Apart from the information as currently required under the Consent Scheme, the Steering Committee suggests requiring the developers to provide some additional information, such as internal dimension of units (including the thickness of internal walls), scale of the location plan, thickness of floor slab (excluding plaster), an aerial photo of the development, and information on Gross Floor Area (GFA) concessions and energy efficiency of buildings. The Steering Committee also proposes to specify the minimum font size for the information contained in the sales brochure.

Requirements on Issuance of Price List (Chapter 5)

7. The majority of the Steering Committee Members consider that the existing requirements for developers to make public the price list at least three calendar days before the sale commences is appropriate and recommends that this requirement should be incorporated into the proposed legislation.

8. To enable buyers to get a fuller picture of the prices of a considerable number of units in a development at the outset, Members consider it necessary to set the minimum number of units to be disclosed in each price lists. For higher transparency and greater protection of consumers, the majority view is that prices of a greater number of units should be disclosed in the first and subsequent price lists of a development or a phase of development when compared with the existing arrangement. To strike a balance between enhancing market transparency and allowing a certain degree of flexibility for developers, the Steering Committee proposes that for a development or a phase of development with 100 units or more, subject to a minimum number of 50 units, the first price list must include at least 20% of the total number of units of a development or a phase of development, and at least 10% for each subsequent price list.

Requirements on Price List Template and Provision of Area Information in Sales Brochure (Chapter 6)

Price List Template

9. The Steering Committee recommends that the definitions of “Saleable Area” and “Other Areas” and the methods of measurement currently used under the Consent Scheme and by Real Estate Developers Association of Hong Kong (REDA) should be adopted under the proposed legislation.

10. Noting that there is no commonly adopted definition on GFA, the majority of the Steering Committee Members consider that unit price based on GFA is not a useful tool for potential purchasers to use to compare unit prices of flats in different developments. Instead, given there is a standardized definition on saleable area, the majority agree that developers should only quote flat price on the basis of saleable area. “GFA-related” information (i.e. GFA per flat and unit price based on GFA)

should not be quoted in the price list. That said, a couple of Members hold different views. While those Members accept that price and area information based on saleable area should be provided on the price list, they consider that information and unit price based on GFA should also be provided.

11. As developers may use some special payment terms such as the offering of gifts to attract potential buyers and induce transactions, the Steering Committee considers that for the sake of transparency and to ensure fairness for prospective buyers, such information (including all kinds of gifts, advantages and bonuses in connection with the flat sale, as well as any price adjustment factors affecting the actual price of the flat) should be clearly set out in the price list. In addition, for the sake of transparency, the majority of the Steering Committee Members propose that, if developers choose to commission one or more estate agency firm(s) in their sale of first-hand residential properties, such information should be provided in the price list. It also proposes to make clear in the price list that prospective purchasers are not bound to use the agents commissioned by the developers, i.e. they may appoint their own estate agents or approach the developer direct to handle their transactions.

Provision of Area Information in Sales Brochure

12. The majority of Members consider that developers should not quote information on GFA per flat and unit price based on GFA in the sales brochure given the lack of a commonly adopted definition for GFA. A couple of Members hold different views.

13. As regards communal facilities of which the flat owners would not have exclusive use, Members consider that area information of such facilities should also be provided in the sales brochure in a specified format for easy reference of potential buyers. Taking into account that there are numerous types of communal facilities, developers should only be required to provide area information on those communal facilities that are of interest to ordinary flat buyers and their area information could be verified, i.e. “residents’ clubhouse”, “communal sky garden” and “covered landscaped and play area”. Developers are free to provide area information on other communal facilities if they so wish.

Requirements on Disclosure of Transaction Information (Chapter 7)

14. The Steering Committee considers the existing requirement under the Consent Scheme for developers to use a standardized “Register” to disclose key transaction information on their websites and in sales offices has been generally effective and should be continued. For easy reference by prospective buyers, the Steering Committee further recommends that a single Register for a single development or a single phase of the development should be used to make continuous updates.

15. In order to provide timely transaction information to prospective purchasers, the Steering Committee recommends that transaction information should be disclosed within 24 hours upon the signing of the Preliminary Agreement for Sale and Purchase (PASP).

16. The Steering Committee proposes that an Agreement for Sale and Purchase (ASP) must be signed within six working days after the signing of the PASP. If an ASP is not duly signed within six working days after the signing of the PASP, developers should indicate such information in the Register on the seventh working day. Developers should also be required to disclose in the Register whether a transaction involves their board of directors, immediate family members of the directors or senior staff members.

Requirements on Advertisements (Chapter 8)

17. Members generally consider there is a need to step up control over advertisements relating to the sale of first-hand flats in all forms, including those in printed media, on television, radio and the Internet. Apart from incorporating the existing requirements under the Consent Scheme into the proposed legislation as appropriate, the Steering Committee considers that the proposed legislation should prohibit the inclusion of any false or misleading information or description in all forms of advertisements that are produced by or on behalf of the developers. Developers should, in the advertisements, remind prospective purchasers to refer to sales brochures, and ensure that information given in advertisements is consistent with the information given in the sales brochure.

18. The Steering Committee also suggests that advertisements made by or on behalf of developers must bear the name of the developers and state that the developers are the source of the information contained in the advertisements. Information on GFA per flat and unit price based on GFA should not be quoted in any advertisement issued by developers for reasons elaborated in paragraph 10 above. For uncompleted developments, developers should provide the anticipated completion date of the development to the best of their knowledge.

19. In addition to the above requirements that apply to all forms of advertisements, the Steering Committee recommends that for printed advertisements, the printing date should be stated. Developers should also comply with the font size requirements in respect of the provision of certain mandatory information in printed advertisements, such as the “warning statement” reminding prospective buyers to refer to the sales brochure and the postal address of the development.

Requirements on Show Flats (Chapter 9)

First-hand Uncompleted Flats

20. The majority of the Steering Committee see the need to strengthen the requirements on show flats. If show flats are provided for first-hand uncompleted flats, there should first be an unmodified show flat provided for any type/size of units before a modified show flat of that same type/size of units can be provided. The size/dimensions of the show flat(s) must be identical to the size/dimensions of the units concerned as specified/described in the relevant building plan(s) approved by the Building Authority. All bay windows, A/C plant room, balcony and utility platform located inside the units, if any, must be featured in the show flats.

21. All doors, walls, including enclosing/boundary walls and internal partition walls should be provided in unmodified show flats unless for fire-safety reasons. As for modified show flats, only those walls/doors the removal of which does not require the prior approval of the Buildings Department may be removed.

22. Visitors should be allowed to take measurements in show flats. Photo-taking and video-making should be allowed in unmodified show flats, and developers should not collect personal particulars of the visitors as a pre-condition for photo-taking and video-making as no copyright issue should arise.

First-hand Completed Flats

23. The majority of Steering Committee Members recommend that developers should be required to arrange the prospective purchasers to view the particular completed flats they wish to purchase; or if this is not practicable, developers should be required to provide at least one on-site unit for each type of typical unit in the development for viewing.

Requirements on Conveyancing Procedures and Related Matters (Chapter 10)

24. For better protection of consumers, the Steering Committee recommends that the proposed legislation should stipulate certain major provisions as mandatory provisions in PASP and ASP. Developers must include those mandatory provisions in the PASP and ASP for the sale of all first-hand residential properties and they are not allowed to add provisions to the PASP and ASP which negate the mandatory provisions.

25. The Steering Committee has discussed the necessity of setting up a ‘cooling-off’ arrangement. Members note the particular characteristics of the residential property market in Hong Kong, including the volatility of the market and the exuberance of speculative activities. After deliberations, it is recommended that in order to provide a “cooling-off” period for potential buyers, the existing arrangement under the Consent Scheme, whereby a prescribed amount is forfeited at the stage when the potential buyer does not proceed with the signing of the ASP within 3 working days after the signing of PASP, should be adopted across the board to all sales of first-hand residential properties. This would serve as the “cooling-off” period for potential buyers.

26. As regards the level of forfeiture, the Steering Committee agrees that it should not be set too low in order to deter abuse by speculators or hasty purchase decisions by potential buyers. Although there are different views on the appropriate level, Members generally consider setting it at 5% of the purchase price to be appropriate.

Requirements on Sales Arrangements (Chapter 11)

27. For higher transparency, the Steering Committee considers that developers should be required to make public certain key information relating to logistics arrangements, such as the date and time for the commencement of sales, the sales venue(s), and the method to be used to determine the order of priority of buyers at least three calendar days before the commencement of the sales.

28. The Steering Committee notes that at present there are no clear guidelines regulating the collection of money in connection with the reservation of units before the signing of the PASP. Members reached a consensus on the principle, which is that there should be a specified cut-off date before collection of any types of money in connection with reservation of units is allowed, and that such a date should not be prior to the issuance of the price list. There are different views on the cut-off date and Members have come up with two options for consideration, namely, the date of the issuance of the price list or the date of commencement of sale.

29. Regarding the maintenance of order at sales offices, the Steering Committee considers that apart from requiring developers to inform the Police and the related authorities before the commencement of sale, other logistics details such as crowd control, size of the sales venues, employment of enough staff, etc., should be left to the enforcement agency to handle and to issue practice guidelines as appropriate. Members consider this approach would enable the enforcement agency to respond promptly to actual situations and to make changes in a timely manner as new circumstances arise.

Prohibition of Misrepresentation and Dissemination of False or Misleading Information (Chapter 12)

30. The Steering Committee considers provisions should be included in the new legislation to prohibit misrepresentation and to deter the dissemination of inaccurate and incomplete information relating to the sale of first-hand residential properties. More specifically, it recommends that the proposed legislation should prohibit the making of any fraudulent misrepresentation or reckless misrepresentation for the purpose of inducing property transactions. It should also prohibit the disclosure, circulation or dissemination of false or misleading information which induce property transactions. Those who contravene these

prohibition provisions may be subject to criminal sanctions and/or be held liable for civil damages.

Exemption Arrangements under Specific Circumstances (Chapter 13)

31. While the Steering Committee recommends that the proposed legislation should apply to all sales of first-hand completed and uncompleted residential properties, Members agree that certain requirements on sales brochure, price list and show flats may not be applicable or necessary under specific circumstances. It recommends that exemption from certain requirements of the legislation should be granted under the following circumstances -

(a) Units Sold to Existing Tenants

32. The Steering Committee proposes that if a first-hand completed flat is sold to an existing tenant who has continuously rented the unit for at least a prescribed period (say, one year) and upon the written agreement of the prospective buyer (i.e. the existing tenant) to waive the requirements relating to the provision of sales brochure and issuing of price list, the developer could be exempted from such requirements. The developer is however required to provide a Vendor's Information Form (VIF) to provide some essential and up-to-date information to the existing tenant who wishes to purchase the unit.

(b) Left-over Flats

33. For the sale of "left-over" flats (i.e. those flats which were first marketed when uncompleted but are left unsold after issue of the Certificate of Compliance / Consent to Assign / Occupation Permit, thus becoming completed flats), it is sufficient for the developers to make available the latest version of the sales brochure, plus a VIF to provide some essential and up-to-date information, rather than to produce a new sales brochure.

(c) Atypical units with existing tenancies

34. In respect of the requirement to provide on-site units as show flats in the case of first-hand completed residential properties, the Steering Committee recommends that for an atypical unit which is rented out with existing tenant(s), as long as the purchaser has signed a waiver

document to forfeit his/her right to inspect that particular unit, the requirement for the developer to provide an on-site unit as show flat could be waived. This is because it would not be possible for the developer to show a similar unit as a show flat if on-site viewing of the unit concerned cannot be arranged.

(d) Developments Sold on an “En bloc” Basis under a Single Transaction

35. The Steering Committee recommends that first-hand uncompleted and completed residential properties sold on an “en bloc” basis under a single transaction should be exempted from the requirements on sales brochure, price list and show flat. That said, when the properties are later put on sale to individual flat buyers in the market, the owner must observe all the requirements under the proposed legislation.

Prosecution Time Limit and Penalty Proposals (Chapter 14)

36. Most Steering Committee Members consider that the non-compliance with key requirements on the sales brochure, price list, disclosure of transaction information, show flats, advertisements, inclusion of mandatory clauses on PASP and ASP, conveyancing procedures, sales arrangements and maintenance of order at the sales offices as well as acts relating to misrepresentation, dissemination of false or misleading information and obstruction to authorized officers should constitute offences under the proposed legislation. Appropriate types and levels of penalties are recommended to be imposed on offences to attain a deterrent effect. Offences that are minor and regulatory in nature, such as failure to provide building plans for free public inspection, are suggested to be tried only summarily and punishable with fines only. For offences which may directly affect and potentially bring financial loss to prospective purchasers, such as the failure to provide some mandatory information in the sales brochure, they are proposed to be tried only summarily but be subject to more severe penalties, such as imprisonment and fines. With regard to offences of a serious nature, such as misrepresentation and dissemination of false or misleading information, a heavy fine plus imprisonment should be set as the maximum penalty.

Liability of officers of corporations for offences by corporations

37. The majority of Steering Committee Members consider that if a corporation commits any offence(s) under the legislation, the officer whose consent is given for the commission of the offence(s) should be guilty of the offence(s) and shall be liable to be punished accordingly. It is recommended that the liability provision for officers of corporations should be drafted along the line that “where it is proved that the commission of an offence by a corporation was aided, abetted, or committed with the consent of a person who, at the time of the commission of the offence, was a director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, that person, as well as the corporation, is guilty of the offence and is liable to be punished accordingly”. The Steering Committee further considers that suitable defence provisions including the general defence of “due diligence” should be available for a person charged under the proposed legislation.

Time limit for prosecution of offences

38. The Steering Committee notes there is a need to impose a time limit for prosecution of non-indictable offences under the new legislation, otherwise the time limit of six months for non-indictable offences under Section 26 of the Magistrates Ordinance (Cap. 227) would apply. The majority view is that no prosecution under this Ordinance shall be brought after the expiration of 3 years from the date of commission of such offences. The Steering Committee further notes that this limit will not apply to indictable offences triable summarily in the Magistrates’ Court.

Enforcement Agency (Chapter 15)

39. The Steering Committee proposes to establish a new and dedicated enforcement agency to monitor compliance with the requirements set out in the legislation. The functions of the new agency should include monitoring the sales of first-hand residential properties, handling complaints and undertaking investigations as appropriate, issuing practice guidelines, maintaining data and statistics and carrying out public education. To facilitate early implementation of the legislation and to maximize the use of public resources, the new enforcement agency is recommended to be established within the Government structure in the first instance. The enforcement agency

should be headed by a senior directorate grade officer and comprise a multi-disciplinary team with professional knowledge and experience in various relevant fields. Without any income-generating services, the enforcement agency should be fully-funded by Government revenue. The Steering Committee also recommends that the Administration should keep open the option of transforming the enforcement agency into a statutory body at an appropriate time.

The Establishment of an Online Property Information Platform for First-hand Private Residential Property Market (Chapter 16)

40. The Steering Committee proposes the establishment of an online centralized property information platform providing property market information regarding first-hand private residential properties in Hong Kong. It is proposed that such an information platform be established by the Government or an outside agency engaged by the Government. Initially, the platform should provide information on the sales of first-hand residential developments including the sales brochures, price lists and transaction information as disclosed in the Register, and also general information and statistics on the private residential property market currently provided by different government bureaux/departments.

Chapter 1

Introduction

1.1 For most people in Hong Kong, the purchase of a flat is a major undertaking. In order to do so, they have to take decisions that will see them use their life-time savings and commit to a major financial burden spread over 10 years or more. Since the purchase of a residential property is likely to be the most significant investment an individual will make, there is general consensus in the community that the sales of residential properties should be regulated to enhance consumer protection.

1.2 For many years, the Hong Kong Special Administrative Region Government has been closely monitoring the sales of residential properties, particularly those involving first-hand uncompleted residential properties. By adopting a multi-pronged approach, comprising the Lands Department's Consent Scheme (the Consent Scheme), the guidelines issued by the Real Estate Developers Association of Hong Kong (REDA) for compliance by its member developers, the regulatory work of the Estate Agents Authority (EAA) on the estate agency trade, and the consumer education of the Consumer Council, the Government has been able to put in place a range of measures and guidelines to deal with different aspects of the sale process in response to changing market circumstances and consumer expectations.

1.3 In recent years, the Transport and Housing Bureau (THB) has implemented, through the Consent Scheme and REDA's guidelines, a number of measures to enhance the transparency and clarity of property and transaction information provided for uncompleted first-hand private residential properties. Most notable was the implementation of the "nine new measures" on sales brochures, price lists, show flats and the disclosure of transaction information introduced with effect from 1 June 2010¹.

1.4 The existing measures and practices have been practical and useful in providing transparent, accurate and appropriate property information to prospective purchasers.

¹ The "nine new measures" have been implemented through the Consent Scheme and the REDA's Guidelines which will be further elaborated in Chapter 2.

1.5 That said, the existing regulatory mechanisms do not cover non-consent scheme projects, and also are not applicable to non-REDA members and first-hand completed residential developments. There is a general public view that the existing measures and practices are insufficient and that consumer protection in respect of the sale of all types of first-hand residential properties should be enhanced. A new regulatory regime established under legislation covering the sale of all types of first-hand residential properties would achieve a stronger deterrent effect.

The Establishment of the Steering Committee

1.6 To further enhance the transparency and fairness of the sales arrangements and transactions of first-hand residential properties, the Chief Executive announced in his 2010-11 Policy Address that a Steering Committee would be set up to study the regulation of first-hand flat sale by legislation. The Steering Committee is tasked to discuss various matters including the scope of the legislative framework, the key features to be regulated under the proposed legislation, and the enforcement mechanism and penalties with a view to submitting practicable recommendations to the Secretary for Transport and Housing in October 2011. The Terms of Reference of the Steering Committee are as follows -

- (a) To consider and advise on –
 - (i) the scope of the legislative framework, i.e. the definition of first-hand residential properties to be covered under the legislation;
 - (ii) how such properties should be regulated by legislation in terms of transparency and accuracy of property information including sales brochures and any other types of promotional materials, sales practices, price lists, show flats, and saleable area; and
 - (iii) the enforcement mechanism and penalties.

- (b) To come up with practical recommendations on the above for the Secretary for Transport and Housing's consideration, including the timetable for drafting and enactment of legislation, with a view for the Transport and Housing Bureau to carry out public consultation in the form of a White Bill.

1.7 The Steering Committee was formally established in October 2010. It is chaired by the Permanent Secretary for Transport and Housing (Housing) and comprised the following members -

Ms Connie Lau
(Representative of the Consumer Council)

Mrs Rosanna Ure
(Representative of the Estate Agents Authority)

Dr Lawrence Poon
(Representative of the Hong Kong Institute of Surveyors)

Mr Ambrose Lam
(Representative of the Law Society of Hong Kong)

Mr Stewart Leung
(Representative of the Real Estate Developers Association of Hong Kong)

The Honourable LEE Wing Tat (on ad personam basis)

Professor the Honourable Patrick Lau (on ad personam basis)

Professor Andrew Chan (on ad personam basis)

Mr CHEUNG Kwok Kwan (on ad personam basis)

Professor LAM Kin Che (on ad personam basis)

Director of Buildings or his representative

Director of Lands or her representative

Deputy Secretary for Transport and Housing (Housing)

The Setting up of Three Subcommittees

1.8 Given the scope and complexity of the subject matter, three Subcommittees were formed under the Steering Committee, namely the Subcommittee on Property Information and Show Flats, the Subcommittee on Sales Arrangements and Practices, and the Subcommittee on Enforcement Mechanism and Penalties to study the relevant issues in detail. The Terms of Reference and the Membership of the three Subcommittees are at **Annex A**.

1.9 Representatives from relevant professional bodies, bureaux and departments were invited to attend meetings on a need basis. The Hong Kong Institute of Architects was co-opted onto the three Subcommittees to provide professional advice and input.

Meetings of the Steering Committee and its Subcommittees

1.10 The Steering Committee and its Subcommittees commenced work in November 2010 and held a total of 20 meetings.

Report of the Steering Committee

1.11 This Report was endorsed by the Steering Committee on 6 October 2011. The Report summarizes the recommendations of the Steering Committee as well as comments and suggestions of some individual members.

Chapter 2

Existing Regulatory Mechanisms Governing the Sales of First-hand Residential Properties

2.1 The sales of first-hand residential properties are at present regulated by different measures and guidelines. The ensuing paragraphs set out briefly the regulatory mechanisms under the Consent Scheme, the REDA's guidelines, the EAA and the Consumer Council.

Consent Scheme

2.2 Since 1961, new Government leases normally include a provision which restricts any assignment or letting of uncompleted units prior to the issue of the Certificate of Compliance (CC) unless the prior written consent of the Director of Lands is obtained². The consent of the Director of Lands, if given, is granted at her discretion acting in the capacity of the landlord, and is subject to the rules of an administrative scheme referred to as the "Consent Scheme".

2.3. The primary objective of the Consent Scheme is to ensure that purchasers acquire a protected legal right to the uncompleted property and that the developer has the technical and financial resources to complete the development. Over the years, the Consent Scheme has taken on additional functions in respect of consumer protection and promoting fair practices in the sale of uncompleted properties. Recently, aspects of the Consent Scheme have been enhanced in respect of consumer protection to ensure transparency in property sales and transaction prices.

² Under the alienation restriction in the land grant, the lot owner is prohibited from assigning, mortgaging, charging, underletting, parting with possession of or otherwise disposing of the lot or any part thereof or any interest therein or any building or part of any building thereon prior to the compliance with the land grant conditions except with the consent of the Director of Lands provided that without such consent, the lot owner may enter into specific tenancy or building mortgage subject to the conditions as therein contained. The restriction is imposed by the Director of Lands in the capacity as a landlord under the private law regime. Nothing herein contained should be construed as to affect or fetter the discretion of the Director of Lands as a landlord to impose whatever alienation restriction as deemed appropriate in individual cases.

2.4 For cases which are found to be in breach of the Consent Scheme requirements, the developers will be asked to rectify the breach or take other measures as appropriate. Developers will generally take steps to rectify the breach as soon as they can. Depending on the severity of the breach and having regard to the interests of purchasers who have bought the properties and who may not wish to cancel the transactions, appropriate action will be considered on a case by case basis. The action possible under the Consent Scheme includes requesting the developer to give explanations or clarifications on the alleged breach, requiring immediate rectification of the breach, referring the matter to the relevant professional body for comments and follow-up actions, giving written warning to the developer or its solicitors or both, requiring the developer to permit the purchasers to cancel the transactions and to obtain a full refund of the money paid with interest, and suspending/cancelling the consent given in respect of the unsold units where the circumstances of the case warrant.

2.5 The requirements under the Consent Scheme can be found on the website of the Lands Department, via the following link: <http://www.landsd.gov.hk/en/legco/lcm.htm#consent>.

REDA's Guidelines

2.6 REDA is the key trade association in the real estate and property sector. Since 2001, REDA has established a self-regulatory regime asking its members to comply with the guidelines issued by REDA when putting up uncompleted residential units for sale. REDA issued the first set of guidelines on flat sales in June 2001, and has since been adding/updating the guidelines on a need basis. The guidelines cover requirements on sales brochures, price lists, show flats, promotional materials, transaction information and sales arrangements.

2.7 THB refers cases which are suspected to be not in compliance with REDA's guidelines to REDA for follow up action with the developers concerned. REDA has set up a committee comprising independent persons which may deliberate on non-compliance cases and take punitive measures, including issuing warning letters or making reprimands. REDA has been encouraging its member developers to comply with the guidelines when selling uncompleted first-hand residential properties even if they are not subject to the Consent Scheme. Not all developers are REDA members. The guidelines are only applicable to members.

2.8 REDA's guidelines may be viewed at its website (<http://www.reda.hk>).

Estate Agents Authority

2.9 The EAA is a statutory body, established in November 1997 under the Estate Agents Ordinance (EAO) (Cap.511). Its principal functions are to regulate the practice of estate agencies in Hong Kong, promote integrity and competence in the industry, and facilitate training for estate agency practitioners to enhance their standards and status.

2.10 The EAA regulates and controls the practice of estate agents and salespersons under the EAO. It has issued Practice Circulars requiring estate agents involved in the sale of properties to provide to prospective flat buyers accurate property information. If it is established that licensees are in breach of the EAO, the Code of Ethics or Practice Circulars issued by the EAA on the sale of properties, EAA may take disciplinary action against the licensees concerned in accordance with provisions in EAO.

2.11 Information on the EAO, the Code of Ethics and Practice Circulars issued by the EAA could be obtained at the website of the EAA (<http://www.eaa.org.hk>).

Consumer Council

2.12 The Consumer Council has been playing a key role in enhancing consumer protection and consumer education. Among other things, Consumer Council jointly published with the EAA the "Notes to Purchasers of First-hand Residential Properties", which developers must include in the sales brochures of uncompleted first-hand residential properties under the Consent Scheme. Also, upon receipt of complaints, the Consumer Council will take follow up action, including mediation. If there are strong justifications in support of a complaint case, and the case may have far reaching implications on consumers, Consumer Council will advise the complainant of the Consumer Legal Action Fund (the Fund) which renders assistance to applicants whose cases satisfy the eligibility criteria of the Fund, to take legal action.

Chapter 3

Scope of Legislation

3.1 At present, there is no legislation that specifically regulates the sale of first-hand residential properties in Hong Kong. As the vendors (i.e. real estate developers) and individual buyers are not on an equal footing and since the former is always in a much stronger position than the latter, there have been calls from the community for enhanced consumer protection by way of regulation over the sales of first-hand residential properties by legislation.

Existing Practice

3.2 Generally speaking, first-hand residential properties are properties of which the vendor is a developer. First-hand residential properties under the Consent Scheme which are not yet granted the CC or the Consent to Assign³ (CA), and those non-Consent Scheme projects⁴ which are not yet issued with an Occupation Permit⁵ (OP) by the Buildings Department (BD), are regarded as uncompleted first-hand residential properties. Once the unsold properties received the CC/CA or OP as appropriate, they are regarded as completed first-hand residential properties.

3.3 The sale of uncompleted first-hand residential properties in Non-Consent Scheme projects, and completed first-hand residential properties, are currently not subject to regulation. At present, only where the Government lease so provides, the Government may regulate the sale of uncompleted first-hand residential properties through the Consent Scheme. REDA issues guidelines covering the sale of first-hand uncompleted residential properties but compliance by its

³ CC is granted to Consent Scheme projects when the development in entirety has fully complied with the land grant conditions, whereas CA is granted to a specific phase of development of a Consent Scheme project when that specific phase has fully complied with the land grant conditions.

⁴ Non-Consent Scheme refers to property developments where there are no subsisting lease conditions stipulating that prior consent of the Director of Lands is required for the sale of uncompleted units.

⁵ An OP will be issued by the BD if it is satisfied with the submission of a certificate on completion of building works resulting in a new building and application for permit to occupy such building by the authorized person. A Consent Scheme project will receive a CC/CA and an OP, whereas a non-Consent Scheme project will receive only an OP but not the CC/CA.

member developers is on a voluntary basis only. Developers who are not REDA members are not covered by the guidelines.

Deliberations of the Steering Committee

First-hand Uncompleted Residential Properties

3.4 The Steering Committee has considered carefully the existing system as well as made reference to regulatory systems under different jurisdictions. The unanimous conclusion is it is now time to put in place a statutory regulatory system in Hong Kong. Further, the proposed legislation should apply to all types of first-hand uncompleted residential properties, including projects developed under old lease conditions, Consent Scheme projects and projects outside the Consent Scheme.

First-hand Completed Residential Properties

3.5 The Steering Committee has deliberated on whether first-hand completed residential properties should also be regulated by the proposed legislation, but could not come to a consensus view on the matter.

3.6 A few Members consider that first-hand completed residential properties are no different from second-hand residential properties since prospective buyers of both first-hand completed flats and second-hand flats could view the particular units they wish to purchase. Given that the sale of second-hand residential properties will not be subject to the proposed legislation, the sale of completed first-hand residential properties should not be regulated as well.

3.7 Most Members however consider first-hand completed residential properties should be regulated. They consider that there are major differences between the sale of second-hand residential properties and that of completed first-hand residential properties. First-hand residential properties are held by developers in bulk whereas second-hand flats are usually owned by individual owners. As such, sales in the second-hand market generally involve private individuals, with the vendors and purchasers generally on an equal footing. Moreover, it is quite common that a developer would start by selling uncompleted residential flats in a development, and continue to do so in respect of the remaining flats as they are completed with CC, CA or OP issued. To draw a line between the former and latter types of flats in terms of legislative control is artificial and not defensible.

3.8 Having regard to the above and to increase transparency and ensure the fairness of transactions, the majority of Members propose that the new legislation should basically cover the sale of all first-hand uncompleted and completed residential properties.

3.9 A Member suggests that first-hand completed developments should be exempted from the proposed legislation after they have been issued the OP for a specified duration, say, after 6 months upon issuance of the OP. The majority of Members of the Steering Committee, however, does not consider a six-month duration to be long enough to deter developers from holding up the flats for sale during that time to avoid legislative control. The majority of Members further consider that there is no justification to grant exemption to first-hand completed residential properties held by developers but left vacant for any duration as they have not been 'lived-in' and are thus on a par with new flats.

First-hand Completed Residential Properties that have been Leased Out before Sale

3.10 While most of the Steering Committee Members support subjecting the sale of first-hand completed residential properties to the proposed legislation, there is also a recognition of the argument that, when developers lease out rather than sell their residential properties upon completion, such flats are de facto second-hand flats, the sale of which should not come under the same control regime as first-hand flats. It is therefore proposed that for residential properties where 95% or more of the units of the development or a phase of the development have been leased out for a reasonably long period of time could be exempted from the legislation. This is because when developers lease out rather than sell their residential properties upon completion, such residential properties are akin to second-hand residential properties. There is a need to specify a duration for leasing out in the legislation. To avoid developers from withholding the developments from sale in order to circumvent the legislative control, the majority of the Members consider 36 months to be appropriate, while a few Members consider a shorter duration of 24 months would be sufficient.

Individual Houses Sold by Private Individuals

3.11 On whether exemption from certain requirements should be granted to the sale of houses under the proposed legislation, the Steering Committee considers that having regard to the growing trend for the building of houses in developments, especially in the New Territories, and in view of the fact that the potential buyers of these houses are no longer confined to a specific sector in the community, no exemption should be granted under the proposed legislation for such residential developments⁶. That said, the Steering Committee notes that there are instances where the vendors are private individuals selling just one first-hand single house, such as in the case of New Territories Exempted Houses (NTEHs)⁷. It may be too onerous to require such vendors to meet the requirements of the legislation such as provision of sales brochures, price lists etc. On the other hand, Members express concern about possible abuse by vendors, for example, by selling the houses in a new housing estate one by one. After deliberation, the Steering Committee recommends that while consideration be given to provide exemption to vendors selling just one first-hand single house, the relevant provisions need to be carefully drafted to prevent any loophole.

Exemption from Certain Requirements of the Legislation under Specific Circumstances

3.12 The Steering Committee appreciates that under some specific circumstances, the requirements in respect of sales brochure, price list and show flats that are applicable to first-hand uncompleted residential properties may not be applicable or necessary in the case of first-hand completed residential properties. It is therefore proposed to exempt certain requirements under specific circumstances. The detailed proposals can be found at Chapter 13.

Recommendations on Scope of Legislation

3.13 The proposed legislation should apply to the sale of all first-hand uncompleted and completed residential properties, irrespective of whether they are projects developed under old lease conditions, Consent Scheme projects or projects outside the Consent Scheme.

⁶ Please refer to Chapter 13 for details.

⁷ The main features of NTEH is that the building shall neither contain more than three storeys nor exceed a height of 8.23 metres (27 ft.) and the maximum roofed-over area of the house shall not normally exceed 65.03 square metres (700 sq. ft).

3.14 Exemption from the proposed legislation should only be granted when 95% or more of the units of the development or a phase of the development have been leased out for a reasonably long period of time, say, 36 months.

3.15 The Steering Committee recommends that consideration be given to provide exemption from the requirements of the legislation for private individuals selling just one first-hand single house and that the relevant provisions should be carefully drafted to prevent any possible abuse.

Chapter 4

Requirements on Sales Brochure

4.1 The sales brochure is a very important source of property information. It provides details on the residential properties to be sold. Apart from information on the physical layouts of the developments, it also contains other important information that a potential buyer would not have access to even if he pays a visit to the development site in person, such as the salient points of the Deeds of Mutual Covenant (DMC) and the land grant conditions. It is therefore crucial to prospective purchasers that information contained in the sales brochures is clear, accurate and comprehensive.

Existing Practice

4.2 At present, the requirements on the sales brochure are set out under the Consent Scheme and the REDA's guidelines. Developers have to make available the sales brochure at least seven calendar days before the sale commences. As regards the contents of the sales brochure, there are already quite elaborated requirements⁸, covering the following areas -

- Basic information of the development;
- Design of the development and property management;
- Location plan of the development;
- Relevant outline zoning plan (OZP);
- Master layout plan of the development;
- Floor plans;
- Area schedule of units;
- Floor plan of the carpark;
- Salient points of DMC;
- Salient points of land grant conditions;
- Government, institutional or community facilities, public open spaces and public facilities;
- Matters relating to preliminary agreement for sale and purchase;
- Notes to purchasers of first-hand residential properties;

⁸ The detailed requirements are set out in Legal Advisory and Coveyancing Office (LACO) Circular Memorandum (CM) No. 62 as amended by LACO CM No. 63 and the standard form of Consent Letter as revised on 1 September 2010 and the REDA's guidelines issued on 7 October 2009 and 1 June 2010.

- Warnings to purchasers;
- Definitions of “saleable area” and “other areas”;
- Fittings and finishes;
- Cancellation agreement;
- Government rent;
- Miscellaneous payment upon delivery of unit;
- Defects liability warranty period;
- Maintenance of slopes;
- Modification of land grant conditions;
- Notices as to changes;
- Service agreements;
- Purchasers’ right of access to information;
- Website address;
- Contact details of the Law Society of Hong Kong; and
- Footnotes on abbreviations.

Please refer to **Annex B** for details of the above existing requirements. The requirements under the Consent Scheme and the REDA’s guidelines are applicable to the sale of first-hand uncompleted private residential properties only and not completed residential properties.

Deliberations of the Steering Committee

Issue of the Sales Brochure

4.3 The Steering Committee considers that the existing requirements for developers to make public the sales brochure at least seven calendar days before the sale commences is appropriate and recommends that this requirement be incorporated into the proposed legislation.

Differentiation between the Sales Brochure and Promotional Materials

4.4 As developers may issue promotional booklets apart from the sales brochure and since only the contents of the latter will be regulated, some Members consider that measure should be taken to help prospective purchasers to differentiate the sales brochure from promotional booklets. After deliberation, Members generally agree that the existing requirement where any booklet other than the sales brochure cannot be called a “sales brochure” to be sufficient. To enhance this requirement, it is proposed that the minimum font size of the wording “sales brochure” as printed at the cover of the sales brochure should be specified in the proposed legislation.

Provision of Additional Property Information

4.5 The Steering Committee is generally content with the existing requirements that developers are required to provide certain mandatory information in the sales brochure. Such arrangements ensure prospective purchasers could obtain comprehensive property information on a new development easily in a single booklet. The existing list of mandatory information has been reviewed and it is considered desirable to require developers to provide some additional information, such as internal dimension of units (including the thickness of internal walls), scale of the location plan, and thickness of floor slab (excluding plaster).

Provision of an Aerial Photo

4.6 Having regard to the fact that prospective purchasers may not be able to go to the development site due to construction works, the provision of an aerial photo of the development should enhance transparency and assist purchasers to obtain a better understanding of the development's surrounding areas. Members therefore propose that an aerial photo showing the development site and its vicinity be included in the sales brochure. The photo should also be made available in the sales offices as well as on the developer's website.

4.7 The Steering Committee has considered whether developers should be allowed to take their own aerial photos. Members are of the view that it is too complicated to set out the specifications such as the flying height of the aircraft, "shooting angle" of the photos and the image quality etc. in the legislation. To ensure consistency among developers, and taking into account that developers could conveniently obtain an aerial photo from the Lands Department at a reasonable cost⁹, it is proposed that the aerial photo to be provided by developers must be obtained from the Lands Department.

⁹ The developers could conveniently obtain an aerial photo from the Lands Department at a reasonable cost. The following are examples of the fees concerned-

- (1) Fee for the paper print (48 inches x 48 inches) of the enlargement of aerial photo: \$895;
- (2) Fee for the digital file of the enlargement of the aerial photo: \$565 per photo; and
- (3) Permit fee and royalty charge: \$792 per photo for public viewing on a website for three years.

4.8 While the majority of the Steering Committee supports the provision of aerial photo to enhance transparency, one Member considers this requirement may be too onerous to small developers. That Member considers that prospective purchasers should be able to obtain an aerial photo of the development on their own (such as from the Lands Department or from the Internet) and hence the requirement should not be made mandatory. Another Member holds a different view and considers that it is the responsibility of developers to provide adequate property information to enable prospective purchasers to make an informed purchase decision.

Provision of Information on Gross Floor Area (GFA) Concessions and Energy Efficiency of Buildings

4.9 The Steering Committee has discussed the recommendations of the Council for Sustainable Development (SDC) and Development Bureau regarding the provision of information on GFA concessions and energy efficiency of buildings in the sales brochure¹⁰. Members consider that information on GFA concessions and energy efficiency of a residential development is useful to flat purchasers, and recommend that developers should be required to provide such information in the sales brochure.

Sequence of Information in First Part of Sales Brochure

4.10 Noting that most flat purchasers would only buy residential properties once or twice in their lives, many of them would be unfamiliar with the buying procedures and hence Members consider it useful to set out some important notes on flat purchase¹¹ in the first part of the sales brochure before the property information is set out.

¹⁰ SDC launched a public engagement process entitled “Building Design to Foster a Quality and Sustainable Built Environment” in collaboration with the Development Bureau and Environment Bureau in 2009 to identify the preferred options for fostering a quality and sustainable built environment. The SDC recommended that information on GFA concessions should be provided in sales brochures of residential developments. Separately, the Development Bureau recommended in the context of bringing forward SDC’s recommendations that the following information should also be provided in the sales brochures – (a) result of BEAM Plus assessment conferred/issued by the Hong Kong Green Building Council (HKGBC) for the development; and (b) the estimated energy consumption of the development.

¹¹ At present, developers are required to include the “Notes to Purchasers of First-hand Residential Properties, which are produced jointly by the Estate Agents Authority and the Consumer Council, in the sales brochures.

Font Size Requirements

4.11 To address the problem that at present the font size of certain important property information in some sales brochures is too small and difficult to read, Members propose that the proposed legislation should specify the minimum font size for information contained in the sales brochure (see paragraph 4.16 below).

Recommendations on Sales Brochure

4.12 The Steering Committee recommends that developers should be required by the proposed legislation to make public the sales brochure at least seven calendar days in advance of the commencement of the sale of the development, in accordance with the following requirements -

- (a) All information as required under paragraphs 4.13 to 4.15 below must be contained in one booklet entitled “sales brochure” (Chinese translation should be “售樓說明書”). Any other booklet (e.g. for promotional purpose) made available to prospective purchasers must not be called “sales brochure” or “售樓說明書”.
- (b) The sales brochure must not contain any promotional material or artist impression picture or graphic, but may contain a one-page to-scale coloured building elevation of the development. The elevation should be in general accordance with the outward appearance of the development and based on the latest General Building Plans approved by the Building Authority.
- (c) The sales brochure must begin with the information below and in the following sequence before presenting other information -
 - 1. Notes to Purchasers of First-hand Residential Properties
 - 2. Basic Information of the Development
 - 3. Design of the Development and Property Management
 - 4. Location Plan of the Development
 - 5. Aerial Photo of the Development
 - 6. Relevant OZP¹²

¹² If OZP is not available, developers should provide any approved or draft plan prepared under the Town Planning Ordinance (Cap. 131), or Development Scheme Plans prepared by the Urban Renewal Authority and considered by the Town Planning Board under section 25 of the Urban Renewal Authority Ordinance.

7. Master Layout Plan of the Development
8. Floor Plans
9. Area Schedule of Units
10. Floor Plan of the Car Park
11. Matters relating to Preliminary Agreement for Sale and Purchase
12. Salient Points of Deed of Mutual Covenant
13. Salient Points of Land Grant Conditions
14. Government, Institutional or Community Facilities, Public Open Space and Public Facilities

- (d) The sales brochure must state the date of its printing.
- (e) The sales brochure must be provided in both English and Chinese.
- (f) One copy of the sales brochure should be sent to the specified authorities at least seven calendar days before the sale commences, i.e. Consumer Council, the EAA, the THB and the enforcement agency¹³.
- (g) The sales brochure should be uploaded onto a designated website at least seven calendar days before the sale commences. The address of the website must be clearly and legibly displayed at the sale office(s), the advertisements (including promotional materials) in printed media and the sales brochure.

4.13 As regards the content of sales brochure, the Steering Committee recommends that the sales brochure should include information as currently required under the Consent Scheme at Annex B as appropriate. In addition, the following enhancement measures are proposed -

- (a) in providing information on the anticipated completion date of a development, the note currently in the standard template of Register of Agreements for Sale and Purchase (the Register) (at **Annex C**) should be included to facilitate the public to have a better idea of the flow of events leading to the completion of assignment;

¹³ A new enforcement agency will be set up to enforce the proposed legislation. For details, please refer to Chapter 15.

- (b) the scale of the location plan should be included;
- (c) information on the electronic version of the concerned OZP should be provided;
- (d) information on the thickness of floor slab (excluding plaster) should be provided;
- (e) information on the internal dimensions of the units (including the thickness of internal walls) should be provided; and
- (f) the DMC should be uploaded in full onto the developers' website.

4.14 The Steering Committee proposes that an aerial photo showing the development site and its vicinity should be included in the sales brochure for the reference of prospective purchasers. The photo should also be displayed in the sales offices and on the developer's website¹⁴. The aerial photo should be the latest available version obtained from the Lands Department¹⁵. A digital image of the aerial photo displayed at the sales offices should be made available for viewing by the public at the developer's website.

¹⁴ The aerial photos for display in sales office should be the latest available version taken at a flying height below 7000 feet, and should be at an approximate scale within the range of 1:700 to 1:800, showing the development and the surrounding areas within 250 metres from the boundary of the development. The same photo should be included in the sales brochure and its size must be at least 16cm long and 16 cm wide. No change should be made to the aerial photo except that the developer may add the development site boundaries.

¹⁵ Lands Department is responsible for taking aerial photos of Hong Kong. It has an annual aerial survey work programme which takes new aerial photos covering the whole territory of Hong Kong every year at various heights. In some sites of Hong Kong, the latest aerial photo available for use may be taken about one and a half years ago because the actual time suitable for taking aerial photos is dependent on the weather condition and the requirements of flying operation. Developers may choose to display more than one photo in addition to the latest version. This is to cater for the situation whereby the latest aerial photo of the site and its vicinity may not be the clearest version due to weather condition (such as covered by clouds or unclear photo image) and to provide an option for developers to display a previous aerial photo together with the latest version if they deem necessary.

4.15 The Steering Committee also proposes that information on GFA concessions and energy efficiency of buildings should be provided in the sales brochures and according to a template to be issued by the Enforcement Agency.

4.16 On font size requirements, the recommendations are as follows -

- (a) For the “Sales Brochure/售樓說明書” as printed at the cover, the font size should be at least font size 18 of “Times New Roman” in English and “新細明體” in Chinese¹⁶.
- (b) The font size of all information contained in the sales brochure should be at least font size 10 of “Times New Roman” in English and “新細明體” in Chinese.
- (c) The font size of all “footnotes/remarks” (備註/附註) contained in the sales brochure should be at least font size 8 of “Times New Roman” in English and “新細明體” in Chinese.
- (d) Words/letters associated with any plans, diagrams, schedules and maps are exempted from the above font size requirements.

4.17 Some of the above proposed requirements are not applicable to first-hand completed residential properties (e.g. the expected date of completion of the development), the Administration would make suitable adjustments in this regard in the proposed legislation.

¹⁶ “Times New Roman” and “新細明體” are only the reference font types. Developers may use font types other than these two types. There is a need to have a font type as a reference as the size of different font type may be different even they are of the same font size.

Chapter 5

Requirements on Issuance of Price List

5.1 In the residential property market, it is common for developers to release units in small batches. This “sell by batches” approach enables developers to test the market and make adjustment to their sales strategy in the light of the market response. There has been public concern that such sales practices are not sufficiently transparent, and that potential buyers are unable to get hold of comprehensive information before they make their purchase decisions.

Existing Practice

5.2 Currently, developers selling first-hand uncompleted flats are required to make public each and every price list at least three calendar days in advance of the commencement of sale when selling any number of units in a batch. The price lists should be made available as hard copies in the sales offices, and uploaded onto the website of the developer.

5.3 The first price list of a batch of sale must comply with the following requirements –

- (a) for a development with 30 units or less, all units must be included in the first price list;
- (b) for a development with more than 30 units but less than 100 units, the minimum number of units to be included in the first price list of each batch of units put up for sale must be at least 30 units; and
- (c) for a development with 100 units or more, the minimum number of units to be included in the first price list of each batch of units put up for sale must be at least 50 units or 50% of the total number of units in the relevant batch, whichever is the higher.

5.4 The sale of “houses” so categorized in the DMC is exempted from the requirement on the minimum number of flats in the first price list. That said, developers selling “houses” are still required to issue price lists according to the standardized template and making them

available as hard copies and on the websites three calendar days prior to the commencement of sale.

5.5 For uncompleted first-hand private residential units sold on an “en bloc” basis under a single transaction (i.e. selling at least a whole block and/or all houses in a development to a single purchaser under a single deal), or sold by way of public auction or public tender, the aforementioned requirements on price list will not apply. However, when the properties sold on an en-bloc basis are later put on sale to individual flat buyers in the market, the owner should observe all these measures.

5.6 The price list must be set out in a prescribed format and must contain information on the total number of units in a development put up for sale in the respective batch and must state to which batch the price lists relates.

Deliberations of the Steering Committee

Issue of Price List

5.7 The majority of the Steering Committee Members consider that the existing requirements for developers to make public the price list at least three calendar days before the sale commences is appropriate and recommends that this requirement be incorporated into the proposed legislation. A Member however considers such a requirement may bring inconvenience to potential purchasers, as the developers cannot put up more units for sale immediately when the market response is good.

The Price List Template

5.8 The Steering Committee considers that a price list template should be specified in the proposed legislation so that all developers of first-hand residential properties will use the same template for the provision of price information, hence facilitating easy comparison between different developments by prospective purchasers. Details on the price list template will be further discussed in Chapter 6.

Minimum Number of Units to be Disclosed in each Price List

5.9 To enable buyers to get a fuller picture of the prices of a considerable number of units in a development at the outset, Members consider it necessary to set the minimum number of units to be disclosed in the first and subsequent price lists. At the same time, it is acknowledged that developers should be allowed a reasonable degree of flexibility to decide the number of units to be put up for sale and the timetable having regard to their commercial considerations.

5.10 For higher transparency and greater protection of consumers, the majority view is that prices of a greater number of units should be disclosed in the first and subsequent price lists of a development or a phase of development. Based on this principle, Members discussed two possible methodologies. The first is premised on the existing concept of “a batch of sale”. The second applies a prescribed percentage directly to the total number of units in a development or a phase of development. After deliberation, the Steering Committee recommends that the second methodology be adopted for simplicity and clarity.

5.11 In deliberating on the percentage of the total number of units of a development or a phase of a development to be prescribed in the proposed legislation for each price list, the general view of the Steering Committee is that a higher percentage would serve the objective of enabling buyers to get a fuller picture of the prices of a development or a phase of development. That said, Members are mindful that the requirements should not be over-prescriptive in order to allow the developers a degree of flexibility to respond to changing market conditions.

5.12 The Steering Committee also notes that at present, there are only requirements on the minimum number of units to be disclosed in the first price list of a batch of sale and not the subsequent price lists. To strike a balance between enhancing market transparency and allowing flexibility for developers, it is recommended that the prescribed percentages should be set at at least 20% of the total number of units of a development or a phase of development for the first price list, subject to a minimum of 50 units and at least 10% for each subsequent price list.

Recommendations on Price List

5.13 The Steering Committee recommends that, developers should be required by the proposed legislation to make public the price lists at least three calendar days in advance of the commencement of the sale of the respective units, in accordance with the following requirements -

- (a) **For a development or a phase of development with 30 units or less**, all units must be included in the first price list;
- (b) **For a development or a phase of development with more than 30 units but less than 100 units**, each price list must contain at least 30 units; and
- (c) **For a development or a phase of development with 100 units or more**, the following requirements should apply:
 - (i) The first price list, subject to a minimum number of 50 units, must include at least 20% of the total number of units of a development or a phase of a development; and
 - (ii) Each subsequent price list must include at least 10% of the total number of units of a development or a phase of a development.

Chapter 6

Requirements on Price List Template and Provision of Area Information in Sales Brochure

6.1 To most if not all prospective purchasers, “flat size” and “flat price” are two crucial factors taken into account when making a flat purchase decision. In recent years, the public have been demanding better information on this front. It is therefore very important that such information is provided to prospective buyers in a clear, accurate and consistent manner. The information so provided should also facilitate potential buyers to compare flat prices of different developments calculated on the same area basis.

The Price List Template

Existing Practice

6.2 To enhance the transparency and clarity of information presented in the sales descriptions for uncompleted first-hand residential properties, a standardized definition of “saleable area” (at **Annex D**) was adopted in October 2008 and became a requirement under the Consent Scheme and the REDA’s guidelines¹⁷. The standardized definition of “saleable area” sets out the method to calculate saleable area, which only includes the area of the unit and any balcony, utility platform or verandah.

6.3 At present, developers are required under the Consent Scheme or REDA’s guidelines to disclose the price of each unit using the standard template at **Annex E**. Basically, the price list shows the saleable area, the apportioned share of common area, the GFA, the unit price per square foot of GFA and the unit price per square foot of saleable area.

¹⁷ The Administration consulted the Hong Kong Institute of Surveyors, the Hong Kong Institute of Architects, the Law Society of Hong Kong, the Consumer Council and the EAA in the course of working out a standardized definition of saleable area. The standardized definition has been in use since 10 October 2008 for all Consent Scheme projects. It is also set out in REDA’s guidelines for its members’ compliance. In addition, Rating and Valuation Department (RVD) has adopted this definition in measuring the saleable area of a residential unit for developments completed as from 10 October 2008.

6.4 According to LACO CM No. 62 and the REDA's guidelines, GFA of a unit has four components, namely (i) saleable area of the unit, (ii) the areas of bay window (if any), (iii) the air-conditioning plant room (if any); and (iv) the apportioned share of common areas. The first three components have been clearly defined under the aforesaid LACO CM and REDA's guidelines, but not item (iv). Different developers have been using their own methods to derive the "apportioned share of common area" for each unit.

Deliberations of the Steering Committee

Provision of information on "flat sizes" and "flat prices"

6.5 The existing market practice is for developers to quote unit prices of flats in GFA which include the "apportioned share of common area" in the calculation. As different developers may include different items¹⁸ in their calculation of GFA - which will affect the apportioned share of common area of a residential unit, information on the GFA per flat is not transparent and is inconsistent among developers. This is undesirable and the public have demanded better information on the flat prices using a uniform measurement method.

6.6 Noting that there is no commonly adopted definition on GFA, the majority of the Steering Committee Members consider that unit price based on GFA is not a useful tool for potential purchasers to use to compare unit prices of flats in different developments. Instead, given there is a standardized definition on saleable area, the majority agree that we should only quote flat price on the basis of saleable area.

6.7 The Steering Committee has deliberated on whether a switch from the current wide use of "unit price per square foot in GFA", to "unit price per square foot in saleable area" only to compare flat prices may cause confusion and concern in the community, given that there will be a sudden and considerable apparent "increase" in unit prices. Members do not consider this to be a problem as the price per flat to be paid by the purchasers would not be affected. Members consider that after proper education and a short transitional period, the public will get used to the use of saleable area for price quotation which will enable them better to compare flat prices at different new developments calculated on the same basis.

¹⁸ In general, the items include lift lobbies, lift shafts, electrical meter rooms, refuse room, clubhouse area, staircase, transformer rooms etc.

6.8 That said, a couple of Members hold different views. While these Members accept that price and area information based on saleable area should be provided on the price list, they consider information based on GFA should also be provided, as information on GFA has all along been provided in the price list for reference purpose. Moreover, the use of “GFA” in quoting flat price is quite prevalent in the second-hand market. After much deliberation, most Members regard the restriction on the use of saleable area only for quoting unit price should not be a problem as information on saleable area is readily available in the second-hand market. According to the Estate Agents Practice (General Duties and Hong Kong Residential Properties) Regulation (Cap. 511C), estate agents should, where applicable, provide information on saleable area to the buyers in the sale and purchase of residential properties in Hong Kong, including in the second-hand market. In addition, the public can obtain information on the saleable area of almost all second-hand residential properties in Hong Kong from the RVD¹⁹. Members further agree to step up public education upon the introduction of the relevant new measures.

Special Payment Terms

6.9 As developers may use some special payment terms such as the offering of gifts to induce transactions, the Steering Committee considers that for the sake of transparency and to ensure fairness for prospective buyers, such information (including all kinds of gifts, advantages and bonuses in connection with the sale of the unit, and any price adjustment factors affecting the actual price of the unit) should be clearly set out. Currently, developers are already required to set out the payment terms (including the details of all promotional and preferential schemes) in the price list. For higher transparency and clarity, Members consider the format of the price list template and the Register for disclosure of transaction information should be improved so that prospective purchasers could gain access to such information more easily and clearly.

Disclosure of Names of Estate Agency Firms on Price List

6.10 For transparency, the majority of the Steering Committee Members propose that, if developers choose to commission one or more estate agency firm(s) in their sale of first-hand residential properties, such information should be provided in the price list. It also proposes to make

¹⁹ RVD does not provide saleable area information on village type houses.

clear in the price list that prospective purchasers are not bound to use the agents commissioned by the developers, i.e. they could appoint their own estate agents to handle their transactions or approach the developers direct. A Member holds different views and considers the existing arrangements regulating the practice and conduct of estate agents are sufficient.

Recommendations on the Price List Template

6.11 The Steering Committee recommends that, developers should be required by the proposed legislation to make public the price lists according to a specified format at **Annex F**, in particular -

- (a) Only saleable area shall be used for listing the unit price in the price list;
- (b) “GFA-related” information (i.e. GFA per flat and unit price based on GFA) should not be provided in the price list;
- (c) The definitions of “Saleable Area” and “Other Areas” and the methods of measurement currently used under the Consent Scheme and by REDA (at Annex D) should be adopted in the price list;
- (d) the developers should list out in the price lists those estate agency firms which they have been commissioned to sell the units. In addition, a note should be added to remind prospective purchasers that they could appoint their own estate agents to handle their transactions or approach the developers direct; and
- (e) any gifts and/or special payment or concessionary terms in connection with the flat purchase, as well as any price adjustment factors affecting the actual price of the flat should be set out in the price list and the Register for disclosure of transaction information.

Provision of Area Information in Sales Brochures

Existing Practice

6.12 At present, developers are required under the Consent Scheme or REDA's guidelines to disclose in the sales brochure information on the saleable area, unit covered area, apportioned share of common area, Gross Floor Area (GFA) and other areas of each residential unit in a specified format (at **Annex G**). This serves to provide area information on each unit for the reference of prospective purchasers before the release of price lists.

6.13 As aforesaid in paragraph 6.4 above, GFA of a unit has four components, namely (i) saleable area of the unit, (ii) the areas of bay window (if any), (iii) the air-conditioning plant room (if any); and (iv) the apportioned share of common areas. The first three components have been clearly defined but not item (iv). Different developers have been using their own methods in deriving the "apportioned share of common area" for each unit. In addition, developers are currently not required to list out in detail the items and the associated areas counted as the "common area" of a development.

Deliberations of the Steering Committee

Provision of Information on the Area of a Unit

6.14 The majority of Members agree that due to the lack of a commonly adopted definition on GFA at present, information on GFA per flat is not a meaningful tool for potential purchasers to make comparison between the flats in different developments. Developers should not quote information on GFA per flat in sales brochure given the lack of a commonly adopted definition for GFA. A couple of Members have different views, as set out in paragraph 6.8 above.

Provision of Information on Communal Facilities

6.15 As regards communal facilities of which the flat owners would not have exclusive use, Members consider that area information of such facilities should also be provided in the sales brochures for the reference of prospective purchasers. Taking into account there are numerous types of communal facilities, developers should only be required to provide area information on those communal facilities that are of interest

to ordinary flat buyers and their area information could be verified²⁰ (i.e. “residents’ clubhouse²¹”, “communal sky garden”, and “covered landscaped and play area”). Developers are free to provide area information on other communal facilities such as lift lobby, lifts and staircases if they so wish.

Recommendations on Provision of Area Information in Sales Brochures

6.16 The Steering Committee recommends that developers -

- (a) should be required to present the area information of each unit in the sales brochure by using the specified template at **Annex H** which is modeled on the price list template;
- (b) should not quote information on GFA per flat and unit price based on GFA in sales brochure given the lack of a commonly adopted definition for GFA²²; and
- (c) should be required to provide area information on “residents’ clubhouse”, “communal sky garden”, and “covered landscaped and play area” in a specified format at **Annex I**.

²⁰ The area information of the mandatory items could be verified as they are features described in the relevant Practice Notes issued by the Buildings Department. If they are accepted to be excluded from the GFA calculation under the Buildings Ordinance, their area information would have been provided in the building plans approved by the Building Authority.

²¹ “Residents’ clubhouse” is also known as “residents’ recreational facilities” in the relevant practice note issued by the BD.

²² It is also proposed that information on GFA per flat and unit price based on GFA should not be quoted in any types of advertisements issued by developers. Please see Chapter 8 for details.

Chapter 7

Requirements on Disclosure of Transaction Information

7.1 The purchase of a residential property is likely to be the most significant investment an individual will make. Most people would like to gather as much information as they can before making a flat purchase decision. In particular, prospective buyers would be interested to know the sales performance data such as transaction volume and the transaction prices of the units sold.

Existing Practice

7.2 At present, developers are required under the Consent Scheme and the REDA's guidelines to disclose information relating to transactions of uncompleted residential properties. The existing requirements are set out below -

- (a) The Agreement for Sale and Purchase (ASP) must be registered in the Land Registry within one month from the signing of the Preliminary Agreement for Sale and Purchase (PASP);
- (b) Information on the ASPs should be made public in the developers' websites and sales offices within five working days after the signing of the PASPs, using a standardized template of Register for disclosure of transaction information²³. Information required to be disclosed includes –
 - (i) the particulars of the transacted flat;
 - (ii) date of signing the ASP;
 - (iii) the transacted price;
 - (iv) whether the transaction involves members of the Board of the developers or their immediate family members;

²³ The Register is attached to the REDA's guidelines issued on 10 August 2010 and could be viewed at the REDA website (<http://www.reda.hk>).

- (v) the estimated date of completion of the development as stipulated in the ASPs; and
 - (vi) cancelled ASPs²⁴, including the date of cancellation and the information as set out in (i) – (v) above on the original ASPs.
- (c) The aforementioned information on individual ASPs may be removed from the Register upon completion of registration of the respective ASPs in the Land Registry, but any information so removed shall be reinstated upon cancellation of the relevant ASPs. Information regarding cancelled ASPs may be removed from this register upon completion of registration of the relevant cancellation documents in the Land Registry.

Deliberations of the Steering Committee

The Use of a Standardized Template to Disclose Transaction Information

7.3 The Steering Committee considers the requirement for developers to use a standardized “Register” to disclose key transaction information on their websites and in sales offices has been generally effective and should be continued.

Shortening Lead time for Disclosing Transaction Information

7.4 In order to provide timely transaction information to prospective purchasers, the general view is that transaction information should be disclosed as soon as practicable, i.e. it should be disclosed within 24 hours upon the signing of the PASP, instead of within five working days as required at present.

7.5 The Steering Committee is conscious that transaction information compiled on the basis of signed PASPs may not be the most reliable source of information, since PASPs are not signed under the scrutiny of the solicitors concerned, and not all PASPs will proceed to ASPs. That said, Members consider the useful information provided by PASP will outweigh the possible distorted information that PASP may

²⁴ Any cancellation of ASPs must be entered into the register within five working days after the ASPs are cancelled, including cancellation which takes place after completion of registration of the relevant ASPs in the Land Registry.

give. The forfeiture of 5% of the transacted price if buyers fail to proceed to sign the ASPs after the signing of the PASPs shall deter buyers from rescinding PASPs in most cases²⁵. Moreover, it is recommended that if the PASP does not proceed to ASP within six working days after the signing of the PASP, the developer must also disclose such information promptly. Such arrangement will help reduce the possibility of disseminating misinformation due to the reliance on PASP.

Lead Time Between the Signing of PASP and ASP

7.6 At present, the Consent Scheme requires that an ASP should be signed within five working days after the signing of the PASP. As for non-Consent Scheme projects, there is no such requirement. It is noted that the normal market practice is to sign the ASP within 14 days after the signing of the PASPs so as to get the benefit of an extended period for stamping the ad valorem stamp duty.

7.7 As information premised on PASP is suggested to be disclosed, logically, information on whether a PASP has eventually proceeded to an ASP should also be disclosed. Otherwise the public would not get a complete picture of the transactions concerned as they will not know if a prospective purchaser is still considering whether to proceed to sign an ASP or he has already decided not to pursue further.

7.8 The Steering Committee has deliberated on whether, under the proposed legislation, transactions of all types of first-hand residential properties should be subject to the existing “five-day requirement” for signing of ASP, and if not, what would be a reasonable prescribed period. Having considered that Saturday is regarded as a working day and that some legal firms may not operate on a full day basis on Saturday, it is considered that an ASP should be signed within six working days after the signing of the PASP.

Transactions Involving the Senior Management of the Developers

7.9 At present, developers are required to disclose in the Register whether a transaction involves members of the Board of the Developers or their immediate family members. The Steering Committee recognizes this as an effective means to enhance market transparency. As a further enhancement, Members consider transactions involving the senior staff members of the developers should also be disclosed. As

²⁵ Please refer to Chapter 10 for details on the proposed forfeiture arrangement.

regards the definition of “senior staff members”, a possible reference would be the definition of “manager” under the Companies Ordinance (Cap. 32)²⁶.

The Use of a Single Register

7.10 At present, instead of showing all the transaction information in a single Register, some developers show the transaction information in various PDF files, each covering the information on some of the transactions. The public will have to make reference to more than one file. This is not user-friendly. To address this problem, it is considered that developers should maintain a single Register for a single development or a single phase of the development and make continuous updates.

Recommendations on Disclosure of Transaction Information

7.11 The Steering Committee recommends that transaction information should be disclosed in accordance with the following requirements -

- (a) developers should disclose transaction information in the form of a Register as at **Annex J** within 24 hours after the signing of a PASP. The Register should be made public in the developers’ websites and sales offices. A single Register for a single development or a single phase of the development should be used to make continuous updates;
- (b) when disclosing information on ASP, if there are changes to the involvement²⁷ of members of the Board of the developer or their immediate family members or the senior staff members of the developer, the developer should update those particulars in the Register when filling in the information relating to the ASP;

²⁶ “Manager” is defined in the Companies Ordinance as follows – “in relation to a company, means a person who, under the immediate authority of the board of directors, exercises managerial functions but does not include- (a) a receiver or manager of the property of the company; or (b) a special manager of the estate or business of the company appointed under section 216”.

²⁷ “Changes of Involvement” means (i) the transaction has changed from involving no members of the Board of the developer or their immediate family members or senior staff members of the developer, to having such involvement; or (ii) from having such involvement to no involvement.

- (c) an ASP must be signed within six working days after the signing of the PASP. If an ASP is not duly signed within six working days after the signing of the PASP, developers should indicate in the Register that “a PASP has not proceeded further” on the seventh working day after the signing of the respective PASP; and
- (d) developers should maintain records on each transaction, including information on cancelled transactions, in the Register until the Assignment of the last unit of the development or a phase of the development being offered for sale has been registered with the Land Registry.

Chapter 8

Requirements on Advertisements

8.1 In Hong Kong, information on new residential developments is usually first channeled to the public by advertisements which may take many different forms such as advertisements in newspapers, on television, on the Internet, on public transport, etc. Some recent promotional approaches are very innovative and they often sell more nebulous concepts like an idealistic lifestyle to be achieved by living in the new developments. To ensure that the public will not be misled by advertisements, there have been suggestions that control over advertising for the sale of first-hand residential properties should be stepped up.

Existing Practice

Lands Department's Consent Scheme

8.2 At present, for first-hand uncompleted residential developments, developers should comply with the requirements on advertisements as set out in the Consent Scheme and the REDA's guidelines. Advertisements covered under the existing requirements include electronic media but exclude radio, television, advertising on public transport vehicles, MTR premises and roadside billboards etc²⁸. Please see extracts at Annex K. In gist, the requirements include –

- (a) developers must disclose in the advertisements the name of the district where the development is located, the postal address of the development and the website address. The font size of the aforesaid information must not be smaller than 10 for advertisements of a size of a half-page standard newspaper or smaller, and must not be smaller than 12 for advertisements of a size larger than a half-page standard newspaper;

²⁸ An exception is provided for certain media e.g. radio, television, advertising on public transport vehicles, MTR premises and roadside billboards etc since it is impractical to include all the required information in those advertisements. In addition, where the developer considers that it is not practical to include any of the required information in an advertisement which is not covered by the above exception, it may make an application with justification to LACO to waive the requirement in a specific case.

- (b) developers should also disclose in the advertisements the names of major parties involved in the development process such as the developer, the Authorized Person, the main superstructure contractor, the solicitor firm, the mortgagee bank and the financier but there is no requirement on the font size in these respects; and
- (c) where the advertisements include any artistic impression of the development and/or its surrounding areas, the developers must include a statement to alert readers of the “artistic” element of the advertisement (“warning statement”), and remind prospective purchasers to make reference to the sales brochure and to conduct on-site visit. The font size requirement of the statement is the same as stated in (a) above.

Existing Legislation

8.3 The Codes of Practice issued respectively under the Broadcasting Ordinance (Cap. 562) and the Broadcasting Authority Ordinance (Cap. 391) include certain provisions to regulate misleading television and radio advertisements. The Codes prohibit any false or misleading description and information in advertisements in relation to real property. However, the Codes of Practice only regulate television programme service licensees and radio broadcasting service licensees but not the developers.

8.4 Separately, there are some other pieces of sector-specific legislation that prohibit misleading advertisements. For example, under section 44(2)(a) of the EAO, the EAA may make regulation to prohibit false or misleading advertisements by estate agents.

8.5 In summary, advertisements relating to the sale of first-hand residential properties are at present regulated by way of the following -

- (a) advertisements in printed media and certain electronic media are regulated by the Consent Scheme and the REDA’s guidelines as appropriate;
- (b) advertisements in television and radio are regulated by the Code of Practice issued by the Broadcasting Authority; and
- (c) advertisements produced or distributed by estate agents are regulated by the EAA.

Deliberations of the Steering Committee

False or Misleading Information in Advertisements

8.6 The Steering Committee notes that there have been public concerns about misleading information provided in advertisements in respect of residential property sales. To ensure the factual accuracy of such advertisements, Members consider there is a need to step up control over developers on their advertisements in all forms, including those in printed media, on television, radio and the Internet. A direct way will be to include a general provision in the proposed legislation that prohibits the use of false or misleading information in advertisements.

8.7 One Member has cautioned that such a provision should be clearly drafted or else it might curtail the creativity of designers. After deliberation, Members consider “creativity” and “misleading information” are two different things. The objective of the provision concerned is clearly not to stifle the creativity of designers, and with proper legal drafting the proposed legislation could strike a balance between “creativity” and “provision of accurate information”.

Source of Advertisements

8.8 To help the public to distinguish whether the advertisements come from a reliable source, Members consider the advertisements in whatever forms made by or on behalf of developers must bear the name of the developers and state that the developers are the source of the information contained in the advertisements. This would help prospective purchasers to verify the source of the advertisements.

Font Size Requirements for Certain Important Information

8.9 As set out in paragraph 8.2 above, developers are required to provide certain mandatory information in printed advertisements. In addition, if the advertisements include any artistic impression of the development and/or its surrounding areas, the developers must include a “warning statement” to remind the readers. The aforesaid mandatory information and the “warning statement” are currently required to be provided in specified font size.

8.10 The Steering Committee has reviewed the existing font size requirements. Members have noted that the existing requirements only specify two font size requirements, one for advertisements of a size of a half-page standard newspaper or smaller, another of a size larger than half a page of a standard newspaper. Given that the size of printed advertisements can vary greatly, say, from a small advertisement in a newspaper to a very large advertisement billboard hanging on the external wall of a building, Members consider more detailed requirements should be set out in the legislation to ensure the mandatory information and the warning statement are of “noticeable” size.

Information on GFA per flat

8.11 As explained in Chapter 6, due to the lack of a commonly adopted definition on GFA at present, information on GFA per flat is not a meaningful tool for potential purchasers to make comparison between the flats in different developments, and therefore the Steering Committee proposes that information on GFA per flat and unit price based on GFA should not be quoted in price list and sales brochure. To make this measure effective, Members consider the same should be applied to advertisements.

Anticipated Completion Date of the Development

8.12 The Steering Committee considers that the anticipated completion date of the development is a very important piece of information to prospective purchasers and hence should be provided in advertisements. Taking into account that the completion date could only be an estimate during the construction stage, Members feel that developers should be required to provide the anticipated completion date in advertisements to the best of their knowledge.

Recommendations on Requirements on Advertisements

8.13 The Steering Committee recommends that the existing requirements at Annex K should be incorporated into the proposed legislation as appropriate. In addition, Members endorsed the following new requirements -

- (a) the proposed legislation should include a provision prohibiting the inclusion of any false or misleading information or description in advertisements in all forms that are produced by or on behalf of the developers;
- (b) developers should remind prospective purchasers to refer to sales brochure, and ensure that information given in advertisements in all forms is consistent with the information given in the sales brochure;
- (c) advertisements in whatever forms made by or on behalf of developers must bear the name of the developers and state that the developers are the source of the information contained in the advertisements;
- (d) in the case where an advertisement comprises moving visual advertisement, it should bear a reasonably legible statement “Please refer to the sales brochure for details” (“請參閱售樓說明書”) reminding prospective purchasers to refer to the sales brochure for details; and in the case of an advertisement comprising solely sound broadcasting, the advertisement should contain a reasonably audible statement of the aforesaid statement;
- (e) Information on GFA per flat and unit price based on GFA should not be quoted in any type of advertisement issued by vendors; and
- (f) developers should provide the anticipated completion date of the development to the best of their knowledge in the advertisements.

In addition to the above requirements that apply to all forms of advertisements, printed advertisements should also comply with the following requirements -

- (g) developers must disclose in the advertisements the name of the district where the development is located²⁹, the postal address of

²⁹ The district of the development must correspond to that in the relevant Outline Zoning Plan(s) (OZPs) where the development is located. If OZP is not available, developers should make reference to any approved or draft plan prepared under the Town Planning Ordinance (Cap. 131), or Development Scheme Plans prepared by the Urban Renewal Authority and considered by the Town Planning Board under section 25 of the Urban Renewal Authority Ordinance.

the development³⁰ and the website address containing the electronic copies of the sales brochure, the price lists and the register of agreements for sale and purchase maintained by the developers;

- (h) the printing date should be stated on printed advertisements. For advertisements on developer's website, the date when the advertisements are last updated should be stated; and
- (i) in respect of the provision of certain mandatory information, namely,
 - (i) the "warning statement";
 - (ii) the name of the district where the development is located;
 - (iii) the postal address of the development; and
 - (iv) the website address containing the electronic copies of the sales brochure, the price lists and the register of agreements for sale and purchase maintained by the developers;

developers should comply with the font size requirements as follows -

- (i) For printed advertisements of a size of a half-page standard newspaper (i.e. about 11.5 inches x 14 inches) or smaller, the font size of the statement must not be smaller than 10;
- (ii) For printed advertisements of a size larger than half a page of a standard newspaper (i.e. about 11.5 inches x 14 inches) but smaller than or equal to one page of a standard newspaper (i.e. about 23 inches x 14 inches), the font size of the statement must not be smaller than 12;

³⁰ The printed advertisements/promotional materials must adopt the postal address of the development as allocated by the Commissioner of Rating and Valuation, which must be the same as that shown in the section on "Basic Information of the Development" in the sales brochure.

- (iii) For printed advertisements of a size larger than a page of a standard newspaper (i.e. about 23 inches x 14 inches) but smaller than or equal to two pages of a standard newspaper (i.e. 23 inches x 28 inches), the font size of the statement must not be smaller than 16; and
- (iv) For printed advertisements of a size larger than two pages of a standard newspaper (i.e. 23 inches x 28 inches), the area occupied by the statement must not be less than 3% of the total area of the advertisements/promotional materials.

Chapter 9

Requirements on Show Flats

9.1 The provision of show flats has been welcome by prospective flat buyers as show flats provide an easy means for them to visualize the actual flats upon completion when on-site units are not available for viewing. It is common for buyers of uncompleted units to make purchase decisions after visiting the show flats. It is therefore essential that requirements for show flats are clearly specified in the proposed legislation to ensure the show flats give an accurate depiction of the actual units to be handed over to the buyers.

Existing Practice

First-hand Uncompleted Flats

9.2 At present, it is not mandatory for developers to provide show flats for uncompleted first-hand residential developments. But if show flats are provided, they should comply with the requirements as set out in the Consent Scheme and the REDA's guidelines³¹ as appropriate. The requirements are set out below -

- (a) (i) If there is only one show flat, it must be a show flat showing the same conditions of the actual unit (i.e. all the non-structural internal walls/partitions, fittings and finishes and complimentary appliances which will be provided in the actual unit must be shown in the show flat in exactly the same way as they will be featured in the actual unit) (“unmodified show flat”).
- (ii) If there are two show flats, one of them must be an unmodified show flat. The remaining one must be a show flat which mirrors that unmodified show flat (i.e. it must be of the same type of unit and having the same size of the unmodified show flat) (“mirrored show flat”).

³¹ The existing requirements on show flats are set out in (i) LACO's Circular Memorandum No. 62 issued on 2 June 2010; and (ii) REDA's revised guidelines for sales descriptions of uncompleted residential properties issued on 1 June 2010.

- (iii) If there are three show flats, one of them must be an unmodified show flat and another one must be its mirrored show flat.
- (iv) If there are four or more show flats, there must be at least one pair of an unmodified show flat and its mirrored show flat.
- (b) The size/dimensions of the show flat(s) must be identical to the size/dimensions as specified/described in the relevant building plan(s) approved by the Building Authority (“approved building plan(s)”) and sales brochure(s).
- (c) Floor plan(s)/diagrams showing all the principal dimensions of the show flat(s) with scale must be displayed in a prominent location in the show flat(s).
- (d) Enclosing or boundary walls must be provided in all show flat(s). If due to fire-safety requirements it is necessary to create passageways along the enclosing or boundary walls, a notice of conspicuous size stating that the passageways are created in the show flat(s) for compliance with fire-safety requirements and are not part of the features of the actual flat(s) must be displayed in a prominent location in the show flat(s). A solid line should also be provided on the floor showing conspicuously the exact position and the identical thickness/width of the respective enclosing or boundary walls.
- (e) For modified show flat(s) with the non-structural internal walls/partitions removed, there must be a solid line on the floor showing conspicuously the exact position and the identical thickness/width of the respective non-structural internal walls/partitions. Diagrams of conspicuous size stating the actual layout, orientation and thickness of the non-structural internal walls/partitions which are to be found in the actual unit(s) must be displayed in a prominent location inside the relevant part of the modified show flat(s).
- (f) All bay windows, A/C plant room, balcony and utility platform located inside the unit(s), if any, must be featured in the show flat(s). The dimensions of these features must be identical to those as specified/described in the relevant approved building plan(s) and the sales brochures. For balcony and utility

platform, boundary walls or parapets must be provided. Features not located inside the actual unit(s) (e.g. A/C plant room located outside the unit(s)) must not be featured in the show flat(s).

- (g) Ceiling must be provided in the show flat(s). The height of the show flat(s) should be identical to or not higher than the height as specified/described in the relevant approved building plan(s) and the sales brochures. If the height of the show flat(s) is lower than the height of the actual unit(s) due to the physical constraint, a notice of conspicuous size stating the height difference must be displayed in a prominent location in the show flat(s).
- (h) Main entrance doors must be provided. If other doors (e.g. doors for the kitchen, bathrooms and bedrooms etc.) are not provided in the show flat(s), door frames must be provided. If it is not physically possible to provide doors or door frames, the developer must provide a solid line on the floor showing conspicuously the exact position and the identical thickness/width of the door.
- (i) The fittings and finishes provided in the show flat(s) should be identical to those specified/described in the Agreement(s) for Sale and Purchase of the actual unit(s) and the sales brochures. If alternative fittings and finishes are being used in the show flat(s), they must be of comparable quality as those to be used in the actual unit(s). A notice of conspicuous size stating that alternative fittings and finishes are being used must be displayed in a prominent location in the show flat(s).
- (j) A notice of conspicuous size specifying the items which are shown in the show flat(s) and will be provided in the actual unit(s) (e.g. complimentary appliances) must be displayed in a prominent location in the show flat(s), with a clear statement that all other items not specified as such will not be provided in the actual unit(s).
- (k) A certificate signed by the authorized person certifying that the external parameters of the show flat(s) are identical to those of the unit(s) must be deposited with REDA for record purpose. Upon request, REDA must let prospective purchasers inspect the certificate free of charge.

- (l) (i) Save where there is objection from the designer(s) to photo-taking or video-making, the developer must allow show flat visitors to take measurements, take photos and make videos inside show flat(s). If it is not practicable at the time for crowd management reasons, arrangements must be made for the visitors concerned to take measurements, take photos and make videos at a time convenient to all parties concerned as soon as possible provided that prior appointments for taking measurements, taking photos and making videos may be introduced only when there are genuine crowd management concerns. When crowd management is not a concern, visitors must be allowed to take measurements, take photos and make videos without prior appointment.
- (ii) For show flat(s) open to the public for the first time before 1 June 2010, where there is objection from the designer(s) and photo-taking is not allowed inside a show flat because of the objection, the developer must clearly explain to the visitors that it is due to the objection of the designer(s).
- (iii) For new show flat(s) open to the public for the first time on or after 1 June 2010, the developer must make appropriate arrangements with its designer(s) before commissioning his or their services to clear any hurdles for allowing show flat visitors to take photos or make videos.

First-hand Completed Flats

9.3 With effect from June 2010, developers are required under REDA's guidelines to show visitors on-site unit(s) when selling completed first-hand residential properties in a development. However, no details on the arrangements have been specified in the guidelines.

Deliberations of the Steering Committee

First-hand Uncompleted Flats

Existing Requirements

9.4 The Steering Committee considers the existing requirements on show flats for uncompleted residential properties have been working effectively to facilitate prospective purchasers to visualize the actual flats upon completion, and recommends that the existing requirements on show flats as currently stipulated in the Consent Scheme including items (b), (c), (d), (e), (f), (g), (i), (j) & (k) in paragraph 9.2 above be incorporated into the proposed legislation.

Provision of Modified and Unmodified Show Flats

9.5 On the requirements relating to the provision of modified and unmodified show flats, i.e. item (a) in paragraph 9.2 above, some Members consider the existing requirements sufficient, i.e., if there is only one show flat, it must be an unmodified show flat. If there are two show flats, one of them must be an unmodified show flat and the other one must be its mirrored version³². If there are three or more show flats, apart from the requirement that there must be at least one pair of an unmodified show flat and its mirrored show flat, there are no requirements on the remaining flats. However, some other Members consider the existing requirements should be further tightened up. After deliberation, Members agree that the requirement should be enhanced, i.e. there should first be an unmodified show flat to be provided for any type/size of units before a modified show flat of that same type/size of units can be provided.

Provision of Walls and Doors in Show Flats

9.6 The Steering Committee recommends that, except for any special arrangements as required due to fire-safety requirements, the unmodified show flats should provide all walls and doors as in the actual units.

9.7 As for modified show flats, it is considered that only those walls and doors the removal of which do not require the prior approval of BD could be removed.

³² "Mirrored show flat" means a flat of the same type/size of the unmodified show flat but furnished.

Provisions of Furniture or Other Items in Show Flats

9.8 In order to ensure that the show flats would resemble the actual units as far as practicable, and that prospective purchasers would know how the actual units would look by making reference to the unmodified show flats, Members consider that unmodified show flats should not display any items which will not be handed over to the buyers upon completion.

Floor Plan Provided by Developers

9.9 There have been complaints that furniture shown on some floor plans provided by developers are not drawn to scale. For example, a double-bed is shown in the floor plan of the bedroom but in reality, the size of the bedroom is actually not big enough to accommodate a double-bed. The Steering Committee therefore recommends that, for floor plans provided in the developers' website, any furniture shown must be drawn to scale with dimensions, and the scale of the floor plans should be specified.

Measurement-taking and Photo-taking/Video-making in Show Flats

9.10 The Steering Committee agrees that measurement-taking should be allowed in show flats. As for photo-taking and video-making, some Members consider they should only be allowed in unmodified show flats but not modified show flats in order to protect the intellectual property rights of the designers of the modified show flats. There has also been a suggestion that while photo-taking and video-making could be allowed, developers should be permitted to collect personal particulars of those who want to take photos or make videos in modified show flats, such that if any copyright issue arises, follow-up action could be taken by the developers accordingly.

9.11 According to the recommendation in respect of the provision of show flats in paragraph 9.5 above, there should first be an unmodified show flat to be provided for any type/size of units before a modified show flat of that same type/size of units can be provided. After deliberation, and having regard to copyright considerations in connection with modified show flats with furnishings and furniture, the Steering Committee agrees that photo-taking and video-making should be allowed in **unmodified show flats**, and developers should not collect personal particulars of the visitors as a pre-condition for photo-taking and video-making, as no copyright issue should arise.

First-hand Completed Flats

9.12 Members generally consider that developers should be required to show visitors on-site unit(s) when selling completed first-hand residential properties in a development. A Member however holds different views. That Member suggests to put in place an arrangement which allows developers the flexibility to seek a written waiver from the purchaser. Another Member cautions that such a suggestion should be carefully considered lest purchasers be asked to sign documents with implications that they may not fully understand.

9.13. After deliberation, as a means of consumer protection, the majority of Members consider that developers should be required to arrange the prospective purchasers to view the particular completed flats they wish to purchase. However, if it is not practicable to make such an arrangement, developers should be required to provide at least one on-site unit for each type of typical units in the development for viewing.

9.14 That said, Members note that the above options may not be feasible if the unit concerned is an atypical unit subject to an existing tenancy. To address this potential practical difficulty, it is considered that suitable exemption arrangement should be put in place. It will be further discussed in Chapter 13.

Recommendations on Show Flats

First-hand Uncompleted Flats

9.15 The Steering Committee recommends that, if show flats are provided for first-hand uncompleted flats, they should comply with the following requirements -

- (a) There should first be an unmodified show flat to be provided for any type/size of units before a modified show flat of that same type/size of units can be provided.
- (b) The size/dimensions of the show flat(s) must be identical to the size/dimensions as specified/described in the relevant building plan(s) approved by the Building Authority (“approved building plan(s)”) and sales brochure(s).

- (c) Floor plan(s)/diagrams showing all the dimensions of the show flat(s) with scale must be displayed in a prominent location in the show flat(s).
- (d) For modified show flat(s) with the internal walls/partitions removed, there must be a solid line on the floor showing conspicuously the exact position and the identical thickness/width of the respective internal walls/partitions. Diagrams of conspicuous size stating the actual layout, orientation and thickness of the internal walls/partitions which are to be found in the actual unit(s) must be displayed in a prominent location inside the relevant part of the modified show flat(s).
- (e) All bay windows, A/C plant room, balcony and utility platform located inside the unit(s), if any, must be featured in the show flat(s). The dimensions of these features must be identical to those as specified/described in the relevant approved building plan(s) and the sales brochures. For balcony and utility platform, boundary walls or parapets must be provided. Features not located inside the actual unit(s) (e.g. A/C plant room located outside the unit(s)) must not be featured in the show flat(s).
- (f) Ceiling must be provided in the show flat(s). The height of the show flat(s) should be identical to or not higher than the height as specified/described in the relevant approved building plan(s) and the sales brochures. If the height of the show flat(s) is lower than the height of the actual unit(s) due to the physical constraint, a notice of conspicuous size stating the height difference must be displayed in a prominent location in the show flat(s).
- (g) The fittings and finishes provided in the show flat(s) should be identical to those specified/described in the ASP(s) of the actual unit(s) and the sales brochures. If alternative fittings and finishes are being used in the show flat(s), they must be of comparable quality as those to be used in the actual unit(s). A notice of conspicuous size stating that alternative fittings and finishes are being used must be displayed in a prominent location in the show flat(s).

- (h) A notice of conspicuous size specifying the items which are shown in the show flat(s) and will be provided in the actual unit(s) (e.g. complimentary appliances) must be displayed in a prominent location in the show flat(s), with a clear statement that all other items not specified as such will not be provided in the actual unit(s). Unmodified show flats should not display any items which will not be handed over to buyers upon completion.
- (i) All walls, including enclosing/boundary walls and internal partition walls must be provided in unmodified show flats.
- (j) If due to fire-safety requirements it is necessary to create passageways, or to create an additional exit door along the enclosing or boundary walls, a notice of conspicuous size stating that the passageways/exit doors are created in the show flat(s) for compliance with fire-safety requirements and are not part of the features of the actual flat(s) must be displayed in a prominent location in the show flat(s). A solid line should also be provided on the floor showing conspicuously the exact position and the identical thickness/width of the respective enclosing or boundary wall.
- (k) For modified show flats, only those walls the removal of which do not require the prior approval of BD could be removed.
- (l) All doors should be provided in unmodified show flats. As for modified show flats, only those doors the removal of which do not require BD's prior approval could be removed.
- (m) Visitors should be allowed to take measurements in show flats. Photo-taking and video-making should be allowed in **unmodified show flats**, and developers should not collect personal particulars of the visitors as a pre-condition for photo-taking and video-making.
- (n) Any type of three dimensional setting which aims to display the completed flats in part or in totality will be regarded as "show flats" and must comply with all requirements on show flats.
- (o) If furniture is shown on the floor plans of an individual unit in the developer's website, they must be drawn to scale with dimensions, and the scale of the floor plan should be specified.

- (p) A certificate signed by an authorised person certifying that the enclosing walls containing the saleable area of the show flat(s) are in accordance with the current approved building plans must be deposited with the enforcement agency for record purpose. The alignment of the enclosing walls containing the saleable area of the show flat(s) should be indicated on a floor plan duly signed by an authorized person to be attached to the certificate. Upon request, the enforcement agency must let the prospective purchasers inspect the certificate free of charge.

First-hand Completed Flats

9.16 As for first-hand completed flats, the following requirements is recommended -

- (a) developers should be required to arrange for the prospective purchasers to view the particular completed flats they wish to purchase; or
- (b) if (a) above is not practicable, developers should be required to provide at least one on-site unit for each type of typical units in the development for viewing. The on-site unit(s) so designated should comply with the relevant requirements for show flats in uncompleted first-hand residential properties, namely (g), (h) and (m) in paragraph 9.15 above.

Chapter 10

Requirements on Conveyancing Procedures and Related Matters

10.1 Most prospective buyers of residential properties are not familiar with the conveyancing procedures and rely to a large extent on the advice of the estate agents and the documents prepared by the developers/the estate agents. There is room to enhance consumer protection in the existing conveyancing procedures.

Existing Practices

Preliminary Agreement for Sale and Purchase (PASP) and Agreement for Sale and Purchase (ASP)

10.2 Under the existing arrangements for developments under the Consent Scheme, there is no standard format for the PASP but developers must include certain provisions stipulated in the Consent Letter issued by the Lands Department. Developers however, are required to adopt the standard ASP prepared by LACO of the Lands Department. For developments outside the Consent Scheme, the Law Society of Hong Kong (the Law Society) requires solicitors that act for both the vendor and the purchaser to include certain mandatory clauses in agreements for uncompleted and completed buildings. It also has a template for PASP.

Conveyancing Practice

10.3 At present, for projects under the Consent Scheme, the ASP should be signed within five working days after the signing of the PASP, i.e. the ASP must be signed by the purchaser within three working days after signing the PASP and by the vendor within a further two working days thereafter. A purchaser may unilaterally decide not to proceed to sign an ASP after the signing of the PASP and the cost for such a decision is capped at a prescribed percentage of the purchase price (i.e. 10% at present). The developer, on the other hand, must proceed to sign the ASP, except where the purchaser who signed the PASP chooses not to sign the ASP. This provides a de-facto 'cooling-off' to the purchaser who can withdraw from the proposed property transaction within three working days after signing the PASP.

Deliberations of the Steering Committee

PASP and ASP

10.4 Members note that there are no standard PASPs for the sale of first-hand residential properties in the market. As for ASP, there is only a standard agreement for Consent Scheme projects. For better protection of consumers, the Steering Committee generally agrees that the proposed legislation should stipulate certain major provisions as mandatory provisions in PASP and ASP, and in order to do so, to draw reference to the existing practices under the Consent Scheme and by the Law Society. A Member favours the adoption of standard agreements.

Conveyancing Practice

10.5 The Steering Committee has discussed the existing arrangement under the Consent Scheme where an ASP should be signed within five working days after the signing of the PASP. Having considered that Saturday is regarded as a working day and that some legal firms may not operate on a full day basis on Saturday, the Steering Committee suggests that the ASP should be signed within six working days after the signing of the PASP, i.e., the ASP must be signed by the purchaser within three working days after signing the PASP and by the vendor within a further three working days thereafter.

10.6 The Steering Committee has discussed the necessity of setting up a ‘cooling-off’ arrangement. Members note the particular characteristics of the residential property market in Hong Kong, including volatility of the market and the exuberance of speculative activities. Members acknowledge that a “cooling-off” arrangement which is one-sided, i.e. only the buying party is entitled to choose not to complete the transaction at a nominal cost, may encourage speculative activities or purchasers to make a purchase decision too lightly.

10.7 Having taken into account the above considerations, the Steering Committee agrees that in order to provide a de facto “cooling-off” period for potential buyers, the existing arrangement under the Consent Scheme, whereby a prescribed amount is forfeited at the stage when the potential buyer does not proceed with the signing of the ASP after the signing of PASP, should be adopted across the board to all sales of first-hand residential properties.

10.8 On the forfeiture amount, Members suggest that it should be a fixed percentage of the purchase price of the unit. As regards the level of forfeiture, while the Steering Committee agrees that it should not be set too low in order to deter abuse by speculators or hasty purchase decisions by potential buyers, there are different views on the appropriate level. Members generally find 5% of the purchase price to be an appropriate level, but a couple of Members consider the level should be pitched lower at around 3% and one Member favours a higher rate than 5%.

Recommendations on PASP/ASP and Conveyancing Practices

10.9 The Steering Committee recommends that the proposed legislation should stipulate the mandatory provisions to be included in the PASP and ASP for consumer protection. Reference should be drawn as appropriate to the current practice under the Consent Scheme and by the Law Society. To safeguard the interest of potential buyers, developers are not allowed to add provisions to the PASP and ASP which negate the mandatory provisions.

10.10 The Steering Committee also recommends the following conveyancing procedures up to the signing of the ASP -

- (a) the ASP must be signed by the purchaser within three working days after signing the PASP and by the vendor within a further three working days thereafter.
- (b) if a purchaser decides not to proceed to sign an ASP within three working days after the signing of the PASP, he may do so unilaterally and the cost for such a decision is capped at a prescribed percentage of the purchase price;
- (c) to provide sufficient deterrent to prevent abuse by speculators or hasty purchase decisions by potential buyers, the prescribed percentage of forfeiture should be fixed at 5%; and
- (d) the developer must proceed to sign the ASP, except where the purchaser who signed the PASP chooses not to sign the ASP.

Chapter 11

Requirements on Sales Arrangements

11.1 At present, there are some requirements and guidelines on the sales arrangements of the sale of first-hand residential properties. For better consumer protection, it is for consideration whether developers should be required to comply with certain key requirements relating to sales arrangements, such as making public the logistics arrangements in advance.

Existing Practices

Sales and Logistics Arrangements

11.2 At present, developers are required under the Consent Scheme and the REDA's guidelines to take all appropriate measures to maintain order with regard to the sale, and should -

- (a) inform the Commissioner of Police not less than seven working days before the commencement of sale the detailed arrangements for the sale, including but not limited to, the total number of units for sale and the date, time and venue(s) of sale;
- (b) provide a suitable venue or venues of adequate size as sales office(s) to accommodate all prospective purchasers taking into account the number of units to be offered for sale;
- (c) employ enough sales staff and/or security staff to deal with the number of people queuing at any time, whether in usual office hours or not, so that adequate control of prospective purchasers to the satisfaction of the Commissioner of Police is enforced at all times; and
- (d) make sure that prospective purchasers leave the venue(s) in an orderly way after selection of units.

11.3 On the release of sales information, developers are advised to let the public know the logistics arrangements regarding the flats sales in advance of the commencement of the sales. Developers are also advised to adopt a fair registration system for determining the order of priority of

buyers and to avoid unnecessary queuing. However, these measures are only set out in the form of general advice to developers, i.e. they are not requirements under the Consent Scheme or the REDA's guidelines.

11.4 Generally speaking, under the current arrangements, developers should not collect deposits prior to the issuance of presale consent and before the release of the sales brochure and price list. The EAA has issued a Practice Circular to remind estate agents that they should not solicit or accept deposit from a prospective purchaser without the developer's authorization.

Private Sale and Public Sale

11.5 All sales of first-hand uncompleted residential properties, whether they are called "private sale" or "public sale", have to comply with the requirements of the Consent Scheme and the REDA's guidelines as appropriate, including the requirements on sales brochures, price lists, disclosure of transaction information, show flats, advertisements, etc. In other words, there is no material difference between the sales practice in respect of "private sale" and "public sale".

Deliberations of the Steering Committee

Logistics Arrangements for Sale

11.6 For higher transparency, the Steering Committee considers that developers should be required to make public certain key information relating to logistics arrangements in advance. This includes the date and time for the commencement of sales; the sales venue(s); the particulars of the units that will be offered for sale; and the method to be used to determine the order of priority of buyers.

Collection of Money in connection with Reservation of Units

11.7 The Steering Committee notes that at present there are no clear guidelines regulating the collection of money in connection with the reservation of units before the signing of the PASP. Members consider such collection of money should be regulated.

11.8 Members have deliberated on whether collection of all forms of money should be disallowed prior to the signing of the PASP, on the grounds that the signing of PASP is a step confirming commitment to the purchase. Members note that this option would be overly rigid, and may

cause inconvenience to prospective buyers as it would require their physical presence at that point in order to reserve the units that they wish to buy.

11.9 Members accept that there should be a specified cut-off date in the legislation before collection of money in connection with the reservation of units should be allowed. Some Members favour tighter control and prefer using the date of commencement of sale as the cut-off point. Other Members, however, consider that the date of issuance of the price list should be more appropriate. After deliberation, the Steering Committee generally agrees that the specified cut-off date should not be prior to the issuance of the price list. As regards the exact time point, Members consider that both options (i.e. “issuance of price list” or “commencement of sale”) should be included in the Steering Committee report for consideration.

The Order at Sales Offices

11.10 The Steering Committee considers that apart from requiring developers to inform the Police and the related authorities before the commencement of sale, other logistics details such as crowd control, size of the sales venues, employment of enough staff, etc., should be left to the enforcement agency to handle and to issue practice guidelines as appropriate. Members consider this approach would be more flexible and would enable the enforcement agency to respond to actual situations rapidly and to make changes in a timely manner to respond to new circumstances as they arise.

Private Sale and Public Sale

11.11 The Steering Committee notes that there is no material difference between the sales practices in respect of “private sale” and “public sale” at present since all sales of first-hand uncompleted residential properties, whether they are called “private sale” or “public sale”, have to comply with the requirements of the Consent Scheme and REDA’s guidelines as appropriate. In future, the situation would be the same since all types of sale would be subject to the same set of requirements under the proposed legislation. Having regard to these considerations, the Steering Committee considers there is no need to distinguish the use of terms like “private sale” and “public sale” under the proposed legislation.

Recommendations on Sales Arrangements

11.12 The Steering Committee recommends the following sales arrangements -

- (a) developers should make public the following information at the sales offices and on its website at least three calendar days before the commencement of the sales –
 - (i) the exact date and time for the commencement of sales;
 - (ii) the sales venues;
 - (iii) the total number and the particulars of the units that will be offered for sale; and
 - (iv) the method to be used to determine the order of priority of buyers (e.g. first-come-first-served, by ballot, etc.).
- (b) no money in connection with the reservation of units should be accepted by developers/estate agents before a specified date. The Steering Committee recommends that this could either be the date of (i) the issuance of price list, or (ii) the commencement of sale;
- (c) developers must inform the Police, the EAA and the enforcement agency not less than seven working days prior to the commencement of flat sale the arrangements for the sale, including the total number of units for sale and the date, time and venue(s) ; and
- (d) the enforcement agency should be tasked to issue guidelines on the maintenance of sales order at the sales offices and its vicinity as appropriate.

11.13 The Steering Committee also recommends that for the purpose of the future legislation, there is no need to distinguish the use of terms like “private sale” and “public sale”.

Chapter 12

Prohibition of Misrepresentation and Dissemination of False or Misleading Information

12.1 From time to time there has been public concern about misrepresentation and the dissemination of misleading or false information in respect of property sales. To address the concern, there have been suggestions that specific provisions prohibiting misrepresentation and dissemination of misleading or false information in respect of the sale of first-hand residential properties should be introduced in the proposed legislation with a view to further protecting the purchasers' interests.

Existing Practice

12.2 To ensure consumers have access to accurate and comprehensive property information, developers are at present required under the Consent Scheme or the REDA's guidelines to provide certain information, including property information and transaction information, to prospective purchasers. For example, according to the requirements of the Consent Scheme, developers are required to provide certain information in the sales brochure and the mandatory information so provided must be accurate as at the time of printing of the sales brochure.

12.3 At present, there are various pieces of legislation regulating misrepresentation or fraudulent acts which mislead the market. These include the Theft Ordinance (Cap. 210) and Misrepresentation Ordinance (Cap. 284). If fraudulent acts are employed to deceive buyers in the process of a property transaction, prosecution action against breaches of the law may be taken in accordance with the Theft Ordinance. Claims for damages may be dealt with through civil proceedings by invoking the Misrepresentation Ordinance. A buyer has the right to seek litigation and claim damages if he considers that inaccurate information is involved in the course of a property transaction and that he has been induced to enter into a contract as a result of misrepresentation. Also, under the common law, where a misrepresentation amounts to fraud, the person concerned may be required to compensate victims of that fraud.

Deliberations of the Steering Committee

12.4 The Steering Committee considers provisions should be included in the new legislation to prohibit misrepresentation and to deter the dissemination of inaccurate and incomplete information relating to the sale of first-hand residential properties. To this end, reference has been made to the relevant provisions of the Trade Descriptions Ordinance (Cap. 362) and the Securities and Futures Ordinance (Cap. 571). Taking into account that it would be very difficult to list out in law the specific circumstances which amount to misrepresentation or dissemination of inaccurate and incomplete information, Members are of the view that some general provisions prohibiting such behaviors would be appropriate. Those who contravene these prohibition provisions may be subject to criminal sanctions and/or be held liable for civil damages.

Recommendations on Prohibition of Misrepresentation and Dissemination of False or Misleading Information

12.5 The Steering Committee recommends that provisions along the following line be included into the proposed legislation -

Criminal Sanctions

- (a) It is an offence to make any fraudulent misrepresentation or reckless misrepresentation for the purpose of inducing property transactions; and
- (b) It is an offence to disclose, circulate or disseminate false or misleading information inducing property transactions.

Civil Liabilities

- (c) A person who contravenes (a) or (b) above shall be liable to pay compensation by way of damages to the other person for any pecuniary loss sustained as a result of the offences in (a) or (b) above.

Chapter 13

Exemption Arrangements under Specific Circumstances

13.1 As discussed in Chapter 3, the Steering Committee recommends that the proposed legislation should apply to all sales of first-hand completed and uncompleted residential properties. That said, Members agree that certain requirements on sales brochure, price list and show flats may not be applicable or necessary under specific circumstances. This chapter sets out the Steering Committee's recommendations on exemption arrangements.

Deliberations of the Steering Committee

Units Sold to Existing Tenants

13.2 Upon the completion of a development, the developer may choose to lease out the units rather than put them on the market for public sale in the first instance. After some time, the developer may put these units on sale, and the prospective purchasers may be the existing tenants of the units. The Steering Committee considers that if the prospective buyer is the existing occupant of the unit, some requirements applicable to first-hand completed residential properties may not be necessary.

13.3 The Steering Committee proposes that if a first-hand completed flat is sold to an existing tenant who has continuously rented the unit for at least a prescribed period, and upon the written agreement of the prospective buyer (i.e. the existing tenant) to waive the requirements relating to the provision of sales brochure and issuing of price list, the developer could be exempted from such requirements. That said, developers are required to provide a Vendor's Information Form (VIF)³³. A VIF template is at **Annex L**. They are also required to disclose transaction information using the standardized template according to the disclosure requirement.

³³ The VIF or its equivalent has been proposed or is already in place in a number of overseas jurisdictions, such as England, Idaho and Virginia in the USA and Ontario in Canada.

13.4 Members have discussed the duration of the prescribed period. It is agreed that the period should not be too short otherwise it may create a loophole in the proposed legislation whereby a developer may lease out the units for a while with the sole intention of circumventing the requirements on the sales brochure and price lists. The Steering Committee generally agrees that a period of one year is appropriate³⁴.

“Left-over” Flats

13.5 “Left-over” flats mean those flats which were first marketed when uncompleted but are left unsold after issue of the CC, CA or OP, thus becoming completed flats. These completed units are usually offered for sale by developers in much the same way as before their completion. The Steering Committee notes that requiring developers to provide another sales brochure to prospective purchasers for the sale of these “left-over” flats may be unnecessarily onerous bearing in mind that prospective purchasers should be able to conduct site visits to examine the units they wish to purchase as they are now completed.

13.6 To strike a balance between the need to provide comprehensive and accurate information to prospective purchasers and not burdening developers with unnecessary and duplication of work, Members recommend that for the sale of “left-over” flats, it is sufficient for the developers to make available the latest version of the sales brochure, plus a VIF to provide some essential and up-to-date information.

Atypical Units with Existing Tenancies

13.7 The Steering Committee has endorsed the following requirements in respect of the provision of on-site units as show flats in the case of first-hand completed residential properties –

- (a) developers should be required to arrange the prospective purchasers to view the particular completed flats they wish to purchase; or
- (b) if (a) is not practicable, developers should be required to provide at least one on-site unit for each type of typical units in the development for viewing. The on-site unit(s) so designated should comply with the relevant requirements for show flats in first-hand uncompleted residential properties.

³⁴ The usual term for a residential tenancy is two-year with one year fixed and one year optional.

13.8 Members note that if the unit to be sold is an atypical unit subject to an existing tenancy, it would be difficult for developers to provide a show flat of the same type of unit, if on-site viewing cannot be arranged.

13.9 To address the aforesaid potential practical difficulty, the Steering Committee recommends that, as long as the purchaser has signed a waiver document to forfeit his/her right to inspect the on-site unit, the requirement for the developer to provide an on-site unit as show flat could be waived. This exemption arrangement should only apply to the sale of an atypical unit which is unique in the development and when there are sitting tenants residing in it, rendering arrangement for viewing of the unit concerned by prospective purchasers not practicable at times.

Developments Sold on an “En Bloc” Basis Under a Single Transaction

13.10 First-hand uncompleted residential properties sold on an “en bloc” basis under a single transaction are exempted from the requirements on sales brochure, price list and show flat under the existing arrangement. Exemptions are granted on the grounds that the prospective purchasers using such transaction methods are not individual flat buyers. The Steering Committee recommends that such exemptions should be similarly granted to “en bloc” sales of first-hand completed residential properties. That said, the developers will still be required to make public the transaction information on an aggregate basis as in the case of uncompleted first-hand residential properties. In addition, when the properties are later put on sale to individual flat buyers in the market, the owner must observe all the requirements under the proposed legislation.

The Sale of “Houses”

13.11 The sale of “houses” so categorized in the DMC is exempted from the requirement on the minimum number of units to be disclosed in price lists under the existing arrangement applicable to first-hand uncompleted residential properties. Such exemption is granted on the basis that this type of projects is normally limited in number and has a specific group of customers.

13.12 Having regard to the growing trend for the building of houses in developments, in particular in the New Territories, and that the potential buyers of houses are no longer confined to a specific sector in the community, the Steering Committee recommends that the sale of first-hand houses, whether completed or uncompleted, should be subject

to the same requirements as the sale of first-hand residential apartments under the proposed legislation. The Steering Committee also recommends that consideration be given to exempt the sale of just one single first-hand house by private individuals³⁵, but care should be taken at the drafting stage not to create a loophole in the proposed legislation.

Developments Sold by Way of Auction or Tender

13.13 First-hand uncompleted residential properties sold by way of auction or tender are exempted from the requirements on sales brochure and price list under the existing arrangement.

13.14 The Steering Committee notes that it is not common for developers to sell first-hand residential properties, whether completed or uncompleted, by way of auction or tender. However, granting exemptions under the proposed legislation may create a loophole. After deliberation, Members agree that developments sold by way of auction or tender, whether completed or uncompleted, should comply with the requirements on sales brochure, show flats³⁶ and disclosure of transaction information. The requirements on “provision of price lists” and “minimum number of units disclosed in each price list” are however not applicable due to the nature of auctions and tenders.

Recommendations on Exemption Arrangements

13.15 The Steering Committee recommends that exemption from certain requirements of the legislation should be granted under the following circumstances -

- (a) Units sold to existing tenants who have continuously rented the units for at least a prescribed period;
- (b) Left-over flats;
- (c) Atypical units with existing tenancies; and
- (d) Developments sold on an “en bloc” basis under a single transaction.

³⁵ Please refer to paragraph 3.11 for details.

³⁶ In the case of first-hand uncompleted residential properties, if the developers choose not to provide show flats, the requirements on show flats would not be applicable.

The sale of first-hand houses and the sale of first-hand residential properties by way of auction or tender should not be exempted.

13.16 A table summarizing the Steering Committee's recommendations on exemption arrangements is at **Annex M**.

Chapter 14

Prosecution Time Limit and Penalty Proposals

14.1 The new legislation sets out specific requirements on the provision of key information in the form of sales brochures, price lists, show flats and transaction data, etc. to protect purchasers of first-hand residential properties. There is a need to set out clearly the time limit for prosecution and the types and levels of penalties for breaches of the requirements. The penalties should be fixed at appropriate levels to serve as an effective deterrent.

Deliberations of the Steering Committee

Time Limit for Prosecution of Offences

14.2 If no prosecution time limit is proposed in the new legislation, section 26 of the Magistrates Ordinance (Cap. 227) which specifies that -

“In any case of an offence, other than an indictable offence, where no time is limited by any enactment for making any complaint or laying any information in respect of such offence, such complaint shall be made or such information laid within six months from the time when the matter of such complaint or information respectively arose.”

would apply to non-indictable offences³⁷ in the proposed legislation. Members consider it necessary to extend the time limit for prosecuting non-indictable offences under the new legislation.

14.3 Members note that there are two usual trigger points for the prosecution period in our laws. The first refers to “the date of commission of the offence”³⁸ and the time limit for prosecution is normally three years. The second relies on “the date of discovery of the

³⁷ Such offences are minor and regulatory in nature. Examples in the proposed new legislation include failure to deposit sales brochures with the relevant authorities, failure to make available copies of DMC at the sales office for free inspection by prospective purchasers, etc.

³⁸ “The date of commission of the offence” as a trigger point comes in as it is considered not appropriate to leave an alleged non-compliant act, which is minor and regulatory in nature, hanging around indefinitely and to be pursued at any time.

offence” and one year is the usual time limit³⁹.

14.4 Having regard to the nature of the offences, the majority of the Members consider that there should be a single trigger point with reference to “the date of commission of the offence” and that the time limit should be set at three years, though one Member proposes both trigger points should be adopted (whichever is the earlier). Members note that the proposed prosecution time limit only applies to summary offences under the new legislation and indictable offences triable summarily in the Magistrates’ Court will not be subject to this time constraint.

Types of Penalties

14.5 With respect to the requirements stipulated in the legislation, the Steering Committee acknowledges the need for penalties in the following areas –

- (e) requirements on sales brochures;
- (f) requirements on price lists;
- (g) requirements on disclosure of transaction information;
- (h) requirements on show flats;
- (i) requirements relating to advertisements;
- (j) prohibition of “Misrepresentation” and “Dissemination of False or Misleading Information”;
- (k) obstruction of authorized officers;
- (l) inclusion of mandatory clauses in PASP and ASP;
- (m) entering into formal sale and purchase;
- (n) sales arrangements; and
- (o) maintenance of order at the sales offices.

³⁹ The imposed time limit is to ensure speedy investigation and prosecution of the offence once it has been discovered.

14.6 The Steering Committee endorses the following broad principles in determining types of penalty in the proposed legislation–

- (a) offences that are minor and regulatory in nature, such as a failure to provide building plans for free public inspection, and failure to deposit sales brochures with specified authorities within the required timeframe be tried only summarily;
- (b) offences the commission of which may directly affect and potentially bring financial loss to prospective purchasers, such as failure to provide some mandatory information in sales brochures and disclosure of transaction information, be tried only summarily but more severe penalties such as imprisonment terms and fines as compared with mere fines in (a) above should be imposed; and
- (c) offences of a serious nature including misrepresentation and dissemination of false or misleading information; and obstruction to authorized officers in the exercise of the powers conferred by the proposed legislation, a heavy fine plus imprisonment should be set as the maximum penalty as a deterrent.

14.7 Based on the above principles, Members of the Steering Committee in general agree with the penalty proposals as tabulated at Annex N, but one Member has different views. That Member suggests lowering the penalty levels of a number of offences. In addition, the Member is of the view that a criminal penalty should only be imposed where there is an element of dishonesty or recklessness, and that it is inappropriate to criminalize the non-compliance with minor offences such as failure to provide plans for free public inspection and informing the relevant organizations of sales arrangements.

14.8 Members acknowledge that the list of penalty proposals need to be carefully deliberated at the drafting stage of the legislation to ensure there is no duplication of offences for the same acts.

Liability of Officers of Corporations for Offences by Corporations

14.9 With reference to the Securities and Futures Ordinance and the Trade Descriptions Ordinance, the Steering Committee generally agrees to draw the penalty proposals along the line that where it is proved that the commission of an offence by a corporation was aided, abetted, or

committed with the consent of any officer of the corporation, that person, as well as the corporation, is guilty of the offence and is liable to be punished accordingly. For the purpose of this liability, “officer” means “director, manager, secretary or other similar officer of the body corporate.” One Member suggests making reference also to the relevant provisions in the Criminal Procedure Ordinance (Cap. 221).

Defence Provisions

14.10 The Steering Committee considers there should be appropriate defence provisions such as the general defence of “due diligence” available for a person charged under the proposed legislation.

Recommendations on Prosecution Time Limit and Penalty Proposals

14.11 In respect of the time limit for prosecution of offences, the Steering Committee recommends that:

“No prosecution for an offence under this Ordinance shall be brought after the expiration of 3 years from the date of commission of the offence.”

The proposed prosecution time limit is applicable to summary offences only and indictable offences triable summarily in the Magistrates’ Court will not be subject to this time constraint.

14.12 In respect of the types and levels of penalties for offences, the recommendations of the Steering Committee are at Annex N. Members note that this list needs to be carefully considered at the drafting stage of the legislation to ensure that there is no duplication of offences for the same acts.

14.13 In respect of the liability of officers of corporations for offences by corporations, the Steering Committee proposes that the relevant provisions in the legislation should be drafted along the following line -

“Where it is proved that the commission of an offence by a corporation was aided, abetted, or committed with the consent of a person who, at the time of the commission of the offence, was a director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, that person, as well as the corporation, is guilty of the offence and is liable to be punished accordingly.”

14.14 The Steering Committee considers that there should be appropriate defence provisions such as the general defence of “due diligence” available for a person charged under the proposed legislation.

Chapter 15

Enforcement Agency

15.1 The proposed legislation will set out various requirements relating to the sale of first-hand residential properties which include the mandatory provision of sales brochures, price lists and transaction information in accordance with the specified timeframe and in the format as prescribed, compliance with requirements on advertisements, show flats (if provided) and the sales arrangements, and the inclusion of mandatory provisions in PASP and ASP . There is a need to establish a new and dedicated enforcement agency to ensure developers and the relevant parties will comply with the stipulated requirements.

Deliberations of the Steering Committee

Key Functions

15.2 To effectively enforce the new legislation, the Steering Committee endorses the following key functions for the new agency -

- (a) Monitor the sales of first-hand residential properties, including keeping track of the timely release of sales brochures and price lists and the updating of transaction information for individual developments, and conducting visits to show flats;
- (b) Handle complaints and undertake investigations as appropriate including the collection of evidence as required for the purpose of any follow-up actions;
- (c) Issue practice guidelines;
- (d) Maintain data and statistics; and
- (e) Carry out public education.

Proposed Setup

15.3 Members note that the setting up of the enforcement agency within the Government structure would take about 12 months, whilst a statutory body would take around 18 months, from the enactment of the legislation to the establishment of the enforcement agency. During deliberations, some Members noted that an independent statutory body had certain merits, for example, there would be a more stable setup as senior officers in Government departments would be posted out from time to time. However, Members acknowledge that the establishment of the enforcement agency within the Government structure would involve simpler procedures and require shorter time. Moreover, the enforcement agency would be able to leverage on the resources of other departments.

15.4 To facilitate early implementation of the legislation and in order to maximize the use of public resources, the Steering Committee agrees that the new enforcement agency should be established within the Government structure. At the same time, the Steering Committee considers that the Administration should keep open the option of transforming the enforcement agency at an appropriate time into a statutory body.

15.5 In the light of the functions to be performed by the enforcement agency, Members agree that expertise required from staff will include legal knowledge (with particular reference to conveyancing matters), buildings matters and estate surveying. The enforcement agency should thus comprise a multi-disciplinary team with professional knowledge and experience in various relevant fields, to be supported by administrative and clerical staff. Furthermore, given the importance of the enforcement agency, it should be headed by a senior directorate grade officer.

Source of Funding

15.6 Since the proposed regulatory regime for the sale of first-hand residential properties is not premised on a licensing system and will not provide income-generating services, the Steering Committee recommends that the new enforcement agency be fully funded by Government revenue.

Recommendations on Enforcement Agency

15.7 The Steering Committee recommends to establish the new enforcement agency under the Housing Branch of the Transport and Housing Bureau to expedite the implementation of the new legislation. The enforcement agency is to discharge key functions as stipulated at paragraph 15.2 above. The Steering Committee also recommends that the Administration should keep open the option of transforming the enforcement agency into a statutory body at an appropriate time.

Chapter 16

The Establishment of an Online Property Information Platform for First-hand Private Residential Property Market

16.1 At present, the general public has to obtain information relating to the private residential property market from different sources, including the websites maintained by developers and various Government bureaux/departments. To enhance market transparency and to facilitate easy access to information on the private residential property market, there has been a suggestion to establish an online centralized property information platform providing comprehensive property market information regarding first-hand private residential properties in Hong Kong.

Existing Practice

16.2 At present, the general public obtain information on new residential developments via the developers' websites. According to the Consent Scheme and the REDA's guidelines, developers are required to upload the sales brochure, the price list(s), as well as the Register for disclosure of transaction information onto their websites for the reference of the public.

16.3 Beyond this, the public can gain access to general information relating to the private residential property market from various other sources. For example, information on the overall private housing supply in the primary market is provided by THB; statistics on price indices and rental indices are provided by the RVD; information on private residential property transaction is available on the website of Land Registry (LR); and statistics relating to completion of private residential properties are provided by BD. The public can also access websites maintained by some estate agency companies providing statistics on property transactions arranged via them.

Deliberations of the Steering Committee

16.4 The Steering Committee notes that the information on the market currently available for public consumption is not centralized. A normal buyer lacking in experience in purchasing flats may find it difficult and

time consuming to extract the relevant property information from the various different sources.

16.5 The Steering Committee considers the establishment of an online centralized property information platform which provides up-to-date information on the first-hand private residential market would help enhance the transparency and clarity of property information, and facilitate prospective buyers to make informed decisions. By pulling together the relevant information provided by various government bureaux/departments and the data provided by developers on the sales of different first-hand residential developments in the form of a centralized platform, prospective purchasers would be able to gain access to the property information in a single website.

Recommendations on the Establishment of an Online Property Information Platform

16.6 The Steering Committee proposes the establishment of an online centralized property information platform providing property market information regarding first-hand private residential properties in Hong Kong. It is proposed that such an information platform be established by the Government or an outside agency engaged by the Government by utilizing property information that will be supplied by developers under the proposed legislation and also by pulling together the existing information currently scattered among different Government bureaux/departments. Initially, the platform should provide the following types of information:

- (a) information on the sales of first-hand residential developments including the sales brochures, price lists and transaction information as disclosed in the Register. The property information will be maintained at the online platform until one calendar month after the assignment of the last unit of the development being offered for sale is registered with the Land Registry; and
- (b) general information and statistics on the private residential property market currently provided by different government bureaux/departments such as THB, RVD, LR and BD.

16.7 To ensure the timely provision of the information to the public, Members recommend that developers should be required by law to provide sales brochures, price lists and transaction information in hard and soft copy format to the designated body which will develop and administer the platform. Failure to provide the requisite information to the designated body will constitute an offence.

Chapter 17

Conclusion

17.1 Enhancing consumer protection by way of increasing market transparency and ensuring the provision of accurate property information is the key objective of the proposed legislation to regulate the sale of first-hand residential properties. The Steering Committee believes that the provision of clear and accurate property information is most important to help prospective purchasers to make an informed decision.

17.2 In the course of coming up with the recommendations set out in this Report, the Steering Committee has made reference to the existing arrangements under the Consent Scheme and the REDA's guidelines. For background reference, the Steering Committee has also taken note of the sales practices in selected overseas jurisdictions. At the same time, Members have given full regard to the particular characteristics of the local property market.

17.3 The Steering Committee has carefully considered the scope and type of requirements which should be covered in the proposed legislation. For procedural or logistical requirements such as the maintenance of order at the sales offices, the Steering Committee is of the view that they should be set out in the form of administrative guidelines to be issued by the enforcement agency. This approach is more flexible and would enable the enforcement agency to give speedy responses to changes in circumstances as they arise. Key and important requirements, such as the provision of sales brochures, price lists and transaction information, should be stipulated in the legislation.

17.4 The purchase of a flat is a major undertaking for most Hong Kong people. Given that the developers and individual buyers are not on an equal footing where the former is always in a much stronger position vis-a-vis the latter, the Steering Committee concludes that it is paramount for the Government to regulate the sale of first-hand residential properties in Hong Kong by way of legislation to ensure that consumers' interest can be better protected. That said, the Steering Committee recognizes that the regulatory measures should not be overly rigid and should provide developers with a degree of flexibility to respond to changing market conditions. The Steering Committee believes that the recommendations in this Report have struck an appropriate balance and urges the Government to move ahead quickly to

enact the necessary legislation to bring this new regulatory framework into being.

Subcommittee on Property Information and Show Flats

Membership

Chairman

Deputy Secretary for Transport and Housing (Housing)

Members

Ms Vera Tam
(Representative of the Consumer Council)

Ms Eva Lau
(Representative of the Estate Agents Authority)

Ms Susan Leung
(Representative of the Hong Kong Institute of Architects)

Dr Lawrence Poon
(Representative of the Hong Kong Institute of Surveyors)

Mr Ambrose Lam
(Representative of the Law Society of Hong Kong)

Mr Louis Loong
(Representative of the Real Estate Developers Association of Hong Kong)

The Honourable LEE Wing Tat (on ad personam basis)

Professor the Honourable Patrick Lau (on ad personam basis)

Professor LAM Kin Che (on ad personam basis)

Mr CHEUNG Kwok Kwan (on ad personam basis)

Director of Buildings or his representative

Director of Lands or her representative

Subcommittee on Property Information and Show Flats

Terms of reference

- (a) To consider and advise on the types of, and specifications for, property information in relation to sales, including saleable area and pricing information in any types of publicity including sales brochures, price lists, show flats, and promotional materials at all stages of sale to be regulated by legislation.
- (b) To come up with practical recommendations to the Steering Committee on the above.

Subcommittee on Sales Arrangements and Practices

Membership

Chairman

Permanent Secretary for Transport & Housing (Housing)

Members

Ms Connie Lau
(Representative of the Consumer Council)

Ms Eva Lau
(Representative of the Estate Agents Authority)

Mr Bernard Hui
(Representative of the Hong Kong Institute of Architects)

Dr Lawrence Poon
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Mr Ambrose Lam
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Mr Eric Chow
(Representative of the Real Estate Developers Association of Hong Kong)

The Honourable LEE Wing Tat (on ad personam basis)

Professor Andrew Chan (on ad personam basis)

Mr CHEUNG Kwok Kwan (on ad personam basis)

Director of Lands or her representative

Deputy Secretary for Transport and Housing (Housing)

Subcommittee on Sales Arrangements and Practices

Terms of reference

- (a) To consider and advise on the types of, and specifications for, sales arrangements and practices to be regulated by legislation.
- (b) To come up with practical recommendations to the Steering Committee on the above.

Subcommittee on Enforcement Mechanism and Penalties

Membership

Chairman

Permanent Secretary for Transport & Housing (Housing)

Members

Ms Rosa Wong
(Representative of the Consumer Council)

Mr Anthony Wong
(Representative of the Estate Agents Authority)

Mr William Tseng
(Representative of the Hong Kong Institute of Architects)

Dr Lawrence Poon
(Representative of the Hong Kong Institute of Surveyors)

Mr Ambrose Lam
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Mr Stewart Leung
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The Honourable LEE Wing Tat (on ad personam basis)

Mr CHEUNG Kwok Kwan (on ad personam basis)

Director of Lands or her representative

Deputy Secretary for Transport and Housing (Housing)

Subcommittee on Enforcement Mechanism and Penalties

Terms of reference

- (a) To advise on the enforcement infrastructure including monitoring compliance, complaints handling and prosecution, and to identify a suitable agency to enforce the regulations.
- (b) To consider and advise on the nature (criminal or civil) of offences under the legislation, the level of penalties for criminal offences, and the parties to be held liable for different types of offences.
- (c) To come up with practical recommendations to the Steering Committee on the above.

Requirements on Sales Brochures Under the Consent Scheme
Extract from LACO CM 63

[Note: This is an extract of LACO CM 63. For full version, please refer to the website of the Lands Department.]

A. General Requirements

1. All information as required under the Lands Department Consent Scheme and the consent letter issued to the developer to enter into agreements for sale and purchase must be contained in one booklet entitled “sales brochure” (which Chinese translation should be “售樓說明書”). Any other booklet (e.g. promotional materials) made available to prospective purchasers must not be called “sales brochure” or “售樓說明書”.
2. The sales brochure must not contain any promotional material or artist impression picture or graphic, but may contain a one-page to-scale close-up picture showing the outer appearance or building elevation of the development endorsed by the authorized person registered with the Building Authority for the development (“Authorized Person”).
3. The sales brochure must begin with the information following the sequence as far as possible as set out in Appendix I before presenting other information.
4. The sales brochure must not contain any statement to the effect that the Agreement for Sale and Purchase or the Deed of Mutual Covenant or the Sub-Deed of Mutual Covenant (if any) or any other aspect of the development is subject to the Lands Department Consent Scheme or has been approved by the Director of Lands.
5. The sales brochure must state the date of its printing.
6. The sales brochure must be provided in both English and Chinese, with a statement in both English and Chinese that “where there is discrepancy in meaning between the English and Chinese versions, the English version shall prevail” “中英文版本如有歧義，以英文版本為準”.

B. Information In the Sales Brochure

The sales brochure must include at least the following information, which must be accurate at the time of printing the sales brochure:-

1. Basic Information of the Development

- (a) Description of the development, including but not limited to:-
 - (i) the postal address of the development as confirmed with the Commissioner of Rating and Valuation;
 - (ii) (where the development comprises multi-storeyed building(s)) the total number of storeys of each tower in the development and the floor numbering of the development as set out in the approved form of Deed of Mutual Covenant or Sub-Deed of Mutual Covenant (if any) (collectively “DMC”), including any omitted floor numbering and refuge floors; and
 - (iii) (where the development comprises houses) the total number of houses and the house numbering of the development as set out in the DMC, including any omitted house numbering.
- (b) Information on the developer, authorized person, contractor, solicitors firm, mortgagee bank, financier, etc. including the names of:-
 - (i) the developer, its parent or holding company;
 - (ii) the Authorized Person and the professional firm to which the Authorized Person belongs;
 - (iii) the main superstructure contractor for the development registered with the Building Authority;
 - (iv) the solicitors firm representing the developer in the sale of units in the development;
 - (v) the mortgagee bank (if any) financing the construction of the development under a building mortgage;

(vi) the bank which has given an undertaking to provide finance to complete the development (if any); and

(vii) the financier which had provided loans to finance the development (if any),

and any personal or financial relationship of the Authorized Person and the partner of the solicitors firm with the developer, its parent or holding company and the main superstructure contractor.

[NOTE: If there are any subsequent changes to the persons or the relationships disclosed, amendments to the sales brochure must be made immediately and the Director of Lands must be informed of the changes within 3 working days.]

(c) Information on the anticipated completion date of the development.

2. Design of the Development and Property Management

(a) Information on the design of the development, including but not limited to whether there are any non-structural prefabricated external walls or curtain walls forming part of the enclosing walls and if so:-

(i) the range of thickness of the non-structural prefabricated external walls of each block and the total area of the non-structural prefabricated external walls of each unit; and

(ii) the range of thickness of the curtain walls of each block and the total area of the curtain walls of each unit.

(b) Information on the identity of the intended manager (if known).

3. Location Plan of the Development

Location Plan which must be at least 16cm long and 16cm wide with the font size of the related legends being at least 10, showing:-

(a) the location of the development and the names of the nearby streets; and

- (b) the communal facilities and prominent environmental features within 250m from the boundary of the whole development (but not individual phases of the development), including but not limited to the communal facilities/environmental features set out in the list at Appendix II;

and all pictorial presentations must be drawn to scale.

4. Relevant Outline Zoning Plan

Relevant Outline Zoning Plan which must be at least 16cm long and 16cm wide with the font size of the related legends being at least 10, showing the existing and proposed uses of land within 500m from the whole development (but not individual phases of the development).

[NOTE: Sufficient copies of the relevant Outline Zoning Plan must be deposited in the sale office(s) for inspection by prospective purchasers free of charge.]

5. Master Layout Plan of the Development

Master Layout Plan which must be drawn to scale (with the scale used marked on the plan), showing the location and layouts of the building(s), open areas, facilities and undeveloped land (with the intended use) within the boundary of the development and setting out the expected completion date of the building(s) and facilities.

6. Floor Plans

Floor Plans of typical and non-typical floors (with the scale used marked on the plans), showing all principal external dimensions of the residential units, the external dimensions of individual compartments in each residential unit and the floor-to-floor height of the residential units in accordance with the latest building plan(s) approved by the Building Authority, with a note informing prospective purchasers that the internal areas of the residential units on the upper floors will generally be slightly larger than the lower floors due to the reducing thickness of the structural walls on the upper floors. If there are special fittings/features affecting the enjoyment of a residential unit (e.g. exposed pipes), the location of such special fittings/features must be specified.

[NOTE: Sufficient copies of the building plans approved by the Building Authority must be deposited in the sales office(s) for inspection by prospective purchasers free of charge.]

7. Area Schedule of Units

Information on the saleable area, unit covered area, gross floor area and other areas of each unit in the format at Appendix III(A) or Appendix III(B).

8. Floor Plan of the Carpark

- (a) Floor Plan(s) showing the location of the parking spaces (if any).
- (b) Information on the number, dimensions and area of the parking space (if any).

9. Salient Points of Deed of Mutual Covenant (DMC)

Salient points of the DMC including:-

- (a) common parts;
- (b) undivided shares;
- (c) terms of appointment of manager;
- (d) principle/basis of fixing management fee;
- (e) apportionment of management expenses;
- (f) management fee deposit;
- (g) retained areas (if any),

with a note informing prospective purchasers that a full script of the DMC is available for inspection upon request, free of charge.

[NOTE: Sufficient copies of the DMC must be deposited in the sales office(s) for inspection by prospective purchasers free of charge.]

10. Salient Points of Land Grant Conditions

Salient points of the relevant land grant (“Land Grant Conditions”), including:-

- (a) lot number;
- (b) lease term;
- (c) user restriction;
- (d) Government, institutional or community facilities (“GIC” facilities”), public open space and public facilities to be constructed;
- (e) obligations to construct or maintain structures or landscape inside or outside the boundary of the development;
- (f) onerous lease conditions (if any) which would affect purchasers’ usual legal rights.

[NOTE: Sufficient copies of the Land Grant Conditions must be deposited in the sales office(s) for inspection by prospective purchasers free of charge.]

11. Government, Institutional or Community Facilities, Public Open Space and Public Facilities

- (a) Information in a separate section, in larger prints, on the GIC facilities, public open space and public facilities (if any), including:-
 - (i) the area (in figures) of the public open space;
 - (ii) a description of the GIC facilities and the public facilities.
- (b) Prominent statements illustrating the fact (as the case may be):-
 - (i) that the public have the right to enter into and use the public open space and the public facilities freely and without payment of any nature;

- (ii) that the public open space and the public facilities are to be managed, operated and maintained at the expense of the owners and that the owners will have to meet a proportion of the expense of managing, operating and maintaining such public open space and public facilities in any management expenses apportioned to their units.
- (c) Plan(s) showing the location of all GIC facilities, public open space and (if possible) public facilities, which must be coloured or shaded in the same colour, format or pattern (if applicable) as stipulated in the Land Grant Conditions.
- (d) Relevant terms of the Land Grant Conditions, the DMC and the Deed of Dedication (if applicable) concerning the GIC facilities, the public open space and the public facilities.

12. Matters relating to Preliminary Agreement for Sale and Purchase

Information concerning the preliminary agreements for sale and purchase (“PASP”), including prominent statements that:-

- (a) the preliminary deposit payable on the signing of a PASP is an amount equivalent to 10% of the purchase price of the residential unit (and any parking space);
- (b) the preliminary deposits paid by purchasers on the signing of the PASPs will be encashed and the proceeds held by the stakeholders;
- (c) if the purchaser under the PASP does not, for any reason, sign the Agreement for Sale and Purchase (“ASP”), the developer has the right to keep the preliminary deposit paid by him which is an amount equivalent to 10% of the purchase price; and
- (d) the purchaser under the ASP is required to agree with the developer in the ASP to the effect that other than entering into a mortgage or charge, he will not nominate any person to take up the Assignment, sub-sell the residential unit (and any parking space) or transfer the benefit of the ASP in any manner whatsoever or enter into any agreement so to do before completion of the sale and purchase and execution of the Assignment.

13. Notes to Purchasers of First-hand Residential Properties

Full script of the most updated version of the “Notes to Purchasers of First-hand Residential Properties” jointly published by the Estate Agents Authority and the Consumer Council.

14. Warning to Purchasers

“Warning to Purchasers” notice prescribed in Forms A1 and A2 (both for Consent Scheme) contained in Practice Direction 12 of Chapter 24 Section A of The Hong Kong Solicitors’ Guide to Professional Conduct (Volume 2) issued by The Law Society of Hong Kong.

15. Definitions of “Saleable Area” and “Other Areas”

Definitions of “Saleable Area” (which Chinese translation must be “實用面積”) and “Other Areas” (both as defined in Appendix IV).

16. Fittings and Finishes

Description of fittings and finishes as set out in the recommended list at Appendix V.

17. Cancellation Agreement

Prominent statement that in the event of the developer, at the request of the purchaser, agreeing (at his own discretion) to cancel the ASP or the obligations of the purchaser thereunder, the developer will keep the sum of 10% of the total purchase price of the residential unit (and any parking space) in addition to payment by the purchaser of all legal costs, charges or disbursements (including stamp duty, if any) in connection with the cancellation of the sale and purchase.

18. Government Rent

Note to purchasers that the developer will pay/has paid all outstanding Government rent in respect of the lot from the date of the Land Grant Conditions up to and including the date of the respective assignments.

19. Miscellaneous Payments upon Delivery of Unit

Prominent statement on purchasers' obligation to pay debris removal fee and to reimburse the developer for water/electricity/gas deposit, even though the exact amount is unknown.

20. Defects Liability Warranty Period

Information on the duration of the defects liability warranty period in respect of which the developer must remedy all defects to the unit and the fittings and finishes in accordance with the approved form of ASP.

21. Maintenance of Slopes

If the Land Grant Conditions require the owners to maintain at their expense any slopes within and/or outside the lot:-

- (a) note to prospective purchasers informing them of the requirement and that under the DMC the manager is to be given full authority by all the owners to carry out the necessary slope maintenance works in accordance with all guidelines issued from time to time by the appropriate government department and each owner will be obliged to make contributions towards the costs of such works;
- (a) plan showing the slopes and any retaining walls or other related structures already constructed or to be constructed within and/or outside the lot;
- (b) information on the undertakings (if any) of the developer to carry out any work on any slopes, etc.

22. Modification

Where a modification of the Land Grant Conditions is underway, information on the nature of the modification and the specific lease condition(s) to be modified.

23. Notice as to Changes

Warning note that the overall development scheme of the development site and the surrounding areas and environment are subject to change or modification.

24. Service Agreements

Information on all important service agreements concerning the respective units which the developer has entered into with the respective service providers prior to delivery of the units, including telecommunication services.

25. Purchasers' Right of Access to Information

Prominent statement that purchasers must have a right of access to information on the total construction costs and total professional fees required to complete the development as well as the total construction costs and total professional fees expended and paid as at the end of the preceding calendar month and that purchasers must be provided with a written copy of the aforesaid updated information upon requests from purchasers who have signed the ASP subject to the payment of a nominal fee of not more than HK\$100.00 per request.

26. Website Address

Information on the address of the website containing the electronic copies of the sales brochure, the price list(s) and the register of ASPs maintained by the developer.

27. Contact Details of The Law Society of Hong Kong

Information on the enquiry telephone number and the website address of The Law Society of Hong Kong to facilitate prospective purchasers to obtain easy access to the details of solicitors firms available to them.

28. Footnotes on Abbreviations

Footnotes as the key to the various abbreviations used in the Outline Zoning Plan printed in the sales brochure.

Template for Register of Agreements for Sale and Purchase

(Extract)

Estimated date of completion of development

Pursuant to the Authorized Person's Certificate dated [please fill in the day / month /year here], the estimated date of completion of the development in accordance with clause 4(1)(c) of the Agreement for Sale and Purchase (ASP) is on or before [please fill in the day /month / year here] subject to such extension of time as may be granted by the Authorized Person in accordance with clause 4(5)(a) of the ASP. The issue by the Director of Lands of a certificate of compliance (CC) or consent to assign (CA) is conclusive evidence that the development has been completed or is deemed to be completed as the case may be and nothing herein shall preclude the Developer from proving that it has completed the development in accordance with clause 4(1)(c) of the ASP by any other means. The Developer shall notify the purchasers in writing that it is in a position validly to assign the Units within one month of the issue of the CC or the CA, whichever is the earlier and the sale and purchase of the Units shall be completed within 14 days of the date of the Developer's written notification to the purchasers.

Definition of “Saleable Area”

The floor area of a unit enclosed by walls (inclusive of the floor area of any balconies, utility platforms and verandahs but exclusive of the Other Areas), which area (including any balcony, utility platform or verandah enclosed by walls) shall be measured from the exterior of the enclosing walls of such unit, balconies, utility platforms or verandahs (as the case may be) except where such enclosing walls separate two adjoining units, balconies, utility platforms or verandahs (as the case may be), in which case the measurement shall be taken from the middle of those walls, and shall include the internal partitions and columns within such unit, balconies, utility platforms or verandahs (as the case may be); but shall exclude the common parts outside the enclosing walls of such unit, balconies, utility platforms or verandahs (as the case may be), and for balconies, utility platforms or verandahs, shall exclude the whole thickness of the enclosing walls or boundary which abut onto the unit Provided That if any of the enclosing walls abut onto a common area, then the whole thickness of the enclosing walls which so abut shall be included. Where a balcony, utility platform or verandah is not enclosed by a solid wall, the floor area of such balcony, utility platform or verandah shall be measured from the external boundary of the said balcony, utility platform or verandah.

Definition of “Other Areas”

- The area of any cockloft which shall be measured from the interior of the enclosing walls and shall include the internal partitions and columns within such cockloft;
- The area of any bay window which shall be measured from the exterior of the enclosing walls or glass windows of such bay window and from the point where the bay window meets the wall dropping to the floor level of a unit excluding the thickness of such wall;
- The area of any carparking space which shall be measured to the centre of its demarcating lines or the interior face of its enclosing walls, as the case may be; and
- The area of any yard, terrace, garden, flat roof, roof and air-conditioning plant room which shall be measured from the interior of their boundary lines, and where boundary consists of a wall, then it shall be measured from the interior of such wall.

Existing Template for Price List

樓盤名稱 Name of Development, 期數(如有) Phase (if any), 地區 Location

座數 Tower	樓層 Floor	單位 Unit	實用面積 (包括露台及 工作平台) (平方呎) Saleable Area (including balcony and utility platform) (sq.ft.)	實用面積 呎價 (元， 每平方呎) Unit Rate of Saleable Area (\$ per sq.ft.)	另		單位 有蓋面積 (平方呎) Unit Covered Area (sq.ft.)	單位所分攤的 公用地方面積 (平方呎) Apportioned Share of Common Area (sq.ft.)	其他面積 (平方呎) Other Areas (sq.ft.) 其他如天台、平台、花園、閣 樓、天井、大陽台、停車位等(須 分別列出) Other items such as roof, flat roof, garden, cockloft, yard, terrace, car parking space (must be listed separately)	冷氣機 平台 (平方呎) Air- conditioning platform (sq.ft.)	建築面積 (平方呎) Gross Floor Area (sq.ft.)	建築面積 呎價 (元， 每平方呎) Unit Rate of Gross Floor Area (\$ per sq.ft.)	訂價 (元) Price (\$)	
					窗台 Bay window	冷氣機房 Air- conditioning plant room								
5	1	A	581 (露台 : 22) (工作平台 : 16)		12	12	605	153			758			
		B												
		C												
		D												
		E												
	2	A	581 (露台 : 22) (工作平台 : 16)		12	12	605	153				758		
		B												
		C												
		D												
		E												

- 準買家請參閱發展商所提供售樓書內有關上述資料之詳情。
Prospective purchasers please refer to the sales brochure provided by the developer for further details of the above information.
- (法律諮詢及田土轉易通函編號 62 附件 II 規定的其他所需資料)
..... (*Other required information prescribed in Annex II to LACO CM No. 62*)
- 本價目表 / 付款辦法 / 有關之優惠隨時調整，恕不另行通知。
All prices, payment terms and contents of this price list are for information only and are subject to change without prior notice.

制表日期 Date of Printing: d/m/y

附註詳見後頁
See Remarks overleaf

附註 (Remarks):

1. 實用面積包括露台及工作平台面積，但不包括其他面積或冷氣機平台面積。
Saleable Area includes areas of balcony and utility platform but does not include Other Areas or area of air-conditioning platform.
2. 單位有蓋面積包括實用面積及窗台及冷氣機房面積。
Unit Covered Area includes the Saleable Area and areas of bay window and air-conditioning plant room.
3. 建築面積包括單位有蓋面積及單位所分攤的公用地方面積。
Gross Floor Area includes the Unit Covered Area and the Apportioned Share of Common Area of the unit.
4. 單位所分攤的公用地方面積包括住宅之各樓層之電梯大堂、電梯槽、機電房、垃圾房、會所面積等等（如有把面積計算在內）。
Apportioned Share of Common Area includes lift lobbies, lift shafts, electrical meter rooms, refuse room, clubhouse area etc. (if such area is included in the calculation of Apportioned Share of Common Area of the unit).
5. 單位樓面至樓面高度：（指該樓層之石屎地台面與上一層石屎地台面之高度距離）。
Floor-to-floor height: (refer to the height between the top surface of the structural slab of a floor and the top surface of the structural slab of its immediate upper floor).
6. 層數較高單位由於結構牆較低層單位稍薄，因而室內空間或會稍為增多。
The internal space of units on the upper floors may be slightly larger than those of the same type on the lower floors due to reduced thickness of structural walls on those upper floors.
7. 詳細之訂正圖則以政府有關部門最後批准之圖則為準。
All plans are subject to final approval by the relevant Government Authorities.
8. 有關之建築圖則、分區計劃大綱圖、批地條款及已 / 待批之大廈公契或附屬公契（如有）各項文件之副本，均可向售樓處免費查閱。
Copies of the related building plans, Outline Zoning Plan, Land Grant Conditions and the approved/draft Deed of Mutual Covenant or Sub-Deed of Mutual Covenant (if any) are available
9. 有關本發展項目之公共空間及公共設施之管理及維修責任（如有），請參閱發展商提供之售樓說明書內所載批地條款、公用契約（如有）及大廈公契或附屬公契（如有）之相關條款。
For details of the management and maintenance responsibilities of the public open space and the public facilities of the development (if any), please refer to the relevant Land Grant Conditions, Deed of Dedication (if any) and Deed of Mutual Covenant or Sub-Deed of Mutual Covenant (if any) stated in the sales brochure provided by the developer.
10. (其他條款按個別樓盤情況自訂)
..... (Other terms and conditions etc. depending on each development)

(Figures shown in the template are for illustration only.)

Suggested New Template for Price List

樓盤名稱 Name of Development, 期數(如有) Phase (if any), 地區 Location, 第[x]張價單 Price List #[x]

座樓 Tower	樓層 Floor	單位 Unit	實用面積 (包括露台及工作平台) (平方呎) Saleable Area (including balcony and utility platform) (sq. ft.)	訂價 (元) Price (\$)	實用面積 呎價 (元, 每平方呎) Unit Rate of Saleable Area (\$ per sq. ft.)	屬該單位的其他面積 (不計算入實用面積) Other Areas of the Unit (Not included in the Saleable Area)		
						窗台 (平方呎) Bay window sq. ft.)	冷氣機房/冷氣機平台 (平方呎) Air-conditioning plant room/ Air-conditioning platform (sq. ft.)	其他面積 (平方呎) (如有其他屬該單位的下述設施:- 天台、平台、 梯屋、花園、閣樓、天井、陽台及停車場, 必 須分別列出) Other Areas (sq. ft.) (If the unit includes the following facilities: roof, flat roof, stairhood, garden, cockloft, yard, terrace and carparking space, they must be listed out separately.)
5	30	A	581 (Balcony: 22) (Utility Platform: 16)	6,400,000	11,015	12	Air-conditioning Platform: 12	Roof: 200
		B						
		C						
		D						
	29	A	581 (Balcony: 22) (Utility Platform: 16)	6,200,000	10,671	12	Air-conditioning Platform: 12	--
		B						
		C						
		D						

(Figures shown in the template are for illustration only)

- 準買家請參閱發展商所提供售樓說明書內有關上述資料之詳情。

Prospective purchasers please refer to the sales brochure provided by the developer for further details of the above information.

- 價目表必須提供下述資料 -

The price list must include the following information -

- (a) 該發展項目可供出售的單位總數；

information on the total number of units in a development put up for sale;

- (b) 以明顯的句子說明，買家在簽訂臨時買賣合約後，無論基於何種理由決定不簽訂正式買賣合約，發展商均有權沒收買家已付的臨時訂金；

a prominent statement as to the right of the developer to keep the preliminary deposit of any purchaser who signed a Preliminary Agreement for Sale and Purchase (PASP) does not, for any reason, sign the Agreement for Sale and Purchase (ASP);

- (c) 有關購買程序的資料（包括需於簽訂臨時買賣合約後的六個工作天內，完成簽署正式買賣合約），付款條款（包括所有優惠、促銷計劃的細節，以及因購買單位而送出的贈品（例如以低於市價出售的車位），利益或獎賞，以及任何影響實際樓價的因素），繳付相關法律費用的責任，執行任何文件的行政費，分期付款方式，及在按揭利率選擇有限的情況下的利率資料；及

information on the purchase procedure (including that an ASP should be signed within six working days after the PASP is signed), payment terms (including details of all promotional and preferential schemes, as well as gifts (e.g. sale of carparking space at less than market value), advantages or bonuses offered in connection with the purchase of the Unit, as well as any price adjustment factors affecting the actual price of the Unit), responsibility for legal fees, administration charges for execution of any documents, installment payment method and interest rates in case of restricted choice of mortgage; and

- (d) 如發展商委託地產代理公司售賣有關單位，請註明有關地產代理公司名稱，亦必須列明準買家可自行委託其他地產代理或直接找發展商，處理其交易。

The developer should set out the name(s) of the estate agency firm(s) commissioned to sell the unit, if any. A note should also be added to remind prospective purchasers that they have the choice to appoint their own estate agents or approach the developers direct to handle their transactions.

附註詳見後頁/See Remarks overleaf

製表日期/Date of Printing: dd/mm/yy

附註 (Remarks)

1. 實用面積包括露台及工作平台面積，但不包括窗台、冷氣機房、冷氣機平台及其他面積。
Saleable Area includes areas of balcony and utility platform but does not include bay window, air-conditioning plant room, air-conditioning platform and Other Areas.
2. 單位樓面至樓面高度，指該樓層之石屎地台面與上一層石屎地台面之高度距離。
Floor-to-floor height refers to the height between the top surface of the structural slab of a floor and the top surface of the structural slab of its immediate upper floor.
3. 層數較高單位由於結構牆較低層單位稍薄，因而室內空間或會稍為增多。
The internal space of units on the upper floors may be slightly larger than those of the same type on the lower floors due to reduced thickness of structural walls on those upper floors.
4. 詳細之訂正圖以政府有關部門最後批准之圖為準則。
All plans are subject to final approval by the relevant Government Authorities.
5. 有關之建築圖則、分區計劃大綱圖、批地條款及已／待批之大廈公契或附屬公契（如有）各項文件之副本，均可向售樓處免費查閱。
Copies of the related building plans, Outline Zoning Plan, Land Grant Conditions and the approved/draft Deed of Mutual Covenant (DMC) or Sub-DMC (if any) are available for free inspection at the sales office(s).
6. 有關本發展項目之公共空間及公共設施之管理及維修責任（如有），請參閱發展商提供之售樓說明內所載批地條款、公用契約（如有）及大廈公契或附屬公契（如有）之相關條款。
For details of the management and maintenance responsibilities of the public open space and the public facilities of the development (if any), please refer to the relevant Land Grant Conditions, Deed of Dedication (if any) and DMC or Sub-DMC (if any) stated in the sales brochure provided by the developer.

7. 此價單所列以「平方呎」作單位的面積資料，均由以「平方米」作為單位的資料轉換而來。

Area information contained in this price list in “square foot” is converted from information in “square metre”.

8. 如有任何計算於實用面積之內的外牆裝飾面及幕牆系統，可根據《建築物條例》不計算入總樓面面積內。

External wall finishes and curtain wall system, if any, that are included in the measurement of saleable area, may be disregarded in the measurement of the gross floor area under the Buildings Ordinance.

9. (其他條款按個別樓盤情況自訂)

.....(Other terms and conditions etc. depending on each development)

Existing Template for Area Schedule in Sales Brochure

樓盤名稱 Name of Development, 期數(如有) Phase (if any), 地區 Location

座數 Tower	樓層 Floor	單位 Unit	實用面積 (包括露台及工作平台) (平方呎) Saleable Area (including balcony and utility platform) (sq.ft.)	另		單位有蓋面積 (平方呎) Unit Covered Area (sq.ft.)	單位所分攤的 公用地方面積 (平方呎) Apportioned Share of Common Area (sq.ft.)	建築面積 (平方呎) Gross Floor Area (sq.ft.)	其他面積 (平方呎) Other Areas (sq.ft.) (其他如天台、 平台、花園、閣樓、天井、 大陽台、停車位等(須分別列出) Other items such as roof, flat roof, garden, cockloft, yard, terrace, car parking space (must be listed separately)	冷氣機平台 (平方呎) Air-conditioning platform (sq.ft.)
				窗台 Bay window	冷氣機房 Air- conditioning plant room					
5	1	A	581 (露台 : 22) (工作平台 : 16)	12	12	605	153	758		
		B								
		C								
		D								
		E								
	2	A	581 (露台 : 22) (工作平台 : 16)	12	12	605	153	758		
		B								
		C								
		D								
		E								

- 實用面積包括露台及工作平台面積，但不包括其他面積或冷氣機平台面積。
Saleable Area includes areas of balcony and utility platform but does not include Other Areas or area of air-conditioning platform.
- 單位有蓋面積包括實用面積及窗台及冷氣機房面積。
Unit Covered Area includes the Saleable Area and areas of bay window and air-conditioning plant room.
- 單位所分攤的公用地方面積包括住宅之各樓層之電梯大堂、電梯槽、機電房、垃圾房、會所面積等等（如有把面積計算在內）。
Apportioned Share of Common Area includes lift lobbies, lift shafts, electrical meter rooms, refuse room, clubhouse area etc (if such area is included in the calculation of Apportioned Share of Common Area of the unit).
- 建築面積包括單位有蓋面積及單位所分攤的公用地方面積。
Gross Floor Area includes the Unit Covered Area and the Apportioned Share of Common Area of the unit.

(Figures shown in the template are for illustration only.)

Suggested New Template for Area Schedule in Sales Brochure

樓盤名稱 Name of Development, 期數(如有) Phase (if any), 地區 Location

座樓 Tower	樓層 Floor	單位 Unit	實用面積 (包括露台及工作平台) (平方呎) Saleable Area (including balcony and utility platform) (sq. ft.)	屬該單位的其他面積 (不計算入實用面積) Other Areas of the Unit (Not included in the Saleable Area)		
				窗台 (平方呎) Bay window sq. ft.)	冷氣機房/冷氣機平台 (平方呎) Air-conditioning plant room/ Air-conditioning platform (sq. ft.)	其他面積 (平方呎) (如有其他屬該單位的下述設施:- 天台、平台、梯屋、花園、 閣樓、天井、陽台及停車場，必須分別列出) Other Areas (sq. ft.) (If the unit includes the following facilities: roof, flat roof, stairhood, garden, cockloft, yard, terrace and carparking space, they must be listed out separately.)
5	30	A	581 (Balcony: 22) (Utility Platform: 16)	12	Air-conditioning Platform: 12	Roof: 200
		B				
		C				
		D				
	29	A	581 (Balcony: 22) (Utility Platform: 16)	12	Air-conditioning Platform: 12	--
		B				
		C				
		D				

(Figures shown in the template are for illustration only)

Communal Facilities/Common Area to be listed out in Sales Brochure

Developers should set out the area information of the following communal facilities/common areas of the development in the sales brochure -

	Communal Facilities/Common Area	Covered/ Open	Area (sq.ft.)
1.	Residents' clubhouse	Covered	
2.	Communal Sky Garden	Covered	
3.	Covered landscaped and play area	Covered	
4.	(Any other items, such as lift lobby, lifts and staircases that developers wish to include)		

Note 1: Developers must provide area information on items 1 to 3 above. If no such facilities are provided, "N/A" should be stated in the table.

Note 2: The above list may not be an exhaustive list as developers may choose not to provide information on the communal facilities/common areas of the development other than the mandatory items, i.e. items 1 to 3.

**Template for Register of Preliminary Agreements for Sale and Purchase (PASPs)
and Agreements for Sale and Purchase (ASPs)**
公布臨時買賣合約及買賣合約的交易記錄標準範本

Name of Development, Phase No. (if any), Location
樓盤名稱、期數(如有)及地區

(A) Register of PASPs/ASPs 住宅單位臨時買賣合約／買賣合約記錄

(**Important Note:** Please read with particular care those entries with only the date of the PASPs shown. They are transactions which have not yet proceeded to the ASP stage. For those transactions, the information shown is premised on PASPs and may be subject to change.)

(重要告示：閱讀那些只顯示臨時買賣合約日期的交易項目時請特別小心，因為有關交易並未簽署買賣合約，所顯示的交易資料是以臨時買賣合約為基礎，有關交易資料日後可能會出現變化。)

(A)	(B)	(C)	(D)	(E)			(F)	(G)	(H)
Date of PASP 臨時買賣合約簽署日期	The PASP has not proceeded further* 簽署臨時買賣合約後交易再未有進展*	Date of ASP 買賣合約簽署日期	Date of cancellation of ASP (if applicable) 取消買賣合約的日期(如適用)	Residential Unit (if carparking space is included, please also provide details of the carparking space) 住宅單位(如包括車位，請一併提供有關車位的資料)			Transacted Price® 成交金額®	Payment Terms# 付款條款#	The transaction involves members of the Board of the Developer or their immediate family members ; or senior staff members of the Developer 有關交易涉及發展商的董事局成員或其直系親屬；或發展商的高級職員
				Tower 座數	Floor 樓層	Unit 單位			
	^								√

* If the PASP does not proceed to ASP within six working days after the signing of the PASP, a “^” should be put in the column on the seventh working day after the signing of the PASP.

如在簽署臨時買賣合約後的六個工作天內未有簽署買賣合約，請在簽署臨時買賣合約後的第七個工作天在本欄加上“^”號。

Developers should indicate whether the unit is transacted at the list price, with special payment terms (such as promotional and preferential schemes) or if gifts (e.g. sale of carparking space at less than market value), advantages or bonuses, as well as any price adjustment factors affecting the actual price of the Unit are offered in connection with the purchase of the Unit. The payment terms should correspond with those listed on the price lists.

發展商須列明該單位是以訂價交易、以特別付款條款（例如優惠或促銷計劃）交易，或會否因購買該單位而送出贈品（例如低於市價的車位），利益或獎賞，以及任何影響實際樓價的因素。有關的付款條款應與價單所列的相符。

® The price list(s) can be found in the following website.

下述互聯網可連結到有關價單。

(B) Estimated date of completion of development

項目預計完工日期

Pursuant to the Authorized Person's Certificate dated [please fill in the day / month / year here], the estimated date of completion of the development in accordance with clause 4(1)(c) of the Agreement for Sale and Purchase (ASP) is on or before [please fill in the day / month / year here] subject to such extension of time as may be granted by the Authorized Person in accordance with clause 4(5)(a) of the ASP. The issue by the Director of Lands of a certificate of compliance (CC) or consent to assign (CA) is conclusive evidence that the development has been completed or is deemed to be completed as the case may be and nothing herein shall preclude the Developer from proving that it has completed the development in accordance with clause 4(1)(c) of the ASP by any other means. The Developer shall notify the purchasers in writing that it is in a position validly to assign the Units within one month of the issue of the CC or the CA, whichever is the earlier and the sale and purchase of the Units shall be completed within 14 days of the date of the Developer's written notification to the purchasers.

根據認可人士於[年/月/日]簽發的證書。本發展項目按買賣合約第4(1)(c)條款完成的預計完工日期為[年/月/日]或以前，但認可人士可根據買賣合約第4(5)(a)條款批准延伸該預計完工日期。地政總署署長因應實際情況發出的滿意紙或轉讓同意書，是不可推翻的證據，證明該發展項目已完成或視為完成。但這並不限制發展商透過其他方法，證明已按買賣合約第4(1)(c)條款完成該發展項目。發展商須於滿意紙或轉讓同意書發出後一個月內(以較先者為準)，以書面通知買方他有權轉讓物業。買賣交易須於發展商書面通知買方後十四天內完成。

Note :

註

1. The information in Part (A) of this register are listed in chronological order of the date of PASPs. Information on the PASPs (i.e. columns (A), (E), (F), (G) and (H)) should be entered into this register within 24 hours after the signing of the relevant PASPs. Information on the ASPs (i.e. column (C)) should be added to this Register within one working day after signing of the relevant ASPs.

本記錄(A)部份所列出的買賣合約記錄以臨時買賣合約日期排序。關於該等臨時買賣合約的資料(即(A), (E), (F), (G) 及 (H) 欄)須於有關的臨時買賣合約簽署後24小時內填入此記錄。關於該等買賣合約的資料(即(C)欄)須於有關的買賣合約簽署後一個工作天內填入此記錄。

2. The estimated date of completion of the development stated in Part (B) of this register is the date as stipulated in Clause 4(1)(c) of the ASPs. The Developer should update the information within five working days upon confirmed change in the estimated date of the completion of the development.

本記錄(B)部份所陳述的發展項目預計完工日期，就是買賣合約中第4條第(1)(c)款內所訂定的日期。如預計完工日期有改變，發展商在確定了經改變的預計完工日期後，須在五個工作天內，更新有關資料。

3. The Developer should maintain this Register until the Assignment of the last unit of the development or a phase of the development being offered for sale has been registered with the Land Registry.

發展商須一直提供此買賣合約記錄，直至該發展項目或該發展項目的有關期數的最後一個可供發售的單位的轉讓契約文件於土地註冊處登記後方可刪除。

4. The transactions which involve members of the Board of the Developer, their immediate family members and senior staff members will be marked with “√” in this register. “Members of the Board” mean all executive directors, non-executive directors and independent non-executive directors. “Immediate family members” mean parents, spouse, sons and daughters. “Senior staff member” means [a person who, under the immediate authority of the board of directors, exercises managerial functions but does not include- (a) a receiver or manager of the property of the company; or (b) a special manager of the estate or business of the company appointed under section 216 of the Companies Ordinance (Cap. 32).]

本記錄會以“√”標示與發展商的董事局成員或其直系親屬或其高級職員有關連的交易。「董事局成員」一辭意指所有執行董事，非執行董事及獨立非執行董事；「直系親屬」意指父母、配偶及子女。「高級職員」意指[在董事局的直接權限下行使管理職能的人，但不包括-(a)該公司的財產的接管人或經理人；或(b)根據《公司條例》(第32章)第216條委任的該公司的產業或業務的特別經理人]。

5. Any cancellation of ASPs must be entered into this register within one working day after the ASPs are cancelled, including cancellation which takes place after completion of registration of the relevant ASPs in the Land Registry.

就任何取消了的買賣合約，包括於土地註冊處完成登記後才取消的買賣合約，發展商須在有關買賣合約取消後一個工作天內填寫此記錄。

Updated on :
更新日期

Signed by : (Authorized Signature of the Developer/獲發展商授權人士的簽署)
簽發

Existing Requirements on Advertisements (including Promotional Materials)

(I) An Extract of the Standard Consent Letter (i.e. Items 20 and 21)

- Disclosure of information in advertisement (including promotional material)
- (20) (a) The Developer must clearly and legibly disclose the following information to the public in any advertisement (including promotional material):
- (i) the names of the Developer and its parent or holding company or companies;
 - (ii) the names of the Authorized Person registered with the Building Authority for *[Phase _____ of] the Development and the professional firm to which the Authorized Person belongs;
 - (iii) the name of the main superstructure contractor for *[Phase _____ of] the Development registered with the Building Authority and named in the certificate issued by the Authorized Person; *[and]
 - (iv) the name(s) of all the solicitors firm(s) acting for the Developer in the sale of the Units. *[*]; and]
 - *(v) *[the name of the mortgagee bank (where a building mortgage/debenture over the lot has been created)]/[the name of the bank which has given an undertaking to provide finance to complete *[Phase _____ of] the Development.] *[*]; and]
 - *(vi) the name of the Financier which has already provided loans to finance the construction of *[Phase _____ of] the Development and which will join in to sign the ASP.
- * Delete if inapplicable
- (b) The Developer must clearly and legibly disclose the following information, where applicable, to the public in any advertisement (including promotional material) in printed media by inserting in them the statement(s):
- * Delete if inapplicable

- * (i) “The Authorized Person, *[insert the name of AP]*, is an employee/a shareholder/a director/a secretary of the Developer/the parent or holding company of the Developer/the main superstructure contractor.”
- * (ii) “The Authorized Person, *[insert the name of AP]*, is personally related to a director/a secretary of the Developer/the parent or holding company of the Developer/the main superstructure contractor.”
- * (iii) “A partner of the solicitors firm, *[insert name of solicitors firm]*, is a shareholder/a director/a secretary of the Developer/the parent or holding company of the Developer/the main superstructure contractor.”
- * (iv) “A partner of the solicitors firm, *[insert name of solicitors firm]*, is personally related to a director/a secretary of the Developer/the parent or holding company of the Developer/the main superstructure contractor.”
- * (v) “A partner/a director/_____ partners/_____ directors in the same firm to which the Authorized Person/Solicitor for the Development belongs, *[insert name of firm]*, is a shareholder/a director/a secretary/ an employee of the Developer/the parent or holding company of the Developer/the main superstructure contractor.”
- * (vi) “A partner/a director/_____ partners/____directors in the same firm to which the Authorized Person/Solicitor for the Development belongs, *[insert name of firm]*, is personally related to a director/a secretary of the Developer/the parent or holding company of the Developer/the main superstructure contractor.”
- * (vii) “The Authorized Person’s firm, *[insert name of AP firm]*, is a subsidiary/member of the same group of companies as the Developer/the parent or holding company of the Developer/the main superstructure contractor.”

*(viii) “The main superstructure contractor of the Development is a subsidiary/member of the same group of companies as the Developer/the parent or holding company of the Developer.”

* Delete if inapplicable

*(b)/ If there are any changes to the parties disclosed in Condition No. (20)(a),
(c) then any advertisement (including promotional material) must be immediately amended to reflect the changes and your firm must inform me in writing of the changes made within 3 working days.

* Delete if inapplicable

*(c)/ If the Developer intends to provide any information on the area of any
(d) Unit in any advertisement (including promotional material), the Developer must clearly and legibly disclose at least the “Saleable Area” of such Unit as defined in the ASP.

Advertisements (including promotional materials)

(21) The advertisements (including promotional materials) in printed media for the sale of Units must comply with Annex IV to LACO CM No. 62.

(II) An Extract of LACO CM No. 62 (issued on 2 June 2010)

Annex IV to LACO CM No. 62 - Printed Advertisements (Including Promotional Materials)

All information as required under the consent letter issued to the developer to enter into agreements for sale and purchase must be included in the advertisements (including promotional materials) in printed media (“printed advertisements/promotional materials”). In addition, the printed advertisements/promotional materials must comply with the following requirements:-

1. The printed advertisements/promotional materials must clearly provide the name of the district where the development is located and the postal address of the development.
 - (a) The district of the development must correspond to that in the relevant Outline Zoning Plan(s) where the development is located.
 - (b) The printed advertisements/promotional materials must adopt the postal address of the development as confirmed with the Commissioner of Rating and Valuation, which postal address must be exactly the same as that shown in the section on “Basic Information of the Development” in the sales brochure.

- (c) For printed advertisements/promotional materials of a size of a half-page standard newspaper or smaller, the font size of the name of the district and the postal address must not be smaller than 10.
 - (d) For printed advertisements/promotional materials of a size larger than half a page of a standard newspaper, the font size of the name of the district and the postal address must not be smaller than 12.
2. The printed advertisements/promotional materials must specify clearly and legibly the website address containing the electronic copies of the sales brochure, the price list(s) and the register of agreements for sale and purchase maintained by the developer.
- (a) For printed advertisements/promotional materials of a size of a half-page standard newspaper or smaller, the font size of the website address must not be smaller than 10.
 - (b) For printed advertisements/promotional materials of a size larger than half a page of a standard newspaper, the font size of the website address must not be smaller than 12.
3. If the printed advertisements/promotional materials show the artistic impression of the development and/or its surrounding areas, the printed advertisements/promotional materials must carry the statement, in English as set out in Appendix I or in Chinese as set out in Appendix II.
- (a) For printed advertisements/promotional materials of a size of a half-page standard newspaper or smaller, the font size of the statement must not be smaller than 10.
 - (b) For printed advertisements/promotional materials of a size larger than half a page of a standard newspaper, the font size of the statement must not be smaller than 12.
4. The printed advertisements/promotional materials must not contain any statement that the Agreement for Sale and Purchase for sale of units in the development or the Deed of Mutual Covenant or Sub-Deed of Mutual Covenant (if any) in respect of the development or any other aspect of the development is subject to the Lands Department Consent Scheme or has been approved by the Director of Lands.

**Statement on printed advertisements (including promotional material)
showing artist impression
of the development and/or its surrounding areas**

The photographs, images, drawings or sketches shown in this advertisement/promotional material represent the artist's imaginative impression of the development concerned only. They are not drawn to scale and/or may have been edited and processed with computerized imaging techniques. Prospective purchasers should make reference to the sales brochure for details of the development. The developer also advises purchasers to conduct on-site visit for a better understanding of the development site, its surrounding environment and the public facilities nearby.

[Note:

1. For advertisements/promotional materials of a size of a half-page standard newspaper or smaller, the font size of the statement must not be smaller than 10.
2. For advertisements/promotional materials of a size larger than half a page of a standard newspaper, the font size of the statement must not be smaller than 12.]

**Statement on printed advertisements (including promotional materials)
showing artist impression
of the development and/or its surrounding areas**

本廣告/宣傳資料內載列的相片，圖像、繪圖或素描顯示的純屬畫家對該發展地盤之想像感覺。有關圖片並非按照比例繪畫或 / 及可能經過電腦修飾處理。準買家如欲了解本發展項目的詳情，請參閱售樓說明書。發展商亦建議買方到該發展地盤作實地考察，以獲取對該發展地盤以及其周圍地區的公共設施及環境較佳的了解。

[Note:

1. For advertisements/promotional materials of a size of a half-page standard newspaper or smaller, the font size of the statement must not be smaller than 10.
2. For advertisements/promotional materials of a size larger than half a page of a standard newspaper, the font size of the statement must not be smaller than 12.]

The Requirements of the Vendor's Information Form (VIF)

Part I: Property Particulars

- Developers should provide the following information in the VIF -
 1. A breakdown of the saleable area (if such information is different from that stated in the sales brochure)
 2. The availability of services known to the vendor (such as water (fresh/sea), drainage, gas (what kind) and electricity (if such information is different from that stated in the sales brochure).
 3. The management fees for the current month.
 4. The amount of Government rent, if available.
 5. Any notice received by the vendor from the Government, management office, or any relevant authority of expenditure requiring contribution from the owners.
 6. Whether there is an owners' corporation and, if so, its name, and the name of the management company.
 7. Any pending claims known to the developer affecting the property.
 8. Final assessment results under the BEAM Plus certification conferred / issued by HKGBC¹, if any.
 9. An updated master layout plan and/or floor plan if they are different from those stated in the sales brochure.

¹ BEAM is the acronym for Building Environmental Assessment Method, which is a voluntary scheme administered by HKGBC to assess, improve, certify and label the performance of buildings. BEAM embraces a range of good practices in planning, design, construction and management, operation and maintenance of buildings. It is a single performance label that demonstrates the overall quality of a building. HKGBC will confer a bronze / silver / gold / platinum award certificate after assessment to the applicant if the building meets the requisite standard.

Part II: Other Relevant Requirements

- In preparing the VIF, the developer should comply with the following requirements -
 1. the VIF should state the date of its printing;
 2. all information in the VIF must be accurate at the time of printing;
and
 3. a VIF is valid for three months only. Developers have the duty to provide a new VIF every three months for the reference of prospective purchasers.

Proposed Exemptions for the Sale of First-hand Residential Properties under Specific Circumstances

Specific Circumstances	Conditions for Proposed Exemption	Requirements of the Proposed Legislation				
		(i) Provision of sales brochure at least 7 days before the sale commences	(ii) Provision of price list at least 3 days before the sale commences	(iii) Minimum number of units disclosed in each price list (with reference to the whole development) ^{Note 1}	(iv) Provision of show flats ^{Note 2}	(v) Disclosure of transaction information
(a) Units sold to existing tenants	<ul style="list-style-type: none"> • Existing tenants have occupied the units for a prescribed period, say, one year. • Written agreement of the prospective buyer (i.e. the existing tenant) to waive requirements (i) & (ii). • Developers have to provide a VIF. 	Exempted	Exempted	Not Applicable	Not Applicable	Applicable
(b) “Left-over” flats	<ul style="list-style-type: none"> • Need to provide the latest sales brochure plus a VIF. 	Exempted	Applicable	Applicable	Applicable	Applicable

Specific Circumstances	Conditions for Proposed Exemption	Requirements of the Proposed Legislation				
		(i) Provision of sales brochure at least 7 days before the sale commences	(ii) Provision of price list at least 3 days before the sale commences	(iii) Minimum number of units disclosed in each price list (with reference to the whole development) ^{Note 1}	(iv) Provision of show flats ^{Note 2}	(v) Disclosure of transaction information
(c) Atypical units	<ul style="list-style-type: none"> • The unit is subject to an existing tenancy. • Written agreement of the prospective buyer to waive requirement (iv). 	Applicable	Applicable	Applicable	Exempted	Applicable
(d) Developments sold on an “en bloc” basis under a single transaction ^{Note 3}	---	Exempted	Exempted	Exempted	Exempted	Applicable
(e) Developments sold by way of auction or tender	---	Applicable	Not Applicable	Not Applicable	Applicable	Applicable

- Note 1: The Steering Committee proposes the following requirements relating to the minimum number of units to be disclosed in each price list–
- (a) For a development or a phase of development with 30 units or less, all units must be included in the first price list;
 - (b) For a development or a phase of development with more than 30 units but less than 100 units, each price list must contain at least 30 units.
 - (c) For a development or a phase of development with 100 units or more, the following requirements should apply:
 - (i) The first price list, subject to a minimum number of 50 units, must at least include 20% of the total number of units of a development or a phase of a development; and
 - (ii) Each subsequent price list must at least 10% of the total number of units of a development or a phase of a development.

Note 2: In the case of first-hand uncompleted residential properties, if the developers choose not to provide show flats, the requirements on show flats would not be applicable.

Note 3: When the properties are later put on sale to individual flat buyers in the market, the owner must observe all the requirements under the proposed legislation.

Penalty Proposals Recommended by the Steering Committee

Note: The following list needs to be carefully deliberated in the drafting stage of the legislation to ensure that there is no duplication of offences for the same acts.

Relevant Provisions		Proposed Penalties
<u>(a) Sales Brochures</u>		
(1)	Provision of sales brochures 7 days before the sale commences	On summary conviction to a fine of \$1,000,000
(2)	Provision of mandatory information in sales brochures	On summary conviction to a fine of \$500,000
(3)	Provision of accurate information in sales brochures	On summary conviction to a fine of \$500,000 and to imprisonment for 12 months
(4)	Deposition of sales brochures to specified authorities	On summary conviction to a fine at level 6¹
(5)	Provision of plans such as Outline Zoning Plan and building plans, etc. for free public inspection	On summary conviction to a fine at level 6
<u>(b) Price List</u>		
(1)	Provision of price list 3 days before the sale commences	On summary conviction to a fine of \$1,000,000
(2)	Provision of price list with specified information according to the specified format	On summary conviction to a fine of \$500,000

¹ According to Schedule 8 of the Criminal Procedure Ordinance (Cap. 221), the current fine for level 6 is \$100,000

Relevant Provisions		Proposed Penalties
<u>(c) Disclosure of Transaction Information</u>		
(1)	Disclosure of transaction information according to the stipulated requirements	On summary conviction to a fine of \$500,000
<u>(d) Show Flats</u>		
(1)	Provision of show flats according to the stipulated requirements	On summary conviction to a fine of \$500,000
(2)	Arranging visitors to take measurements and to take photos/videos in show flats, etc.	On summary conviction to a fine at level 6
<u>(e) Advertisements</u>		
(1)	Provision of required information and notice in advertisements according to the specified font size requirements	On summary conviction to a fine of \$500,000
(2)	Prohibition of inclusion of false and misleading information in advertisements	(a) on conviction upon indictment to a fine of \$5,000,000 and to imprisonment for 7 years (b) on summary conviction to a fine of \$500,000 and to imprisonment for 12 months
(3)	Information given in advertisements should be consistent with the information given in the sales brochures	On summary conviction to a fine of \$500,000

Relevant Provisions		Proposed Penalties
(4)	Prohibition of quoting information on GFA per flat and unit price based on GFA in advertisements	On summary conviction to a fine of \$500,000
<u>(f) Prohibition of “Misrepresentation” and “Dissemination of False or Misleading Information”</u>		
(1)	Prohibition of misrepresentation	(a) on conviction upon indictment to a fine of \$5,000,000 and to imprisonment for 7 years (b) on summary conviction to a fine of \$1,000,000 and to imprisonment for 3 years
(2)	Prohibition of dissemination of false or misleading information	(a) on conviction upon indictment to a fine of \$5,000,000 and to imprisonment for 7 years (b) on summary conviction to a fine of \$1,000,000 and to imprisonment for 3 years
<u>(g) Obstruction to the Authorized Officers</u>		
(1)	Obstruction to the authorized officers to exercise the power conferred by the proposed legislation	On summary conviction to a fine at \$500,000 and to imprisonment for 6 months
<u>(h) Inclusion of mandatory clauses in the PASP/ASP</u>		
(1)	Developers must include mandatory provisions prescribed in the legislation in their PASP and ASP	On summary conviction to a fine at \$500,000

Relevant Provisions		Proposed Penalties
(2)	Developers must not include any provisions that negate the mandatory provisions prescribed in the legislation in their PASP and ASP	On summary conviction to a fine at \$500,000
<u>(i) Entering into Formal Sale and Purchase</u>		
(1)	Developers must proceed to sign the ASP, except where the Purchaser who signed the PASP chooses not to sign the ASP	On summary conviction to a fine at \$1,000,000
(2)	Developers must not take more than 5% of the purchase price as forfeiture if the Purchaser decides not to proceed to sign an ASP within three working days after the signing of the PASP	On summary conviction to a fine at \$1,000,000
<u>(j) Sales Arrangements</u>		
(1)	Developers should make public sales arrangements (e.g. exact date and time for the commencement of sales) according to stipulated requirements	On summary conviction to a fine at level 6
(2)	Developers should not accept deposits before [the issuance of respective price lists/the sale of respective units has formally commenced]	On summary conviction to a fine at \$500,000
<u>(k) Maintenance of Order at the Sales Offices</u>		
(1)	Developers should inform the relevant organisations of the detailed sales arrangements prior to the commencement of flat sale as stipulated in the legislation	On summary conviction to a fine at level 6

Relevant Provisions		Proposed Penalties
<u>(1) Online Property Information Platform</u>		
(1)	Developers should provide the required information for the online property information platform	On summary conviction to a fine at level 6

Glossary

Agreement for Sale and Purchase	ASP
Buildings Department	BD
Certificate of Compliance	CC
Circular Memorandum	CM
Consent to Assign	CA
Council for Sustainable Development	SDC
Deeds of Mutual Covenant	DMC
Estate Agents Authority	EAA
Estate Agents Ordinance	EAO
Gross Floor Area	GFA
Hong Kong Green Building Council	HKGBC
Lands Department's Consent Scheme	Consent Scheme
Land Registry	LR
Legal Advisory and Conveyancing Office	LACO
New Territories Exempted House	NTEH
Occupation Permit	OP
Outline Zoning Plan	OZP
Preliminary Agreement for Sale and Purchase	PASP
Rating and Valuation Department	RVD
Real Estate Developers Association of Hong Kong	REDA
The Law Society of Hong Kong	The Law Society
Transport and Housing Bureau	THB