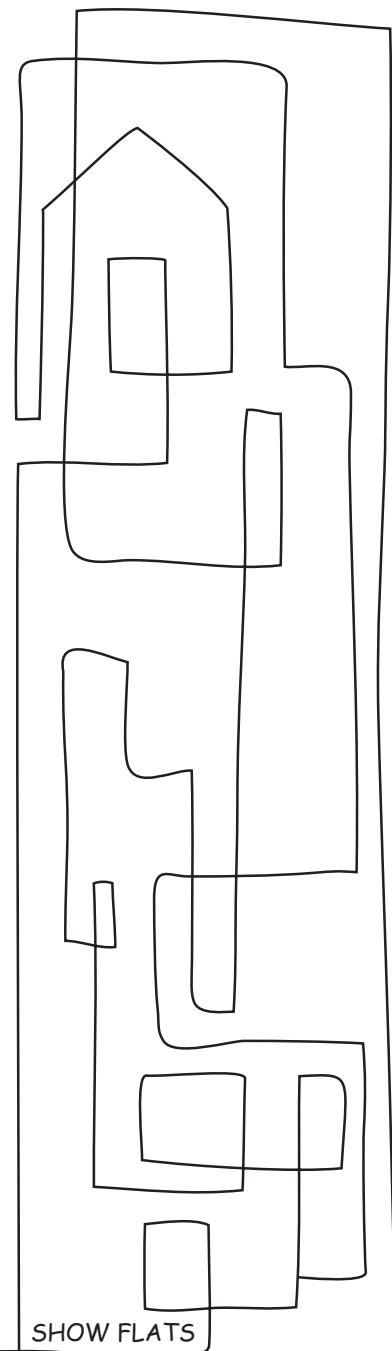


# Study on the Sales of First-hand Residential Properties

A Review of the Regulatory Regime and  
Recommendations on the Way Forward



SALES BROCHURES

SALES ARRANGEMENTS

SHOW FLATS

PRICE LISTS

ADVERTISEMENTS

DISCLOSURE OF TRANSACTIONS

# **STUDY ON THE SALES OF FIRST-HAND RESIDENTIAL PROPERTIES**

A Review of the Regulatory Regime and  
Recommendations on the Way Forward

Hong Kong Consumer Council  
November 2014

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ASP	Agreement for Sale and Purchase
EAA	Estate Agents Authority
PASP	Preliminary Agreement for Sale and Purchase
SRPA	Sales of First-hand Residential Properties Authority
SRPE	Sales of First-hand Residential Properties Electronic Platform
THB	Transport and Housing Bureau
The Council	Consumer Council
The Ordinance	Residential Properties (First-hand Sales) Ordinance

## **EXECUTIVE SUMMARY**

1. Pressure to make quick sales, a limited number of units for selection, and units released in small batches with price increases, these are some of the endemic problems that have characterized the sales of first-hand residential properties in Hong Kong. One and a half years after the Residential Properties (First-hand Sales) Ordinance (the Ordinance) came into place in April 2013, the Consumer Council (the Council) conducted survey, focus group meetings, field visits and research to ascertain whether the new law has put an end to these problematic issues.
2. The Ordinance aims to ensure information transparency and that adequate information is provided to prospective purchasers of first-hand residential properties for a rational and informed choice. The intention of the law is to promote the accuracy of market information and impose a discipline on the behavior of persons involved in selling the properties; while still ensuring that there is not an overregulation of sales practices that might stifle legitimate business.
3. Legislation is a good start in ensuring a fair marketplace. However, the findings of this study showed, it is not yet a panacea for resolving the range of problems that can arise, and which have been identified by the Council.
4. The study is comprised of two parts. Part one is consumer research comprising a survey of 602 respondents from across Hong Kong, during April and May 2014 and three focus group meetings in late May 2014. Part two of the study comprised field visits carried out by the Council, during June and July 2014, involving 17 residential development projects of different scales of development by different property developers. In addition to field visits, compliance checks were conducted on these 17 developments. The Council's study commenced in April 2014 and was completed in September 2014.
5. In this report, the results of consumer survey and focus group meetings conducted by the Council indicate how consumers assess this Ordinance and what they want to improve. Field visits on selected residential property developments indicate how in practice consumers are being treated during the sales process. Compliance checks undertaken by the Council staff on sales materials distributed at sales offices, documents available on the developments' websites and advertisements indicate how the trade has been performing under the relevant obligations imposed under the Ordinance. The Council had also made an attempt to identify any market practices not being regulated could affect consumer interests.

6. Key findings of the study are as follows:

*Confusing voluminous information and dubious sales practices*

7. Sales brochures, price lists and register of transactions that should provide accurate and useful information are not always user-friendly to prospective purchasers. About 43.6% of the survey respondents said “average” when asked on the extent of adequacy of sales brochures in providing property information and 44.5% of the respondents considered the price lists available to the public at least 3 days prior to the commencement of sale was insufficient. For sales brochures, some were of odd sizes and weights (as heavy as 3.4kg), and key information such as management fee was not mandatorily required. For price lists, there were frequent revisions on the prices. For register of transactions, the information was not readily available at the time of sale.
8. Information on price lists can be confusing if not misleading in that units included in the price lists might not be for sale. This would be inconsistent with the legislative intent that the prescribed number of units should be made available for sale to the public. Seven out of the 17 developments with properties listed in the price lists were not fully available for sale in the corresponding sales arrangements, creating confusion over the information in these price lists for prospective purchasers.
9. Unofficial promotional materials are being made available to prospective purchasers. This defeats the purpose of the legislative requirements on setting out required information in sales brochures and price lists. Among the 15 field visits with estate agents, unofficial and abbreviated promotional materials such as mini-catalogs and self-prepared price lists claiming to replace the developers’ sales brochures and price lists were being made available in 13 field visits by sales persons to prospective purchasers.
10. Alleged misleading sales practices persist, in particular to falsely representing the extent of actual market demand.
11. The Council studied the reported number of registration of intent and the actual sales situation on the first date of sale of 8 developments and observed that inflated numbers of registration of intent were in existence – by as large as 20 times.
12. There is a hazardous quick sales culture through aggressive tactics by sales persons to pressurize purchasers for a quick decision. Furthermore a high forfeiture amount of 5% of the purchase price and a short ‘cooling-off period’ of 5 working days also places purchasers at a distinct disadvantageous position.

13. From the Council's field visits and compliance checks, the amount of time given to prospective purchasers to make the purchase decision can be instant after being informed of the ballot drawing results. In one case, prospective purchasers were required to make a purchase decision within 3 minutes during their turn of selection.
14. There are also consumer views that the defects liability period should be extended to enhance the protection of home buyers as many defects might not be immediately known.
15. To assess the sales practices and compliance of developers or estate agents in the sales of first-hand residential properties to prospective purchasers, the Council conducted field visits of 17 residential development projects in total.
16. An example of the hazardous quick sales culture can be found in the Council's study concerning ballot sales of first-hand residential properties. Council fieldworkers visited sales offices posing as potential participants in ballot sales and encountered a number of practices of concern.

#### *Lending to prospective purchasers*

17. In many of the developments under study, each registrant was entitled to a maximum of two balloting rights. Therefore, in order to increase the chance of buying a property, estate agents would typically try and persuade Council fieldworkers (posing as potential participants) to submit at least two registrations of intent to maximize their chance of success. Estate agency companies would offer cashier orders prepared in advance for lending to the fieldworkers. The fieldworkers could then undertake to pay the estate agency company by credit card or by cheque. Furthermore, to entice the fieldworkers who were still considering to register, the estate agents offered to arrange extra cashier orders with credit card guarantee. To the Council's understanding, making loans to prospective purchasers when promoting first-hand residential properties would constitute a breach of the Estate Agents Authority's (EAA) guidelines.

#### *Aggressive on-site selling*

18. It is a basic right of consumers to be informed adequately and accurately. Prospective purchasers should have the time to collect and verify information from the estate agents before making purchase. However, fieldworkers were lobbied aggressively by most estate agents encountered at the field visits to make an instant decision on the spot. One case study experienced by a fieldworker who participated in the balloting sales process clearly illustrates the intense pressure prospective purchasers are under to make a decision. The whole selection process would typically only take a few minutes, from being shown the units available for sale to deciding on a

purchase. The Council wonders under such aggressive sales tactics how many home buyers are rushed into making abrupt and ill-informed decisions as a result.

19. As a whole, the Council has categorized the problems of sales of the first-hand residential properties into the following:
  - Regulatory gaps requiring improvement on the Ordinance; and
  - Adverse effect arising from questionable sales practices.
20. Having regard to the findings from consumer research, field visits and compliance checks, and in order to promote desirable trade practices and enhance consumer welfare, the Council puts forward eight recommendations for serious considerations by the Government, the regulators and the trade.

**Recommendation 1: Ensure all units in price list available for sale concurrently**

21. As indicated from the Council's compliance checks, there were 7 out of the 17 developments under study where some property units listed in price lists were not fully available for sale in the corresponding sales arrangements.
22. The Council considers that information on "not for sale" units in a price list is confusing to prospective purchasers and therefore should be excluded. Despite the requirement that when developers sell units they have to follow the prices stated on the price lists, any adjustments considered necessary to the prices could be made through issuing revised price lists. Thus the units concerned could be put back for sale 3 days subsequent to the issue of revised price lists.
23. The Council is of the view that requiring developers to publish a price list without requiring them to offer all the units on the price list for sale, thereby allowing them to adjust the prices for the remaining units 3 days later, creates confusion for prospective purchasers, legitimizes the practice of "releasing units in small batches", and opens up for market speculation.
24. The Council considers that a price list is an offer to prospective purchasers, and once a price list is published the developers should honour the commitment and sell all the units at the prices as specified in the price list, and that the availability of price lists should be prolonged to 7 days prior to the date of sale as suggested by the majority of respondents in the survey, to minimize confusion and uncertainty to prospective purchasers. This would also be consistent with the legislative intent that the prescribed number of units should be made available for sale to the public, thereby satisfying the government intention to ensure adequate supply of units in the market.



**Recommendation 2: Review the ‘Cooling-off period’ and forfeiture amount**

25. At present, if a purchaser does not execute an agreement for sale and purchase (ASP) within 5 working days after entering into the preliminary agreement for sale and purchase (PASP), the PASP is terminated and the preliminary deposit i.e. 5% of the purchase price will be forfeited.
26. In Hong Kong, many people who purchase a home need to apply for mortgage loan to finance the payment. Based on feedback received by the Council, there were situations where consumers who signed a provisional agreement and paid a deposit, later found that their application for a mortgage was refused, or the amount that could be borrowed was insufficient to complete the transaction. Field visit experience also shows that prospective purchasers often have to sign a PASP hastily in a short period of time without due consideration of the implications if their application for mortgage financing runs into problem. Accordingly, there is a need to improve consumer safeguards against this issue.
27. The Council’s survey and focus group discussions also indicated that the 5 working day ‘cooling-off period’ is considered too short and the forfeiture amount of 5% of the purchase price may be too high in view of rising property prices e.g. 5% of a \$10 million property amounts to \$500,000. This criticism is justified when compared against the situation with cooling off periods for insurance contracts (as an example) and requirements from other jurisdictions.
28. The Council has compared the ‘cooling-off period’ and amount of forfeiture of different jurisdictions as follows:

Jurisdiction	Cooling-off period	Amount of forfeiture
Hong Kong	<ul style="list-style-type: none"> <li>5 working days</li> </ul>	<ul style="list-style-type: none"> <li>5% of the purchase price</li> </ul>
British Columbia, Canada	<ul style="list-style-type: none"> <li>7 days</li> </ul>	<ul style="list-style-type: none"> <li>Nil</li> </ul>
Melbourne, Australia	<ul style="list-style-type: none"> <li>Within 3 clear business days</li> </ul>	<ul style="list-style-type: none"> <li>AUD\$100 or 0.2% of the purchase price (whichever is the greater)</li> </ul>
Singapore	<ul style="list-style-type: none"> <li>3 weeks which purchaser could consider to proceed with the transaction or not</li> </ul>	<ul style="list-style-type: none"> <li>25% of booking fee (i.e. 1.25% of the purchase price)</li> </ul>
United Kingdom (voluntary code)	<ul style="list-style-type: none"> <li>A reservation period between 10 and 14 days</li> </ul>	<ul style="list-style-type: none"> <li>Administration fee as set out in the agreement</li> </ul>

29. Though Melbourne, Australia has a ‘cooling-off period’ of 3 clear business days, the forfeiture amount is only AUD\$100 or 0.2% of the purchase price whichever is greater. In Singapore, a purchaser has 3 weeks to consider to

proceed with the transaction and the forfeiture amount is 1.25% of the purchase price.

30. While the application of 'subject to mortgage' clauses which are adopted in overseas (Australia, Canada and Taipei) and local (Home Ownership Scheme) might be an alternative which the Government could further explore, the Council considers that the 'cooling-off period' should be lengthened to ensure prospective purchasers to have sufficient time to check for mortgage availability. Furthermore, the amount of forfeiture should be reduced in view of the high property prices, and that a review should be carried out by the Government to collect public views in setting the appropriate time period and amount.
31. According to feedback from the Council's survey, the respondents suggested the 'cooling-off period' be lengthened to 7 – 14 days and the forfeiture amount be 1% to 3% of the purchase price. There are also views that a home purchase is one of the biggest, if not the biggest investment of one's life, a 'cooling-off period' for the purchase of property should not be too short for a hasty decision but be reasonably long enough for purchasers to take care of all matters concerned.

### **Recommendation 3: Lengthen defects liability period**

32. The Hong Kong residential property market is typified by prospective purchasers who buy a flat before it is completed. Purchasers of uncompleted properties take the risk that they will not be able to inspect the flat until completion of the purchase and vacant possession be given to purchaser.
33. Complaints by purchasers about defects are very common, and the defects liability period is very short. According to the sales brochures of the 17 property developments visited, the defects liability period is in general within 6 months after the date of completion of the sale and purchase of the residential property, regardless of whether the property is a house or a flat. This is in compliance with the existing requirement that the sales brochure must state the duration of the period (i.e. after receipt of a written notice served by the purchaser within 6 months after the date of completion of the sale and purchase) during which the vendor is liable to make good any defect in the specified residential property, as provided in the ASP.
34. The duration of the defects liability period is of great importance to purchasers. In Singapore, vendors (developers) are required to offer a 12 months defects liability period, while in British Columbia, Canada, the minimum requirement of home warranty insurance covers 2 years on labour and materials, 5 years on the building envelope, including water penetration, and 10 years on the structure. In Hong Kong, the Housing Authority (HA)

generally offers a 12-month defects liability period and a 10-year Structural Safety Guarantee for flats under the Home Ownership Scheme and the Private Sector Participation Scheme to maintain the overall structural stability and integrity of the building. The Council has no reason to believe that the building standards among Hong Kong developers in the private sector, HA's developers and overseas developers vary substantially and justify for Hong Kong to have a much shorter warranty period.

35. As some defects such as leakage might not surface within a short period of time, the Council suggests, based on overseas and local experiences, that the defects liability period should be lengthened to any period between 12 to 24 months for labour and materials. Moreover, warranty information on the building ceiling and structure should also be provided in sales brochures and ASPs to enhance information transparency.

#### **Recommendation 4: Strengthen compliance checks and penalty**

36. In the case of property developments which allow submission of 2 registrations of intent by individual registrant, a couple of prospective purchasers can submit a total of 6 registrations of intent (i.e. two under the name of the husband, two under that of the wife, and two under their joint account) for the development, but at the end purchase only one property or not at all. The Council has reviewed press reports on the number of registrations of intent and the actual sales situation on the first date of sale of 8 property developments and has concluded that the reliability of the number of registration of intent to reflect genuine demand is questionable.
37. The Council is concerned that offering extra cashier orders to prospective purchasers encourages speculative activities and drives prospective purchasers into making rush purchasing decisions. Given that there is no mechanism available to verify the accuracy of information in making purchase decisions, the outcome is that it could create possibly misleading and confusing signals to the market about the number of prospective purchasers with intent to buy a particular development.
38. While the EAA's guidelines prohibit estate agents from making loans to prospective purchasers when promoting a first-hand residential property, observations and findings from the Council's field visits indicated that such practices are common and well organized, as evident in the existence of estate agency company cashier order loan forms.
39. The Council noticed that both the Sale of First-hand Residential Properties Authority (SRPA) and the EAA conduct on-site inspection of sales offices and show flats. Given that unsatisfactory sales practices, as mentioned above, are still prevalent, the Council proposes that the two regulatory authorities

increase the inspection frequency, in particular, the availability of mystery form so as to ensure trade compliance and professionalism.

40. It is further suggested that the penalty for making loans to prospective purchasers should be reviewed and substantially strengthened by EAA, such as revoking a license and increasing the existing fine amount, at both the individual estate agent and estate agency company levels, to provide greater deterrence.
41. If the problem of making loans to prospective purchasers continues and seriously disrupts market order, the Council considers that the Government should step in to study the feasibility of requiring the developers to bank in the cashier orders from prospective purchasers so as to prevent estate agents from making loans and to offer the prospective purchasers an opportunity for making a rational choice as direct cost is involved.

#### **Recommendation 5: Increase scrutiny of property advertisements**

42. Often advertising involves creativity. However, to ensure that prospective purchasers will not be misled, the Council is of the firm opinion that representational information in advertisements such as property location, building materials and equipment, building surroundings, views and landscape should not be different from the reality. The appearance, design, and layout of the property depicted in artists' impressions in advertisements should always promote the factual reality of the development and less emphasis should be placed on images or wordings that over-beautify the development and create unrealistic emotions and expectations in the mind of prospective purchasers.
43. The Council suggests that to counter the problem of market exuberance arising through overly creative representations in advertisements and enthusiastic information on sales trends, the SRPA should further strengthen its scrutiny on property advertisements and publicity activities, and develop more detailed guidelines on the release of sensitive information such as sales related figures.

#### **Recommendation 6: Improve transparency of sales arrangements**

44. The Council conducted field visits and participated in the ballot sales arrangements to assess the transparency of different sales arrangements. It was observed that some balloting took place right after the close of registration of intent, and some on the first date of sale. As illustrated in the field visit study, once a ballot result was known, fieldworker had to proceed to the sales area immediately to select a property for purchase. However, despite that the fieldworker was in the sales area of the sales office, awaiting

his or her turn for selection, the fieldworker was still in the dark as to which units on which floors at which blocks of what sizes were sold or yet available for sale. If comprehensive property information was available, the fieldworker could be in a better position to make an informed choice.

45. The Council is of the view that irrespective of different balloting arrangements, sufficient time must be allowed for prospective purchasers to make an appropriate purchase decision. As there has been an increased tendency in using balloting in property sales, prospective purchasers will find it helpful if developers could schedule the sessions on balloting and property selection on different days, and post up the balloting results and attending time slots for registrants at the sales offices and on the property websites.
46. Regardless of the different characteristics of different sales arrangements, the Council is of the view that in order to ensure consumer interests are protected, any sales arrangement should observe these basic principles in that:
  - The sales method must be fair;
  - The sales arrangements must be transparent; and
  - The sales system must be subject to scrutiny.

### **Recommendation 7: Promote informed purchasing decisions**

#### *Consolidated information*

47. Prospective purchasers currently rely on information distributed through price lists, sales arrangements and registers of transactions for information on pricing, units availability and the market situation.
48. Comprehensive, accurate and up-to-date information is crucial for making a wise purchase decision, especially when pressure is being exerted by developers and estate agents at the sales offices to close the transaction. The Council therefore recommends that developers be required to produce a “consolidated” information list, including pricing and discounts, units for sale and transaction records, both on the developers’ websites and at the sales offices for ease of reference by prospective purchasers. Unofficial information is often provided by sales persons, their accuracy and reliability are subject to verification. The Council considers that requiring developers to prepare this information and have it available at the sales office might help address the concerns with inaccurate price and transaction information resulting from changes, for example, in price/discount.

### *Sales brochures*

49. According to the Council's questionnaire survey, 97.9% of respondents considered that sales brochures are extremely important or important information items at property sales offices.
50. Nevertheless, feedback from the Council's focus group discussions and detailed examination of sales brochures (and revisions) of the 17 property developments visited, suggested the following deficiencies in sale brochures and how they can be remedied:
  - Sales brochures commonly have a number of revisions over the course of a project and a summary of revisions would facilitate a better understanding of the technical changes that have been made.
  - Details on fees (such as management fees) and services (such as periods of availability) should be provided. Other factors such as responsibilities and compensation on late property delivery upon completion of sale and vacant procession should also be clearly specified.

### *Sales offices*

51. Notwithstanding the convenience of having sales offices in areas such as business districts and shopping malls, the Council requests that developers consider that sales offices and show flats be located at or near the property development site to provide a better picture for prospective purchasers on the environmental surroundings of the property. Ideally, a property sale should begin at a later or final building stage of a development so that sales offices or show flats can be made available at the development site and prospective purchasers can view the actual location and surroundings of the developments.

### *Show flats*

52. Both the focus groups and field visits revealed that only a limited number of show flats were available for viewing. The Council recommends that better use could be made of scale models and electronic means to provide prospective purchasers with a more enhanced virtual viewing of show flats to, amongst others, cater for the many variances that might arise in comparison to the physical show flat on display. In light of technological advancements, virtual tours might be created, particularly for large-scale developments, so that prospective purchasers are able to view and experience the property and its surrounding environment as a whole.

### **Recommendation 8: Enhance awareness and functions of SRPA**

53. Both the Council's survey and focus group results showed a fair level of awareness of the existence of the SRPA. However, for those who were actually aware of the SRPA, they had little idea about its functions and usage of the Sales of First-hand Residential Properties Electronic Platform (SRPE) was low. In view of the SRPA's significant role, it is suggested that more publicity and promotion on the SRPA and its services will be necessary to increase public awareness and service engagement.
54. For example, advertisements for the sale of first-hand residential properties and websites of first-hand residential property development projects could set out the website of the SRPA; more announcements of public interest of the SRPA on television and radio; and more publicity activities or education programmes by the SRPA explaining its services. Focus group participants also considered that the SRPA should extend its monitoring roles in sales practices from pre-sales activities to after-sales services because problems such as breach of obligations, avoidable delays and poor or incompetent services were observed.
55. The Council also suggests that the SRPA should set up counters at the sales offices of property developments especially the large-scale ones to monitor the sales process and to support prospective purchasers' enquiries. The SRPA should educate the public more on the content of the Ordinance; technical terms used in sales brochures and matters relating to the sales of first-hand residential properties.
56. The Council is pleased to note that since its establishment, the SRPE has been enhanced with improvements in information display and retrieval. These are welcome initiatives. However, for further improvement, apart from enhancing user-friendliness, more details of developments (e.g. the name of the developer, the sales arrangements, issuance of occupation permit, and the proposed consolidated information lists) should also be made available on the SRPE to assist consumers in searching for accurate information.

### **Conclusion**

57. The introduction of the Residential Properties (First-hand Sales) Ordinance in April 2013 was a key milestone in the market for first-hand sales of residential properties. Its existence came about after many years of strenuous effort by the Council to address endemic and damaging practices that placed prospective purchasers at a distinct disadvantage in the market.

58. The Government is to be commended in its efforts at bringing this legislation into being. It has brought about benefits to consumers. However, it is apparent from the Council's survey, focus group meetings, field visits and research that the new law has not yet delivered its full value that plagued the market in the past. The legislation as it stands is still not entirely sufficient to cover the range of problems that exist.
59. The Council will play its part in promoting the benefits that the Ordinance has brought to the marketplace, and inform consumers on how to make the best of the information that is currently available. However, greater effort and vigilance is required by the Government, the regulators and the trade to further govern and comply with the law which is designed to protect prospective purchasers and to ensure they are fairly treated in the market.
60. The Council has undertaken this study as an indication of its ongoing commitment to making the marketplace a safer environment for consumers. It is hoped that all parties involved, would give the Council's recommendations their most careful considerations and to put into implementation the needed improvements on the way forward.



## **1 INTRODUCTION**

### **1.1 Background**

- 1.1.1 Buying a residential property involves consumers making a substantial long-term financial commitment. In view of the great importance of property transactions to the average consumers, the Consumer Council (the Council) has been closely involved in advocating regulation by law to protect the rights and interests of home purchasers in Hong Kong.
- 1.1.2 In 1977, the Council released its first property report entitled “Sale and purchase of flats in Hong Kong” in which it made various recommendations for the Government and the trade to address consumer concerns at the time. In 2001 the Council also submitted recommendations to the Government regarding the then proposed Sales Descriptions of Uncompleted Residential Properties Bill which was to alleviate consumer concerns with the property market. The Bill was ultimately not pursued due to the change of market environment and voluntary compliance by property developers.
- 1.1.3 Nevertheless the problems remained and in the light of growing consumer concerns over the sale and purchase of first-hand residential properties, the Council conducted a study in 2010 to look into the availability and reliability of property market information.
- 1.1.4 In July 2010, the Council released its study report, “Building a Property Market Information Platform for Home Purchasers” (the Council’s 2010 Study Report). The study report proposed measures to ensure clear, accurate and comprehensive property information available to prospective purchasers and that legislation would be the most effective way to realize the recommendations.
- 1.1.5 In October 2010 following the announcement of its establishment by the Chief Executive in the 2010-11 Policy Address, the Steering Committee on Regulation of the Sale of First-hand Residential Properties by Legislation (the Steering Committee) was set up and the Council was invited to participate as a member. Apart from providing comments on the scope of the legislative framework at the Steering Committee, the Council also submitted views to the Transport and Housing Bureau (THB) and the Legislative Council concerning the proposed Residential Properties (First-hand Sales) Bill in 2012. For information, the Council’s 2010 Study Report and its submissions are available at [www.consumer.org.hk](http://www.consumer.org.hk).
- 1.1.6 The Council was pleased to note that some of its recommendations were adopted and supported the enactment of the Residential Properties

(First-hand Sales) Ordinance (the Ordinance) to regulate the sale of first-hand residential properties.

## **1.2 The Ordinance**

1.2.1 The Ordinance came into full effect on 29 April 2013. The Sales of First-hand Residential Properties Authority (SRPA) was set up under the Ordinance to ensure the effective implementation of the Ordinance. The SRPA is part of the THB.

1.2.2 The Ordinance sets out detailed requirements in relation to sales brochures, price lists, show flats, advertisements, sales arrangements, disclosure of transaction information, and mandatory provisions for the Preliminary Agreement for Sale and Purchase (PASP) and Agreement for Sale and Purchase (ASP) of first-hand residential properties. It also prohibits misrepresentation and dissemination of false or misleading information. Offences are created for the contravention of provisions in the Ordinance.

## **1.3 The Study**

1.3.1 While the Ordinance was proposed at the time to be practical and useful in ensuring the provision of transparent, accurate and appropriate property information to home purchasers, the Council considered it important to conduct a subsequent in-depth study on the sales of first-hand residential properties in Hong Kong in order to shed light on how prospective purchasers have been treated in property transactions; and the state of compliance by developers of first-hand residential properties under the Ordinance.

1.3.2 This study, carried out by the Council staff, was started in April 2014 and completed in September 2014.

## **1.4 Objectives of the Study**

1.4.1 The objectives of this study are:

- To gather information from consumers to gauge their understanding, experience and problems concerning the purchase of first-hand residential properties in Hong Kong;
- To assess compliance by developers of first-hand residential developments in respect of different areas under the new regulatory framework; and

- To make recommendations to the Government in reviewing the Ordinance to strengthen protection of consumer interests, as well as to the trade in promoting responsible trade practices and fair competition.

## **1.5 Study Scope**

- 1.5.1 The study is confined to first-hand residential properties being offered for sale by developers to the general public in Hong Kong, including both uncompleted and completed residential properties at their various stages of sales, i.e. at first sales, and at sales that have been previously launched for a prolonged period of time.
- 1.5.2 The study does not cover flats in the second-hand residential property market or commercial or industrial buildings, for reasons that these are not within the scope of the Ordinance.

## **1.6 Methodology**

- 1.6.1 To meet the objectives as stated above, the study involved two parts:

### Part One: Consumer Opinions

- To conduct a consumer survey to gauge public perception and understanding of the new regulatory framework and the problems concerning the purchase of first-hand residential properties in Hong Kong; and
  - To research consumer experience through in-depth focus group meetings.
- 1.6.2 A total of 39,738 survey questionnaires were distributed through various channels including Choice magazine, mailing to tenants of selected residential property developments and posting on the Council's website, in the period from 15 April to 31 May 2014. The response rate was 1.5% and 602 individuals answered the 46 survey questions. Three focus group meetings were held in late May 2014 with 18 individuals participated.

### Part Two: Compliance by the Trade

- 1.6.3 With reference to consumer information collected in part one, the following were carried out to assess the level of compliance by developers:
- To carry out mystery field visits with a view to observing sales arrangements of selected development projects; and

- To examine the state of compliance with the new regulatory framework by developers with respect to transparency, fairness and consumer protection.
- 1.6.4 17 field visits were conducted by Council staff and volunteers (fieldworkers) between 6 June and 31 July 2014, involving 17 residential development projects.
- 1.6.5 In addition to conducting field visits, compliance checks were also conducted to gather and examine information, including promotional materials distributed at sales offices by developers and estate agents, documents available on the development project websites, and advertisements of the property development projects.
- 1.6.6 In considering whether there was room for improvement, the Council had also made an attempt to identify any market practices not being regulated that could affect consumer interests.
- 1.6.7 In summary, the key deliverables of the study were as follows (Table 1):

Table 1: Key Deliverables of the Study

<b>Part</b>	<b>Components</b>	<b>Description</b>
1.Consumer opinions	<ul style="list-style-type: none"> <li>• Consumer survey (602 valid questionnaires received in April – May 2014)</li> </ul>	<ul style="list-style-type: none"> <li>• Consumer perception and understanding of the new regulatory framework</li> </ul>
	<ul style="list-style-type: none"> <li>• Focus groups (3 meetings held in May 2014)</li> </ul>	<ul style="list-style-type: none"> <li>• Consumer views on the effectiveness of the Ordinance in protecting their interests</li> </ul>
2.Compliance by the trade	<ul style="list-style-type: none"> <li>• Field visits (17 development projects visited in June – July 2014)</li> </ul>	<ul style="list-style-type: none"> <li>• Visits of sales offices to check on show flats and the information disseminated at the time of sale, as well as the sales order of the development projects</li> </ul>
	<ul style="list-style-type: none"> <li>• Compliance checks (17 development projects)</li> </ul>	<ul style="list-style-type: none"> <li>• Research work on the contents, availability and timeliness of the information provided by developers of the development projects</li> </ul>

- 1.6.8 In order to fully understand the problems faced by consumers, the Council also reviewed its related complaint statistics and the complaints received by the SRPA on first-hand residential properties (Appendix 1).
- 1.6.9 As at 30 June 2014, the SRPA had received a total of 69 complaints since its establishment in April 2013. Many of the complaints were related to sales arrangements (29%), dissemination of misleading information (20%), and sales brochures (14%). In the period of January 2013 to September 2014, the Council received 75 cases of complaint. The top three complaint categories were related to transaction agreements, sales practices of estate agents and property defects.
- 1.6.10 In addition to the Ordinance, the Council also studied various guidelines and practice notes for vendors and press statements issued by the SRPA, as well as the circular on conduct and provision of property information in first sale of residential properties issued by the Estate Agents Authority (EAA).

## **2 CONSUMER OPINIONS**

### **2.1 Introduction**

2.1.1 This chapter, as part one of the study, reports the findings of the:

- questionnaire survey; and
- focus group discussions.

### **2.2 Questionnaire Survey**

#### **Overview**

2.2.1 The survey was carried out from 15 April to 31 May 2014. During this period, the Council distributed a total of 39,738 questionnaires and received 602 valid responses. The response rate was about 1.5%.

2.2.2 Among the respondents, 280 had viewed a first-hand residential property and 178 had purchased a first-hand residential property over the past 3 years.

2.2.3 The questionnaires were distributed through multi-channels including Choice magazine (63%), mailing to tenants of targeted residential developments which were recently completed (35%), and distribution of questionnaires to prospective purchasers outside sales offices and the Council's advice centers (2%). The questionnaire was also posted on the Council's website for 2 weeks in May 2014 to expand its distribution coverage.

2.2.4 The survey explored:

- consumer perception and understanding of the new regulatory framework;
- consumer views on the current regulatory measures and/or non-regulatory market practices for first-hand residential properties; and
- consumer experiences of first-hand residential property purchase.

#### **Survey Analysis**

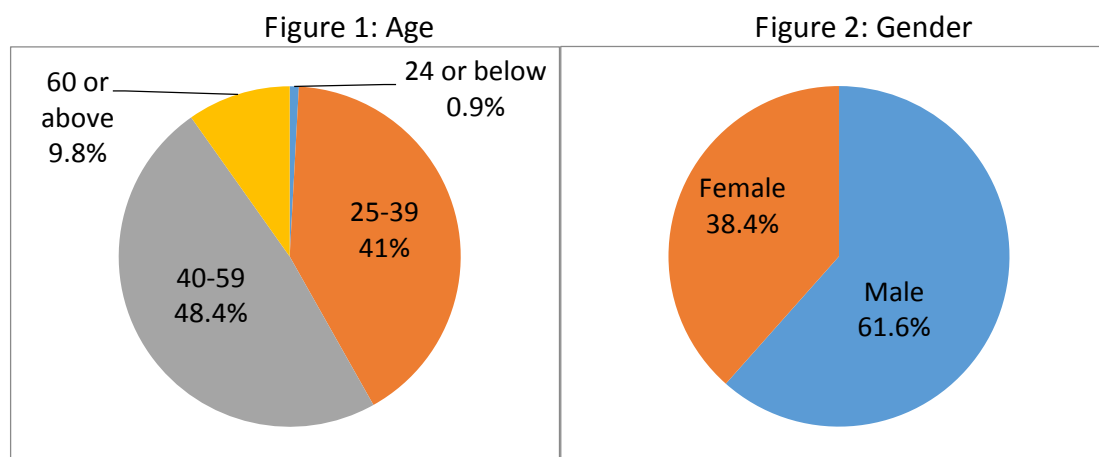
##### **(i) About the analysis**

2.2.5 There are questions where not all the respondents provided an answer or clearly indicated their choices. For these questions, the analysis was based on the total number of respondents who answered the questions. For questions with a single answer, the sum of the percentages of these questions might not be equal to 100, due to rounding issues. For questions

with multiple responses, the total sum of percentages however, may be greater than 100.

**(ii) Profile of respondents**

2.2.6 Among the respondents, 41% were 25 – 39 years old, 48.4% were 40 – 59 years old, and 9.8% aged 60 or above (Figure 1). With regard to gender, males accounted for 61.6% and females accounted for 38.4% (Figure 2).



**(iii) Consumer awareness and understanding of the Ordinance**

*High level awareness of the Ordinance*

2.2.7 The survey showed a high level of awareness of the Ordinance. As high as 80.9% of respondents claimed to have known of the implementation of the Ordinance (Figure 3), though only 10.1% replied that they "understand" (8.9%) or "fully understand" (1.2%) the Ordinance (Figure 4).

Figure 3: Do you know that the Ordinance has come into effect?

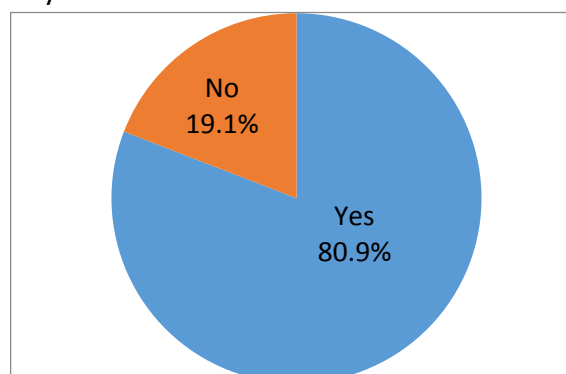
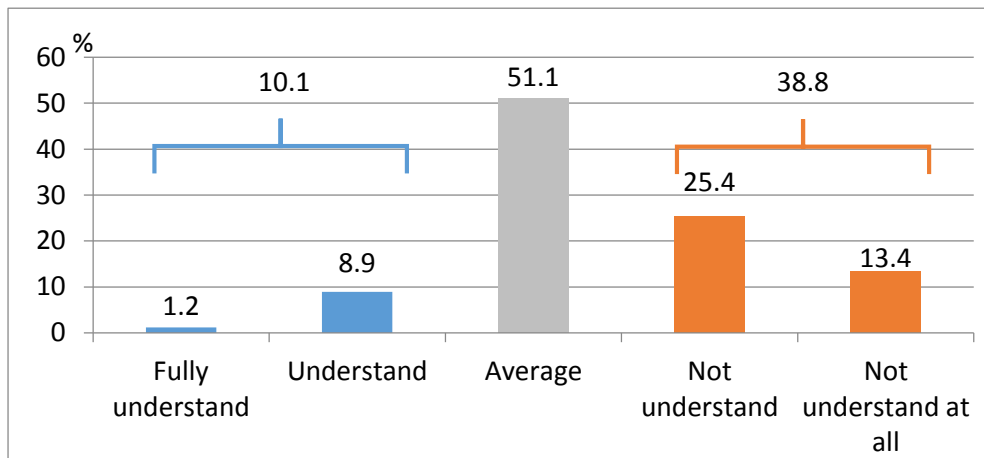


Figure 4: Extent of understanding about the Ordinance

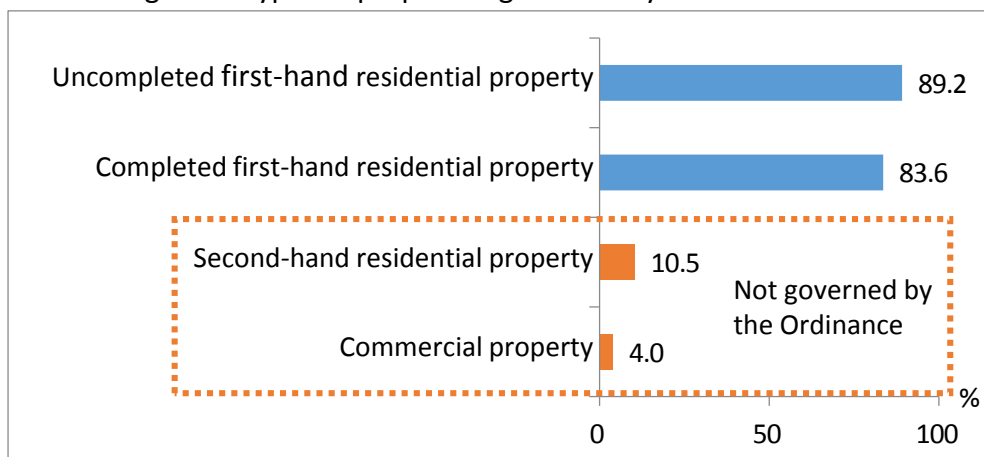


*Majority knew the governing scope of the Ordinance*

2.2.8 The respondents were asked about the governing scope of the Ordinance. The results revealed that the majority of the respondents knew that the Ordinance governs both "uncompleted first-hand residential property" (89.2%) and "completed first-hand residential property" (83.6%).

2.2.9 Nevertheless, a minority mistakenly thought that "second-hand residential property" (10.5%) and "commercial property" (4.0%) are also under the governance of the Ordinance (Figure 5).

Figure 5: Types of properties governed by the Ordinance

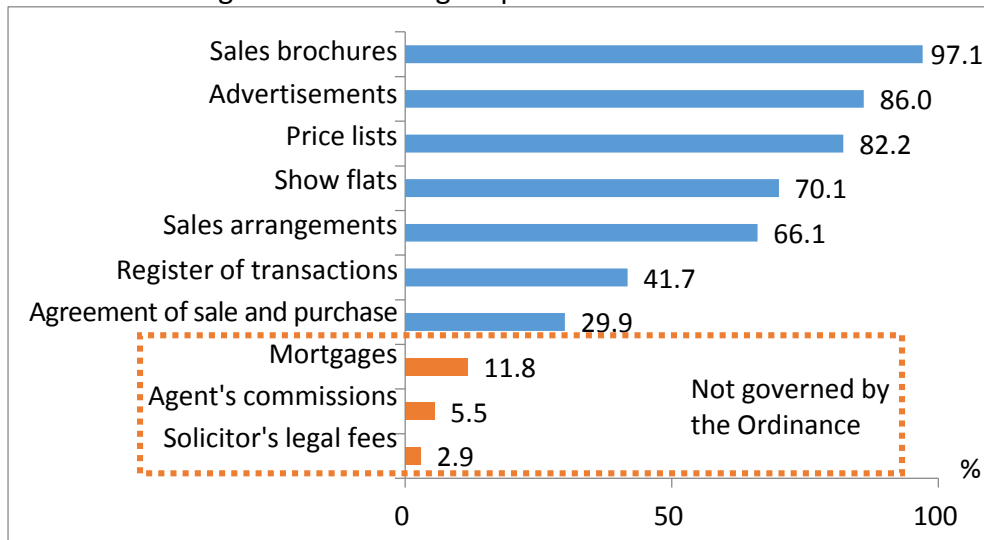


2.2.10 In terms of the scope of the Ordinance, almost all of the respondents (97.1%) answered that "sales brochures" are governed by the Ordinance, followed by "advertisements" (86.0%), "price lists" (82.2%), "show flats" (70.1%), "sales arrangements" (66.1%), "register of transactions" (41.7%) and "agreement of sale and purchase" (29.9%). Some respondents thought that "mortgages" (11.8%), "agent's commissions" (5.5%) and "solicitor's legal fees" (2.9%) also



fell within the governing scope of the Ordinance; when in fact they are not (Figure 6).

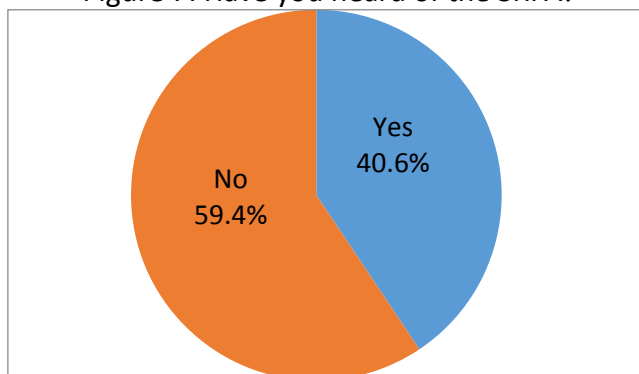
Figure 6: Governing scope of the Ordinance



*Fair level awareness of SRPA*

2.2.11 The survey also asked all the respondents whether they had heard of the Sales of First-hand Residential Properties Authority (SRPA). The results showed that a fair level of the respondents, 40.6%, had heard of SRPA while 59.4% had not (Figure 7).

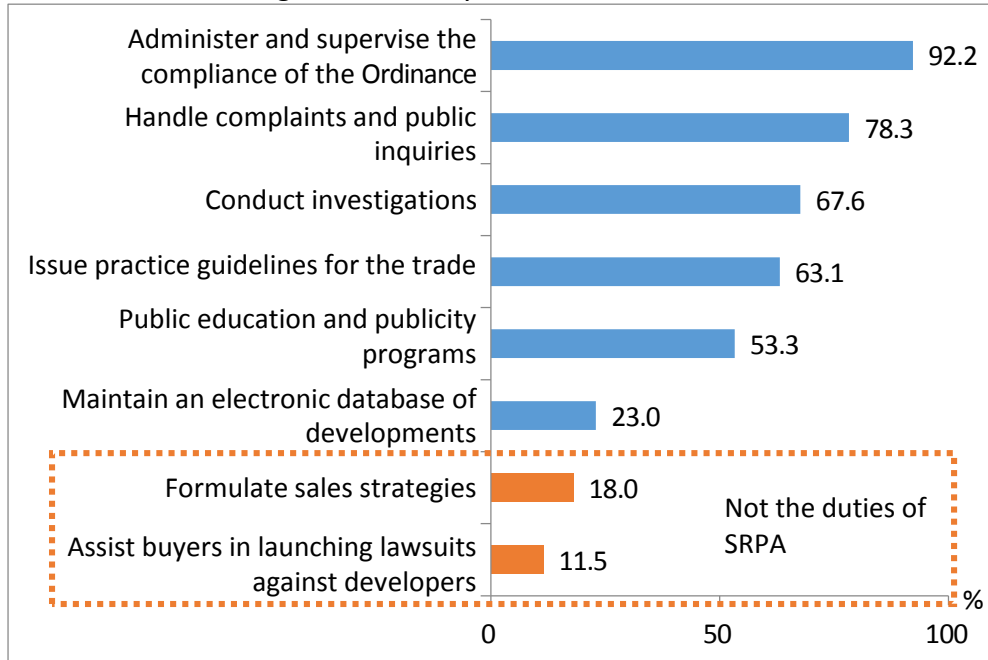
Figure 7: Have you heard of the SRPA?



2.2.12 Regarding the primary duties of the SRPA, 92.2% of the respondents knew the SRPA "administer and supervise the compliance of the Ordinance", followed by "handle complaints and public inquiries" (78.3%), "conduct investigations" (67.6%), "issue practice guidelines for the trade (63.1%), "public education and publicity programs" (53.3%) and "maintain an electronic database of developments" (23%). Some 18% were under the wrong impression that the SRPA would even "formulate sales strategies" and

11.5% would “assist buyers in launching lawsuits against developers” (Figure 8).

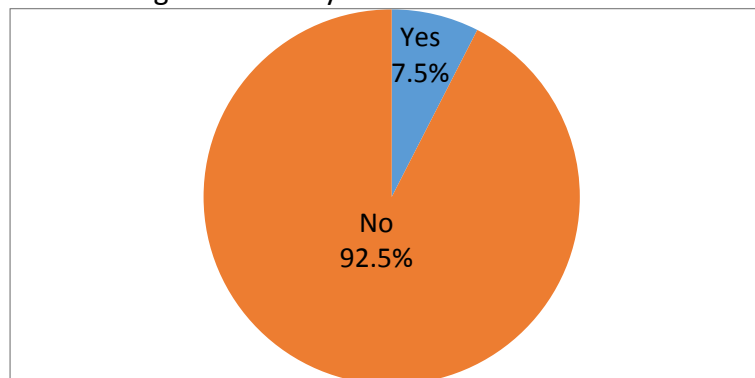
Figure 8: Primary duties of the SRPA



*Low utilization of SRPE*

2.2.13 SRPA established the Sales of First-hand Residential Properties Electronic Platform (SRPE) ([www.srpe.gov.hk](http://www.srpe.gov.hk)) to provide information such as sales brochures, price lists and registers of transactions for public perusal. From the survey results, only 7.5% of the respondents had ever used SRPE and 92.5% had not (Figure 9).

Figure 9: Have you ever used SRPE?



*Areas of improvement*

2.2.14 The respondents were asked to suggest areas for improvement of the SRPE. Of those who had or had not used the SRPE, most of them suggested "add more details of the developments (e.g. the name of the developer, district, sales arrangements, etc)" (80.6%), followed by "add more information about sales status of the developments such as units available for sale and already sold" (71.4%). Other suggested improvement areas include "add more screening options when searching for developments (e.g. users can search or screen out developments of particular time period)" (50.0%), "provide links to official websites of developments" (43.9%), and "reduce the frequency to enter the verification code when searching for developments" (30.6%) (Table 2).

Table 2: Areas of improvement in SRPE

	% of Respondents	Status (as at 31 October 2014)
Add more details of the developments (e.g. the name of the developer, district, sales arrangement, etc)	80.6%	Partly added
Add more information about sales status of the developments such as units available for sale and already sold	71.4%	Partly added
Add more screening options when searching for developments (e.g. users can search or screen out developments of particular time period)	50.0%	Added
Provide links to official websites of developments	43.9%	Added
Reduce the frequency to enter the verification code when searching for developments	30.6%	Still required

2.2.15 After the survey questionnaire was released, the Council observed that the SRPA had taken action to improve SRPE in certain aspects such as adding more sorting or filtering options for searching of developments, providing district information and links to websites of developments to facilitate users of SRPE, etc. However, information such as the latest availability of units for sale and sales arrangements of a development, as well as the status of a development, i.e., whether it is completed (with occupation permit issued) or uncompleted, is still not available in the SRPE.

**(iv) Consumer views on the Ordinance**

2.2.16 Apart from focusing on consumer awareness and understanding of the regulatory framework, the survey also asked respondents their opinions about the new Ordinance.

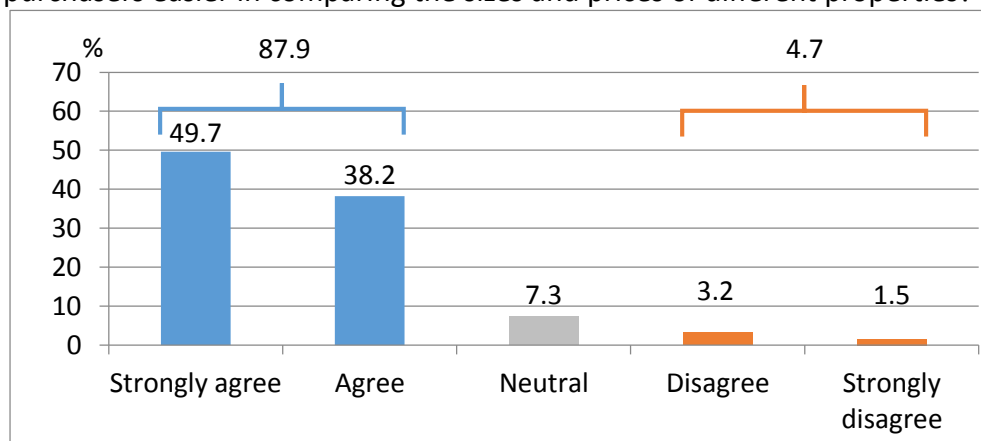
*Standardized definition and use of saleable area*

2.2.17 The Ordinance sets out a standardized definition of saleable area and requires the use of saleable area for presenting property size and calculating property unit price.

2.2.18 A majority of the respondents (87.9%) agreed such standardization could facilitate prospective purchasers to compare the prices and sizes between different properties (49.7% “strongly agree”, 38.2% “agree”). Only a minority (4.7%) disagreed (1.5% “strongly disagree”, 3.2% “disagree”) (Figure 10).

2.2.19 Nevertheless, some respondents opined that the definition of saleable area was not clear and more education and publicity on saleable area were required.

Figure 10: Do you agree the use of standardized saleable area can make prospective purchasers easier in comparing the sizes and prices of different properties?

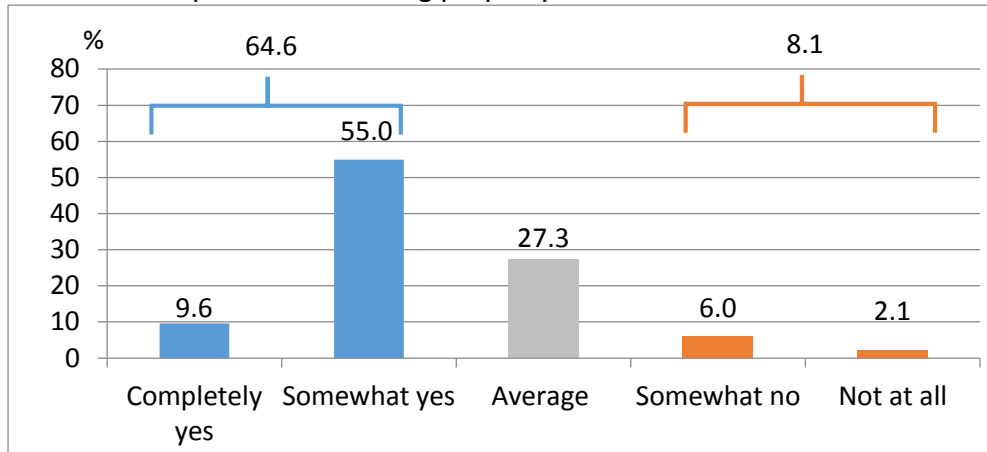


*Availability of sales brochures 7 days before sale*

2.2.20 Nearly two-thirds (64.6%) of the respondents agreed that the current requirement of making sales brochures available in hardcopy and on development project websites for public perusal 7 days prior to the commencement of sale and during the sale could solve the previous problem that prospective purchasers were lacking of property information for reference. Of those respondents, 9.6% responded “completely yes”, while 55.0% responded “somewhat yes”. Some 8.1% thought such provision could not solve the problem (2.1% “not at all”, 6.0% “somewhat no”) (Figure 11).

2.2.21 According to comments of some respondents, the “7-day rule” was not adequate and a longer period of time such as 14 days was suggested.

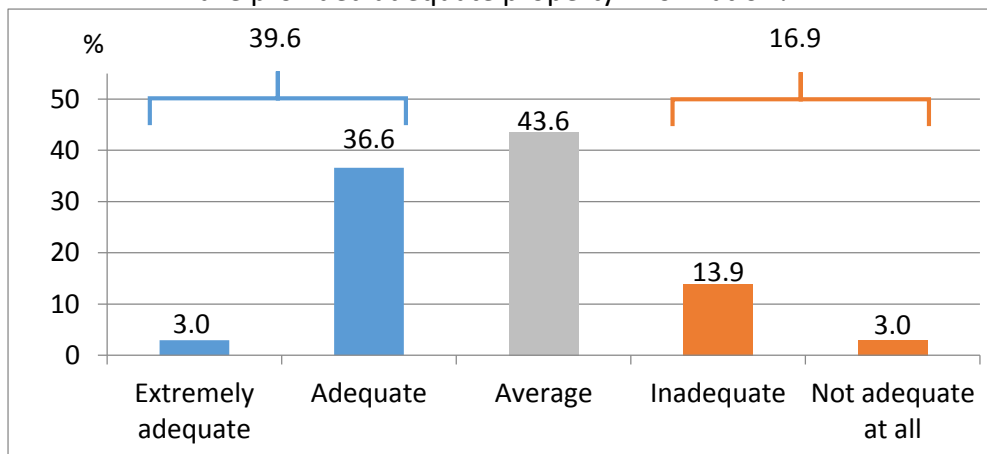
Figure 11: Do you think making sales brochures available 7 days in advance can solve the problem of lacking property information for reference?



*Information adequacy*

2.2.22 Concerning the provision of property information for prospective purchasers, 39.6% of the respondents replied that sales brochures at present have provided “extremely adequate” (3.0%) or “adequate” (36.6%) information, 43.6% answered “average” and 16.9% thought the information was inadequate (3.0% “not adequate at all”, 13.9% “inadequate”) (Figure 12).

Figure 12: To what extent do you think sales brochures at present have provided adequate property information?



2.2.23 The respondents were asked to provide suggestions on what to add or delete from the contents of sales brochures. Their suggestions were as follows:

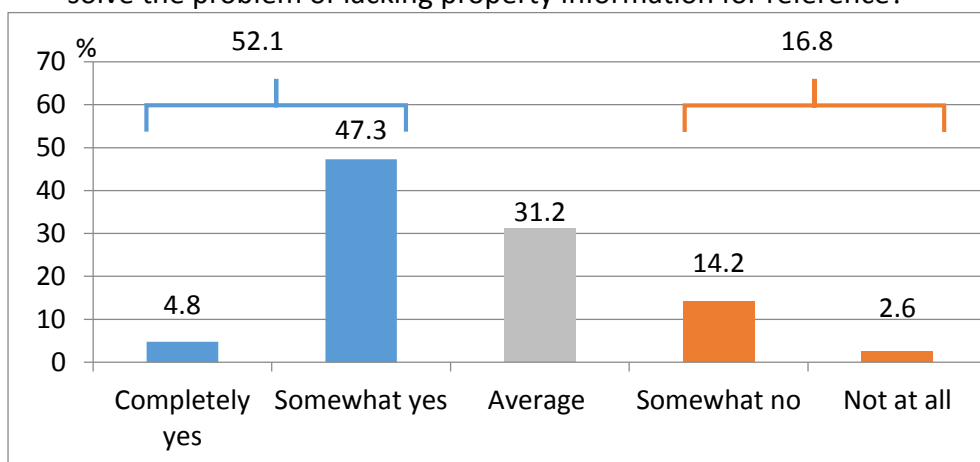
- Information to be added: management fees, floor-to-ceiling height, wall area, quality and warranty period of fitting materials, explanation on property facilities such as air pipe ducts.
- Information to be deleted: unnecessary design pictures, contents or advertisements, e.g. the use of models or large green fields.

*Availability of price lists 3 days before sale*

2.2.24 The Ordinance also stipulates that developers must make price lists available in hardcopy and on their websites for public perusal at least 3 days prior to the commencement of sale and during the sale.

2.2.25 About half of the respondents (52.1%) considered that such a requirement could solve the previous problem that prospective purchasers are lacking of property information for reference. Of those respondents, 4.8% responded “completely yes”, 47.3% “somewhat yes”, and 16.8% answered negatively (2.6% “not at all”, 14.2% “somewhat no”) (Figure 13).

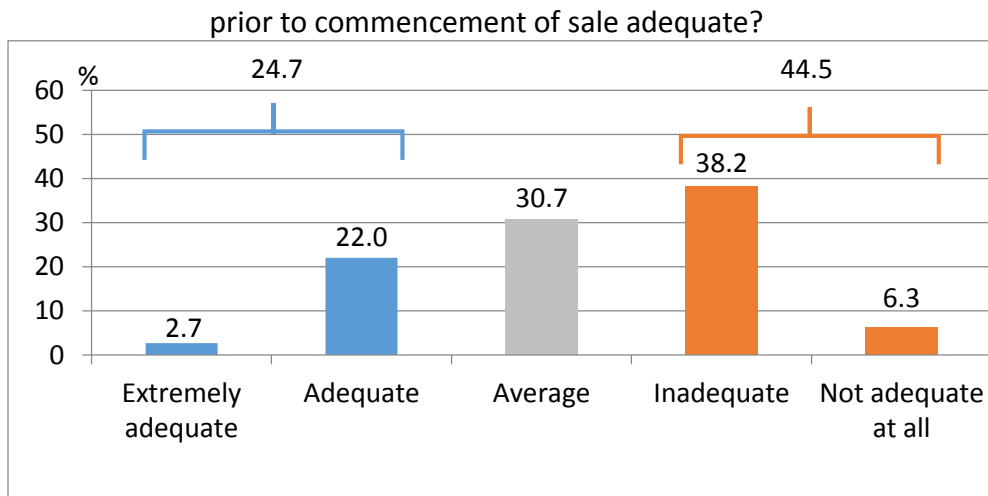
Figure 13: Do you think making price lists available 3 days in advance can solve the problem of lacking property information for reference?



2.2.26 In terms of the time requirement, 24.7% of the respondents considered the “3-day rule” was enough. Nearly half of the respondents (44.5%) thought the “3-day rule” was insufficient (Figure 14).

2.2.27 The majority of respondents in the survey suggested a longer period of time such as 7 days.

Figure 14: Do you think the availability of price lists 3 days

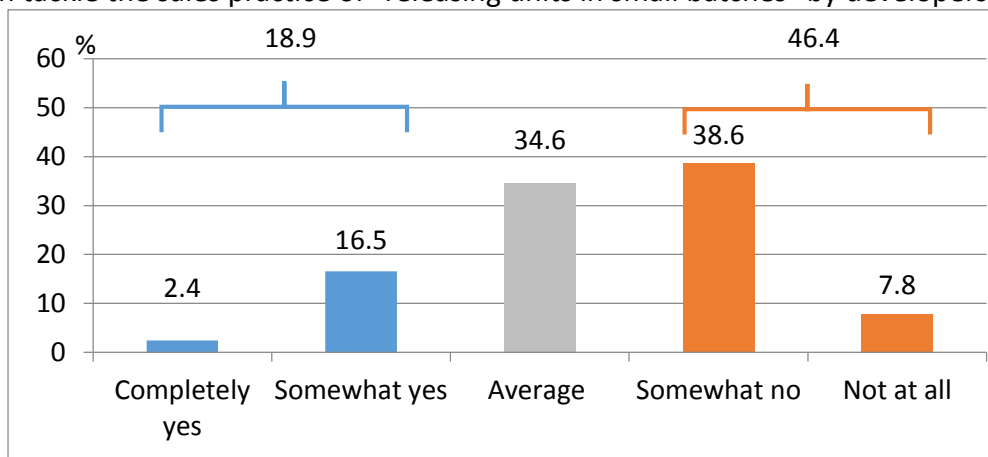


*Releasing units in small batches*

2.2.28 The Ordinance also stipulates the minimum number of residential units to be included in each price list. However, it does not require that a developer must sell all the units concerned. If the developer wants to subsequently change the prices, the units concerned should not be sold earlier than 3 days after the issue of revised price list.

2.2.29 The survey results showed that only 18.9% of the respondents thought such requirements could tackle the problematic sales practice of "releasing units in small batches" by developers. 46.4% of the respondents thought that the requirements could not tackle the practice (Figure 15).

Figure 15: Do you think setting minimum number of units to be included in price lists can tackle the sales practice of "releasing units in small batches" by developers?



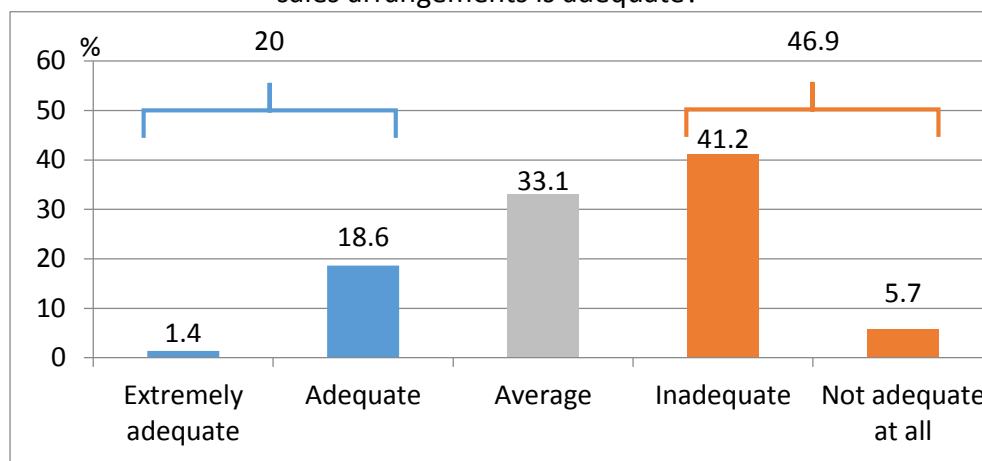
*Availability of sales arrangements 3 days before sale*

2.2.30 For sales arrangements, the Ordinance stipulates that the developer must provide the information on date, time and place of the sales and the description of residential properties that will be offered for sale for public perusal at least 3 days prior to commencement of sale.

2.2.31 However from the survey results, only 20% of the respondents considered the requirement adequate. Nearly half of the respondents (46.9%) were of the view that the requirement was inadequate (Figure 16).

2.2.32 The majority of respondents suggested a longer disclosure period and time requirement should be extended to 7 days.

Figure 16: Do you think the disclosure requirement on sales arrangements is adequate?



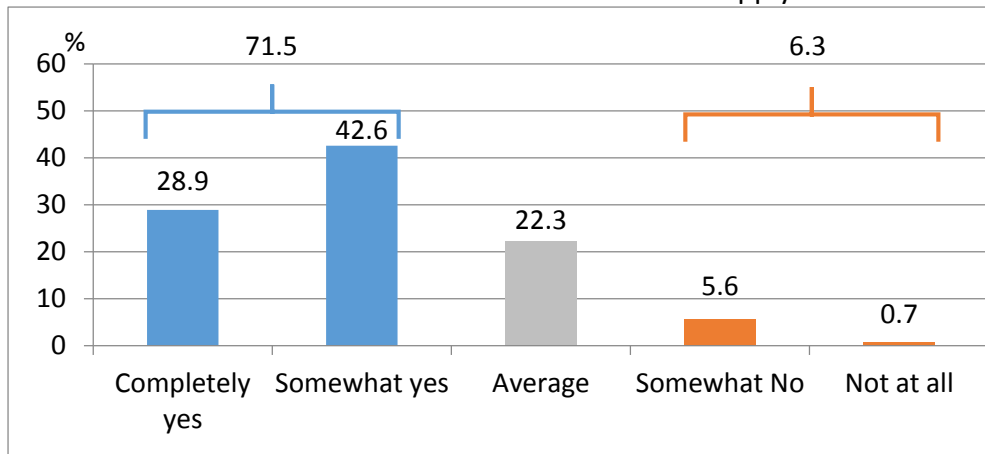
*Announcement of registration figures*

2.2.33 The survey also asked respondents for their views as to whether claims of receiving a huge number of “registration of intent” or “register’s cheque” before the commencement of sale would affect their assessment of the actual market demand and supply situations. Over 70% of the respondents (71.5%) believed that they would be affected. Only 6.3% said it would not affect them (Figure 17).

Figure 17: Do you think the practice of announcing registration figures would



affect assessment of the actual market demand and supply situations?



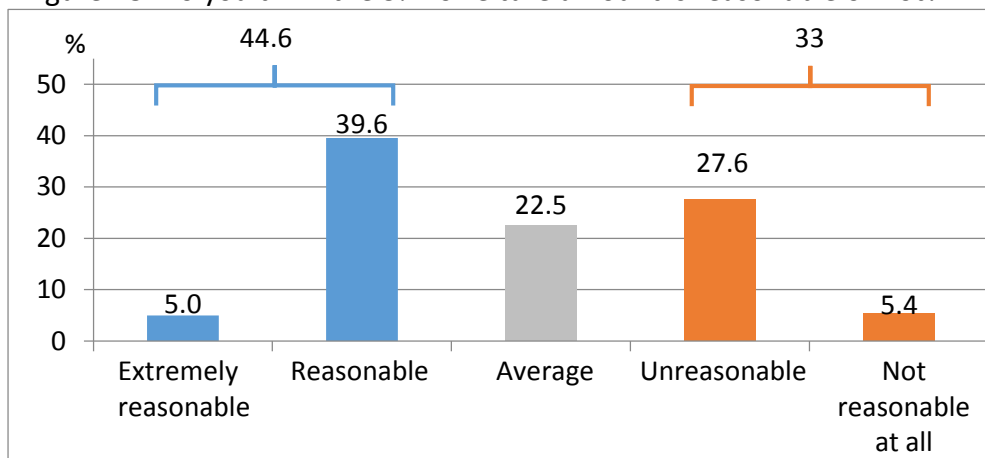
*Amount of forfeiture*

2.2.34 The Ordinance specifies that 5% of the purchase price would be forfeited if a purchaser did not proceed to the signing of ASP within 5 working days after the signing of the PASP. The survey asked respondents if a 5% forfeiture amount was reasonable or not.

2.2.35 From the survey results, 44.6% of the respondents considered that the forfeiture amount was reasonable, while 33% of the respondents were of the view that it was unreasonable (Figure 18).

2.2.36 The respondents were asked to suggest an appropriate amount of forfeiture. The respondents in general suggested the forfeiture amount be 1% to 3% of the purchase price.

Figure 18: Do you think the 5% forfeiture amount is reasonable or not?

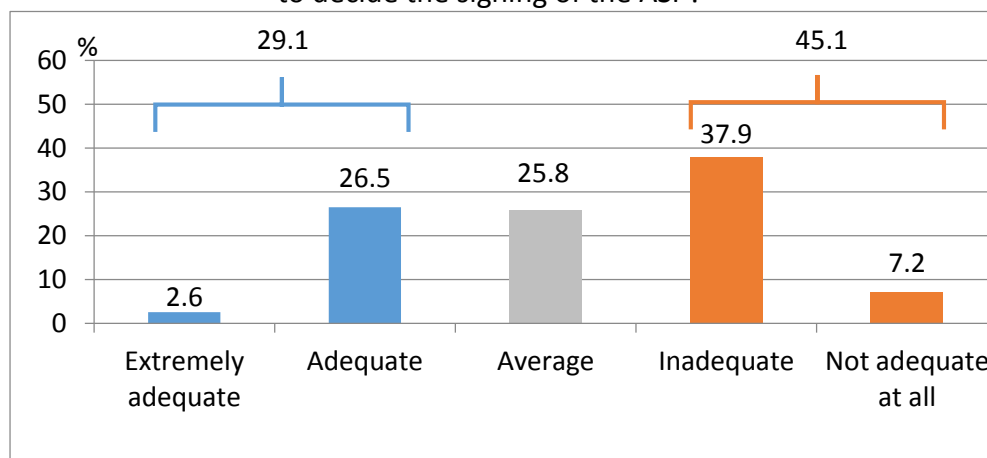


*'Cooling-off period'*

2.2.37 About 45.1% of respondents considered that the ‘cooling-off period’ of 5 working days would be inadequate for prospective purchasers to make a formal purchase decision. Only 29.1% of the respondents thought that it was sufficient (Figure 19).

2.2.38 According to the survey comments, the majority of respondents suggested a ‘cooling-off period’ of 7 to 14 days.

Figure 19: Do you think 5 working days adequate for prospective purchaser to decide the signing of the ASP?

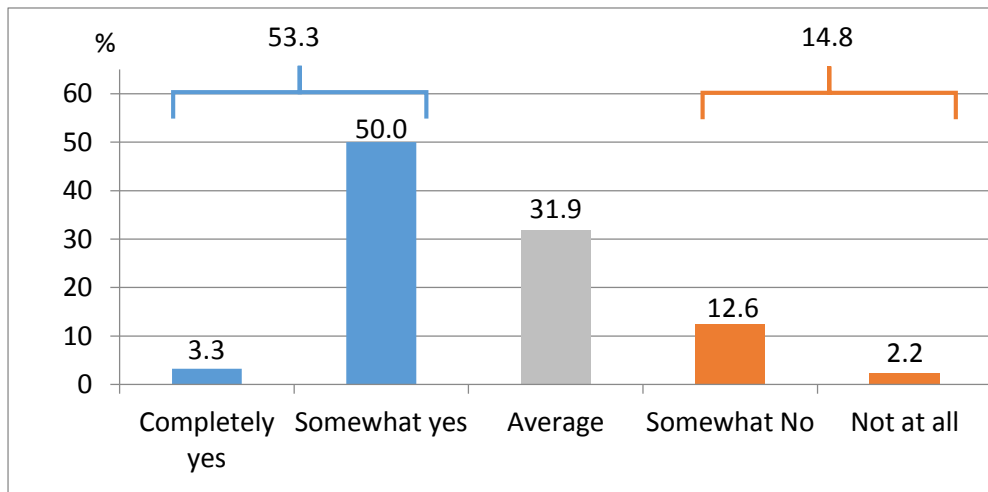


*Up-to-date register of transactions*

2.2.39 The Ordinance also stipulates that the developer must disclose the details of the PASP, by updating the registers of transactions, within 24 hours after it has been signed. The respondents were asked if they thought such disclosure requirement could provide up-to-date transaction information for prospective purchasers.

2.2.40 More than half of the respondents (53.3%) considered the 24-hour time requirement could provide up-to-date transaction information for prospective purchasers. About 14.8% held negative answers (including “somewhat no” at 12.6% and “not at all” at 2.2%) (Figure 20).

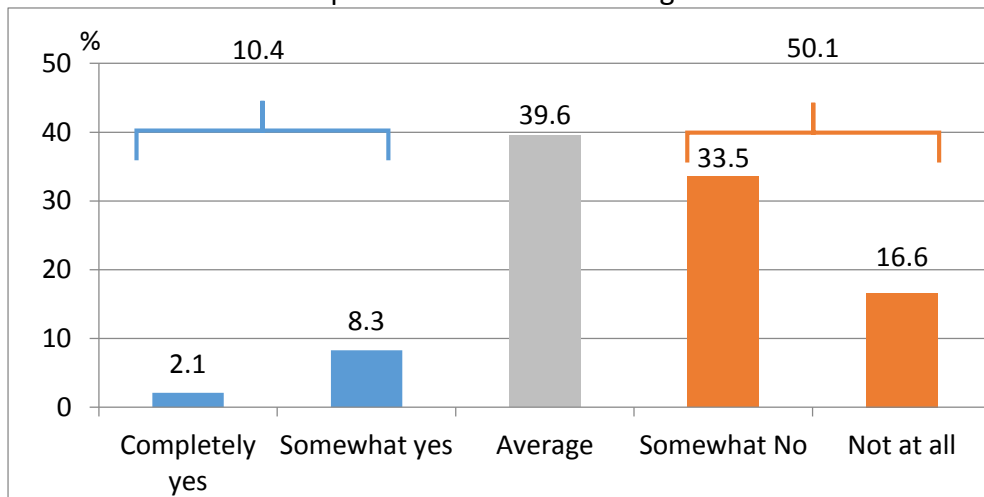
Figure 20: Do you think the 24-hour time requirement for updating the registers of transactions can provide up-to-date transaction information?



*Advertisements different from reality*

2.2.41 Though the Ordinance stipulates that advertisements of the development should not contain any false or misleading information, only 10.4% of the respondents considered that existing advertisements (newspapers, magazines or internet) totally represented the reality or were similar to the reality. Over half of the respondents (50.1%) commented that the advertisements were different from reality (Figure 21).

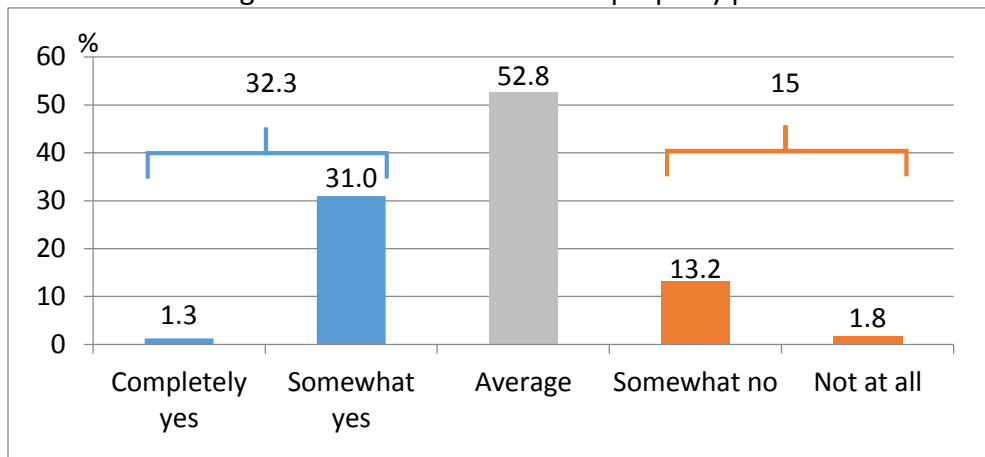
Figure 21: Do you think advertisements of property can help you know more about the development and its surrounding environment?



*Effectiveness of the Ordinance*

2.2.42 The respondents were finally asked if the Ordinance could effectively protect consumer rights. Of those who had answered, 32.3% replied “completely yes” (1.3%) or “somewhat yes” (31%), 52.8% replied “average” and some 15% replied “somewhat no” (13.2%) or “not at all” (1.8%) (Figure 22).

Figure 22: “Do you think the Ordinance can effectively protect the consumer rights of first-hand residential property purchasers?”

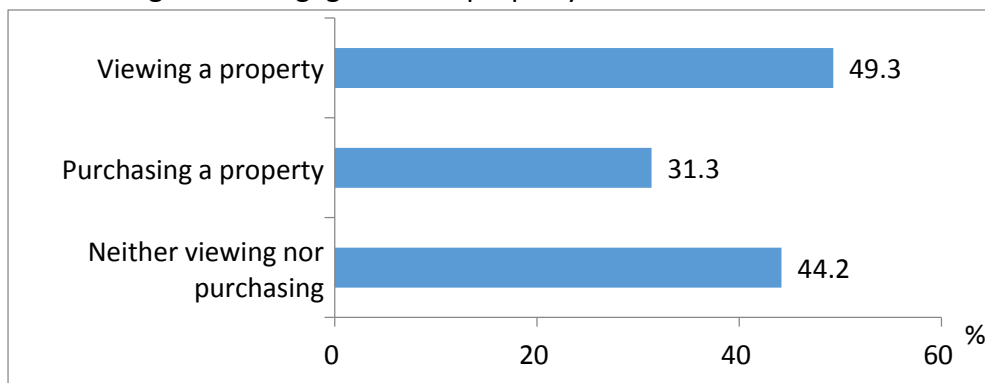


**(v) Viewing or purchasing first-hand residential property**

2.2.43 In addition to their opinions on the new Ordinance, the survey also asked respondents of their consumer experiences in viewing and purchasing of first-hand residential properties.

2.2.44 Based on the responses in this part of the survey, nearly half of the respondents (49.3%) had viewed a first-hand residential property over the past 3 years and almost one third of them (31.3%) had purchased a first-hand residential property during the period (Figure 23).

Figure 23: Engagement of property related activities

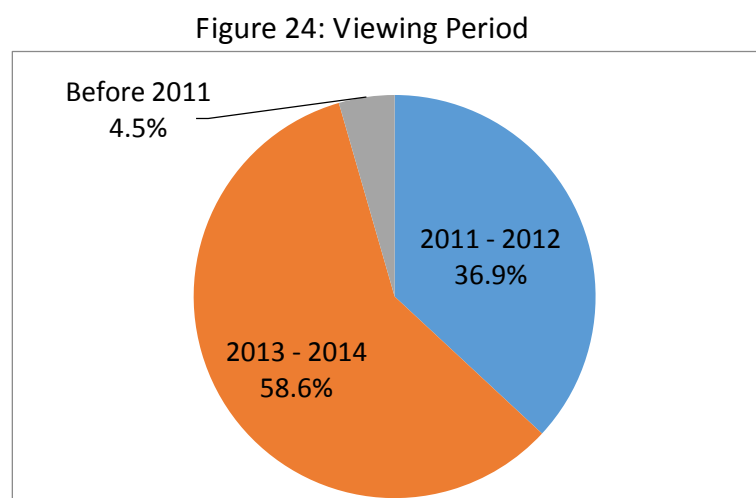


2.2.45 Where appropriate, the survey findings are presented as “before” (before 2013) and “after” (2013 & 2014) the implementation of the Ordinance to gauge if there are any changes in advancing consumer protection in the

property market. However, it should be noted that the Ordinance has been effective for only one and a half years and the comparisons made might only serve as a preliminary assessment.

### Viewing of first-hand residential properties

2.2.46 For respondents who viewed a first-hand residential property before, 58.6% conducted their latest viewing in 2013 and 2014, 36.9% in 2011 and 2012 and 4.5% before 2011 (Figure 24).



### Availability and disclosure of information

2.2.47 Sales brochures, price lists and promotional materials were commonly available during the respondents' viewing of first-hand residential properties (Figures 25-27). Only around 10% of them did not acquire "promotion leaflets" (12.2%), "sales brochures" (12.5%) and "price lists" (15.9%) during their property viewing experiences.

2.2.48 Though the dissemination channels through which the respondents obtained the information were varied, a majority of them were provided by estate agents. Some respondents obtained the information by themselves through the development project websites or picked them up at sales offices or made requests.

Figure 25: Sales brochures

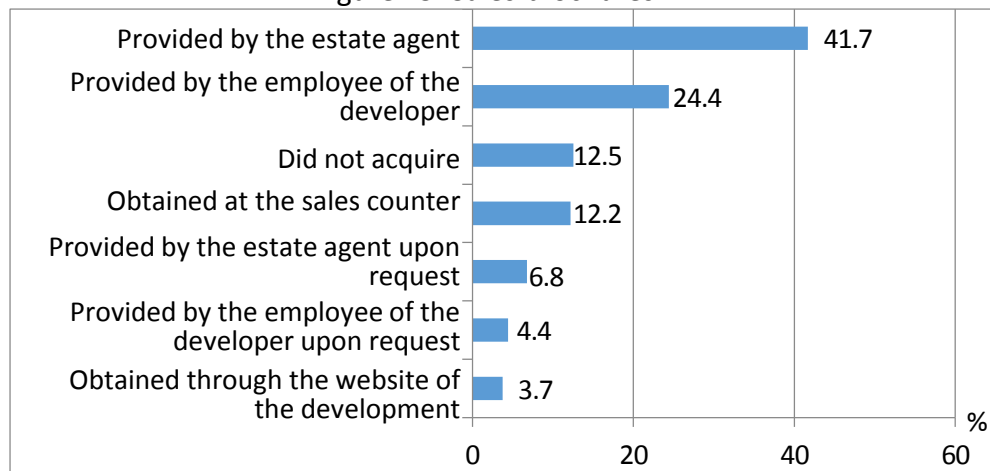


Figure 26: Price lists

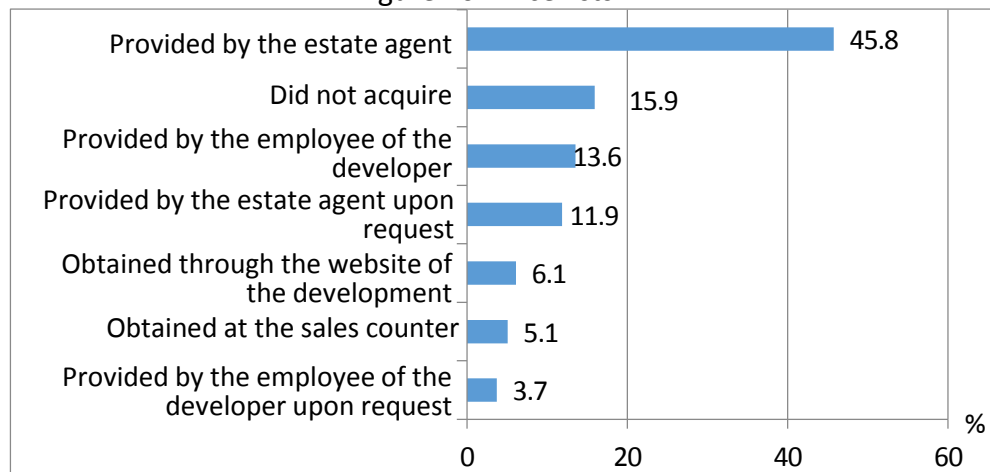
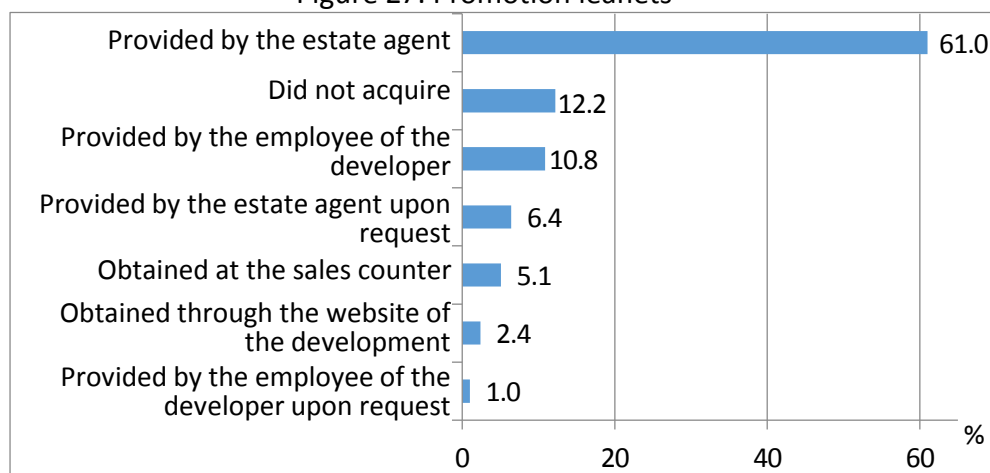


Figure 27: Promotion leaflets



*Level of importance of property information*

2.2.49 Regarding the various categories of property information to be available to the respondents, the survey results suggested that information on “units available for selection at the time of sale”, “sales brochures and price lists prepared by developers”, and “unmodified show flats” were regarded by many respondents as the top three important information items at the sales office. On the other hand, only around half of the respondents thought the presence of “modified show flats” was important (Table 3).

Table 3: Level of importance of different information in the sales office

Priority	Information item	Extremely important + Important
1.	Units available for selection at the time of sale	99.3%
2.	Sales brochures and price lists prepared by developers	97.9%
3.	Unmodified show flats	93.6%
4.	Sales arrangements	92.8%
5.	All remaining unsold units that are available in the development	92.7%
6.	Screens to show up-to-date information (e.g. units available for sale and units sold)	91.8%
7.	Transaction records	85.1%
8.	Video clips/images showing the actual situation of the property development	81.6%
9.	Models of the property development and its surrounding environment	77.7%
10.	Promotion leaflets and pricing information made by estate agents	72.1%
11.	Modified show flats	52.5%

*Restrictions at unmodified show flats*

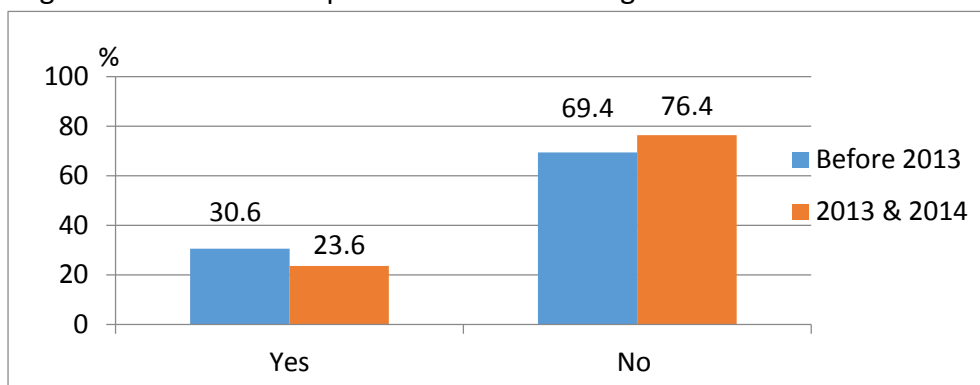
2.2.50 The Ordinance stipulates that if an unmodified show flat of a residential property is made available for viewing by prospective purchasers or by the general public, there should be no restriction on a person who views the show flat from taking measurements, or taking photographs or making video recordings, of the show flat.

2.2.51 The survey asked the respondents whether they were stopped by any developer’s staff or security personnel from taking photos or videos or taking measurements at unmodified show flats. In order to compare the difference before and after the implementation of the Ordinance, the respondents

were classified into “before 2013” and “2013 & 2014” to indicate their experience of viewing a property in that period.

2.2.52 Among those respondents who viewed a property before 2013 and had attempted to take measurements or photos, 30.6% stated that they had encountered the problem. For those who viewed the property in 2013-2014, a smaller number of respondents 23.6% claimed the problem (Figure 28).

Figure 28: Encountered problems when viewing an unmodified show flat



*Limited chance to view a completed property unit*

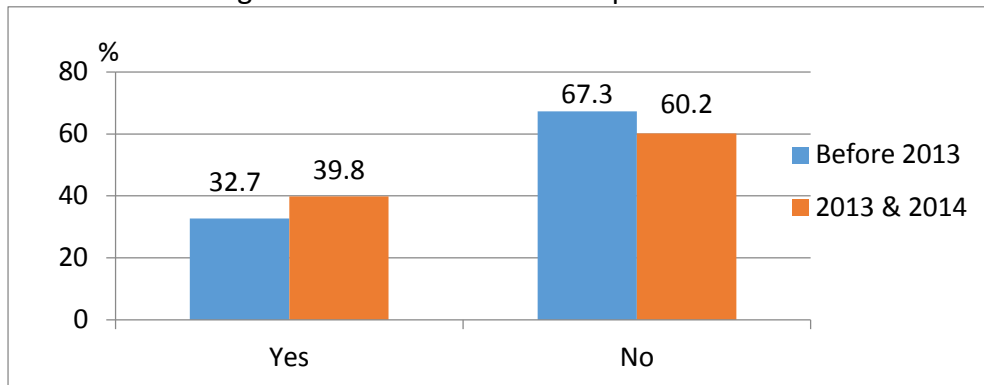
2.2.53 The respondents were also asked whether they had a chance to view the unit they intended to purchase at a completed residential property. The Ordinance specifies that vendors should, before the signing of the PASP, arrange for the purchaser to view the particular property that he/she wishes to purchase. If it is not reasonably practicable to arrange a viewing of that particular property, the vendor should arrange for the prospective purchaser to view a comparable property.

2.2.54 Among the respondents who viewed a property before 2013, only 32.7% of them had the chance to view a comparable property. For those who viewed the property in 2013 - 2014, a slightly higher 39.8% had the chance (Figure 29).

2.2.55 The respondents remarked that the reasons for not being able to view the completed property included: only show flats were available for viewing; completed units were not opened for viewing; only certain units were opened for viewing; or viewing would be allowed only after the signing of a PASP or placing of deposits.



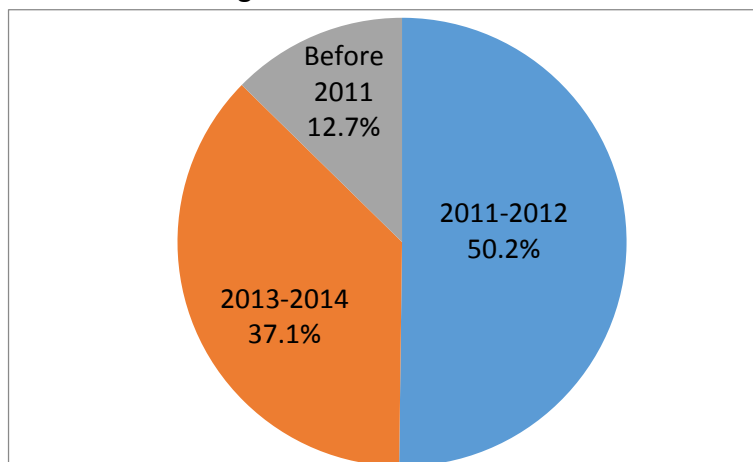
Figure 29: Chance to view completed unit



**Purchase of first-hand residential properties**

2.2.56 Of those respondents who had purchased a first-hand residential property during the past 3 years (including those who intended to make a purchase), the purchase period distribution is as follows: 37.1% purchased the property in 2013 and 2014, 50.2% in 2011 and 2012 and 12.7% before 2011 (Figure 30).

Figure 30: Purchase Period

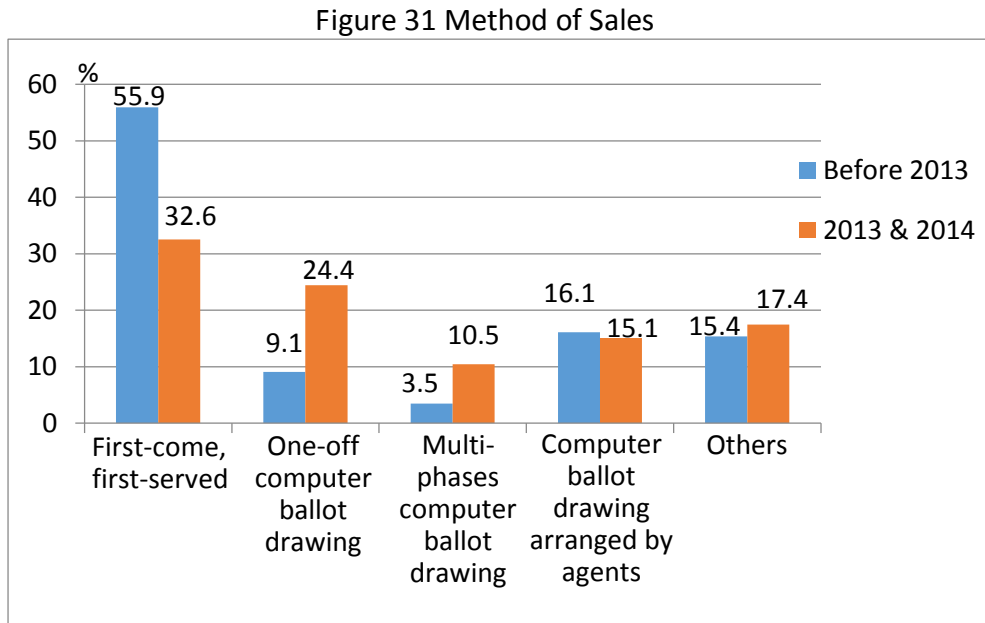


2.2.57 Similar to viewing a property, the respondents were classified into “before 2013” and “2013 & 2014” to indicate their experience of purchasing a property in that period, so as to compare the difference before and after the implementation of the Ordinance.

*Rising trend of one-off computer ballot drawing*

2.2.58 The respondents were asked what method was used at their last intended purchase. Figure 31 shows that "first-come, first-served" by far was the most common method but its usage was dropping (before 2013: 55.9% and 2013-2014: 32.6%).

2.2.59 The survey results also suggested that there is a rising trend of “one-off computer ballot drawing”, from 9.1% before 2013 to nearly a quarter (24.4%) in 2013 and 2014.

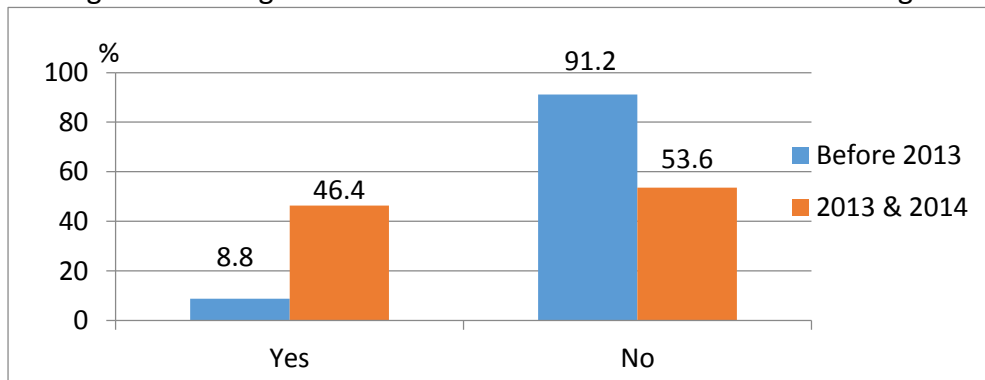


*Extra cashier orders for registration*

2.2.60 The survey also asked respondents, when they submitted their registration of intent, whether any related sales persons suggested the offer of extra cashier orders to increase their chances in the ballot drawing.

2.2.61 Before 2013, 8.8% of the respondents were offered the option of extra cashier orders in the ballot drawing while 91.2% replied "no". For those respondents who purchased properties in 2013 and 2014, 46.4% replied “yes” and 53.6% replied “no” (Figure 32).

Figure 32: Being offered extra cashier orders in the ballot drawing

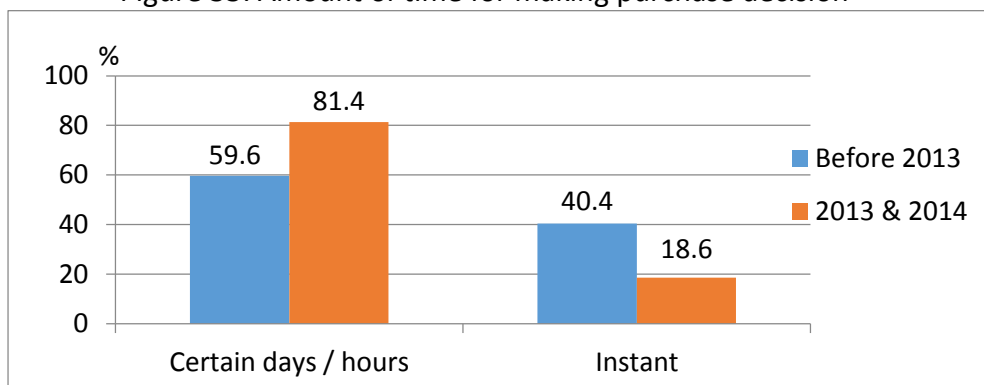


*Time given for purchase decision*

2.2.62 The respondents were also asked the amount of time given for them to make a purchase decision after they were informed of the result of the ballot drawing.

2.2.63 Among the respondents who purchased a property before 2013, 59.6% had a certain number of hours or days to make the decision, whereas 40.4% replied that they had to make the decision instantly. For those who purchased the property in 2013 - 2014, 81.4% had hours or days to make the decision, whereas 18.6% replied that they had to make the decision instantly (Figure 33).

Figure 33: Amount of time for making purchase decision



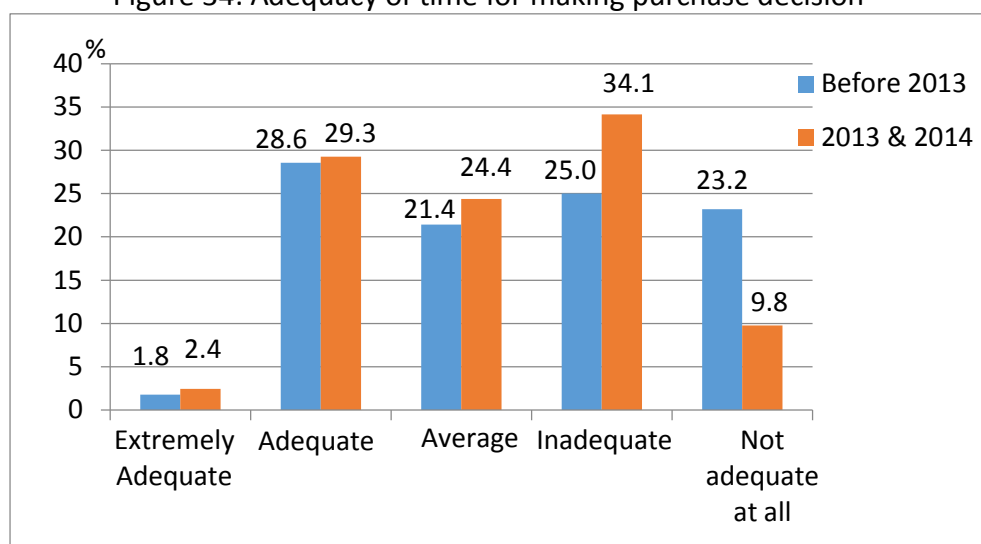
*One to three days is preferred for purchase decision*

2.2.64 The respondents were asked to evaluate the adequacy of time given to make the purchase decision with results as shown in Figure 34.

2.2.65 Only 30.4% of respondents who purchased a property before 2013, and 31.7% of respondents who purchased a property in 2013 and 2014 considered the time availability for purchase decision was “extremely adequate” or “adequate”. 48.2% of respondents who purchased a property before 2013 and 43.9% of respondents who purchased a property in 2013 and 2014 considered the given time “inadequate” or “not adequate at all”.

2.2.66 According to the comments made by the respondents, most suggested at least 1 to 3 days should be given for making the purchase decision after they were informed of the result of the ballot drawing.

Figure 34: Adequacy of time for making purchase decision



*Availability and disclosure of information*

2.2.67 The survey asked respondents about the types of information they received when making their purchase decision at the sales office, as well as the channels through which they obtained the information.

2.2.68 The survey results showed that the amount of information received (either tangible or verbal information) by the respondents to make their purchase decisions at the sales office has improved after the implementation of the Ordinance.

2.2.69 17.5% of the respondents who purchased a property before 2013, did not acquire “information of all units available for sale and their prices”,

compared to 6.7% of the respondents who did not acquire the same types of information in 2013 and 2014 (Figure 35).

2.2.70 On the other hand, 42.3% of the respondents who purchased a property before 2013 had not acquired “records of transactions of all sold units” during their property purchasing experiences compared to 22.7% of respondents who did not acquire the same types of information in 2013 and 2014 (Figures 36).

2.2.71 Similar to the findings of the viewing experiences, the dissemination channels through which the respondents obtained the information were varied.

*Level of importance of different information categories*

2.2.72 The survey results suggested that “information on all units available for sales and their prices”, “screens that show real time on-line information of units sold and remaining units available for sales” and “leaflets that indicate some units available for sale” were regarded by many respondents as the top three important information categories when they made a purchase decision at the sales office (Table 4).

Table 4: Level of importance of different information when the respondents were making the purchase decision of a unit

	Information items	Extremely important + Important		Have not acquired the information	
		Before 2013	2013-2014	Before 2013	2013-2014
1.	Information of all units available for sale and their prices	100.0%	98.8%	17.5%	6.7%
2.	Screens that show real time on-line information of units sold and remaining units available for sales	93.9%	95.8%	49.6%	32.0%
3.	Leaflets that indicate some units available for sale	92.1%	91.2%	24.8%	26.7%
4.	Records of transactions of all sold units	92.7%	87.8%	42.3%	22.7%
5.	Leaflets that indicate some units were sold	80.5%	85.5%	44.5%	40.0%

2.2.73 As can be seen from Table 4, the gap between the importance of different information (“extremely important” and “important”) and their availability might suggest areas for improvement.

Figure 35: Information of all units available for sale and their prices

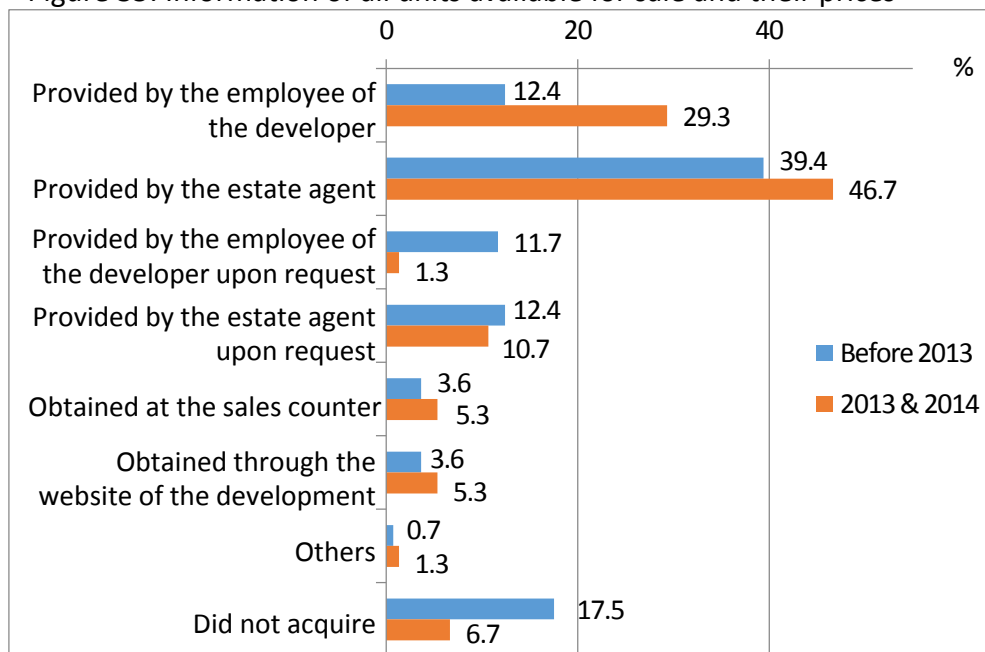
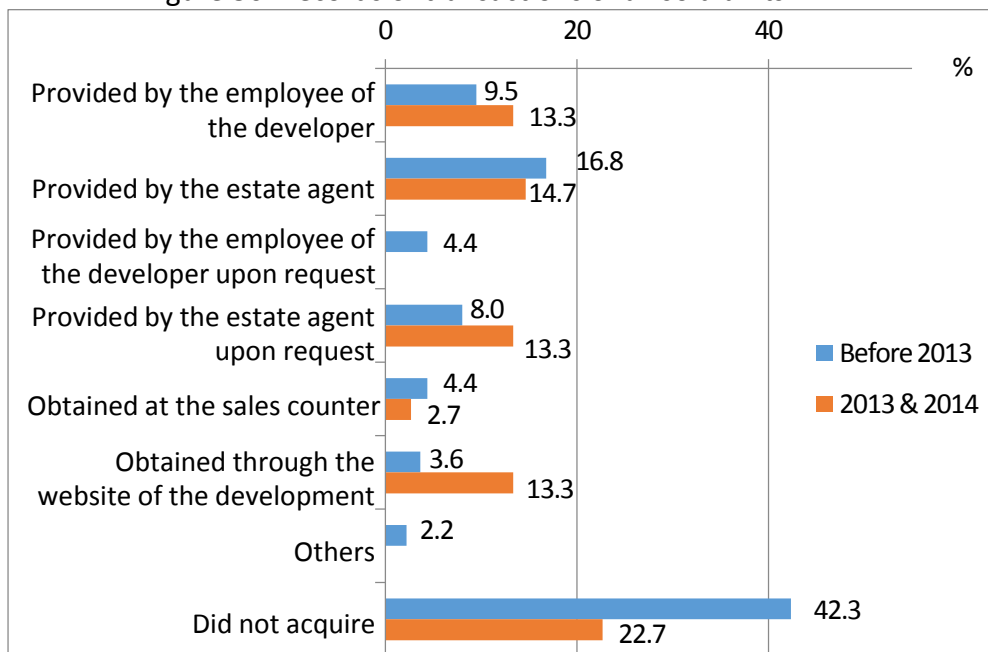


Figure 36: Records of transactions of all sold units

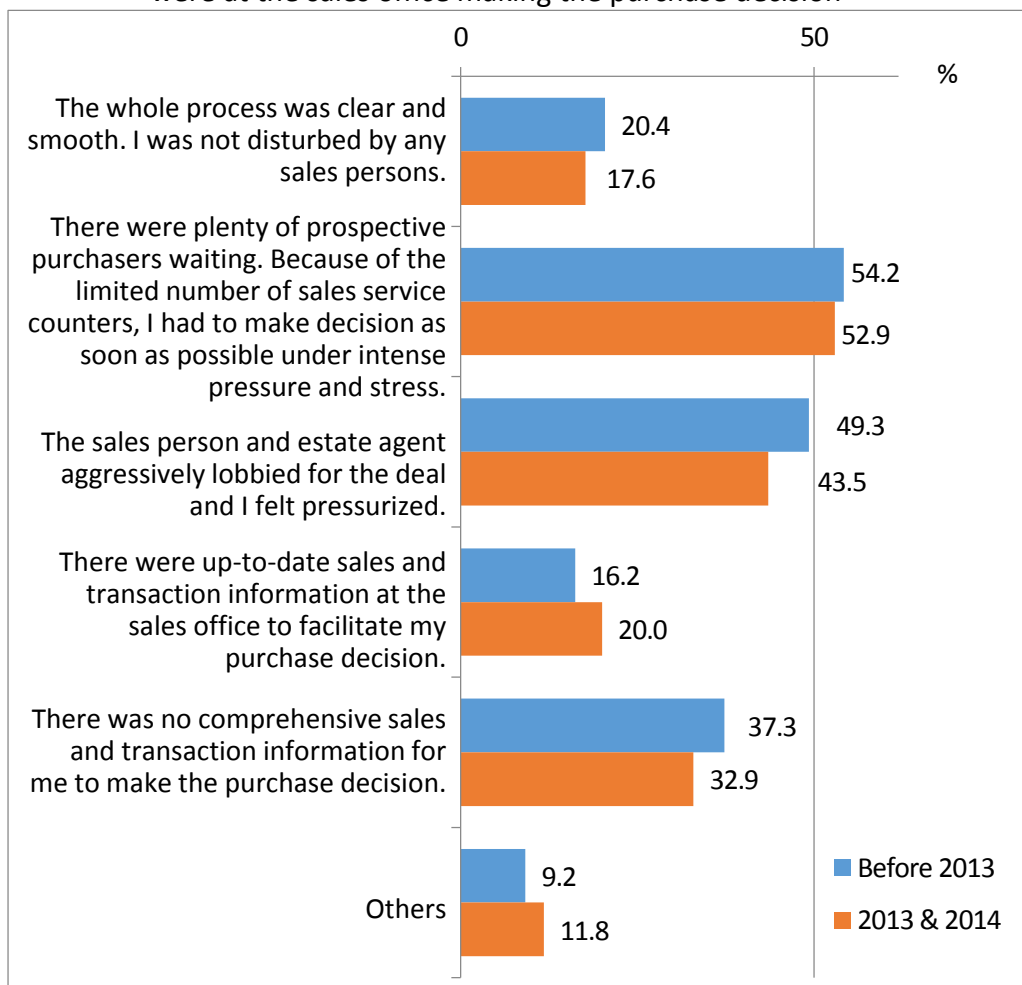


*The stressful environment at sales offices*

2.2.74 The survey asked respondents to choose the best statement that described the situation when they were at the sales office making the purchase decision.

2.2.75 The survey found that the pressure to make a decision remained even after the implementation of the Ordinance (2013-2014). Figure 37 illustrates the breadth of experience.

Figure 37: Statement best describes the situation when the respondents were at the sales office making the purchase decision



**(vi) Other comments and experiences**

2.2.76 The survey also asked the respondents to state their views with respect to the Ordinance. Appendix 2 gives a summary of their comments and suggestions.

## **2.3 Focus Group Discussions**

2.3.1 The purpose of the focus group discussions was to gain insights into the experiences of recent first-hand residential property purchasers to ascertain how current regulatory and non-regulatory issues might affect consumers. The focus group discussions served to complement the survey questionnaire to gather more in-depth information from consumers.

2.3.2 Three discussion sessions with 18 participants in total were conducted from 27 to 30 May 2014. Participants were recruited from respondents of the previously run survey who indicated their interest in taking part in the focus group discussions.

### **Summary of Discussion**

2.3.3 Views of participants of the focus group discussions generally tally with the findings from the questionnaire survey.

#### **(i) Awareness and understanding of the Ordinance**

2.3.4 Participants were aware of the Ordinance and the SRPA but with little understanding about their details. A minority had ever used the SRPE.

#### **(ii) Views on the Ordinance**

2.3.5 While agreeing that the Ordinance can increase transparency of information available to consumers, participants expressed concerns about the contents of sales brochures, price lists, transaction records, advertisements and show flats.

#### **(iii) Experiences of viewing or purchasing first-hand residential property**

2.3.6 An overwhelming majority of participants criticized the aggressive selling practices by estate agents when escorting the viewing of show flats. They also held the view that the prevailing sales practices and arrangements of developers encouraged speculative activities and prompted prospective purchasers to make rush purchase decision.



## **2.4 Summary of Consumer Concerns**

2.4.1 As with the questionnaire survey and focus group discussion findings, the following areas of consumer concern were raised:

- information transparency;
- sales practices; and
- consumer protection.

### **Information Transparency**

2.4.2 Despite the fact that the “amount” of information available to consumers at the sales offices had improved, there were comments and concerns as follows:

#### **(i) Sales brochures**

- There are too many technical details in the sales brochures, which only professional or technical persons can understand.
- Absence of important information of consumer interest such as management fees, floor-to-ceiling height, expected date of commencing of common facilities or services, warranty period of building materials and maintenance cost details.

#### **(ii) Price lists**

- There are different discount offers and promotions under different conditions in the price lists which confuse prospective purchasers on the actual price of the properties.
- Units included in the price lists are not necessarily available for viewing or sale.

#### **(iii) Transaction records**

- Inability to know the overall sales situation on the date of sale.

#### **(iv) Advertisements**

- Contents and presentations of most advertisements are likely to be at the least irrelevant, or at the worst misleading, despite the fact that evasive words such as “artist impression” might be included in the advertisements.

**(v) Show flats**

- There is limited number of show flats available for viewing.
- Show flats should be available at the development sites so that prospective purchasers can get to know the surroundings of the property (including transportation and community facilities) when they visit the show flats.

**Sales Practices**

2.4.3 In relation to sales practices of developers and estate agents, the following were raised as concerns:

- Lack of transparency as to the sales status at the time of sales;
- Aggressive selling practices; and
- Misleading claims and information from estate agents.

2.4.4 Findings from the questionnaire survey and focus group discussions suggest that:

- All units included in the price lists should be available for sale; and
- There should be a list showing the units available for sale and sold out for prospective purchasers, to facilitate their purchase decision.

**Consumer Protection**

2.4.5 The following areas of concern are suggested by the survey respondents and focus group participants:

**(i) Awareness of the Ordinance, SRPA and SRPE**

- To enhance consumer rights, awareness of the Ordinance, SRPA and SRPE should be raised. There were suggestions such as inclusion of SRPA website in advertisements and websites of development projects, more announcements of public interest (API) and more exposure of SRPA to the public.

**(ii) Forfeiture amount and 'cooling-off period'**

- According to the survey and focus group findings, a majority suggested a lengthened 'cooling-off period' of 7 to 14 days. There was also an observation that because the 'cooling-off period' in long-term insurance policy is 21 days after the delivery of the policy, and the amount involved

in home purchase is substantially larger than that in insurance, the 'cooling-off period' in home purchase should not be less than 21 days.

- The survey respondents suggested the forfeiture amount be 1% to 3% of the purchase price. The focus group participants further suggested that the forfeiture amount should only be collected if the purchaser's mortgage application (if applicable) had been approved.

**(iii) Defects liability period should be lengthened**

- There were suggestions that the defects liability period should be extended to enhance the protection of home buyers as many defects might not be immediately known.
- Developers should compensate property owners if defects were not rectified within the defects liability period after hand-over of the property.

**(iv) Information on completion dates**

- Comments from the survey and focus group discussions suggested information on more concrete completion dates of the development, and facilities and services should be provided. If appropriate, penalty terms should also be imposed on developers for failure to meet the completion dates.

### **3 COMPLIANCE BY THE TRADE**

#### **3.1 Introduction**

3.1.1 In order to obtain in-depth and direct experience in the sales process of residential properties, the Council followed through the sale of selected residential development projects, covering field visits and compliance checks of 17 residential development projects of different scales and stages of development, by different property developers.

3.1.2 This chapter, as part two of the study, reports the findings of the:

- field visits; and
- compliance checks.

#### **3.2 Field Visits**

##### **Overview**

3.2.1 Field visits were carried out by 11 mystery prospective purchasers who were either Council staff or volunteers recruited (fieldworkers), to assess what information was available, how the information was made available and the different sales arrangements, as well as the market practices in the sales process. For instance,

- Show flats - Checking on the availability of unmodified show flats as well as the presentation of modified show flats.
- Modified materials – Checking on the existence of unofficial information or documents (e.g. self-prepared leaflets by estate agents) being distributed to prospective purchasers at sales offices.
- Sale practices – Estate agents and sales persons represent developers in selling residential properties to prospective purchasers. Observing their discipline was also considered highly important. For instance, any statements of unverifiable claims of high registration numbers resulting from the offer of extra cashier orders to prospective purchasers.

### **Field Visit Sites**

3.2.2 Field visits of 17 residential property developments were conducted from 6 June to 31 July 2014, covering 7 completed (at the time of the field visit) and 10 uncompleted properties of different scales and stages of development by different property developers. The field visit sites were determined upon the availability of first-hand residential properties for sale in the said period. For details of the field visit sites, please refer to Appendix 3.

### **Participation in the Ballot Sales Arrangements**

3.2.3 Balloting is a common method adopted by developers in determining the order of priority in the sale of first-hand residential properties.

3.2.4 A prospective purchaser who is interested in purchasing any of the residential properties in a property development has to submit his/her personal information, including a copy of a Hong Kong Identity Card, a Registration of Intent and a cashier order in the sum as stated in the “sales arrangement” document of the property development. In general, the number of cashier orders will equal the number of residential properties which the prospective purchaser intends to purchase and each registration of intent will be an entitlement to purchase a specific number of residential properties.

3.2.5 There were allegations that some sales persons (e.g. estate agents) at sales offices will provide extra cashier orders for their clients to increase their chance in the ballot drawing.

3.2.6 The extra cashier orders provided by sales persons might give an illusion of an active property environment to the public. It is also unfair for certain prospective purchasers who choose to obtain cashier orders by themselves.

3.2.7 In order to identify and assess the seriousness of this undesirable market practice, Council staff posed as prospective purchasers, and participated in the ballot sales arrangements of 5 property developments.

## **Observations from the Field Visits**

3.2.8 The following provides a summary of the Council's field visit observations with regard to:

- Viewing of show flats;
- Viewing of completed properties;
- Estate agents discipline;
- Provision of information;
- Unofficial information; and
- Sales arrangements.

### **(i) Viewing of show flats**

#### *No conditions imposed for viewing of show flats*

3.2.9 Even though during some of the field visits at the sales offices (7 out of the 17 field visits) personal information such as surname, phone number and district address was requested, no other specific or mandatory condition was imposed for viewing of show flats.

#### *Viewing of show flats without estate agents*

3.2.10 When viewing show flats fieldworkers were usually escorted by estate agents (15 out of 17 field visits, the remaining two were by staff from the developers). Fieldworkers also asked staff of the respective developers at the sales offices whether or not prospective purchasers could have a viewing of show flats without the company of estate agents. For the 12 field visits the question was asked, all answered "yes".

3.2.11 From the findings of the questionnaire survey and the focus group discussions, the public might have a wrong impression that viewing of show flats has to be carried out in company with estate agents.

#### *Acceptable flow-control arrangement*

3.2.12 In some sales offices, prospective purchasers including the fieldworkers were required to group together with some other people first, and then led to a number of areas where promotional videos on the development were displayed. Though these areas were closed after the display, there was no tight control on viewing the show flats and other exhibition areas afterwards. In some cases, fieldworkers pretended to go back to previous show flats or areas for more detailed viewing or inspection. Neither the estate agents nor staff from the developers stopped the fieldworkers from doing so.

*Show flats for viewing*

3.2.13 The Ordinance does not require a property developer (the vendor) to make any show flat available for viewing by prospective purchasers or by the general public. But if a show flat is made available for viewing, the Ordinance requires that the vendor must first make available for viewing an unmodified show flat of the residential property.

3.2.14 With respect to these requirements, the following limitations were observed:

- Limited number of show flats for viewing

Though all the 17 property developments visited by fieldworkers provided show flats for viewing by prospective purchasers or by the general public, in most cases only a very limited number of show flats were made available for viewing. In some cases, the show flats available for viewing were not the type of units covered in the price list, nor did units covered in the price list have comparable show flats for viewing.

The Council understands the practical difficulties of having show flats of all dimensions for viewing. But the availability of show flats of different dimensions for viewing and inspection would be particularly important for prospective purchasers of uncompleted residential properties.

- Unmodified show flats and corresponding modified show flats

In some sales offices, though both unmodified show flats and corresponding modified show flats were available for viewing, they were not situated next to each other. As a result, the purpose of facilitating prospective purchasers to make a direct comparison could hardly be achieved.

*Use of odd size furniture in show flats*

3.2.15 Fieldworkers observed that in some modified show flats the furniture sizes were not of standard sizes available in the market (e.g. beds with shorter length, wardrobes with shallow depth, a baby cot with only two legs, etc). Fieldworkers raised queries during the field visits and estate agents accompanying the visits explained that they were purposely made to make more space available for the flow of visitors.

3.2.16 Notwithstanding the need to cater for the flow of visitors to inspect show flats, the Council still considers the use of mini- or odd size furniture in show

flats is not appropriate, and might in some circumstances be suspected of creating misleading visual effect to prospective purchasers.

*Usage of saleable area in presenting area information*

3.2.17 For all the show flats viewed during the field visits, saleable area is used throughout the viewing by the estate agents and staff of the developer in relation to describing the property.

*Clear notices setting out what is to be included*

3.2.18 In general, there were clear notices in the unmodified and modified show flats setting out which of the fittings, finishes and appliances in the show flats were to be included in the property and which were not.

**(ii) Viewing of completed properties**

*Availability for viewing*

3.2.19 For those 7 completed property developments visited by fieldworkers, 6 provided comparable units for viewing and the remaining one offered only show flats.

3.2.20 In regard to the property development that did not make provision for comparable units for viewing, the developer considered it was not “reasonably practicable” to make available the completed residential properties or any comparable residential properties for viewing by prospective purchasers. Prospective purchasers were required to sign a “no-viewing agreement” before making a purchase. The rationale provided by the developer was that there was a safety concern, in that the development site was still under construction and it was not practicable to allow entry of prospective purchasers for flat viewing.

3.2.21 Such practice, in the opinion of the Council, is in opposition to the principle of transparency as espoused by the Ordinance. Consumers should therefore be cautious in signing a “no-viewing agreement” as it means giving up the right of inspection before purchase.

3.2.22 The Council understands that the SRPA has expressed concern and has written to the developer in question in July 2014 for more detailed explanations. Follow-up investigations are still underway at the time of preparing this study report.



*Conditions imposed for viewing properties*

- 3.2.23 For completed property developments with comparable units as show flats, no specific or compulsory condition was imposed for viewing of show flats.
- 3.2.24 However, when viewing some properties as a prospective purchaser, fieldworkers were asked for cashier orders in an amount from HK\$200K to HK\$2M, amount varies by project, as an indication of interest in purchasing so as to get permitted to view the particular property.
- 3.2.25 In the case of the HK\$2M deposit, the estate agent told fieldworkers that he would prepare the cashier order and settle the matter. However, fieldworkers were still required to provide their personal phone number, address and Identity Card copy before entering and viewing the property.

**(iii) Estate agents**

*Choice of estate agent*

- 3.2.26 As mentioned above, most sales offices in the field visits allowed prospective purchasers to view show flats without the company of estate agents.
- 3.2.27 Nevertheless, according to fieldworkers, except for those sales offices which had been operating for quite some time, for newly launched property developments, their sales offices and nearby areas would be crowded with tens to hundreds of estate agents or their representatives of different estate agency companies. Any person who walked pass the area, regardless of whether they were a prospective purchaser or just a pedestrian passing by would be prospected aggressively by estate agents or representatives. If a person received any information such as a name card or a promotional leaflet from one estate agent or representative, the estate agent or representative would immediately shout loudly that “the information has been received!” (收咗啦!), and other estate agents or representatives would then stop prospecting the same person.
- 3.2.28 It seemed therefore that tacit agreements existed among estate agents and representatives on a client-agent arrangement. This might explain the aggressive behaviour of some estate agents and representatives in approaching prospective purchasers in the vicinity of the sales offices.

*Disclosure of identity*

- 3.2.29 According to the Practice Circular (No.13-04 (CR)) issued by the Estate Agents Authority (EAA), licensees must, at the first opportunity after they have successfully established contact with a prospective purchaser, clearly

explain to the prospective purchaser whether their estate agency company acts: (a) only for the vendor; or (b) only for the purchaser; or (c) for both the vendor and the purchaser; and (d) whether their estate agency company might subsequently act for both the purchaser and the vendor. Licensees must inform the prospective purchaser of the above matters in writing and supply a copy of the same to the prospective purchaser.

3.2.30 In all the 15 field visits escorted by estate agents (including the 5 cases with ballot sales participation arranged by estate agents), such information was neither provided in writing nor mentioned.

### *Sales practices*

3.2.31 Apart from non-disclosure of acting capacity, the following questionable sales practices were also observed:

- Claims of limited supply, rising property prices and overwhelming demand.

In many of the field visits, fieldworkers were told by the estate agents that the units of the development projects concerned were mostly sold (e.g. “only very few units left”), that there was a shortage of property supply in the area, that the developers would increase the price in their next batch of sales, and that the development had already been oversubscribed by a certain amount. Other claims included the guarantee of successful mortgage applications and rental demand. The estate agents would support their claims with tables or reports shown on their computer tablets or mobile phones, but prospective purchasers would never be able to verify the reliability of such information under such situation. Similar examples of this behaviour were recorded in the Council’s 2010 Study Report.

- Aggressive selling on the spot

It is a basic right of consumers to be informed adequately and accurately. Prospective purchasers should have the time to collect and verify information from the estate agents before making purchase. However, fieldworkers were lobbied aggressively by most estate agents encountered at the field visits to make an instant decision on the spot.

The usual reasons given by estate agents to entice prospective purchasers to submit registration of intent were as follows:

“Most of the units are sold, only very few are left”;

“Placing a deposit will give you entitlement to view or to choose and a refund will be given if you determine not to buy”;

“Register (registration of intent) first. We can arrange cashier orders for you. No cost involved but gives you a chance to draw and purchase the property”; and

“You can pay one cashier order by your credit card and another by cheque. We will not debit your card or cash your cheque until the confirmation of the deal. If you determine not to buy, you just call us and we shall void the card transaction and return the cheque”.

In one case a fieldworker told the estate agents that he/she could not do the registration because he/she did not bring a credit card of adequate credit limit or a blank cheque to the sales office. The estate agents immediately suggested escorting him/her home to get the card and cheque.

In another case, though there was still one day before the deadline for submission of the registration of intent, the estate agents concerned purposely told fieldworkers that the deadline was in the evening when the fieldworkers viewed the show flat and that if they did not register immediately, they would miss the chance. A similar case was found in another property development. The estate agent told fieldworkers that balloting would soon be held on Saturday (the field visit was conducted on Friday). The Council later checked the sales arrangement of the property concerned and confirmed that the balloting would be held on the next Friday.

Fieldworkers had also been told during a field visit that all small units were nearly sold; and that the remaining ones would only be available for sale when the development was completed. Just one month after the field visit, the Council found that the remaining small units were still available for sale.

- Making loans to prospective purchasers

Among the 5 property developments for which fieldworkers had participated in ballot sales arrangements, estate agents of 3 property developments had offered loans to fieldworkers to increase their chances of buying the properties. Among the other 12 property developments visited (without ballot sales participation), estate agents of at least 2 property developments suggested offering loans to fieldworkers to increase their chances.

As mentioned above, in order to participate in the ballot sales arrangements, each prospective purchaser had to submit personal information including a copy of the Hong Kong Identity Card, a Registration of Intent and a cashier order in the sum as stated in the property's sales arrangements.

In many cases of the developments visited, an individual registrant was entitled to a maximum of two balloting rights. Therefore, in order to increase the chance of buying the property, estate agents would usually persuade prospective purchasers to submit two registrations of intent to maximize their two balloting rights.

However, two registrations would require two cashier orders, each amount being from \$100K to \$300K (in the Council's field visit cases). Also, the purchase of cashier orders at banks would incur a service charge of at least \$50 per cashier order transaction as well as the time cost of waiting and queuing at banks. As told by the estate agents, in order to minimize the inconvenience and cost caused to prospective purchasers, estate agency companies would offer cashier orders prepared in advance for lending to prospective purchasers. Prospective purchasers could then undertake to pay the estate agency company by credit card or by cheque. Prospective purchasers were required to sign a form "申請本票/支票表格(一手住宅盤專用)" prepared by estate agency companies (Appendix 4). It seemed apparent that making loans to prospective purchasers is a common approach adopted by some estate agency companies.

In the Council's field visit cases, fieldworkers would tell the estate agents that they had not made up their mind of buying the property and thus either a credit card or cheque payment was undesirable in case they wanted to cancel the registration.

To entice the fieldworkers who were still considering to register, in the 3 cases of ballot sales arrangements, the estate agents told the fieldworkers that they would not debit the card or deposit the cheque until the deal confirmed, thus the fieldworkers have adequate time to consider the purchase. If they decided not to buy, they could just call the estate agents to void the card transaction and return the cheque.

In 2 of the 3 cases, only one credit card payment needed for two cashier orders (Table 5). The estate agents concerned matched up the balance.

Table 5: Summary of the cases with loans from estate agents

	Two registrations of intent with two cashier orders amount total of	From fieldworkers		Prepared by estate agents - cashier orders amount total of
		Credit card (not debited)	Cheque(s) (not cashed)	
Case 1	\$300,000 (\$150,000@)	\$150,000	-	\$300,000
Case 2	\$400,000 (\$200,000@)	\$200,000	-	\$400,000
Case 3	\$600,000 (\$300,000@)	\$150,000	\$150,000 \$300,000	\$600,000

To the Council’s understanding, making loans to prospective purchasers when promoting first-hand residential properties would constitute a breach of the EAA’s guidelines.

- Knowledge about the property developments

During some of the field visits, estate agents were found to have inadequate basic knowledge of the developments to be sold. For example, for a development which had only one phase, the estate agent told fieldworkers that the development would be divided into two phases. For another development, the estate agent told fieldworkers wrong developer name of the development.

Some estate agents also made questionable claims on the guarantee of facility or service provision by the development. For example, the shuttle bus service for one development was still under application during the time of the field visit, but the estate agent guaranteed that the service application would be approved.

**(iv) Provision of information**

*Availability of information*

3.2.32 During the Council’s field visits, most of the information about the property such as sales brochures, price lists, sales arrangements, registers of transactions and other information on the property were generally available at the sales offices for collection by prospective purchasers, in compliance with the disclosure requirements under the Ordinance.

*Ease of information access when viewing show flats or properties*

3.2.33 In most cases, the information mentioned above was only placed on the sales desk at a very late stage before prospective purchasers left the sales

offices, instead of being made available for examination before entering the show flats. As a result, prospective purchasers could not bring the information along with them for cross reference when viewing the show flats or properties. Similar findings were observed in the Council's 2010 Study Report.

- 3.2.34 Furthermore, fieldworkers also observed that the estate agents or staff from the developers provided official information on reactive basis. In many of the Council's field visits, when fieldworkers asked to take information home for reference, estate agents claimed that only few prospective purchasers would do so as the information was not easy to read and the sales brochures were too heavy to carry. The estate agents advised fieldworkers to take a promotional catalog and informal self-prepared price lists instead.

#### **(v) Unofficial information**

##### *Availability of unofficial pricing and transaction information*

- 3.2.35 During the field visits, unofficial property information including price lists, flats available for sale, and units sold had been individually prepared by estate agents. According to the estate agents, information with names such as “消耗表”, “參考價單”, “內部培訓資料” consolidated the price lists, sales arrangements and registers of transactions issued by developers and was said to be designed exclusively by the estate agents for easy reference on the availability of units for sale.

- 3.2.36 In most cases, unofficial information was provided to fieldworkers or sent to fieldworkers' mobile phones via WhatsApp communications.

#### **(vi) Sales arrangements**

##### *Balloting*

- 3.2.37 In 2 out of the 5 field visits with ballot sales participation, fieldworkers as registrants had to attend personally at the sales offices on the first date of sale for balloting by the developers. The registrants would then proceed to select the properties with priority according to the ballot results.

- 3.2.38 For the other 3 field visits with ballot sales participation, the balloting was undertaken in the evening after the submission deadline of registration of intent. Registrants were invited to witness the balloting and information on the balloting results and attending time slots for registrants would be posted at the sales offices. Though the developers would not notify registrants of the ballot results separately, in some cases the ballot results would be posted on the developments' dedicated websites, and in all cases the estate

agents would inform the registrants of the ballot results and their attending time slots on the first date of sale.

- 3.2.39 Fieldworkers were told that most of the balloting was operated by computer programs and networks. However, during one of the field visits, fieldworkers were told by the estate agent that if they submitted their registration of intent earlier, they would have a greater chance in the ballot despite the fact that the sales arrangements of the development stated that “the order of registration will not have any impact on the order of priority for selecting the residential property”.
- 3.2.40 Owing to the ballot result priority, among the 5 field visits with ballot sales participation, fieldworkers had only attended the first date of sale of one development. The remaining field visits either did not render fieldworker earlier timeslot to make selection on the first date of sales because the ballot result was of low priority or there was a lack of registrants and so fieldworkers did not have to participate in the ballot arrangement.

***Case story: Aggressive selling and difficulty in checking out transaction information at the time of sale***

According to the fieldworker’s observation, the development required registrants to attend personally at the sales offices for balloting. The property sales office on the first date of sale was crowded with hundreds of people, including prospective purchasers, estate agents and developer’s staff waiting for the ballot results.

At the time the relevant registration number of intent was drawn in the ballot, the fieldworker proceeded to the sales area with the related estate agent. Despite that the fieldworker was in the sales area of the sales office, awaiting his or her turn for selection, the fieldworker was still in the dark as to which units on which floors at which blocks of what sizes were sold or yet available for sale.

When the fieldworker was able to select the properties which were still available, the fieldworker was surrounded by at least 4 estate agents and pressurized to make a quick decision in minutes on the preferred choice of property, as many people were queuing up. Other estate agents nearby also persuaded the fieldworker to select a property first and re-consider the decision later.

From knowing to deciding, the whole selection process only took a few minutes. To end, the fieldworker was under intense pressure for not purchasing.

### **3.3 Compliance Checks**

#### **Overview**

3.3.1 The Council's compliance checks were designed to check on the contents, availability and timeliness of the information provided by developers of selected development projects (the same 17 development projects as selected for field visits). In the course of its study, the Council conducted a check on the following aspects:

- Sales brochures;
- Price lists;
- Show flats;
- Advertisements;
- Sales arrangements; and
- Disclosure of transactions.

3.3.2 Owing to the limited resources available to carry out a comprehensive check, the compliance exercise focused only on the main provisions of the Ordinance which were considered crucial to prospective purchasers.

#### **Sales Brochures**

##### **(i) Scope of the compliance check**

3.3.3 The compliance check was confined to checking sales brochures of the 17 field visited property developments. The relevant sales brochures were collected from the field visits and supplementary information was downloaded from the development project websites for more in-depth analysis; in particular to revisions made in the sales brochures.

##### **(ii) Legislative requirements**

3.3.4 Part 2 Division 2 of the Ordinance sets out detailed sales brochure requirements (such as prohibition on preparation, contents, examination and revision, and availability to the general public). The compliance check on sales brochures was in relation to the following aspects:

- contents;
- availability;
- timeliness and information accuracy.



**(iii) Contents of sales brochures**

3.3.5 Schedule 1 of the Ordinance provides detailed information requirements (e.g. location plan, aerial photograph and floor plans of properties in the development) that must be set out in a sales brochure. Appendix 5 provides a summary list of the legislative requirements on sales brochures.

3.3.6 The Council inspected the sales brochures provided at the 17 property developments and observed that they did in general meet the legislative requirements for contents. Nevertheless, the Council's opinion is that there are certain desirable initiatives that could be implemented with regard to sales brochures, which could enhance their readability, and in turn their usefulness for prospective purchasers.

*Contents page*

3.3.7 Only some sales brochures had a contents page. A contents page would make it easier for prospective purchasers to look up specific sections for reference. Through the course of the purchase, prospective purchasers would find it helpful if they could quickly check on important facts in the sales brochure in a user-friendly manner.

*Floor plans*

3.3.8 While it was found that most of the floor plan illustrations in sales brochures were clear, the visibility of information relevant to floor plans such as dimensions of the property was low and made them difficult to read.

*Provision of relevant information*

3.3.9 Under the Ordinance, the sales brochure for the development must set out relevant information that is specific to the property or the development if the information is known to the developer but is not known to the general public. Relevant information would mean information on any matter which is likely to materially affect the enjoyment of the property and development. Relevant information provided in the sales brochures could, for example, include noise impact assessment reports and mitigation measures, the location of nearby graves, or plans for the location of a government methadone clinic, etc.

3.3.10 Some sales brochures provided "relevant information" for the developments but some did not. As the information would typically be known to the developer and not prospective purchasers, the Council is of the view that the burden of verification would be with the SPRA in governing compliance from the trade.

*Information on management fees*

3.3.11 All the 17 property developments provided the required information on property management, namely the identity of the property management company in the sales brochures, but no information on management fees. While it is not a requirement in the Ordinance that developers should provide information on property management fee in a sales brochure, the Council considers its availability is essential for purchasers given its long-term financial impact.

*Size and weight of brochures*

3.3.12 The 17 sales brochures were of different sizes and weights. As shown in Table 6, the weight of the sales brochures ranged from 0.49kg to 3.4kg, and the number of pages from 64 to 594. In general, property development in large scale presents sales brochures with more pages and are more heavy, as more units and information are involved. Taking a development with 1,620 units as an example, the sales brochure collected from that field visit had a total of 594 pages. Among the total 594 pages, 234 pages were inserts mainly due to updates or revisions of the development information.

3.3.13 The sales brochures were also of different dimensions. Owing to the odd size and weight of some sales brochures, fieldworkers found that they were not easy to carry around during the field visits and take home. In two cases, tailor-made paper bags were provided for prospective purchasers to bring home the sales brochures for reference.

**(iv) Availability of sales brochures**

3.3.14 As regards the availability of sales brochures for public collection, the Council has checked that the latest versions of the sales brochures for the 17 property developments were available in hard copy for viewing or public collection at the sales offices of the property developments at the time of field visits. The sales brochures were also available on the designated websites of the property developments at the time of field visits.

Table 6: Size and weight of sales brochures collected at sales offices (order by weight)

Property Development	No. of Blocks/Towers /Houses	No. of Units	Total No. of Pages* (No. of Additional Inserts)	Dimension (~Length x Width x Height, cm)	Weight (~kg)
1	9	1,620	594(234)	26.8 x 38.0 x 1.8	3.40
2	17	102	312(12)	42.0 x 29.7 x 2.1	2.37
3	4	691	316	29.7 x 41.9 x 1.9	2.29
4	6	1,071	244(30)	40.5 x 28.0 x 1.7	2.25
5	4	928	266 (34)	26.0 x 38.4 x 1.8	2.01
6	7	1,717	222(4)	27.9 x 40.5 x 1.9	2.00
7	18 Blocks + 7 Houses	546	420	39.0 x 29.7 x 2.2	1.99
8	9 Blocks+ 3 Duplex+ 6 Houses	1,419	234	42.0 x 29.6 x 1.3	1.28
9	1	179	160	29.7 x 42.0 x 1.0	1.08
10	1	95	84	41.8 x 29.6 x 0.7	0.94
11	2	293	84	29.6 x 41.9 x 0.7	0.86
12	1	299	122	29.5 x 42.0 x 0.8	0.83
13	2	352	110	29.7 x 42.0 x 0.8	0.76
14	1	106	68	36.0 x 27.0 x 0.7	0.60
15	1	98	126(14)	28.0 x 28.0 x 1.0	0.60
16	1	59	86(6)	25.0 x 38.3 x 0.7	0.58
17	1	113	64	38.9 x 29.7 x 0.5	0.49

\* Total number of pages included cover and bottom page and additional inserts.

#### (v) Timeliness and information accuracy

##### *Sales brochure provision within 3 months*

3.3.15 Section 25 (9) of the Ordinance stipulates that a reference to the sales brochure for a development is a reference to the sales brochure for the development that has been printed, or examined within the previous 3 months. All the 17 sales brochures that the Council collected from the field visits were revised within the 3-month period.

##### *Examination and revision*

3.3.16 The Council has inspected the revisions of the 17 sales brochures and made the following observations:

- Frequency of examination

Among the 17 sales brochures, up to 15 August 2014, 16 sales brochures had been examined by the developers concerned from one to seven times. In general, for property developments which had been available for sale for a longer period of time, e.g., the first date of sale was in 2013, the number of examinations would be more.

The duration between examinations generally complied with the legislative requirement, in that sales brochures are required to be revised every 3 months. However, the Council observed in one case that the time gap between two examinations was only 2 days, with revisions of the location plan, floor plan and outline zoning plans.

- Frequent items of revision

The usual items for revision were as follows:

- Location plan;
- Aerial photograph;
- Outline zoning plan;
- Layout plan;
- Floor plans;
- Fittings, finishes and appliances; and
- Elevation plan.

Some typing mistakes or amendments in descriptions were also found.

- Revisions

It was observed that developers adopted two different approaches for revision of sales brochures, either by replacing the original pages in sales brochures with the revised ones or inserting new revision pages into brochures. For the insertion approach, one extreme case showed that at the time of the field visit the inserted pages could be up to 65% of the total pages of the original brochure.

For most revisions reviewed by the Council, the differences between the original version and the revised version(s) were not easy to be identified. Only a few sales brochures had explanations at the examination records that facilitated prospective purchasers' understanding of the changes (Figure 38).

Figure 38: Examples of examination records extracted from two developments

(i) Without explanation given

Examination / Revision Date 檢視 / 修改日期	Page Number 頁次	Revision Made 所作修改
	14 - 15	Location Plan of the Development is updated 更新發展項目的所在位置圖
	20	Floor plan of 2/F is updated 更新2樓平面圖
	22	Floor plan of 3/F, 5/F - 13/F, 15/F - 18/F is updated 更新3樓, 5樓至13樓, 15樓至18樓平面圖
	24	Floor plan of 20/F - 23/F, 25/F - 33/F 35/F - 37/F is updated 更新20樓至23樓, 25樓至33樓, 35樓至37樓平面圖

(ii) With explanations given

Revision Made 所作修改
Location Plan of the Development is updated. (Replaced by a more updated version of location plan. Notation of "Public Utility Installation" in the location plan for the street name "Shap Pat Heung Interchange" is supplemented.) 發展項目的所在位置圖已更新。更新位置圖的最新版本。更新位置圖的「公用事業設施裝置」的圖示。增補「十八鄉交匯處」街名的標示線。

## **Price Lists**

### **(i) Scope of the compliance check**

3.3.17 The compliance check was confined to checking of price lists of the 17 property developments which were collected during the field visits and also downloaded subsequently from the development project websites for in-depth review.

### **(ii) Legislative requirements**

3.3.18 Part 2 Division 3 of the Ordinance sets out detailed requirements on a number of matters, such as the preparation of price lists, the number of properties to be covered, contents, and availability to the general public. The Council conducted compliance checks on price lists in relation to the following aspects:

- contents;
- availability; and
- information requirements.

### **(iii) Contents of price lists**

#### *Information in specified form*

3.3.19 The price lists of the 17 property developments were examined and it was observed that the information was in general set out in the form specified by the Ordinance.

#### *Location of developments*

3.3.20 The Ordinance stipulates that a price list for a property development must set out the name and location of the development. All the 17 price lists collected from the field visits met the requirement. Nevertheless, it was observed that some developments provided only the street/road name and number, without the district location (Figure 39). Prospective purchasers might sometimes find it difficult to identify the exact location of the developments.

Figure 39: Example of price list without indicating the district location

發展項目名稱 Name of Development	
期數位置 Location of Phase	鳳園路9號 No. 9 Fung Yuen Road
期數中的住宅物業的總數 The total number of residential properties in the phase of the development	

### Different formats of price discounts and orders

3.3.21 As shown from the examples below, there were different formats used for price discounts by different property developments. Some provided remarks for each unit to be sold (Figure 40) and some referred to the benefit summary of the price list (Figure 41).

Figure 40: Example of price list for price discounts with remarks next to each unit

物業的描述 Description of Residential Property			實用面積 (包括露台、工作平台及陽台 (如有)) 平方米 (平方呎) Saleable Area (including balcony, utility platform and verandah, if any) sq. metre (sq.ft.)	售價 (元) Price (\$)	實用面積 每平方米/呎售價 元、每平方米 (元、每平方呎) Unit Rate of Saleable Area \$ per sq. metre (\$ per sq.ft.)
大廈名稱 Block Name	樓層 Floor	單位 Unit			
	22	C**#	79.129 (852) 露台 Balcony: 2.261 (24) 工作平台 Utility Platform: 1.500 (16)	26,802,000	338,713 (31,458)
	23	C**#	79.129 (852) 露台 Balcony: 2.261 (24) 工作平台 Utility Platform: 1.500 (16)	26,936,000	340,406 (31,615)

2 「100%從價印花稅津貼」優惠  
"100% Subsidy of Ad Valorem Stamp Duty" Benefit  
凡於2014年7月31日(包括當日)或之前簽署臨時買賣合約，購買本價單中所列之單位設\*\*之買方可獲額外7.5%售價折扣優惠作為「100%從價印花稅津貼」優惠  
For purchases made on or before 31st July 2014, extra 7.5% discount from the Price would be offered to the Purchaser of a unit that has a \*\* in the above price list as the "100%

1 住宅單位附贈樓  
Option to purchase Residential Parking Space  
在買方揀選住宅物業的同時，該單位於價單上設\*\*的買方可獲贈購一個住宅車位二樓樓(「附贈樓」)。買方需於買方所訂之時限內是及向購買住宅單位簽署相關買賣合約，選擇單及銷售安排詳情由賣方全權及絕對酌情決定，並受後公佈。  
At the same time when a Purchaser selects a residential property, the Purchaser of a unit that has a \*\* in the above price list shall have an option to purchase a Residential Parking Space in (The Option).

Figure 41: Example of price list for price discounts referring to the benefit summary

物業的描述 Description of Residential Property		實用面積 (包括露台、工作平台及陽台(如有)) 平方米(平方呎)	售價 (元)	實用面積 每平方米/呎售價 元, 每平方米 (元, 每平方呎)
樓層 Floor	單位 Unit	Saleable Area (including Balcony, Utility Platform and Verandah, if any) sq. metre (sq. ft.)	Price (S)	Unit Rate of Saleable Area S per sq. metre (S per sq. ft.)
3	C	23.523 (253) 露台 Balcony: 0.000 (0); 工作平台 Utility Platform: 0.000 (0)	4,918,000	209,072 (19,439)
3	D	45.483 (490) 露台 Balcony: 0.000 (0); 工作平台 Utility Platform: 0.000 (0)	8,921,000	196,139 (18,206)

(a) 從價印花稅優惠 Ad Valorem Stamp Duty Benefit  
 購買本價單中所列之B, C單位之買方可獲以售價計算的3%之售價折扣; 購買本價單中所列之A, D單位。  
 For purchasing a unit B or unit C listed in this Price List, the purchaser will be offered a 3% discount on the Price.

### Important information not required by the Ordinance

3.3.22 A price list must not set out information in relation to a development other than the information required under the Ordinance. Accordingly, the Ordinance does not specify the following information for price lists:

- the total number of units in the price list;
- the total number of units of the development already sold; and
- the total number of units of the development remaining for sale.

3.3.23 Other key information such as changes of the price of a specified property and changes of terms of payment are also not available in the price lists. Any changes (e.g. prices or discounts) to the price lists will result in a new version denoted by the alphabetical order (e.g. versions 1A, 1B, 1C etc). However, these revised price lists (or new versions) did not specify the status of the units, in which some might have already been sold but redundantly remained in the subsequent revised price lists (Figure 42). Consumers would not be able to distinguish these sold units from the available units in the subsequent revised price lists, and had to search for the information needed.



Figure 42: Examples of revised price lists on units sold information

**Price List 1**

**第二部份：面積及售價資料 Part 2 : Information on Area and Price**

物業的描述 Description of Residential Property			實用面積 (包括露台、工作平台及陽台(如有)) 平方米(平方呎) Saleable Area (including balcony, utility platform and verandah, if any) sq. metre (sq. ft.)	售價 (元) Price (\$)	實用面積 每平方米/呎售價 元·每平方米 (元·每平方呎) Unit Rate of Saleable Area \$ per sq. metre (\$ per sq. ft.)
大廈名稱 Block Name	樓層 Floor	單位 Unit			
	20	A	38,370 (413) 露台 Balcony: 2.0 (22); 工作平台 Utility Platform: 1.5 (16)	6,930,000	180,610 (16,780)
	16	A	38,370 (413) 露台 Balcony: 2.0 (22); 工作平台 Utility Platform: 1.5 (16)	6,674,000	173,938 (16,160)
	15	A	38,370 (413) 露台 Balcony: 2.0 (22); 工作平台 Utility Platform: 1.5 (16)	6,628,000	172,739 (16,048)

**Price List 1A**

**第二部份：面積及售價資料 Part 2 : Information on Area and Price**

物業的描述 Description of Residential Property			實用面積 (包括露台、工作平台及陽台(如有)) 平方米(平方呎) Saleable Area (including balcony, utility platform and verandah, if any) sq. metre (sq. ft.)	售價 (元) Price (\$)	實用面積 每平方米/呎售價 元·每平方米 (元·每平方呎) Unit Rate of Saleable Area \$ per sq. metre (\$ per sq. ft.)
大廈名稱 Block Name	樓層 Floor	單位 Unit			
	20	A	38,370 (413) 露台 Balcony: 2.0 (22); 工作平台 Utility Platform: 1.5 (16)	6,930,000	180,610 (16,780)
	16	A	38,370 (413) 露台 Balcony: 2.0 (22); 工作平台 Utility Platform: 1.5 (16)	6,674,000	173,938 (16,160)
	15	A	38,370 (413) 露台 Balcony: 2.0 (22); 工作平台 Utility Platform: 1.5 (16)	6,628,000	172,739 (16,048)

Unit 20A was sold (ASP was signed) before the release of Price List 1A.

**(iv) Availability of price lists**

*Availability of price lists*

3.3.24 Price lists of the 17 property developments were available for public collection at the sales offices of the property developments at the time of the field visits. Copies of the price lists were also available on the designated websites of the property developments.

Availability of unofficial pricing and transaction information

3.3.25 Among the 15 field visits conducted with estate agents, unofficial property information (including price lists, units available for sale, and units sold) prepared by estate agents was available in 13 developments. According to the estate agents, the information, with names such as “消耗表”, “參考價單”, “內部培訓資料” consolidated the information from official price lists, sales arrangements and registers of transactions, and was designed exclusively by the estate agents for easy reference on the price and availability of units for sale (Figure 43).

Figure 43: Example of a consolidated version of price list, sales arrangement and register of transactions provided by an estate agent

TOWER 2A			
單位	單位	單位	單位
36	24,325,000 @28672 22,581,000 @21471	30	15,791,000 @26519 13,891,665 @21630
35	21,640,000 @26473 19,030,000 @21310	29	15,671,000 @26341 12,771,400 @21488
34	21,465,000 @26277 18,889,114 @21137	28	15,556,000 @26145 12,678,140 @21308
33	21,280,000 @26081 18,748,450 @20925	27	15,556,000 @26145 12,678,140 @21308
32	21,095,000 @25885	26	15,409,000 @25932 12,524,565 @20880
31	21,010,000 @25886 18,575,482 @20838	25	15,251,000 @25632 12,369,425 @20796
30	22,841,000 @29693 18,387,000 @20683	24	15,175,000 @25504 12,307,625 @20706
29	22,671,000 @29540 18,250,555 @20529	23	15,099,000 @25376 12,209,665 @20602
28	22,671,000 @29540 18,250,555 @20529	22	15,024,000 @25280 12,265,560 @20579
27	23,446,000 @29251 18,070,540 @20377	21	14,949,000 @25124 12,185,415 @20476
26	23,225,000 @29000 17,891,174 @20175	20	14,875,000 @25000 12,125,135 @20375
25	23,119,000 @28876 17,807,575 @20074	19	14,802,000 @24878 11,885,135 @19973
24	23,004,000 @28751 17,713,730 @19876	18	14,782,000 @24808 11,882,135 @19974
23	22,890,000 @28626 17,619,475 @19676	17	14,679,000 @24697 11,797,281 @19778
22	22,705,000 @28476 17,515,220 @19476	16	14,582,000 @24587 11,708,730 @19676
21	22,520,000 @28326 17,410,965 @19276	15	14,489,000 @24477 11,620,425 @19581

TOWER 3			
單位	單位	單位	單位
35 & 36	A (相連) 五房三套 2179呎	C (相連) 四房三套 1820呎	35 & 36
33	A (相連) 五房三套 2049呎 + 半套649呎	B (相連) 四房雙車 1820呎	33
32		B (相連) 四房雙車 1820呎	32
31		B (相連) 四房雙車 1813呎	31
30	A 三房一廳 931呎	B 三房一廳 861呎	C 四房一廳 1228呎
30	31,208,000 @33521 25,125,440 @26934	28,435,000 @32791 23,890,175 @28431	42,276,000 @44271 31,057,080 @27714
29	30,899,000 @33189 24,873,818 @26717	26,153,000 @31472 22,663,165 @26141	41,858,000 @44066 31,695,680 @27473
28	30,899,000 @33189 24,873,818 @26717		
27	30,293,000 @32860 24,607,365 @26414		
26	30,291,000 @32856 24,584,733 @26391		
25	30,140,000 @32734 24,505,700 @26261	27,461,000 @31654 23,006,105 @25897	40,829,000 @43248 31,867,145 @26761
24	29,989,000 @32717 24,141,145 @25921		
23	29,840,000 @32652 24,031,200 @25813		
22	29,690,000 @32587 23,920,260 @25705	27,253,000 @31301 23,727,660 @25418	40,222,000 @42154 32,326,100 @26347
21	29,540,000 @32522 23,809,320 @25597		
20	29,390,000 @32457 23,698,380 @25489		
19	29,240,000 @32392 23,587,440 @25381		
18	29,090,000 @32327 23,476,500 @25273	26,996,000 @29996 23,271,281 @24146	39,825,000 @41429 32,783,311 @26004
17			
16			
15			

3.3.26 In most cases, the unofficial information was provided to fieldworkers at the sales offices or sent to their mobile phones via WhatsApp communications.

3.3.27 During one of the field visits, fieldworkers received 2 unofficial forms of pricing information from 2 different estate agency companies for the same property development. After further review, Council staff found that there was an error in one of the estate agent’s self-prepared price list. It should be noted that the last revised date printed on these price lists (listed below as

#1 and #2) was 23 June and 26 June 2014 respectively, while the date of the field visit was 27 June 2014. Price list #1 indicated that flat H of the 11/F was sold (Figure 44) while price list #2 marked it was available for sale, with its price (Figure 45). According to the register of transactions, the flat was sold on 6th May. The Council is highly concerned with the accuracy and reliability of unofficial information, and how it affects the purchase of the prospective purchasers.

**(v) Information requirements**

*Number of properties to be covered in the price list*

3.3.28 Section 30 of the Ordinance sets out the minimum requirements on the number of properties to be covered in the price list (Table 7).

Table 7: Requirements on the number of properties to be covered in the price list

Total number of residential properties in the development	Minimum requirements on the number of properties to be covered in the price list
<ul style="list-style-type: none"> <li>• 30 or fewer</li> </ul>	<ul style="list-style-type: none"> <li>• All residential properties</li> </ul>
<ul style="list-style-type: none"> <li>• More than 30 but less than 100</li> </ul>	<ul style="list-style-type: none"> <li>• At least 30 residential properties</li> </ul>
<ul style="list-style-type: none"> <li>• 100 or more</li> </ul>	<ul style="list-style-type: none"> <li>• For the first price list, whichever is the greater of the following:                             <ul style="list-style-type: none"> <li>(i) 20% of the number of residential properties in the development; or</li> <li>(ii) 50 specified residential properties;</li> </ul>                             and                         </li> <li>• For the subsequent price list:                             <ul style="list-style-type: none"> <li>At least 10% of the number of residential properties</li> </ul> </li> </ul>

3.3.29 According to the Council’s compliance checks, all the 17 property developments met the requirements. It was also observed that for all the property developments under study, there was no repetition of the same property in different price lists.

Figure 44: Extract of unofficial price list #1 from estate agency company A

B		C		單位	
1,046' + 843' 平台 + 65' 樓層 3房套加工人套		1,094' + 846' 平台 + 56' 樓層 3房套加工人套		實用面積	
SOLD					
D	E	F	G	H	單位
496' 細2房	658' 3房至尊有廚	587' 2房大則	440' 一房唯——柱	552' 2房大則	實用面積
\$13,215,000	26,643	SOLD	SOLD	\$14,900,000	26,993
SOLD	SOLD	SOLD	SOLD	SOLD	31
SOLD	SOLD	SOLD	SOLD	\$14,563,000	26,382
SOLD	SOLD	SOLD	\$11,757,000	SOLD	29
\$12,712,000	25,629	SOLD	26,720	SOLD	28
\$12,524,000	25,250	SOLD	\$11,687,000	\$14,333,000	25,966
\$12,431,000	25,063	SOLD	26,561	\$14,177,000	25,683
\$12,338,000	24,875	SOLD	\$11,618,000	\$14,065,000	25,480
SOLD	SOLD	\$13,851,000	23,596	\$13,953,000	25,277
\$12,155,000	24,506	SOLD	SOLD	\$13,842,000	25,076
SOLD	SOLD	SOLD	SOLD	SOLD	22
SOLD	SOLD	SOLD	SOLD	SOLD	21
SOLD	SOLD	SOLD	SOLD	SOLD	20
\$11,886,000	23,964	SOLD	SOLD	SOLD	19
\$11,797,000	23,784	SOLD	SOLD	\$13,515,000	24,484
\$11,566,000	23,319	SOLD	SOLD	\$13,329,000	24,147
SOLD	SOLD	SOLD	SOLD	SOLD	18
\$11,417,000	23,018	SOLD	SOLD	SOLD	17
\$11,360,000	22,903	SOLD	SOLD	SOLD	16
SOLD	SOLD	SOLD	SOLD	SOLD	15
\$11,247,000	22,675	SOLD	SOLD	SOLD	14
SOLD	SOLD	SOLD	SOLD	SOLD	13
SOLD	SOLD	SOLD	SOLD	SOLD	12
SOLD	SOLD	SOLD	SOLD	SOLD	11
SOLD	SOLD	SOLD	SOLD	SOLD	10
\$11,247,000	22,675	SOLD	SOLD	SOLD	9
SOLD	SOLD	SOLD	SOLD	SOLD	8
D	E	F	G	H	單位
491' + 157' 平台 細2房	631' + 1047' 平台 3房至尊有廚	583' + 577' 平台 2房大則	440' 一房唯——柱	531' + 441' 平台 2房大則	實用面積
\$12,966,000	26,407	\$14,221,000	24,393	SOLD	7

# Unit 11H is marked as "SOLD"

Figure 45: Extract of unofficial price list #2 from estate agency company B

				T5總數	銷路	5
				179	45	
				32/F		
E 658呎	F 587呎	G 440呎	H 552呎			
(原價單廚房)	(原價單廚房)	(原價單廚房)	(原價單廚房)			
SOLD	SOLD	SOLD	\$14,900M @26,993			31/F
SOLD	SOLD	SOLD	SOLD			30/F
SOLD	SOLD	SOLD	\$14,563M @26,382			29/F
SOLD	SOLD	\$11,757M @26,720	SOLD			28/F
SOLD	SOLD	\$11,687M @26,561	\$14,333M @25,966			27/F
SOLD	SOLD	\$11,618M @26,405	\$14,177M @25,683			26/F
SOLD	SOLD	SOLD	\$14,065M @25,480			25/F
SOLD	\$13,851M @23,596	SOLD	\$13,953M @25,277			23/F
SOLD	SOLD	SOLD	\$13,842M @25,076			22/F
SOLD	SOLD	SOLD	SOLD			21/F
SOLD	SOLD	SOLD	SOLD			20/F
SOLD	SOLD	SOLD	SOLD			19/F
SOLD	SOLD	SOLD	\$13,515M @24,484			18/F
SOLD	SOLD	SOLD	\$13,329M @24,147			17/F
SOLD	SOLD	SOLD	SOLD			16/F
SOLD	SOLD	SOLD	SOLD			15/F
SOLD	SOLD	SOLD	SOLD			12/F
SOLD	SOLD	SOLD	\$12,677M @22,966			11/F
SOLD	SOLD	SOLD	SOLD			10/F
SOLD	SOLD	SOLD	SOLD			9/F
SOLD	SOLD	SOLD	SOLD			8/F
E 637呎 + 平台347呎	F 583呎 + 平台57呎	G 440呎	H 531呎 + 平台441呎			
(原價單廚房)	(原價單廚房)	(原價單廚房)	(原價單廚房)			
SOLD	\$14,221M @24,393	SOLD	SOLD			7/F

#Unit 11H is marked with its price, which indicated that it was available for sale

**(vi) Other analyses**

3.3.30 Notwithstanding the fact that the 17 property developments met the legislative requirements on price lists, the Council has the following observations on how the price lists are constructed and released, given the price lists should be accurate reference for prospective purchasers.

- Frequency of release of price list

As can be shown from Table 8, the average number of days (from release date to most recent update) per price list and revised price list for the 17 property developments ranged from 1.6 days to 121.5 days. Three of the 17 property developments released a new or revised price list in less than 3 days.

Table 8: Summary of the release of price lists among the 17 property developments (arranged in order by the latest date of release of first price list)

Property Development	No of Price Lists Released during the period*	No of Days between Date of Release of First and 'Latest' Price List**	Average No of Days Per Price List Released
A1	3	18	6.0
A2	18	28	1.6
A3	2	21	10.5
A4	1	4	4.0
A5	14	27	1.9
A6	16	50	3.1
A7	7	59	8.4
A8	11	66	6.0
A9	36	82	2.3
A10	10	88	8.8
A11	6	106	17.7
A12	28	200	7.1
A13	12	231	19.3
A14	46	287	6.2
A15	2	243	121.5
A16	44	353	8.0
A17	5	333	66.6

\* Since the release of first price list.

\*\* 'Latest' Price List refers to the latest version of price list issued before the cut-off date (15-8-2014).

The Council believes that the reason for the frequent release of revised price lists is possibly due to the common practice adopted by developers to simply meet the minimum requirements, by listing a certain number of properties in a price list. In general they prefer not to disclose more

prices of the residential properties than necessary because of testing the market in the initial stage. Depending on the public responses (e.g. the number of registration of intent) for the preceding price lists, the developers will then set and adjust the prices in the subsequent price lists for the same residential properties.

In these circumstances, when there are frequent changes (e.g. pricing, terms of payment, discounts) for the same property development, all the price lists will be revised at the same time thereby greatly increasing the number of revised price lists released.

The Council has even observed that in some cases there have been revised price lists issued on the same day or next day following release of the initial price list.

The Council is of the view that the practice of making frequent changes to price lists will not only be confusing to prospective purchasers but will also negate the attempts through legislation to prevent the speculation of price information to the detriment of consumers.

- Change in list price

Although the Ordinance specifies that a "tick" is required to indicate changes to prices of residential properties, this piece of information cannot provide any details on the changes, such as the number of residential properties where price has changed and if the changes were an increase or decrease. Unless there is checking line-to-line, prospective purchasers will not be able to easily identify changes in prices of different properties between the various revised price lists.

Among the 17 property developments, 11 increased the list price of the residential properties and the rest remained unchanged up to 15 August 2014 (Table 9).

Table 9: Summary of list price changes of the properties in 11 developments

Property Development*	Range of percentage increase in list price for every single time of price change
B1	0.2 - 0.4%
B2	0.5%
B3	1 - 2%
B4	2%
B5	1 - 3%
B6	1-3%
B7	1-3%
B8	3%
B9	1-4%
B10	5%
B11	1 - 10%

\* The identities of the developments are not in the same order as represented in other tables.

It was also observed that 5 out of the 11 property developments increased the price of the specified residential properties more than one time (Table 10).

Table 10: Summary of list price change of the residential properties (increased more than one time) among 5 developments

Property Development*	No of times of increased price of the specified residential properties	Range of accumulated percentage increase in list price of the specified properties
C1	3	1-2.5%
C2	2	2-4%
C3	2	3-6%
C4	4	4-8%
C5	2	4-11%

\* The identities of the developments are not in the same order as represented in other tables.

- Transaction price

The Council has reviewed the register of transactions of the 17 property developments and observed that the transaction prices are normally in line with the relevant price lists with respect to adjustments on terms of payments, discounts and other benefits.

- Discounts and benefits

Apart from the "tick" symbol to indicate changes to prices of residential properties, the Ordinance does not specify any requirement to indicate changes in other information in the revised price lists. For example, those related to terms of payment or revised benefits which might affect the price (Figure 46).

For the purpose of changing part of the information, some developers indicated the change by using a "strikethrough" format (see Figure 47). Some simply replaced or added the information directly in the price lists without any clear indication of the changes (Figure 48).

In summary, because discounts and other benefits are provided in different formats in price lists, prospective purchasers have to read carefully and decipher the price lists so as to know the exact price to be paid.

Figure 46: Revision to price list other than price

修改價單(如有) Revision to Price List (if any)		如物業價錢經修改，請以「✓」標示 Please use "✓" to indicate changes to prices of residential properties
修改日期 Date of Revision	經修改的價單編號 Numbering of Revised Price List	價錢 Price
27/6/2014	1A	
9/7/2014	1B	
5/8/2014	1C	
12/8/2014	1D	

Figure 47: Example of revised price list with "strikethrough" format

<p>2 「100%從價印花稅津貼」優惠 "100% Subsidy of Ad Valorem Stamp Duty" Benefit 凡於2014年7月31日(包括當日)或之前簽署臨時買賣合約，購買本價單中所列之單位設"<del>***</del>"之買方 For purchases made on or before 31st July 2014, extra 7.5% discount from the Price would be offered to the above price list as the "100% Subsidy of Ad Valorem Stamp Duty" Benefit. 凡於2014年8月31日(包括當日)或之前簽署臨時買賣合約，購買本價單中所列之單位設"<del>***</del>"之買方 For purchases made on or before 31st August 2014, extra 7.5% discount from the Price would be offered "<del>***</del>" in the above price list as the "100% Subsidy of Ad Valorem Stamp Duty" Benefit.</p>
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Figure 48: Example of revised price lists with property unit information directly added

**Price list 8A of a property development X:**

**(E) 置業易付款 Easy Payment Plan (照售價減 6%) (6% discount from the Price)**

註: 此付款辦法不適用於以下指明住宅物業之買方:

第六座: 2D, 3D, 5D, 6D, 7D, 8D, 9D

第五座: 9A

Note: This Payment Plan is NOT applicable to the purchasers of the follow

Tower 6: 2D, 3D, 5D, 6D, 7D, 8D, 9D

Tower 5: 9A

**Price list 8B of a property development X:**

**(E) 置業易付款 Easy Payment Plan (照售價減 6%) (6% discount from the Price)**

註: 此付款辦法不適用於以下指明住宅物業之買方:

第六座: 2D, 3D, 5D, 6D, 7D, 8D, 9D

第五座: 9A, 6C, 7C, 9C, 25C, 26C

Note: This Payment Plan is NOT applicable to the purchasers of the follow

Tower 6: 2D, 3D, 5D, 6D, 7D, 8D, 9D

Tower 5: 9A, 6C, 7C, 9C, 25C, 26C

## Show Flats

### (i) Scope of the compliance check


3.3.31 The Council’s compliance check was focused on viewing of show flats by fieldworkers during the field visits of 17 property developments. For findings other than those in the following compliance check, please refer to the section “Field Visits”.

### (ii) Legislative requirements

3.3.32 Part 2 Division 4 and 5 of the Ordinance sets out detailed requirements in relation to the viewing of show flats and properties regarding the sale of first-hand residential properties. The Council’s compliance check indicated the following (Table 11):

Table 11: Compliance check on show flats

<i>Viewing of show flats</i>	
Legislative requirement	Fulfillment of requirement (within the scope of the study)
<ul style="list-style-type: none"> <li>If the vendor is to make available a show flat for viewing by prospective purchasers, the vendor must first make available an unmodified show flat for viewing.</li> </ul>	<ul style="list-style-type: none"> <li>Yes, all the 17 developments met the requirement.</li> <li>Among the 17 developments, 4 developments only provided unmodified show flat for viewing.</li> </ul>
<ul style="list-style-type: none"> <li>A show flat of a residential property must not be made available for viewing before copies of the sales brochure have been made available.</li> </ul>	<ul style="list-style-type: none"> <li>Yes, all met the requirement.</li> </ul>
<ul style="list-style-type: none"> <li>Requirements for unmodified and modified show flats</li> <li>- Display the plan of the show flat that shows the dimensions of the show flat, with internal partitions, any bay windows, air-condition plan rooms, balconies, utility platforms and verandahs.</li> </ul>	<ul style="list-style-type: none"> <li>Yes, all met the requirement.</li> <li>In general, a plan showing the dimensions of the show flat was displayed at the entrance of the show flat.</li> </ul>
<ul style="list-style-type: none"> <li>Additional requirements for</li> </ul>	<ul style="list-style-type: none"> <li>Yes, all met the requirement.</li> </ul>

<p>unmodified show flat</p> <ul style="list-style-type: none"> <li>- Provide enclosing walls and boundary wall for, and internal partitions and doors in, the show flat in the same way as they will be provided in the residential property.</li> </ul>	
<ul style="list-style-type: none"> <li>• Additional requirements for modified show flat</li> <li>- For internal partition that is not provided in the show flat, the position and the thickness must be marked with a solid line on the floor and a plan showing all internal partitions must be displayed.</li> <li>- A notice that stating any other fittings, finishes and appliances in the show flat will not be included in the residential property should be displayed.</li> </ul>	<ul style="list-style-type: none"> <li>• Yes, all met the requirement.</li> <li>• In general, a solid line was marked on the floor of the modified show flat showing the position and thickness of the original internal partition and a plan was displayed showing the layout, orientation and thickness of all original internal partitions and highlighting the changes.</li> <li>• Below is an example:</li> </ul> 
<ul style="list-style-type: none"> <li>• Measurements and photographs allowed to be taken in unmodified show flat</li> </ul>	<ul style="list-style-type: none"> <li>• Yes, all met the requirement.</li> </ul>
<ul style="list-style-type: none"> <li>• Measurements allowed to be taken in modified show flat</li> </ul>	<ul style="list-style-type: none"> <li>• Yes, all met the requirement.</li> </ul>

*Viewing of properties in completed developments*

<i>(with occupational permits issued)</i>	
Legislative requirement	Fulfillment of requirement (within the scope of the study)
<ul style="list-style-type: none"> <li>• Provide a viewing of completed property before sale</li> </ul>	<ul style="list-style-type: none"> <li>• Among the 17 property developments visited by fieldworkers, 7 of them were completed developments (occupation permits already issued at the time of field visit).</li> <li>• Fieldworkers viewed properties of 5 developments with occupation permits.</li> <li>• For 1 development, the vendor explained that it was not “reasonably practicable” to make the property available for viewing before sale.</li> <li>• For the other development, fieldworkers were not informed about the availability of completed properties for viewing; show flats were then visited. Fieldworkers later contacted the development concerned and found that comparable units were also made available for public viewing.</li> </ul>
<ul style="list-style-type: none"> <li>• Requirements for making comparable residential property for viewing</li> </ul>	<ul style="list-style-type: none"> <li>• Yes, for the properties viewed by fieldworkers, all met the requirement.</li> </ul>
<ul style="list-style-type: none"> <li>• Measurements and photographs allowed to be taken in residential property for viewing</li> </ul>	<ul style="list-style-type: none"> <li>• Yes, for the properties viewed by fieldworkers, all met the requirement.</li> </ul>

**(iii) Other observations**

3.3.33 The 17 completed and uncompleted property developments generally met the legislative requirements for show flats and viewing of properties. Nevertheless, during the field visits, the following matters were observed.

- Importance of show flats

As the Ordinance does not require the vendor to make any show flat available for viewing by prospective purchasers, developers typically only provide a limited number for viewing. As a result, prospective purchasers will not be able to ascertain visually the floor situation of the property, such as how close adjoining flats will be.

Floor heights provided in the sales brochures are the “floor-to-floor” height. However, for a property with different internal floor heights, prospective purchasers will find it difficult to ascertain from the sales brochure, what the actual ‘head room’ will be. If given the opportunity to view a show flat, prospective purchasers would better understand if there were any differences in the internal heights of the property.

- From availability to location

Except for those developments that had been completed, only two property developments had sales offices and show rooms near the property development sites. For the rest, they were all located at large shopping malls or commercial centres in central business districts which are far away from the actual property development sites.

The Council understands that the availability of sales offices and show rooms in central business districts provides convenience to prospective purchasers. However, the location of a sales office and show room near the property development site could in fact, provide a better picture for prospective purchasers on the environment of the property which would be of vital concern especially for home-users. Although there is no reason that prospective purchasers cannot go and visit the development sites, having the show flats located in the vicinity of development sites would better facilitate prospective purchasers convenience in visiting the site.

- Notice and sign

The Ordinance stipulates detailed requirements for unmodified and modified show flats, when they are made available. However, there is no standard requirement on the size, format, position and details of any notices or signs that are displayed at the show flats.

During one field visit the fieldworkers noticed that an important notice displayed on the ceiling of a show flat was small and difficult to read. The Council considers that if notices materially affect what is represented in the show flat, they are in fact just as important as the actual show flat and should be prominently placed and in a format which is easy to identify and understand.

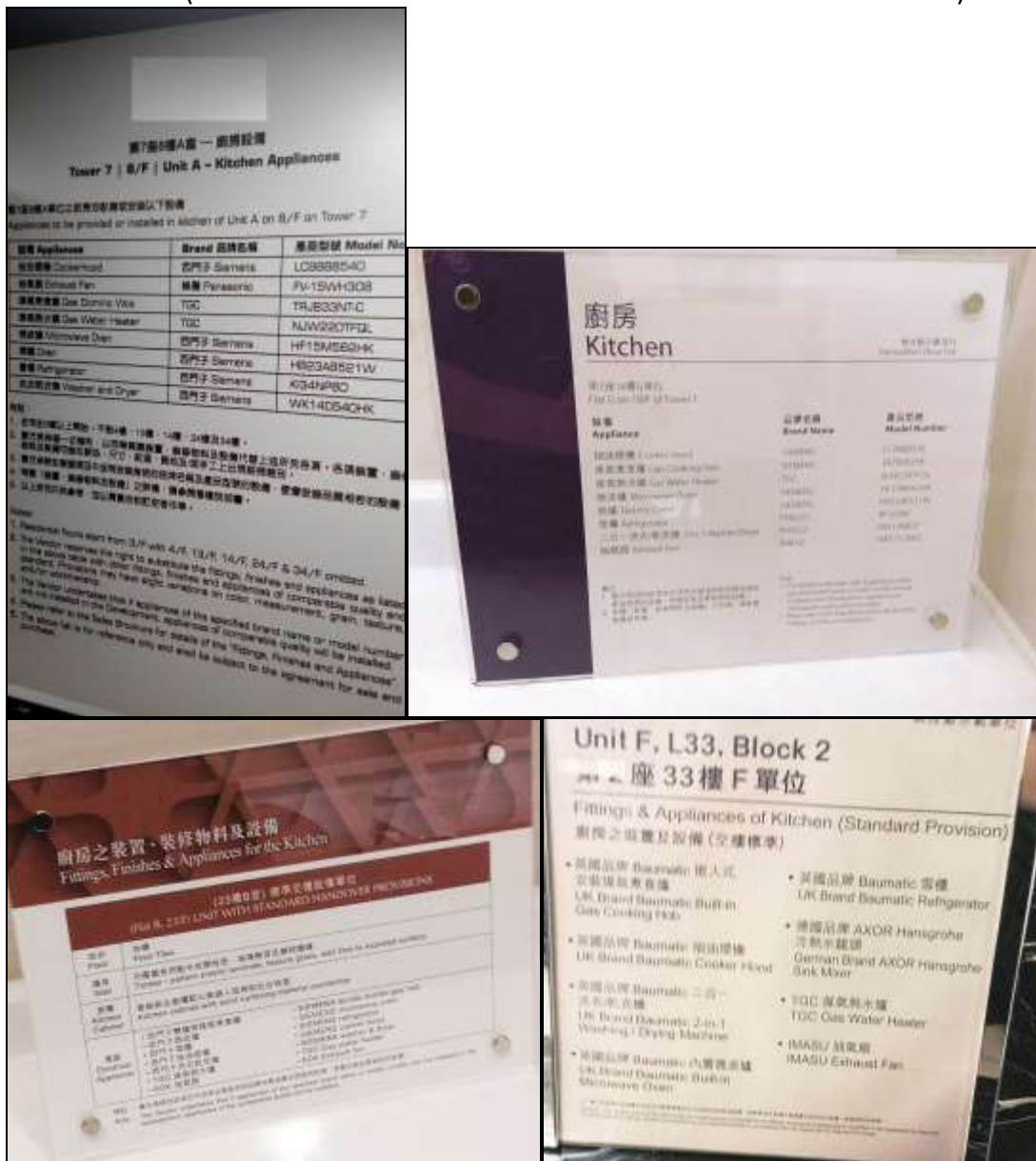
With regard to fittings, finishes and appliances that are to be included in a residential property development, different property developments have different formats and levels of detail. Prominent information on the differences between what is shown in the show flat and what will appear in other non-viewable flats should be provided.

Figures 49-50 show examples of notices regarding information of fittings, finishes and appliances in an unreasonable position, and of different formats and details.

Figure 49: Notice placed in unreasonable position



Figure 50: Information of fittings, finishes and appliances of different formats and details (some with brand name and model number and some without)



## Advertisements

### (i) Scope of the compliance check

3.3.34 The compliance check covered promotional brochures, catalogues or any other materials collected by fieldworkers during their field visits, as well as advertisements in newspapers, with details in Table 12:

Table 12: Coverage of advertisements in newspapers for compliance check

• Covering period	1 June – 31 July 2014
• Property developments	17 property developments (field-visited)
• Newspapers (Monday – Sunday)	7 (including 2 free-of-charge newspapers)
	- Hong Kong Economic Journal
	- Hong Kong Economic Times
	- Ming Pao Daily
	- Oriental Daily
	- Sing Tao Daily
(Monday – Friday)	- AM730
	- Metro Daily

### (ii) Legislative requirements

3.3.35 Part 3 of the Ordinance sets out detailed requirements in relation to advertisements for the sale of first-hand residential properties. It is stipulated in the Ordinance that property advertisements must not contain false and misleading information. It also requires that the size and unit price shown in an advertisement must be provided by reference to the saleable area of the property.

3.3.36 The Council examined printed advertisements of the 17 property developments and observed that the developments in general met the legislative requirements for printed advertisements (Table 13).

Table 13: Compliance check on printed advertisements

Legislative requirement	Fulfillment of requirement (within the scope of the study)
<ul style="list-style-type: none"> <li>• General requirements for advertisement</li> <li>• The advertisement should state               <ul style="list-style-type: none"> <li>- Who is the publisher</li> <li>- The estimated material date</li> <li>- The size and unit price by reference to saleable area</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Yes, all advertisements from the 17 property developments under study met the requirement.</li> </ul>



<ul style="list-style-type: none"> <li>• Statement about sales brochures</li> <li>• Any advertisement must contain a notice that advise prospective buyers to refer to the sales brochure</li> </ul>	<ul style="list-style-type: none"> <li>• Yes, all met the requirement.</li> </ul>
<ul style="list-style-type: none"> <li>• Additional requirements for advertisement</li> <li>• The advertisement should provide:             <ul style="list-style-type: none"> <li>- The basic information related to the property development and the developer</li> <li>- The address of the property development website</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Yes, all met the requirement.</li> </ul>
<ul style="list-style-type: none"> <li>• Font size of certain statements</li> <li>• The minimum size and the typeface of the required statements             <ul style="list-style-type: none"> <li>- The district, street and street number of the development</li> <li>- The website of the property development</li> <li>- The statement of “artist’s impression”</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Yes, all met the requirement.</li> </ul>

**(iii) Price information and sales figures**

3.3.37 Most of the advertisements reviewed by Council staff generally did not include price information of the property development. Some advertisements highlighted the sales situation of the property developments. The Council cross-checked the available transaction information of the properties and they generally tallied with each other.

**(iv) Use of discounted price**

3.3.38 The Council found that some advertisements used discounted price per square foot or discounted unit price in a promotion, which is not recommended by the SRPA (Figure 51). The use of discounted price might be misleading because discounts of the properties are subject to conditions and do not apply to all prospective purchasers. According to a press statement issued by the SRPA in January 2014, it has advised against the use of average

price (平均價) and discounted price (折實價) in property advertisements. The SRPA suggested developers use a price range instead.

Figure 51: Property advertisements with discounted prices



\*Gardenpool Resort 實用面積呎價由\$16,891起，Spa Resort實用面積呎價由\$11,828起，Skypool Resort 實用面積呎價由\$13,365起。上述價錢已扣減買家印花稅/特別折扣及從價印花稅補貼，詳情請參閱價單第一號。

總折扣優惠高達售價 <b>15%</b> <sup>5</sup>		平	靚	正
<b>2房單位</b> 8座5層E單位 (實用面積492平方呎) 售價: \$4,409,000	<b>3房單位</b> 業主入屋即住新物業 3座2層E單位 (實用面積751平方呎) 售價: \$6,236,000	<b>3房單位</b> 業主入屋新、極佳靚景 化理屋/高層 6座1層F單位 (實用面積643平方呎) 售價: \$6,852,000		
<b>折扣優惠計算*</b> 選用「現金或即時按揭付款」支付條款之買方可獲以下優惠:				
▶ 減5% 「現金或即時按揭付款」售價折扣	\$220,450	\$311,800	\$342,600	
▶ 減3% 8月31日之前簽署臨時買賣合約售價折扣優惠	\$132,270	\$187,080	\$205,560	
▶ 減3.25% 「實業升級」售價優惠	\$143,292.5	\$202,670	\$222,690	
▶ 減3.75% 「從價印花稅津貼」售價折扣優惠	\$165,337.5	\$233,850	\$256,950	
<b>合約所列樓價*</b>	<b>\$374.8萬</b>	<b>\$530.1萬</b>	<b>\$582.4萬</b>	

Source: Extracts of 3 property advertisements from different developments.

**(v) Property locations and maps**

3.3.39 All advertisements provided the district and street name and number at which the development is situated. Some advertisements even provided location maps of the properties. However, not all these maps were drawn to scale (Figure 52).

Figure 52: Property location map not drawn to scale



**(vi) Photographs and images shown in the advertisements**

3.3.40 Among the advertisements reviewed by the Council, the majority used some photographs, pictures or images with no discernable relation to the property developments concerned. Even though there were statements reminding prospective purchasers that the photographs, photos or images represented an artist impression of the development and readers were suggested to make reference to sales brochures and conduct an on-site visit. The Council is of the view that the contents of all promotional materials, including advertisements must be a true representation of the development. While it is understandable that an artist impression is necessary to illustrate something that is not currently in existence, the impression should not be so artistic as to mislead.

**(vii) Outdated promotion photographs**

3.3.41 In an advertisement published on 4 July 2014 (Figure 53), a development used a photograph taken over four years ago which would cast doubts to prospective purchasers on the validity of the photo to represent the real surrounding area of the development. For relevancy and accuracy sake, the developer(s) shall spare its best endeavor to locate the latest photos as reference by prospective purchasers.

Figure 53: Outdated promotion photograph



**(viii) Other property information**

3.3.42 Though not required by the Ordinance, some advertisements or promotional materials provided information on the total number of units and blocks, facilities or services in the development or surrounding environment, management fees, etc (Figure 54).

Figure 54: Information on management fee

<b>物業資料</b>		<b>預算管理費</b>	<b>：每呎管理費約為港幣\$3.76元</b>
物業座數：1座	單位總數：98伙	住宅樓層：3樓至32樓(不設4樓、13樓、14樓、24樓)	實用面積：253-1,282平方呎
每層伙數：1層4伙(標準樓層)	預算管理費：每呎管理費約為港幣\$3.76元	物業管理公司：	住客會所：精辦品牌Technogym健身器材
		智能家居服務：Smart Living 智能家居服務(自動化組合)	網上行光線入屋：家居資訊服務及now寬頻電視服務組合
			uHub雲端儲存服務：以雲端技術為基礎，提供多媒體內容儲存空間
			e體健雲端服務平台：透過雲端服務平台提供健康數據的管理

3.3.43 The Council is of the view that if such information is accurate, true and complete, prospective purchasers can get a better picture of the development which will be of vital concern to their purchase decisions. If the information is partial and incomplete, prospective purchasers might be misled. For example the following advertisement showed club house

facilities and services to be provided (Figure 55). Though qualifying remarks are given, they are in small print such that prospective purchasers might not be aware that the provision of the facilities and services are still subject to approval and completion/provision dates of the facilities and services are not yet confirmed.

3.3.44 In another example, while the information of management fees was provided in the advertisement, prospective purchasers would still not be able to know the amount of management fees estimated to be paid because the calculation was based on the number of management units set out in the draft deed of mutual covenant which might not be readily available (Figure 56).

Figure 55: Provision of facilities and services

The image shows a screenshot of an advertisement for a residential project. It lists several facilities and services:

- 「迎浪水世界」室內泳池全長大約60米，自由暢泳，全天候盡情體現水中動感
- 「尚樂薈」以水晶裝飾、天然石地台、夾絲鏡、閃亮鑲飾等精心粉飾，配置高清電視及歐洲品牌Miele設備，打造瑰麗時尚的歡聚之地
- 室內「魔法天地」打造童真魔幻領域，任隨投入電子體感遊戲世界；戶外「奇趣歷險地帶」，特設音樂主題遊玩區與森林活動區，引發童心童趣

Below the main text, there are several lines of small print (disclaimers) in Chinese:

註：1) 賣方保留權利以質量相若的其他裝置、裝修物料及設備代替上述裝置、裝修物料及設備。  
 2) 「露天水庫」及「豪華大廳」只為現時住宅大廈最高住宅層及6樓。上述單位之命名僅作參考之用，不會由於此出現在樓宇、建築圖則或任何法律文件。  
 3) 上述設施名稱特定，所有名稱未必與會所日後啟用時的設施名稱相同。住客會所所屬康樂設施於入伙時未必能即時啟用。部份設施及/或服務的使用或操作受制於政府有關部門發出之同意書或許可證。賣方保留修改以上及一切未列明之設施用途權利，並恕不另行通知。  
 4) 上述實用面積適用於第1、2、3、5及6座7樓至52樓住宅物業(不設13、14、24、34及44樓；28樓為紅樓層)及第7及8座7樓至49樓住宅物業(不設13、14、24、34及44樓；22樓為紅樓層)。

上述設施名稱特定，所有名稱未必與會所日後啟用時的設施名稱相同。住客會所所屬康樂設施於入伙時未必能即時啟用。部份設施及/或服務的使用或操作受制於政府有關部門發出之同意書或許可證。賣方保留修改以上及一切未列明之設施用途權利，並恕不另行通知。

Figure 56: Information on management fee

The image shows a screenshot of an advertisement providing information on management fees. The text reads:

每個住宅物業的管理費應按照分配予該住宅物業的管理份數份額\*計算，而預計每個住宅物業之每一管理份數的每月管理費約為HK\$40.5。

備註：\*每個住宅物業的管理份數份額已載列於發展項目的公契擬稿。

**(ix) Infrastructure under planning**

3.3.45 In some advertisements or promotional materials, information on future infrastructure under construction, planning or at review stages was included. In general, developers did state that they were not giving any warranty and that the infrastructure was subject to the Government’s approval or control (Figure 57).

Figure 57: Future infrastructure



**(x) Traveling time**

3.3.46 The traveling times to and from developments, stated in advertisements, generally came into two categories: the time needed to travel between stations of MTR and travel between the developments and primary places in Hong Kong. For the former information, these were standard estimations provided by the MTRC. In the latter, developers adopted various methods to determine the traveling time. In some cases an independent traffic consultant ( “獨立交通顧問” ) was quoted in the advertisement with respect to the calculation but no further information was provided. The Council doubts whether this information could be viewed as reliable because traveling times would be affected by many factors (Figure 58).

Figure 58: Independent assessment on traveling time

「...」，前景，前所未見的耀目。就近固有東鐵路線，步行約5分鐘，至未來何文田及黃埔站，便捷來往紅磡站及未來高鐵香港段總站，一脈貫通神州大地。讓生活圈，不受地域所限，讓事業可能性，更盡情延伸。

未來璀璨，在沙中繼與數道冠冕綻放。兩面貫通的何文田站，接軌全城，配合西鐵利士甸站及其他公路幹線，交通網絡趨近完美。生活，新層次，新機遇，新時尚，只待你不斷發現。

**備註：# 由獨立交通顧問評估及計算得出(2014年6月25日)。**

備註：# 由獨立交通顧問評估及計算得出(2014年6月25日)。

\*上述前往各區之時間是按2013年9月份非繁忙時段由荃灣永順街為起點計算，僅供參考，可能因應實際交通狀況而有所不同。

(xi) Relevant dates

3.3.47 As shown in Figure 59, the estimated “completion date” and the estimated “material date” are provided in the same advertisement with regard to different variables of a development project. Unless the information is clearly explained, prospective purchasers might not be able to understand and know the difference between the two dates.

Figure 59: Relevant dates of a development

(a) Estimated material date

已為發展項目的建造提供貸款的其他人： 盡賣方所知的發展項目的預計關鍵日期：2014年10月31日（「關鍵日期」指批地文件的條件就發展項目而獲符合的日期。項目之預計關鍵日期由發展項目之認可人士提供，及受到買賣合約所允許的任何延期所規限。）「...」共有 個住宅單位。賣方建議準買方參閱有關售樓說明書，以了解發展項目的資料。\*載有售樓說明書、價單及成交紀錄冊電子版的網址。本廣告由賣方發布或在賣方的同意下發布。 印製日期：2013年12月11日

(b) Estimated completion date

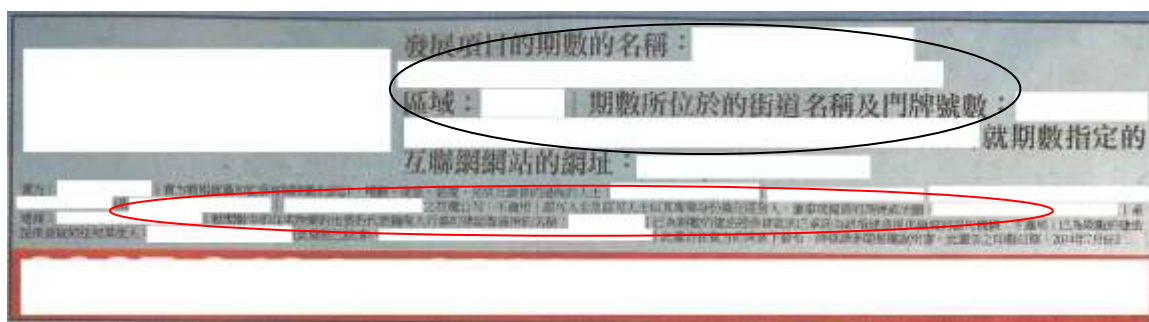
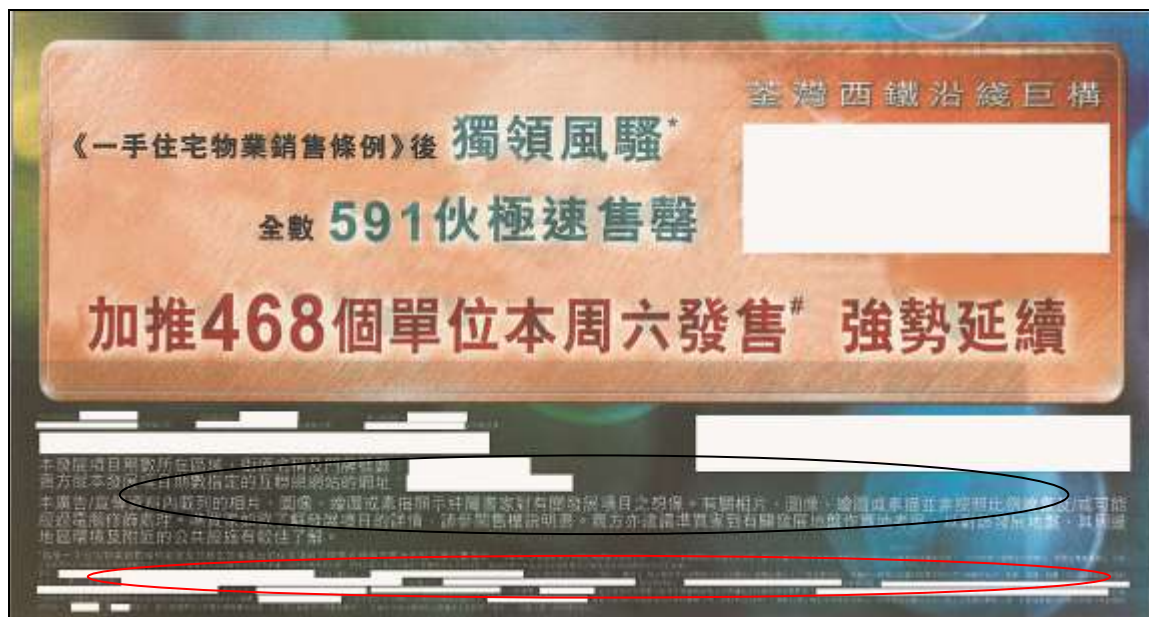
\*本發展項目不設4、14、24及34樓。上述布局圖經簡化處理，僅供參考。發展項目的認可人士提供的位於發展項目內的建築物或設施的預計落成日期：2014年4月30日。

⇩ 往觀塘市中心

**(xii) Size of characters and numbers**

3.3.48 With regard to statements and information with font size requirements under the Ordinance, the developers and estate agency companies of the 17 property developments fulfilled the requirements. However, for information without the font size requirements under the Ordinance, the Council found that the sizes of characters and numbers in some advertisements were so small that readers would find it difficult to read. Some examples are quoted below (Figure 60).

Figure 60: Examples of different font sizes in advertisements



Statements and information with size requirement



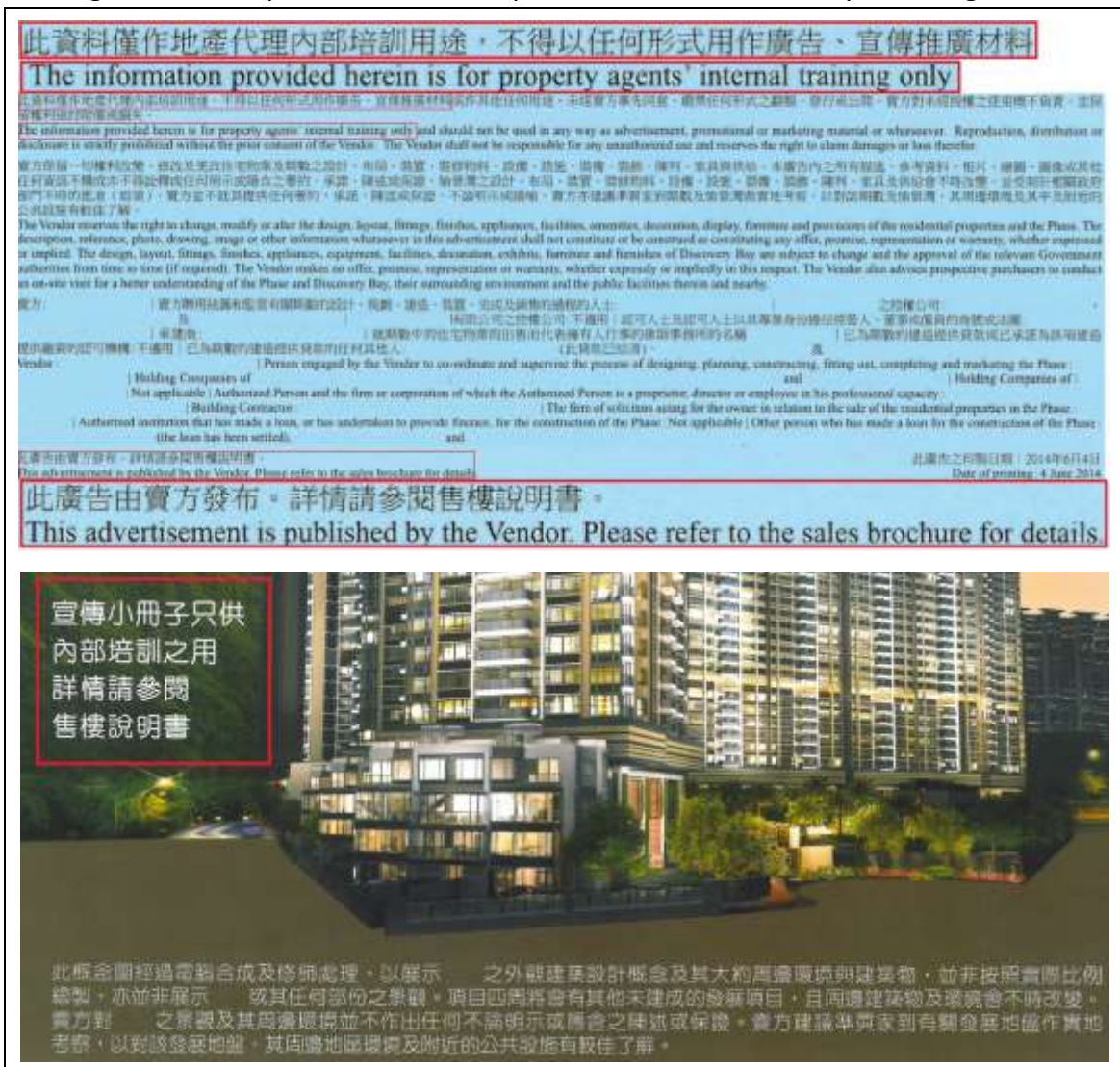
Statements and information without size requirement



**(xiii) Advertisements with unofficial information**

3.3.49 During the field visits of the 17 property developments, fieldworkers collected from estate agents some brochures or catalogues with advertisements published by the developers which were supposedly intended for internal training (Figure 61). The Council is of concern that such unofficial information might pose inaccurate information to prospective purchasers.

Figure 61: Examples of information provided to fieldworkers by estate agents



## **Sales Arrangements**

### **(i) Scope of the compliance check**

3.3.50 The compliance check was confined to checking of sales arrangements of the 17 property developments. Sales arrangement documents were collected during the field visits and also downloaded from the property developments' designated websites for in-depth analysis.

### **(ii) Legislative requirements**

3.3.51 Section 47 of the Ordinance sets out requirements on availability and contents of sales arrangements for property developments.

#### *Availability*

3.3.52 During a period of at least 3 days immediately before the date of sale of a property development and on that date, hard copies of sales arrangement for the property development must be available for collection by the general public free of charge; and available for inspection on the designated website for the development.

#### *Contents*

3.3.53 The following information must be contained:

- The date and time when, and the place where, the property will be offered to be sold;
- The number of properties in the development that will be offered to be sold on that date, and at that time and place;
- A description of the properties;
- The method to be used to determine the order of priority in which each of the persons interested in purchasing any of the properties might select the property; and
- The method to be used, in the case that 2 or more persons are interested in purchasing a particular property, to determine the order of priority in which each of those persons might proceed with the purchase.

### **(iii) Availability of sales arrangements**

3.3.54 All the 17 property developments met the legislative requirements on availability of sales arrangements in that they were available in hard copies and on the designated website for the development at least 3 days before the date of sale of the property development.

3.3.55 However, if a property at the time being was not going to be offered for sale 3 days later, there might not be hard copies of sales arrangements for collection at the sales office. In these circumstances, prospective purchasers would have to refer to the relevant website of the development for published sales arrangements.

**(iv) Contents of sales arrangements**

3.3.56 All the 17 property developments met the legislative requirements on contents of sales arrangements. Moreover, both English and Chinese were printed in the same copy of the sales arrangements. While this was convenient for prospective purchasers on the one hand, in some cases the English text and the Chinese text were not arranged in consistent order throughout the document; which could create confusion.

**(v) Different sales arrangements**

3.3.57 The Ordinance regulates the availability and contents of sales arrangements documents of property developments. It does not, however, set requirement on the formats and operations of different types of sales arrangements.

3.3.58 From the sales arrangements documents of the 17 field visited property developments, it was observed that in general there are three types of sales arrangements:

*Balloting*

3.3.59 Among the 17 field visited property developments, balloting was the most common sales method adopted by developers. However, different property developments had different ballot arrangements, such as:

- Balloting took place right after the closing of registration of intent

Registrants are invited to observe the balloting and balloting results and the attending time slot for registrants would be posted at the sales offices. Though the developers would not notify registrants of the ballot results separately, in some cases, the ballot results were posted on the developments' dedicated websites. In all cases during the field visits the estate agents informed the registrants of the ballot results and their attending time slots on the first date of sale.

- Balloting on the first date of sale

In these cases, registrants had to attend personally at the sales offices on the first date of sale for balloting by the developers. The registrants

would then proceed to select the properties at the time of selection in the order of priority according to the ballot results.

Different ballot arrangements have different advantages and disadvantages to prospective purchasers and property developers. For balloting takes place right after the close of registration of intent, prospective purchasers would have a relatively longer period of time for planning and making their purchase decision and developing a strategy. For balloting on the first date of sale, because all the registrants would have to be present at the sales office, the actual sales situation would be more transparent but prospective purchasers would have little time in making their purchase decisions.

- First-come, first-served

Other than balloting, first-come first-served approach was another common method for property sales.

Though this approach is simple, Council staff observed in one sales arrangement with a first-come first-served basis, there was allocation of priority order in “rotation” (Figure 62). The sales arrangements stated that: The vendor reserves the right to allocate properties to purchaser by a specific sequence of order consists of 7 estate agency companies when more than one prospective purchasers are interested in purchasing a specific residential property. The order of priority will be allocated in “rotation” in the order of (1) company A; (2) company B; (3) company C, etc.



**(vi) Time and place of sales**

3.3.61 Different property developments have different times of sale on their first date of sale under different sales arrangements. Twelve out of the 17 property developments commenced their first dates of sale in the morning. Five property developments had their first dates of sale in the afternoon or evening.

3.3.62 Sales of uncompleted property developments usually took place in shopping malls. The Council observed that only a few cases offered sales office and show flats in the vicinity of the property development.

**(vii) Registration of intent**

3.3.63 For property developments with ballot sales arrangements, each individual registrant was generally allowed to submit 2 registrations of intent. Each registration usually would be entitled to purchase one specified property. However, there were cases where each registration could entitle the purchase of 2 specified properties i.e. a total of 4 specified properties could be purchased.

3.3.64 There was also case where each registrant could submit only one registration of intent. However, the registrant could intend to purchase more than one specified property. In this special case, the balloting took place in three rounds; with first round of balloting for registrants intending to purchase 3 or more specified properties; the second round for registrants intending to purchase 2 specified properties; and the final third round for registrants intend to purchase one specified property.

**(viii) Inflated number of registration of intent**

3.3.65 Individual registration of intent could be in the name of a prospective purchaser or in joint names with any other party. For property developments which allowed the submission of 2 registrations of intent by an individual registrant, a couple of prospective purchasers could therefore submit a total of 6 registrations of intent for the development. However, at the end there would have to be the purchase one property only or not at all (Table 14).

Table 14: Inflated number of registration of intent

	Number of Registration of Intent
Husband	2
Wife	2
Husband + Wife	2
Total	6

3.3.66 In view of the widely reported sales practice of “inflated numbers of registration of intent”, the Council has reviewed the reported number of registration of intent in the press, and the actual sales situation on the first date of sale of 8 property developments. It concluded that inflated numbers of registration of intent exists and that the reliability of the number of registration of intent to reflect genuine demand is questionable (Table 15).

Table 15: The number of registration of intent

Property Development*	No. of Registration of Intent (from press reports)	No. of units offered for sale on the First Date of Sale	No. of units sold on the First Date of Sale (from Register of Transactions)
D1	13,000	591	589
D2	2,600	220	189
D3	2,911	209	204
D4	2,200	100	95
D5	420	102	46
D6	76	62	25
D7	130	30	23
D8	10,000	492	428

\* The identities of the developments are not in the same order as represented in other tables.

#### (ix) Return of cashier order

3.3.67 To participate in a ballot sales arrangement, each prospective purchaser had to submit his or her personal information including a copy of their Hong Kong Identity Card, a Registration of Intent and a cashier order in the sum as stated in the property’s sales arrangements.

3.3.68 Among the 17 property developments, the amount of cashier order required ranged from HK\$100K to HK\$300K. If the registrant did not purchase a specified property, the cashier order(s) would be returned to the registrant, as stated in the sales arrangements, from the next day of first date of sale, to around two weeks.

#### (x) Ballot results

3.3.69 Except for one property development, all field-visited property developments with ballot sales stated in their sales arrangements that registrants were invited to observe the balloting and balloting results, and that the attending time slot for registrants would be posted at the sales offices. One property development even stated in its sales arrangement that registrants would not be separately notified of the ballot results (Figure 63).

Figure 63: The result will not be separately notified

1. The computer balloting will take place on 20 June 2014 after 8:00 p.m. at the Sales Office. Registrants (if the Registrant is a company, then any one of its directors) are welcome to view the computer balloting. Every Registration of Intent shall be allotted such number of lot(s) which equals the number of specified residential property(ies) which the Registrant(s) intends to purchase as indicated in the Registration of Intent less the number of specified residential property(ies) (if any) that has/have been purchased under that Registration of Intent. Once a lot allotted to a Registration of Intent has been successfully drawn, all other lot(s) (if any) relating to the same Registration of Intent shall be cancelled and be treated as null and void. The ballot results, including "registration number" stated on the Letter of Confirmation for registration, "balloting result priority" and "attending time slot for Registrants" (each such time slot will commence after 9:00 a.m. on the First Date of Sale) will be posted at the Sales Office after the computer balloting on 20 June 2014. Registrants will not be separately notified of the ballot results.

3.3.70 The only exception stated in its sales arrangements that the ballot results would be posted on its dedicated website (Figure 64). In fact, for some other property developments, the ballot results were posted voluntarily on their dedicated websites.

Figure 64: The result will be posted at website

3. The balloting will take place on 1 August 2014 and the balloting will be effected via a computer ballot system. The ballot results, including "registration number", "ballot result sequence" and "the check-in timeslot for registrants" shall be posted at the Sales Office and uploaded to the website of \_\_\_\_\_ : \_\_\_\_\_ .com on 1 August 2014. The opening hours of the Sales Office on 1 August 2014 are from 10:00a.m. to 8:00p.m.

3.3.71 In all cases during the field visits with ballot sales participation, the estate agents informed the registrants the ballot results and their attending time slots on the first date of sale. The Council is of the view that posting of ballot results on the developments' websites enhances information transparency and consumer convenience.

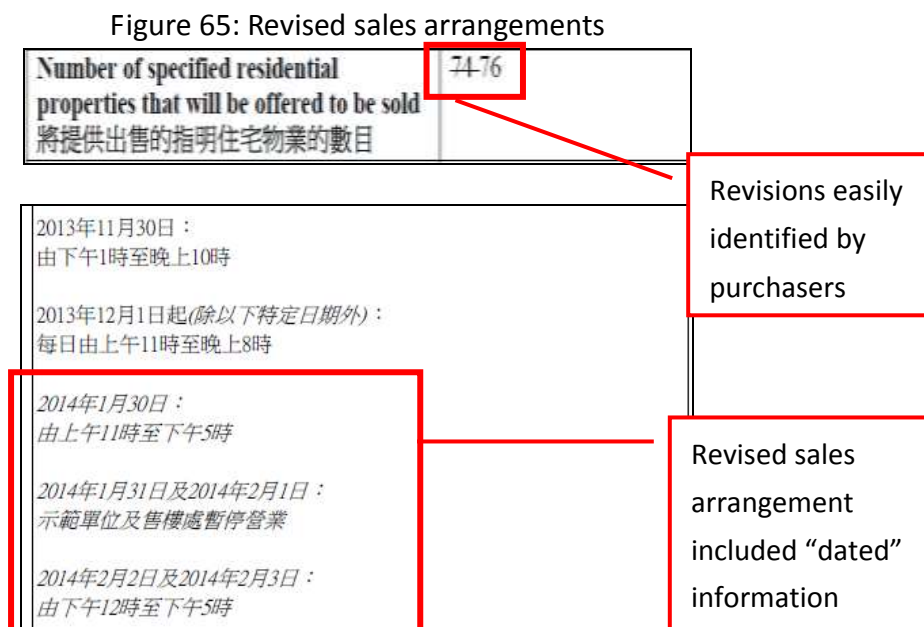
**(xi) Revision of sales arrangements**

3.3.72 Observed revisions included time of the sale, place of the sale, number of properties for sale, information about registration of intent, and arrangement on viewing of property. Most commonly revised information were changes in time of the sale and number of properties for sale.

3.3.73 As mentioned previously, all revised sales arrangements would have to be posted on the property development's dedicated websites. Nevertheless, unless the changes or revisions were highlighted by the developers in the revised sales arrangements (which are rare and limited examples are shown



below) prospective purchasers would find it difficult to know which part(s) of the sales arrangements had been revised. (Figure 65)



3.3.74 The Council also observed that for properties that have already been sold, information on the properties would still remain in the revised sales arrangements (so as the price lists). The Council is of the view that to avoid consumer confusion, certain remarks could be put in the sales arrangements or price lists documents to give prospective purchasers clearer information.

**(xii) Special terms**

3.3.75 The following special terms and arrangements were observed during the compliance check of sales arrangements of the 17 property developments.

- Bundling sales

The Council observed that one property development bundled sales of its principal flat and its adjacent open studio flat. The adjacent open studio flat could not be purchased unless the principal flat of that adjacent open studio flat was purchased together.

- No viewing agreement

In the same development, prospective purchasers were requested to sign a “No Viewing Agreement” at the time of submitting the registration of intent. The developer stated in the sales arrangements that “If that person does not enter into the No Viewing Agreement (that person is free to do so), under the Residential Properties (First-hand) Ordinance,

the Vendor will be unable to sell that specified residential property to that person.” (Figure 66)

Figure 66: No viewing agreement

(a) To the extent that it is not reasonably practicable for a specified residential property to be viewed and it is not reasonably practicable for any comparable residential property to be viewed, before that specified residential property can be sold to a person, that person has to agree in writing that the Vendor is not required to make such a comparable residential property available for viewing before the sale (the “**No Viewing Agreement**”). If that person does not enter into the No Viewing Agreement (that person is free to do so), under the Residential Properties (First-hand Sales) Ordinance, the Vendor will be unable to sell that specified residential property to that person. 當開放一指明住宅物業供參觀並非合理地切實可行及開放任何與該指明住宅物業相若的住宅物業供參觀並非合理地切實可行時，於該指明住宅物業售予任何人士前，該人士必須以書面同意賣方無須在該項出售之前開放該相若的住宅物業供該人士參觀（「無參觀同意書」）。如該人士未有簽訂無參觀同意書（簽訂與否該人士可自由選擇），根據《一手住宅物業銷售條例》，賣方將不能將該指明住宅物業售予該人士。

The rationale provided by the developer in requiring the signing a “no viewing agreement” before making a purchase was for safety concern, in that the site was still under construction and it was not practicable to allow entry of prospective purchasers for flat inspection.

The Council’s understanding is that the development is at a completed phase and with the issuance of an occupation permit. According to the Ordinance, prospective purchasers should be able to view residential properties which they intend to purchase, or comparable residential properties, before signing the PASP. The SRPA has written to the developer for reasons why it considers not reasonably practical to make available the properties or comparable properties for viewing by prospective purchasers.

The Council considers that the practice was in opposition to the principle of transparency as espoused by the Ordinance, and consumers should be cautious in signing a “no viewing agreement” as it means giving up the right of inspection before purchase. The Council is of the view that the regulatory body should stipulate relevant guidelines so similar incidents could be well governed by the Ordinance in future.

- Purchase decision in 3 minutes

In one sales arrangement of a property development, prospective purchasers were required to make a purchase decision within 3 minutes during the turn of selection (Figure 67). Notwithstanding that this property development is only for certain groups of prospective purchasers, the Council is concerned that a reasonable balance needs to be achieved between fairness to consumers and administrative convenience.

Figure 67: Purchase decision in 3 minutes

4. After the completion of the confirmation and verification of identities of the Registrants, the Registrants shall then proceed to select the residential properties in the order of priority according to the result of the balloting (the "First Selection"). When it is the turn of a Registrant to select a residential property, that Registrant must make his/her selection within 3 minutes, failing which that Registrant will be deemed to have given up the opportunity to select a residential property in the First Selection (note: each potential purchaser is hereby advised to consider and decide his/her own preferences in different residential properties before attending the Sales Office).

**(xiii) Releasing units in small batches**

3.3.76 The Ordinance stipulates that price list of properties to be sold must be made available to the public at least 3 days before the date of sale. However, the Ordinance does not require that all the properties covered in the price list must be made available for sale. The Council is concerned that information on "not for sale" units on the price list will create confusion to prospective purchasers, and legitimate the practice of "releasing units in small batches" and thereby opens up for market speculation.

3.3.77 The Council has checked the sales arrangements and price lists of the 17 property developments and observed that for 10 property developments, the properties offered to be sold in the sales arrangements matched with that in the price lists. In other words, properties in the price lists were made correspondingly available for sale.

3.3.78 There were however certain developments where the properties listed in the price lists were not fully available for sale in the corresponding sales arrangements. For 4 property developments, apart from the first price list and sales arrangements which were matched, properties listed in subsequent price lists and sales arrangements were not matched. For 3 other property developments, the properties listed in the first price lists were already not fully available for sale in the corresponding sales arrangements and for subsequent price lists and sales arrangements (Table 16).

Table 16: Units covered in the price lists not launched for sales

Property Development*	No of units covered in the first price list** (a)	No of units launched for sale in the first sales arrangement (b)	Ratio of units for sale between sales arrangement and price list (b)/(a)
E1	328	238	73%
E2	197	50	25%
E3	52	20	38%

\* The identities of the developments are not in the same order as represented in other tables.

\*\* Minimum disclosure requirement met.

## **Disclosure of Transaction Information**

### **(i) Scope of the compliance check**

3.3.79 The compliance check was focused on the checking of registers of transactions of the 17 property developments. The registers of transactions were collected during the field visits and also from the property developments' designated websites.

### **(ii) Legislative requirements**

3.3.80 Part 2 Division 8 of the Ordinance sets out detailed requirements in relation to register of transactions for developments. According to the Ordinance, the purpose of the register of transactions is to provide the public with the transaction information relating to the development in order to better understand residential property market conditions in Hong Kong.

3.3.81 For this purpose, the Council conducted compliance checks on the following items of the register of transactions:

- contents;
- availability;
- timeliness and information accuracy.

### **(iii) Contents of the registers of transactions**

#### *Information in specified form*

3.3.82 Information of all the registers of transactions of the 17 property developments were set out in the form specified by the SRPA.

#### *Revision of transaction prices*

3.3.83 Revision of transaction price happens mainly in large property developments. The Council has gone through all the 71 revisions (as at the date of register of transactions on 15 August 2014) of the 17 property developments and observed that the revisions were mainly due to changes in the payment terms of transaction, usually from stage payment plan to instant / 60-day / 90-day / 180-day cash payment. Out of the 71 revisions reviewed, 61 revisions were with price reductions, and 10 had increases in prices. The percentage price changes of these 71 price revisions ranged from -10% to 7.5%.

*Termination of PASP*

3.3.84 Among the transaction records reviewed by the Council, termination of ASP was rare (5 cases among a total of 6,675 transaction records). There were more cases in termination of PASP in particular for large property developments (74 cases). Among the 8 cases where the purchaser was a related party to the vendor, there was one case with termination of PASP.

**(iv) Availability of the registers of transactions**

*Availability of electronic copy on designated website*

3.3.85 All the 17 property developments made an electronic copy of their registers of transactions available on their designated websites.

*Availability of register of transactions at sales offices*

3.3.86 The Ordinance requires that the vendor must make the register of transactions for the development available on a date of the sale for inspection by the general public free of charge at the place where the sale is to take place. For all the 17 property developments, copies of registers of transactions were available at the sales offices during the field visits.

**(v) Timeliness and information accuracy**

*Entries in register of transactions*

3.3.87 The Council checked the dates of transactions for the 17 developments and observed that they were generally in line with their corresponding sales arrangements for the development.

### **3.4 Summary of Findings from Field Visits and Compliance Checks**

#### **Field Visits**

- 3.4.1 Some improvements were observed in show flats such as no conditions imposed on prospective purchasers for viewing of show flats, no estate agents escort required, and the use of saleable areas in presenting floor area information. However, certain problems were still in existence which included the use of non-standard furniture, and only a limited number of show flats were offered for viewing.
- 3.4.2 All completed property developments visited by fieldworkers provided either show flats or comparable units for viewing.
- 3.4.3 In many of the Council's field visits the estate agents claimed that only few prospective purchasers would do so when fieldworkers requested to take information such as sales brochures home for reference. The estate agents further advised fieldworkers to take promotional catalog and self-prepared price lists instead.
- 3.4.4 Fieldworkers also observed that the estate agents or staff from the developers provided official information, such as sales brochures and price lists, to prospective purchasers, on reactive basis.
- 3.4.5 In all the 15 field visits escorted by estate agents (including the 5 cases with ballot sales participation arranged by estate agents) the estate agents neither directly disclosed to the prospective purchasers their acting capacity (e.g. acting for the vendor) nor simply mentioned the fact in passing.
- 3.4.6 Estate agents' claims of limited supply, rising property prices and overwhelming demand, as well as aggressive selling on the sales spot, and inadequate knowledge about property development by developer's staff, continued to exist.
- 3.4.7 Making loans to prospective purchasers was practiced by some estate agency companies.
- 3.4.8 Unofficial pricing and transaction information were available to prospective purchasers at the sales offices.
- 3.4.9 Fieldworkers experienced aggressive selling and had difficulty in checking out transaction information at the time of sale.

## **Compliance Checks**

3.4.10 According to the Council's checks, in general, all the 17 property developments met the legislative requirements in relation to contents and availability with respect to the use of saleable area, provisions on sales brochures, price lists, show flats, advertisements, sales arrangements and register of transactions.

3.4.11 Reservations to the usefulness and usability of the information:

- Sales brochures were of odd sizes and weights and that information of purchaser interest such as management fees were not contained.
- Units included in the price list might not be for sale and there were frequent revisions of the price lists.
- Limited number of show flats for viewing and the locations of the show flats were usually far from the development sites.
- Advertisements of discounted prices and photographs or images with no discernable relation to the property development.
- Inflated numbers of registration of intent were in existence.
- Comparison of the sales arrangements and price lists of the field visited property developments showed that there were certain developments where the properties listed in the price lists were not fully available for sale in the corresponding sales arrangements.
- Latest transaction information was not readily available at the time of sale.

## **4 OVERSEAS LEGISLATION**

### **4.1 Introduction**

4.1.1 For purpose of benchmarking Hong Kong's regulatory framework in protecting the interests of property purchasers, the Council conducted a desktop research on the regulation of residential properties of six jurisdictions, based on the available sources of information collected through the Internet and obtained from relevant regulator.

4.1.2 The six jurisdictions were Australia (Melbourne), Canada (British Columbia), Mainland China, Singapore, Taipei, and United Kingdom (England and Wales).

4.1.3 Key areas under study included:

- Scope of legislation;
- Disclosure of information;
- Floor area measurements;
- Advertisements;
- 'Cooling-off period';
- Sale and purchase agreement;
- Completion of sales and vacant possession; and
- Defects liability period.

4.1.4 The following provides a brief summary of the research into the above key areas. Details of the regulations in relation to protection of purchasers of residential properties in each of the jurisdiction are provided in Appendix 6.

### **4.2 Scope of Legislation**

4.2.1 In general, there are statutory regulations governing the sale of first-hand residential properties in overseas jurisdictions, though some are explicit and specific and some through general regulations on consumer protection, complimented by voluntary codes of practice.

#### *Australia (Melbourne)*

4.2.2 In Melbourne, the Sale of Land Act (SLA) regulates property developers on the sales practices of private residential properties. SLA is a provincial level legislation for the State of Victoria, of which Melbourne is the capital. The law is administered by the Consumer Affairs Office (CAO) for the State of Victoria. Along with the Act, a few regulations and guidelines are found to be



relevant to purchase of properties.

#### *Canada (British Columbia)*

4.2.3 In the Canadian province of British Columbia, the Real Estate Council (REC) administers the Real Estate Development Marketing Act (REDMA) and relevant legislations and guides to oversee real estate development, sale and licensing individuals and brokerages engaged in real estate sales. Along with the REC, the Homeowner Protection Office (HPO) is another authority in British Columbia to regulate real estate development. It is required that all home builders must register under the HPO. The HPO enforces the Homeowner Protection Act (HPA).

#### *Mainland China*

4.2.4 Private residential properties in China are called “commodity premises (商品房)”. The sale of first-hand commodity premises is jointly regulated by government authorities at both national and municipal levels. The Council identified 10 pieces of legislations, which regulate real estate developers on property developments from different perspectives, e.g. development, sales and purchase, advertisements, etc.

#### *Singapore*

4.2.5 Singapore has promulgated legislations to govern the sales practices of private residential properties. The Urban Redevelopment Authority (URA) is the regulator of private housing development in the country, mainly through the Housing Developers (Control and Licensing) Act (HDCLA) and Housing Developers Rules (HDR), which is formulated under the Act.

#### *Taipei*

4.2.6 Private properties in Taipei are referred to as “Pre-sale Houses” (預售屋) and “Existing Houses” (成屋). Fair Trade Commission, FTC (公平交易委員會) regulates the sales of properties via two main directions. The Consumer Protection Commission, CPC (消費者保護委員會) also issues standard contract templates and circulars to protect consumer interests in purchasing properties.

*United Kingdom (England and Wales)*

4.2.7 Developers are allowed to sell uncompleted (locally known as “off-plan” properties) and completed properties in the United Kingdom. Sales practices are mainly regulated by the trade itself through a voluntary code of practice – “Consumer Code for Home Builder” (CCHB). In addition, general legislations on consumer protection are relevant and important.

**4.3 Regulations on Disclosure of Information**

4.3.1 Out of the six jurisdictions examined, three of them (Melbourne, British Columbia and Singapore) have requirements on developers in disclosing property information to prospective purchasers. Melbourne requires a “Vendor’s statement” to be provided to purchasers before proceeding to the Contract of Sale. The statement covers descriptions on property, including the building permit, details of subdivision plan and non-connected services etc.

4.3.2 Similarly, in the British Columbia, the REDMA requires a “Disclosure Statement” to be filed to superintendent before initiating the sale and provided to purchasers in advance. Such a Disclosure Statement provides general descriptions of the property, including developer information and total number of strata lots and number of lots to be sold.

4.3.3 Singapore requires in the HDR for developers, to provide particulars (Form 3 in the Schedule and property plans) describing the property to purchasers before accepting booking fees. Supplementary information such as estimated total floor area, site plan and floor plan is necessary if the property is in the form of strata title.

4.3.4 In Mainland China, pre-sale advertisements and brochures can be attached in the pre-sale Contract as an annex upon agreement. For properties with management company appointed, services to be provided and the management fee should be expressly disclosed.

4.3.5 In Taipei, a transaction contract is required to be offered for purchasers to review before accepting deposit fee. Additional information is necessary for pre-sale houses, which a copy of the construction license, cadastral map of construction site and other requested information should be supplemented.

4.3.6 In the United Kingdom, there is no regulation on the disclosure of information, but there is provision in the voluntary code of practice. The CCHB advises that pre-purchase information be disclosed to purchasers beforehand. Information includes Reservation Agreement, details of Home

Warranty cover and management costs. For sales of uncompleted properties, a brochure or plan showing the layout, appearance, a list of property's content etc. are required.

#### **4.4 Floor Area Measurements**

- 4.4.1 The most common floor area measurement parameters adopted in five jurisdictions are square feet and square meter, while Taipei takes Ping (坪) as the measurement unit.
- 4.4.2 In Melbourne, the Property Council of Australia has promulgated the Method of Measurement for Residential Property 2008 (MMRP). Under the MMRP, "Gross Floor Area" (GFA), which is defined as the sum of interior space, common area and addition area, is adopted.
- 4.4.3 In the British Columbia, "Square Area" is suggested by the REC. It refers to the calculation of the area of a strata lot with reference to its walls which measurements should be taken from the centre line of the demising walls.
- 4.4.4 For Mainland China, Gross Floor Area (建築面積、房屋建築面積或套(單元)建築面積) and Saleable Area (商品房銷售面積) are used. Gross Floor Area is the sum of Interior Gross Floor Area (套內建築面積), Common Area and Balcony Area. While the sum of Interior Gross Floor Area is the sum of Interior Usable Area (套(單元)內的使用面積) and Interior Walls Area (套內牆體面積).
- 4.4.5 Similarly, Singapore adopts Gross Floor Area to represent the floor area. It refers to "All covered floor areas of a building, except otherwise exempted, and uncovered areas for commercial uses are deemed the gross floor area of the building for purposes of plot ratio control and development charge." In general, GFA covers bay windows, household shelters, lift motor room etc., but excludes lift shafts, main entrance etc.
- 4.4.6 In Taipei, "Privately Owned Area"(登記面積) is a legislative requirement for all residential properties. It refers to the sum of Interior Usable Area (主建築物面積), Public Facility Area (共有部分面積) and Subsidiary Area (附屬建築面積).
- 4.4.7 For the United Kingdom, two main floor area definitions are Net Sale Area (NSA) and Effective Floor Area (EFA).
- 4.4.8 NSA is the Gross Internal Area (the area of a building measured to the internal face of the perimeter walls at each floor level) of new or existing

residential dwelling. Area of basements, mezzanines galleries and hallways are included.

- 4.4.9 EFA is the usable area of the rooms within a building measured to the internal face of the walls of those rooms. It includes living rooms, bedrooms, kitchens, areas occupied by fitted cupboards within those rooms, a floor area which contains ventilation/ heating grille and areas occupied by skirting. It excludes bathrooms, showers, toilets, stairwells, lift-wells, halls, landings and balconies, corridors, internal walls (whether structural or not, columns, piers, chimney breasts and vertical ducts), areas with a headroom less than 1.5 meter, fuel stores, lift rooms, tank rooms, plant rooms and cupboards; areas under the control service or other external authorizes including meter cupboards and statutory service supply points.
- 4.4.10 Discrepancy between measured area and design area is a common concern for consumers in other jurisdictions. Four out of six jurisdictions (Melbourne, Mainland China, Singapore and Taipei) have specified relevant clauses in legislations. Developers in Melbourne have to seek agreement from purchasers before making any amendment that would materially affect the plan; or purchasers reserve the right to rescind the contract.
- 4.4.11 Purchasers in Mainland China are protected by the Measures for the Administration of the Sale of Commodity Housing where developers are liable for compensating any discrepancy (i.e. the measured area is less than the design area) within 3% of total floor area, while purchasers are entitled to terminate the contract if such discrepancy is more than 3%.
- 4.4.12 The template of Agreement of Sale and Purchase in Singapore stipulates that purchasers should have purchase price reduction proportional to every square meter if the deficiency on floor area is 3% or more than the stated one in the agreement.
- 4.4.13 Pre-sale house purchasers in Taipei are entitled to claim for compensation if there is a deficiency of floor area between the measured and the stated one in the contract. For deficiency more than 3%, purchasers can terminate the contract, while developers are required to rebate in monetary value to purchasers if the deficiency is less than 3%.
- 4.4.14 In the United Kingdom, under the voluntary requirement, purchasers are entitled to terminate the contract and have a full refund without any deduction if any change of the plan in the contract is unacceptable to him.

## **4.5 Advertisements**

- 4.5.1 All six jurisdictions have different forms of legislation on advertisements. Some are designated for real estate developments while some are generic to cover all kinds of advertisements.
- 4.5.2 In Melbourne, all advertisements with the intention of inducing any person to buy a property must comply with the SLA. Developers of property who knowingly or recklessly make or publish any false representation, willfully make false promise, misleading and deceptive statement, or conceal any material facts, can be found guilty.
- 4.5.3 In British Columbia, the REC sets out rules to regulate false and misleading advertisements. Under the rule, false and misleading advertising is strictly prohibited.
- 4.5.4 Mainland China has stipulated in regulation that the location of the property development project shall be described as the actual distance from the project to a specific reference, rather than the time required to travel across the distance.
- 4.5.5 Singapore sets out rules in HDR stating mandatory particulars to be included or information prohibited in any property advertisement. Mandatory information includes details of the developer and the land, the date of completion and conveyance of the property and the location of the property. In addition, false and misleading statements or materials should be excluded.
- 4.5.6 In Taipei, the FTC stipulates requirements on all property advertisements. It is required that discrepancies between information in the advertisement and the reality should not be of a degree unacceptable to the general public (其差異難為一般消費大眾所接受者). Moreover, any appearance, design, and layout of the property shown in the advertisement should be the same with the reality.
- 4.5.7 As stipulated in the Unfair Trading Regulations, advertisements in United Kingdom are prohibited from using aggressive or misleading practices. Misleading practices, which include making false statements, or concealing or leaving out important facts are prohibited.

## **4.6 'Cooling-off period'**

- 4.6.1 'Cooling-off period' as a legislative requirement can be found in three jurisdictions (Melbourne, British Columbia and Singapore). In Melbourne,

purchasers can terminate the contract within 3 clear business days after signing the contract by written notice within cooling-off period. However, purchasers withdrawing from the purchase will be charged with AUD \$100 or 0.2% of the purchase price, whichever is the greater.

4.6.2 In British Columbia, purchasers are entitled to “Rights of rescission” within 7 days starting at either the date of signing the contract or the acknowledged date of receiving the disclosure statement (whichever is earlier) to terminate the contract, which is similar to the concept of ‘cooling-off period’. During this 7-day period, purchasers can terminate the contract with written notice and developers must return the deposit to buyers in full.

4.6.3 In Singapore, under the HDR, purchasers are entitled to consider the “Non-exercise of Option” within 3 weeks before the expiry of the Option (similar to the concept of ‘cooling-off period’). Once the Option to Purchase is signed and booking fee is paid by purchasers, a title deed and the Sales and Purchase Agreement should be delivered within 14 days of the Option day. The Agreement will be valid for 3 weeks (from the delivery date). If the transaction is to be terminated, purchasers are entitled to get back the booking fee, while 25% of booking fee or 1.25% of purchase price will be forfeited.

4.6.4 In Taipei, there is virtually no ‘cooling-off period’. In contrast, there is a 5-day reading period (契約審閱期) for purchasers to review the contract agreement before signing for both pre-sale and existing houses.

4.6.5 In the United Kingdom, a reservation period is advised for developers and purchasers. It is suggested that before signing the Contract of Sales, a Reservation Agreement should be signed, under which purchasers can terminate the transaction within 10 to 14 days after signing the Reservation Agreement. An administration fee set out in the Reservation Agreement will be charged for the termination of contract.

#### **4.7 Sale and Purchase Agreement**

4.7.1 In this section, the Council reviewed whether there were provisions governing “subject to mortgage” clauses offered in the contract of sales and purchase agreement in other jurisdictions. Two out of six jurisdictions (Melbourne and Taipei) have expressly stated a similar requirement governing these clauses in legislation. Melbourne sets out a standard form of Contract of Sale under the regulation, where both parties can insert a “subject to finance” clause upon mutual agreement.

4.7.2 In the case of Taipei, as stated in the standardized contract templates,

developers and purchasers can terminate a contract upon mutual agreement for pre-sale houses, or developers can choose either to lend the money to purchasers or terminate contracts for existing houses.

- 4.7.3 In British Columbia, insertion of such clause is voluntary upon mutual agreement. The REC advises the inclusion of this clause to further protect consumers.

#### **4.8 Completion of Sales and Vacant Possession**

- 4.8.1 Penalties for late vacant possession applied in some jurisdictions (Melbourne, Mainland China, Singapore and Taipei). In Melbourne, purchasers can rescind a contract if the plan of subdivision is not registered within 18 months after the date prescribed in the contract. This 18-month requirement is negotiable between the developer and the purchaser. The purchaser is entitled to immediate return the deposit money with a deduction of occupation fees.

- 4.8.2 In Mainland China, developers are liable for paying penalties to purchasers for delivery of vacant possession after the mutually agreed date in the contract. For late possession within certain days as stipulated in the contract, a penalty should be paid by developers which is calculated daily at a rate in ten thousandth of the total purchase price. However, if the late is after the stipulated period, purchasers are entitled to terminate the contract and rebate of any price paid within 15 days with daily interest of the total price, which is calculated at the rate of not less than the benchmark lending rate over the same period under the People's Bank of China (不低於中國人民銀行公佈的同期貸款基準利率).

- 4.8.3 In Singapore, purchasers are liable to claim for compensation (which is called "liquidated damages" in the HDR) from developers if the delivery of vacant possession does not comply with the date stated in the contract. Such compensation is to be calculated on a daily basis at the rate of 10% per annum on the total sum of all the instalments paid by the purchaser towards the purchase price.

- 4.8.4 In Taipei, two situations apply respectively for pre-sale and existing houses. Developers shall complete the sale and transfer the property to the purchaser within six months of obtaining "Building Use Permit" (BUP), or otherwise they are subject to a penalty which is calculated on 0.05% of purchase price daily. For existing houses, the transfer shall be completed on/before the designated date upon mutual agreement. If the delay is attributed to the developer, he/she shall pay at the rate of 0.05% of purchase price daily.

4.8.5 In British Columbia and the United Kingdom, only voluntary requirements apply. For British Columbia, it is a mutual agreement between the developer and the purchaser on the completion date for vacant possession.

4.8.6 For the United Kingdom, the developer shall keep the purchaser informed of the status of the property. If there is unreasonable delay beyond the date given in the Contract of Sale, the purchaser has the right to withdraw from the contract and rebate of deposit and reservation fee in full without any deduction.

#### **4.9 Defects Liability Period**

4.9.1 All jurisdictions require a defects liability period to be provided by developers in their legislations, although in the United Kingdom only a voluntary requirement applies.

4.9.2 Purchasers in Melbourne are entitled to legal warranties of 10 years as stipulated in the Domestic Building Contract Law. The works carried out by builders should be in accordance with the plan and specification in the contract. In addition, all materials used should be of good quality, suitable and new.

4.9.3 In Canada, under the HPA, all builders are required to register a “Home Warranty Insurance” before commencing building works. The insurance is in the form of 2-5-10; meaning 2 years on labour and materials, 5 years on the building envelope, including water penetration, and 10 years on structure.

4.9.4 In Mainland China it is a legislative requirement that developers provide a Residential Manual (住宅使用說明書) and a Quality Warranty Manual (住宅質量保證書) to purchasers when delivering the properties. The Quality Warranty Manual states the warranty periods for different items. Key points of the warranty include: Basic facilities, foundations and main parts of buildings (基礎設施工程、房屋建築的地基基礎工程和主體結構工程) should be covered with a warranty period of reasonable use as prescribed in the design documents. A minimum 5-year warranty should be offered for Roofing waterproof, and leak prevention of the toilets, rooms and outside walls (屋面防水工程、有防水要求的衛生間、房間和外牆面的防滲漏).

4.9.5 The HDR in Singapore requires that a 12-month defects liability period be provided by developers. Within these 12 months, developers are responsible for rectifying any defects within one month after receiving notice from purchasers.



- 4.9.6 In Taipei, there are two different liability periods for pre-sale houses and existing houses. For pre-sale houses, the Contract specifies that a 15-year warranty is provided by developers on structural defects, while only a 1-year warranty is offered for fixed building materials and facilities. While for existing houses, the Civil Code specifies that buyers should check and ask for repair before vacant possession and purchasers are entitled to a maximum of 5 years warranty period.
- 4.9.7 In the United Kingdom, it is a voluntary requirement for all new home builders to register the property with a 10-year home insurance warranty. Taking the warranty insurance from National House Building Council, any defects detected within the first 2 years will be repaired and paid by the developer, while for the next 3 to 10 years, only the cost of maintenance works exceeding the minimum claim value would then be paid by the insurance provider.

#### **4.10 Conclusion**

- 4.10.1 In summary, all six jurisdictions have different forms of control on the sales practices of properties. Among them, Singapore is the one with the most stringent control, followed by Melbourne, Taipei, Mainland China, British Columbia and the United Kingdom.
- 4.10.2 In terms of the floor area measurement, it is apparent that consumers are protected from discrepancy between measured and design areas in five jurisdictions which consumers can either claim for compensation or terminate the contract. Most jurisdictions protect property purchasers by offering 'cooling-off period'. In short, the period could be ranged from 3 days to a maximum of 3 weeks. For defects liability period, it is observed that, all jurisdictions, property purchasers are entitled to different lengths and extents of defects liability period.

## **5 RECOMMENDATIONS**

### **5.1 Introduction**

5.1.1 Having regard to the findings from consumer research, field visits and compliance checks, and in order to promote desirable trade practices and enhance consumer welfare, the Council puts forward eight recommendations for serious considerations by the Government, the regulators and the trade.

### **5.2 Recommendation 1: Ensure all units in price list available for sale concurrently**

5.2.1 As indicated from the Council's compliance check studies, there were certain developments where some property units listed in price lists were not fully available for sale in the corresponding sales arrangements.

5.2.2 The Council considers that information on "not for sale" units in a price list is confusing to prospective purchasers and therefore should be excluded. Despite the requirement that when developers sell units they have to follow the prices stated on the price lists, any adjustments considered necessary to the prices could be made through issuing revised price lists. Thus the units concerned could be put back for sale 3 days subsequent to the issue of revised price lists.

5.2.3 The Council is of the view that requiring developers to publish a price list without requiring them to offer all the units on the price list for sale, thereby allowing them to adjust the prices for the remaining units 3 days later, creates confusion for prospective purchasers, legitimizes the practice of "releasing units in small batches", and opens up for market speculation.

5.2.4 The Council considers that a price list is an offer to prospective purchasers, and once a price list is published the developers should honour the commitment and sell all the units at the prices as specified in the price list, and that the availability of price lists should be prolonged to 7 days prior to the date of sale as suggested by the majority of respondents in the survey, to minimize confusion and uncertainty to prospective purchasers. This would also be consistent with the legislative intent that the prescribed number of units should be made available for sale to the public, thereby satisfying the government intention to ensure adequate supply of units in the market.

### **5.3 Recommendation 2: Review the 'Cooling-off period' and forfeiture amount**

5.3.1 At present, if a purchaser does not execute an agreement for sale and purchase (ASP) within 5 working days after entering into the preliminary

agreement for sale and purchase (PASP), the PASP is terminated and the preliminary deposit i.e. 5% of the purchase price will be forfeited.

5.3.2 In Hong Kong, many people who purchase a home need to apply for mortgage loan to finance the payment. Based on feedback received by the Council, there were situations where consumers who signed a provisional agreement and paid a deposit, later found that their application for a mortgage was refused, or the amount that could be borrowed was insufficient to complete the transaction. Field visit experience shows that prospective purchasers often have to sign a PASP hastily in a short period of time without due consideration of the implications if their application for mortgage financing runs into problem. Accordingly, there is a need to improve consumer safeguards against this issue.

5.3.3 The Council's survey and focus group discussions also indicated that the 5 working day 'cooling-off period' is considered too short and the forfeiture amount of 5% of the purchase price is too high in view of rising property prices e.g. 5% of a \$10 million property amounts to \$500,000. This criticism is justified when compared against the situation with cooling off periods for insurance contracts (as an example) and requirements from other jurisdictions deal with the issue.

5.3.4 The Council has compared the 'cooling-off period' and amount of forfeiture of different jurisdictions as follows:

Jurisdiction	Cooling-off period	Amount of forfeiture
Hong Kong	<ul style="list-style-type: none"> <li>5 working days</li> </ul>	<ul style="list-style-type: none"> <li>5% of the purchase price</li> </ul>
British Columbia, Canada	<ul style="list-style-type: none"> <li>7 days</li> </ul>	<ul style="list-style-type: none"> <li>Nil</li> </ul>
Melbourne, Australia	<ul style="list-style-type: none"> <li>Within 3 clear business days</li> </ul>	<ul style="list-style-type: none"> <li>AUD\$100 or 0.2% of the purchase price (whichever is the greater)</li> </ul>
Singapore	<ul style="list-style-type: none"> <li>3 weeks which purchaser could consider to proceed with the transaction or not</li> </ul>	<ul style="list-style-type: none"> <li>25% of booking fee (i.e. 1.25% of the purchase price)</li> </ul>
United Kingdom (voluntary code)	<ul style="list-style-type: none"> <li>A reservation period between 10 and 14 days</li> </ul>	<ul style="list-style-type: none"> <li>Administration fee as set out in the agreement</li> </ul>

5.3.5 Though Melbourne, Australia has a 'cooling-off period' of 3 clear business days, the forfeiture amount is only AUD\$100 or 0.2% of the purchase price whichever is greater. In Singapore, a purchaser has 3 weeks to consider to proceed with the transaction and the forfeiture amount is 1.25% of the purchase price.

5.3.6 While the application of 'subject to mortgage' clauses which are adopted in

overseas (Australia, Canada and Taipei) and local (Home Ownership Scheme) might be an alternative which the Government could further explore, the Council considers that the 'cooling-off period' should be lengthened to ensure prospective to have sufficient time to check for mortgage availability. Furthermore, the amount of forfeiture should be reduced in view of the high property prices, and that a review should be carried out by the Government to collect public views in setting the appropriate time period and amount.

- 5.3.7 According to feedback from the Council's survey, the majority of respondents suggested the 'cooling-off period' be lengthened to 7 – 14 days and the forfeiture amount be 1% to 3% of the purchase price. There are also views that a home purchase is one of the biggest, if not the biggest investment of one's life, a 'cooling-off period' for the purchase of property should not be too short for a hasty decision but be reasonably long enough for purchasers to take care of all matters concerned.

#### **5.4 Recommendation 3: Lengthen defects liability period**

- 5.4.1 The Hong Kong residential property market is typified by prospective purchasers who buy a flat before it is completed. Purchasers of uncompleted properties take the risk that they will not be able to inspect the flat until completion of the purchase and vacant possession be given to purchaser.
- 5.4.2 Complaints by purchasers about defects are very common, and the defects liability period is very short. According to the sales brochure of the 17 property developments visited, the defects liability warranty period is in general within 6 months after the date of completion of the sale and purchase of the residential property, regardless of whether the property is a house or a flat. This is in compliance with the existing requirement that the sales brochure must state the duration of the period (i.e. after receipt of a written notice served by the purchaser within 6 months after the date of completion of the sale and purchase) during which the vendor is liable to make good any defects in the specified residential property, as provided in the ASP.
- 5.4.3 The duration of the defects liability period is of great importance to purchasers. In Singapore, vendors (developers) are required to offer a 12 months defects liability period, while in British Columbia, Canada, the minimum requirement of home warranty insurance covers 2 years on labour and materials, 5 years on the building envelope, including water penetration, and 10 years on the structure. In Hong Kong, the Housing Authority (HA) generally offers a 12-month defects liability period and a 10-year Structural Safety Guarantee for flats under the Home Ownership Scheme and the Private Sector Participation Scheme to maintain the overall structural stability and integrity of the building. The Council has no reason to believe

that the building standards among Hong Kong developers in the private sector, HA's developers and overseas developers vary substantially and justify for Hong Kong to have a much shorter warranty period.

5.4.4 As some defects such as leakage might not surface within a short period of time, the Council suggests, based on overseas and local experiences, that the defects liability period should be lengthened to any period between 12 to 24 months for labour and materials. Moreover, warranty information on the building ceiling and structure should also be provided in sales brochures and ASPs to enhance information transparency.

5.4.5 The Council also urges developers to thoroughly inspect the condition of the property to their satisfaction before handing over to their customers, and that remedial action should be taken immediately to rectify defects once discovered.

#### **5.5 Recommendation 4: Strengthen compliance checks and penalty**

5.5.1 The following questionable selling practices of estate agents were observed during the Council's field visits:

- Non-disclosure of estate agent and developer relationship;
- Claims of limited supply, rising property prices and overwhelming demand;
- Aggressive on-site selling;
- Making loans to prospective purchasers; and
- Inadequate knowledge about the property developments.

5.5.2 During its field visits the Council observed that estate agents did not disclose their relationships with developers. Together with the fact that unofficial sales information was also being distributed by the agents, this situation created an unsatisfactory sales environment for prospective purchasers where, because of the perceived impartiality of the persons involved, the accuracy and reliability of information being provided was questionable.

5.5.3 In the case of property developments which allow submission of 2 registrations of intent by individual registrant, a couple of prospective purchasers can submit a total of 6 registrations of intent (i.e. two under the name of the husband, two under that of the wife, and two under their joint account) for the development, but at the end purchase only one property or not at all. The Council has reviewed press reports on the number of registrations of intent and the actual sales situation on the first date of sale of 8 property developments and has concluded that inflated numbers of registrations of intent is common.

- 5.5.4 The Council is concerned that offering extra cashier orders to prospective purchasers encourages speculative activities and drives prospective purchasers into making rush purchasing decisions. Given that there is no mechanism available to verify the accuracy of information in making purchase decisions, the outcome is that it could create possibly misleading and confusing signals to the market about the number of prospective purchasers with intent to buy a particular development.
- 5.5.5 While the EAA's guidelines prohibit estate agents from making loans to prospective purchasers when promoting a first-hand residential property, observations and findings from the Council's field visits indicated that such practices are common and well organized, as evident in the existence of estate agency company cashier order loan forms.
- 5.5.6 The Council noticed that both the SRPA and the EAA conduct on-site inspection of sales offices and show flats. Given that unsatisfactory sales practices, as mentioned above, are still prevalent, the Council proposes that the two regulatory authorities increase the inspection frequency, in particular, the availability of mystery form so as to ensure trade compliance and professionalism.
- 5.5.7 It is further suggested that the penalty for making loans to prospective purchasers should be reviewed and substantially strengthened by EAA, such as revoking a license and increasing the existing fine amount, at both the individual estate agent and estate agency company levels, to provide greater deterrence.
- 5.5.8 If the problem of making loans to prospective purchasers continues and seriously disrupts market order, the Council considers that the Government should step in to study the feasibility of requiring the developers to bank in the cashier orders from prospective purchasers so as to prevent estate agents from making loans and to offer the prospective purchasers an opportunity for making a rational choice as direct cost is involved.

## **5.6 Recommendation 5: Increase scrutiny of property advertisements**

- 5.6.1 Often advertising involves creativity. However, to ensure that prospective purchasers will not be misled, the Council is of the firm opinion that representational information in advertisements such as property location, building materials and equipment, building surroundings, views and landscape should not be different from the reality. The appearance, design, and layout of the property depicted in artists' impressions in advertisements should always promote the factual reality of the development and less emphasis should be placed on images or wordings that over beautify the development and create unrealistic emotions and expectations in the mind

of prospective purchasers.

5.6.2 The Council suggests that to counter the problem of market exuberance arising through overly creative representations in advertisements and enthusiastic information on sales trends, the SRPA should further strengthen its scrutiny on property advertisements and publicity activities, and develop more detailed guidelines on the release of sensitive information such as sales related figures.

## **5.7 Recommendation 6: Improve transparency of sales arrangements**

5.7.1 The Council conducted field visits and participated in the ballot sales arrangements to assess the transparency of different sales arrangements. It was observed that some balloting took place right after the close of registration of intent, and some on the first date of sale. As illustrated in the field visit study, once a ballot result was known, fieldworker had to proceed to the sales area immediately to select a property for purchase. However, despite that the fieldworker was in the sales area of the sales office, awaiting his or her turn for selection, the fieldworker was still in the dark as to which units on which floors at which blocks of what sizes were sold or yet available for sale. If comprehensive property information was available, the fieldworker could be in a better position to make an informed choice.

5.7.2 The Council is of the view that irrespective of different balloting arrangements, sufficient time must be allowed for prospective purchasers to make an appropriate purchase decision. As there has been an increased tendency in using balloting in property sales, prospective purchasers will find it helpful if developers could schedule the sessions on balloting and property selection on different days, and post up the balloting results and attending time slots for registrants at the sales offices and on the property websites.

5.7.3 Regardless of the different characteristics of different sales arrangements, the Council is of the view that in order to ensure consumer interests are protected, any sales arrangement should observe these basic principles in that:

- The sales method must be fair;
- The sales arrangements must be transparent; and
- The sales system must be subject to scrutiny.

## **5.8 Recommendation 7: Promote informed purchasing decisions**

### *Consolidated information*

- 5.8.1 Prospective purchasers currently rely on information distributed through price lists, sales arrangements and registers of transactions for information on pricing, units availability and the market situation.
- 5.8.2 Comprehensive, accurate and up-to-date information is crucial for making a wise purchase decision, especially when pressure is being exerted by developers and estate agents at the sales offices to close the transaction. The Council therefore recommends that developers be required to produce a “consolidated” information list, including pricing and discounts, units for sale and transaction records, both on the developers’ websites and at the sales offices for ease of reference by prospective purchasers. An example of “consolidated” information list can be seen in Appendix 7.
- 5.8.3 Unofficial information such as “消耗表”, “參考價單”, “內部培訓資料” is often provided by sales persons, their accuracy and reliability are subject to verification. The Council considers that requiring developers to prepare this information and have it available at the sales office might help address the concerns with inaccurate price and transaction information resulting from changes, for example, in price/discount.
- 5.8.4 The proposed consolidated information list is aimed at enabling prospective purchasers to check on a range of related matters at the time of sale. The Council further recommends that an interactive online calculator be produced in the list, to compute, with ease and speed, the property unit prices under different discount and payment options. Having this facility on site and readily accessible will enable prospective purchasers to make an informed choice.

### *Sales brochures*

- 5.8.5 The provision of sufficient and accurate information in sales brochures is important, especially for purchasers of uncompleted residential properties. According to the Council’s questionnaire survey, 97.9% of respondents considered that sales brochures are extremely important or important information items at property sales offices.
- 5.8.6 Nevertheless, feedback from the Council’s focus group discussions and detailed examination of sales brochures (and revisions) of the 17 field visited property developments, suggested the following deficiencies in sale brochures and how they can be remedied:



- Technical revisions - Sales brochures commonly have a number of revisions over the course of a project and a summary of revisions with clearer explanations or highlights would facilitate a better understanding of the technical changes that have been made.
- Important purchaser information - Details on fees (such as management fees) and services (such as periods of availability) should be provided. Other factors such as responsibilities and compensation on late property delivery upon completion of sale and vacant possession should also be clearly specified. As in the case of the United Kingdom, purchasers would be provided with information of after-sales services such as what the services be included, who to contact. The information, if available, would be beneficial to purchasers.
- Weight and size of brochures - The weight and size of most sales brochures limit their degree of portability and thus their usability, especially during the time prospective purchasers are viewing and inspecting show flats. Developers could consider separating the sales brochures into different volumes of portable size and weight in accordance with the different stages in the property purchase decision process so that they can be a useful reference along the decision-making process. The font size and information details could still be kept the same.

### *Sales offices*

- 5.8.7 The Council observed from field visits that the majority of show flats were located at large shopping malls or commercial centres in central business districts far away from the property development sites.
- 5.8.8 Notwithstanding the convenience of having sales offices in areas such as business districts and shopping malls, the Council requests that developers consider that sales offices and show flats be located at or near the property development site to provide a better picture for prospective purchasers on the environmental surroundings of the property. Ideally, a property sale should begin at a later or final building stage of a development so that sales offices or show flats can be made available at the development site and prospective purchasers can view the actual location and surroundings of the developments.

### *Show flats*

- 5.8.9 Both the focus groups and field visits revealed that only a limited number of show flats were available for viewing. The Council recommends that better use could be made of scale models and electronic means to provide

prospective purchasers with a more enhanced virtual viewing of show flats to, amongst others, cater for the many variances that might arise in comparison to the physical show flat on display. In light of technological advancements, virtual tours might be created, particularly for large-scale developments, so that prospective purchasers are able to view and experience the property and its surrounding environment as a whole.

## **5.9 Recommendation 8: Enhance awareness and functions of SRPA**

### *SRPA*

5.9.1 Both the Council's survey and focus group results showed a fair level of awareness of the existence of the Sale of First-hand Residential Properties Authority (SRPA). However, for those who were actually aware of the SRPA, they had little idea about its functions. In view of the SRPA's significant role, it is suggested that more publicity and promotion on the SRPA and its services will be necessary to increase public awareness and service engagement. For example,

- Advertisements for the sales of first-hand residential properties and websites of first-hand residential property development projects could set out the website of the SRPA;
- More announcements of public interest (APIs) of the SRPA on television and radio; and
- More publicity activities or education programmes by the SRPA explaining its services.

5.9.2 Focus group participants also considered that the SRPA should extend its monitoring roles in sales practices from pre-sales activities to after-sales services because problems such as breach of obligations, avoidable delays and poor or incompetent services were observed.

5.9.3 The Council also suggests that SRPA should set up counters at the sales offices of property developments especially the large-scale ones to monitor the sales process and to support prospective purchasers' enquiries. The SRPA should educate the public more on the content of the Ordinance; technical terms used in sales brochures and matters relating to the sales of first-hand residential properties.

### *SRPE*

5.9.4 The SRPE has been established under the Ordinance to provide a centralized database for the public to view the sales brochures, price lists and registers of transactions of first-hand residential developments which are subject to the Ordinance.

- 5.9.5 From the Council's survey results, the utilization of SRPE is low: only 7.5% of the survey respondents had used SRPE and 92.5% had not. The Council believes that more effort could be put into making the service more comprehensive, and therefore more valuable in terms of information, as well as more widely known.
- 5.9.6 The Council understands the maintenance of such a comprehensive database would require on-going resources. However, the Council considers that while the present SRPE is a positive step towards the development of a comprehensive and interactive information platform for use by the general public, further information in the database would be useful and thereby increase its usage.
- 5.9.7 The Council is pleased to note that since its establishment, the SRPE has been enhanced with improvements in information display and retrieval. These are welcome initiatives. However, apart from enhancing user-friendliness, the following areas are suggested for further improvement:
- Add more details of developments, e.g. the name of the developer, the sales arrangements, issuance of occupation permit;
  - Add more screening or sorting options, e.g. being able to screen or sort developments according to different preferences such as property type, developer, price range; and
  - With inputs from developers, consolidate information of price lists, sales arrangements and register of transactions, i.e. a consolidated information list to assist consumers in purchasing decisions to be available on the SRPE.

## **6 CONCLUSION**

- 6.1 The introduction of the Residential Properties (First-hand Sales) Ordinance in April 2013 was a key milestone in the market for first-hand sales of residential properties. Its existence came about after many years of strenuous effort by the Council to address endemic and damaging practices that placed prospective purchasers at a distinct disadvantage in the market.
- 6.2 The Government is to be commended in its efforts at bringing this legislation into being. It has brought about benefits to consumers. However, it is apparent from the Council's survey, focus group meetings, field visits and research that the new law has not yet delivered its full value that plagued the market in the past. The legislation as it stands is still not entirely sufficient to cover the range of problems that exist.
- 6.3 The Council will play its part in promoting the benefits that the Ordinance has brought to the marketplace, and inform consumers on how to make the best of the information that is currently available. However, greater effort and vigilance is required by the Government, the regulators and the trade to further govern and comply with the law which is designed to protect prospective purchasers and to ensure they are fairly treated in the market.
- 6.4 The Council has undertaken this study as an indication of its ongoing commitment to making the marketplace a safer environment for consumers. It is hoped that all parties involved, would give the Council's recommendations their most careful considerations and to put into implementation the needed improvements on the way forward.

**Appendix 1 – Complaint statistics on first-hand residential properties****I. Complaints received by the Sales of First-hand Residential Properties Authority**

Categories of complaints	29-4-2013 to 30-6-2013	1-7-2013 to 31-12-2013	1-1-2014 to 30-6-2014	Total no. of complaints (% share)
a. Sales Brochures	3	2	5	10 (14%)
b. Price Lists	0	1	0	1 (1%)
c. Show Flats	0	0	0	0 (0%)
d. Viewing of Completed Flats	0	0	2	2 (3%)
e. Sales Arrangements	0	14	6	20 (29%)
f. Preliminary Agreement for Sale and Purchase and Agreement for Sale and Purchase	0	1	0	1 (1%)
g. Register of Transactions	0	1	0	1 (1%)
h. Advertisements	0	2	1	3 (4%)
i. Misrepresentation and Dissemination of False or Misleading Information	0	7	7	14 (20%)
j. Websites	1	0	0	1 (1%)
k. Others	0	3	13	16 (23%)
<b>Total</b>	<b>4</b>	<b>31</b>	<b>34</b>	<b>69 (100%)</b>

Source: <http://www.srpa.gov.hk/en/data-n-statistics.html> (downloaded on 31-10-2014)**II. Complaints received by the Consumer Council**

Categories of complaints	2011	2012	2013	2014 (Jan-Sep)
a. Transaction Agreements	59	10	11	10
b. Estate Agents	11	7	10	3
c. Property Defects	18	18	10	25
d. Floor Area Measurement	0	2	0	1
e. Sales Brochures & Price Lists	0	3	2	2
f. Others	1	2	1	0
<b>Total</b>	<b>89</b>	<b>42</b>	<b>34</b>	<b>41</b>

## **Appendix 2 – Further comments and suggestions by the survey respondents**

In addition to the comments given in response to the specific questions asked in the survey questionnaire, the respondents had also provided further views with respect to the Ordinance, viewing and purchase of the first-hand residential properties. Below are some of their comments and suggestions (for reporting purpose, the written comments are slightly amended and translated into English language):

### **Area measurements**

- “提供單位可用面積。”  
Should provide net usable floor area.
- “樓書須顯示單位樓底高度及橫樑位置。”  
Should include floor-to-ceiling height and beam location in sales brochures.

### **Show flats**

- “在樓盤實地設置“清水房”。”  
Should provide unmodified show flats at the development site.
- “參觀示範單位時太過擠逼。在售樓處範圍內有太多地產代理搶客，容易做成混亂。”  
Show flats are crowded with people. There are too many estate agents touting around the sales office area to compete for customers which may cause disorder.
- “有太多誇張設備裝修及無關重要的概念影片，多些清水房會較好。”  
There are too many exaggerated fittings and decoration, as well as irrelevant conceptual films. More unmodified show flats would be better.
- “發展商必須提早3個月開放示範單位，不要囤積人流，讓消費者看清楚，方可賣樓。”  
No hoarding of people in the show flats. As a condition for sale, developers must open their show flats 3 months in advance for viewing by consumers.
- “地產代理須帶領準買家參觀樓盤附近環境，及要詳細披露樓盤周圍環境及發展。”  
Estate agents should take prospective purchasers to visit the development sites, and make full disclosure on the surrounding area and future planning of the development.

### **Sales brochures**

- “售樓書太厚、太重，根本不能帶回家，而且內容極度複雜及重複。”  
Sales brochure is flowed with information. Its size is too thick and heavy, and

simply could not take it home. The content of which is extremely complex and repetitive.

### **Price lists**

- “價單要清晰，包括已售和未售單位的價格，不同形式的回贈和管理費用。”  
Price lists must be clear, including prices of units sold and unsold, different types of benefits/rebates and management fees.
- “用清單方式列明可售及已售的單位。”  
A list showing the units sold and available for sale.

### **Advertisements**

- “廣告相片必須為樓盤真實環境拍攝。”  
Photos used in advertisements should be taken from the actual property development.
- “禁止作假或誇大銷售數字製造假像，吹噓已大量收票。”  
Should prohibit false or exaggerated sales figures to create false sales performance and high intake of registration.

### **Sales arrangements**

- “抽籤需要準買家先到場，才可有抽籤資格，浪費時間。”  
Requiring prospective purchasers be presented at the sales office to qualify for balloting drawing is a waste of time.
- “在排隊等候揀樓時，準買家未能即時知道銷售情況及有哪些單位已沽售。”  
When waiting in a queue for selection of flats, prospective purchasers don't know the latest sales status and which units have been sold.
- “揀樓時應有顯示屏即時展示當時已售出的單位。”  
There should be screens displaying the flats already sold in real time at the flat selection venue.
- “準買家只有十分鐘時間揀心儀單位，然後要馬上做決定，安排不合理。”  
Prospective purchasers could only have ten minutes to select a unit and to immediately make a purchase decision. Such an arrangement is unreasonable.

- “銷售櫃台很狹窄，但又容許很多地產代理在旁邊，令準買家揀樓時很大壓力。除了銷售櫃台，沒有途徑知道銷售情況。”  
Sales counter is very tiny but has many estate agents gathered around it. This may give a lot of pressure to prospective purchasers at the time of selection of a property. Other than the sales counter, there is no other way to know the sales situation.
- “地產代理和發展商不斷游說及催促，令人感到緊張及有壓力，準買家未有足夠時間想清楚而作出決定。”  
Prospective purchasers felt very stressful as estate agents and developers have been repeatedly urging and pushing for completion of sale. They did not have sufficient time to think clearly to make their purchase decisions.
- “提早公布銷售安排，予準買家更多時間分析及作考慮。”  
Should disclose sales arrangement earlier to make prospective purchasers more time to consider and make purchase decision.
- “列載所有可供選擇單位及售價資料，不用啣牙膏方式分批賣樓。”  
Should list out all available units for sale and their prices, and not to release by small batches.
- “規管發展商以不良銷售手法(例如送禮回贈等)隱瞞實際成交價格。”  
Should regulate developers' sales practice (e.g. offers of benefits/rebates) that may disguise the actual prices.

### **Estate agency services**

- “消費者可選擇是否採用地產代理。”  
Consumers should have the choice as to opt for estate agency services or not.

### **'Cooling-off period'**

- “準買家中籤後應有充足的「冷靜期」作考慮。”  
After the release of ballot results, prospective purchasers who are eligible to select flats should have sufficient time as 'cooling off period' to make thorough considerations.
- “延長「冷靜期」及減低沒收臨時訂金百分比或取消沒收臨時訂金。”  
Should extend the 'cooling-off period' and lower the percentage of the forfeited deposit or cancel the forfeited amount.



### **Consumer protection**

- “未有銀行職員在場諮詢按揭情況，準買家未知能否按足金額便需決定有風險。”  
Bank staff is not available at the sales office to advise on mortgage loan. There are risks incurred as prospective purchasers may not be able to obtain loan for committing into a purchase decision.
- “很多轉嫁消費者的隱藏成本沒即時披露，樓宇售後保養期應延長，以提高買家的售後保障。”  
Many hidden costs are not immediately known and be passed onto consumers. Property maintenance period should be extended to enhance the protection of purchasers after-sale.
- “如超過收樓後執漏期限，發展商須賠償業主”  
Developers should compensate property owners if defects were not rectified within the defects liability period after hand-over of the property.
- “加強監管、抽查發展商/地產代理之銷售手法，並定時公布抽查結果。”  
Should strengthen regulation and inspection of the sales practices of developers / estate agents, and disclose inspection results periodically.
- “銷監局應派人於銷售處，即時監察和處理投訴。”  
SRPA should carry out inspection and handle complaints at the sales office.
- “加重發展商/地產代理提供失實資訊的懲罰。”  
Should increase the penalty level on developers/estate agents for false/wrongdoings.
- “加強銷監局的宣傳，推廣買家權益的教育。”  
Should strengthen the publicity of SRPA to promote education of purchasers' interests.
- “定時檢討法例。”  
Should conduct review of the Ordinance periodically.

## Appendix 3 – List of the 17 field visited property developments (in alphabetical order)

Name of the Property Development 樓盤名稱 [1]	Address 地址	District 地區	No. of Units	Status of Properties at the time of field visit [Occupation Permit No.]	Viewing of Show Flats (SF) / Comparable Units (CU) [2]	
					SF	CU
City Point 環宇海灣	48 Wing Shun Street 永順街 48 號	Tsuen Wan 荃灣	1717	Uncompleted	✓	
Double Cove Phase 1 迎海第一期	No.8 Wu Kai Sha Road 烏溪沙路 8 號	Ma On Shan 馬鞍山	928	Completed: 4-2013 [NT 19/2013(OP)]		✓
Eivissa Crest 尚嶺	No.100 Hill Road 山道 100 號	Sai Ying Pun and Sheung Wan 西營盤及上環	106	Uncompleted	✓	
Grand Austin	9 Austin Road West 柯士甸道西 9 號	South West Kowloon 西南九龍	691	Uncompleted	✓	
High Park 曉珀	No. 51 Boundary Street 界限街 51 號	Cheung Sha Wan 長沙灣	59	Uncompleted	✓	
Le Riviera 遠晴	23 Shau Kei Wan Main Street East 筲箕灣東大街 23 號	Shau Kei Wan 筲箕灣	98	Completed: 7-2014 [HK 32/2014(OP)]		✓
MacPherson Place 麥花臣匯	38 Nelson Street 奶路臣街 38 號	Mong Kok 旺角	293	Completed: 12-2012 [KN 37/2012(OP)]		✓
Mayfair By The Sea I 逸瓏灣 I	23 Fo Chun Road 科進路 23 號	Pak Shek Kok (East) 白石角(東部)	546	Uncompleted	✓	
Metro6 城中匯	No. 121 Bulkeley Street 寶其利街 121 號	Hung Hom 紅磡	95	Uncompleted	✓	
Park Ivy 奧朗·御峯	8 Ivy Street 埃華街 8 號 [3]	Mong Kok 旺角	113	Uncompleted	✓	
Park Metropolitan 觀月·樺峯	8 Yuet Wah Street 月華街 8 號	Kwun Tong (South) 觀塘南部	299	Uncompleted [4]	✓	

## Study on the Sales of First-hand Residential Properties

Name of the Property Development 樓盤名稱 [1]	Address 地址	District 地區	No. of Units	Status of Properties at the time of field visit [Occupation Permit No.]	Viewing of Show Flats (SF) / Comparable Units (CU) [2]	
					SF	CU
Park Signature 溱柏	68 Kung Um Road 公庵路 68 號	Yuen Long 元朗	1620	Uncompleted	✓	
Phase I of Mont Vert 嵐山第 I 期	No. 9 Fung Yuen Road 鳳園路 9 號	Tai Po 大埔	1071	Completed: 3-2014 [NT 21/2014(OP)]	✓ [5]	
Positano 悅堤	18 Bayside Drive 堤畔徑 18 號	Discovery Bay 愉景灣	102	Completed: 2-2011 [NT 6/2011(OP)]		✓
RESIDENCE 譽 88	88 Fung Cheung Road 鳳翔路 88 號	Yuen Long 元朗	352	Completed: 3-2014 [NT 19/2014(OP)]	✓ [6]	
The Avenue (Phase 1) 薹滙(第一期)	2/F & 3/F: 7A Cross Street Other floors (except 2/F & 3/F): 33 Tai Yuen Street 二樓及三樓：交加街 7A 號 其他樓層(二樓及三樓除外)： 太原街 33 號 [7]	Wan Chai 灣仔	179	Completed: 3-2014 [HK 14/2014(OP)]		✓
The Visionary 昇薈	[8]	Tung Chung 東涌	1419	Uncompleted	✓	

Note:

- [1] Key developers of these property developments include (in alphabetical order): Cheung Kong (Holdings) Limited (長江實業(集團)有限公司), Far East Consortium International Limited (遠東發展有限公司), Henderson Land Development Company Limited (恒基兆業地產有限公司), Hip Shing Hong (Holdings) Company Limited (協成行發展有限公司), Hong Kong Ferry (Holdings) Company Limited (香港小輪(集團)有限公司), Hong Kong Playground Association (香港遊樂場協會), Hong Kong Resort Company Limited (香港興業有限公司), Hopewell Holdings Limited (合和實業有限公司), K. Wah International Holding Limited (嘉華國際集團有限公司), Kowloon Development Company Limited (九龍建業有限公司), MTR Corporation Limited (香港鐵路有限公司), Nan Fung Development Limited (南豐發展有限公司), New World Development Company Limited (新世界發展有限公司), Sino Land Company Limited (信和置業有限公司), Sun Hung Kai Properties Limited (新鴻基地產發展有限公司), Urban Renewal Authority (市區重建局), West Rail Property Development Limited (西鐵物業發展有限公司), and Wheelock Properties (Hong Kong) Limited (會德豐地產(香港)有限公司).
- [2] Estate agency companies involved in accompanying fieldworkers' viewing of show flats include (in alphabetical order): Centraline Property Agency Limited (中原地產代理有限公司), Century 21 Hong Kong Limited (世紀21香港有限公司), Hong Kong Property Services (Agency) Limited (香港置業(地產代理)有限公司), Midland Realty International Limited (美聯物業代理有限公司), and Ricacorp Properties Limited (利嘉閣地產有限公司).
- [3] [7] As at 31-10-2014, the street number is provisional and to be confirmed when the development is completed.
- [4] As the development concerned was completed in July 2014 (Occupation permit: [KN 24/2014(OP)]) after the date the field visit was conducted, fieldworkers could visit the show flats only but not the comparable units at the time of field visit.
- [5] The developer considered it was not "reasonably practicable" to make available comparable units of the completed development for public viewing.
- [6] Fieldworkers were not informed of the availability of completed properties for viewing, show flats were then visited. Fieldworkers contacted the development concerned and found that comparable units were also made available for public viewing.
- [8] As at 31-10-2014, the developer concerned has not provided the address details.

Appendix 4 – Application forms for loan arrangements from two estate agents

I. From estate agent X

**申請本票/支票表格 [FINI18]#**  
(一手住宅盤專用)

致：\_\_\_\_\_代理有限公司 (“\_\_\_\_\_”) 有關擬購入\_\_\_\_\_ (“該樓盤”) 一事

就上述事宜，本人/吾等 (作為準買家) 要求 協助提供 \_\_\_\_\_ 張金額合共為港幣 \_\_\_\_\_ 元之銀行\*本票/支票 (“該本票/支票”)。

基於 同意協助提供該本票/支票，本人/吾等 (作為準買家) 確認、同意及聲明如下：

- 及其關聯公司“並非本人/吾等之代理。
- 本人/吾等明白本表格並不構成該樓盤之發展商 (“該發展商”) 或 \_\_\_\_\_ 及/或其關聯公司出售該樓盤之任何單位之承諾。
- 本人/吾等以下述方式 (可選擇多於一項) 支付下述金額合共港幣 \_\_\_\_\_ 元正 (“該金額”) \*\*予 \_\_\_\_\_ 用作換取該本票/支票：
  - 口現金港幣 \_\_\_\_\_ 元正。(本人/吾等名義之銀行戶口資料：\_\_\_\_\_)
  - 口支票 \_\_\_\_\_ 張，抬頭 \_\_\_\_\_ 金額(港幣) \_\_\_\_\_ 元正，發票銀行 \_\_\_\_\_ 賬戶持有人為 \_\_\_\_\_ 支票號碼 \_\_\_\_\_ 戶口號碼 \_\_\_\_\_
  - 口轉賬/EPS/信用咭
 

信用咭/賬戶持有人姓名	發咭銀行	信用咭/賬戶號碼	金額(港幣)
(1)			
(2)			
(3)			
(4)			
(5)			
總金額(港幣)			

4. 假若該發展商不接納本人/吾等擬購入該樓盤之任何單位之申請或本人/吾等未有購入該樓盤之任何其他單位，而該發展商經 \_\_\_\_\_ 及/或其關聯公司向本人/吾等退回該金額 \_\_\_\_\_ 及/或其關聯公司將於從該發展商收到該金額之退款後起計三十天內以下述方式向本人/吾等退回該金額：-

- 如本人/吾等以現金及/或支票及/或轉賬及/或EPS方式支付該金額，則退款將會分別按付款之方式存入以上第3(i)、(ii)或(iii)段所述之賬戶；
- 如本人/吾等以信用咭方式支付該金額，則 \_\_\_\_\_ 及/或其關聯公司會安排將有關之信用咭交易取消或作廢，或將退款存入以上第3(iii)段所述之信用咭賬戶內。

5. 收集個人資料聲明  
本人/吾等確認已收取由 \_\_\_\_\_ 及 \_\_\_\_\_ 有限公司依從香港法例第 486 章《個人資料 (私隱) 條例》發出之收集個人資料聲明並同意該聲明之條款。

6. 本人/吾等承諾賠償 \_\_\_\_\_ 及/或其關聯公司因本表格 (尤其第3及/或4段) 之安排而招致/導致之任何損失。

本人/吾等 (作為準買家)、信用咭持有人 (如適用) 及/或賬戶持有人 (如適用) 同意及確認上述條款，並特此授權 \_\_\_\_\_ 及/或其關聯公司將該金額之退款存入上述之銀行戶口 (如本人/吾等以現金及/或支票及/或轉賬及/或EPS方式支付該金額) 或信用咭賬戶 (如本人/吾等以信用咭方式支付該金額) 內。(註：如信用咭/賬戶持有人非準買家，所有信用咭/賬戶持有人均須簽署本表格。)

準買家	信用咭/賬戶持有人	信用咭/賬戶持有人
名稱 _____	名稱 _____	名稱 _____
身份證/商業 _____	身份證/商業 _____	身份證/商業 _____
登記證號碼 _____	登記證號碼 _____	登記證號碼 _____
聯絡電話號碼 _____	聯絡電話號碼 _____	聯絡電話號碼 _____
地址 _____	地址 _____	地址 _____
日期 _____	日期 _____	日期 _____

交到 交來該本票/支票，即 \_\_\_\_\_ 銀行\*本票/支票 \_\_\_\_\_ 張，號碼：\_\_\_\_\_。

家：(姓名) \_\_\_\_\_ \*\*金額必須與該本票/支票金額相同  
\*刪去不適用者

內部填寫

單位	分行代號	營業員	員工編號
座 _____ 樓 _____ 室 _____	主區 _____		
	外區 _____		
	負責營業助理 _____		

\_\_\_\_\_ 有限公司及/或其母公司之集團成員

只適用於(1) 該發展商特別規定 \_\_\_\_\_ 及/或其關聯公司要求準買家交出身份證及信用咭；(2) 該發展商已授權 \_\_\_\_\_ 及/或其關聯公司索取或接受準買家任何款項；及(3) 準買家已書面授權 \_\_\_\_\_ 及/或其關聯公司作出以其信用咭交付訂金、其他任何款項或該金額部份的任何安排。

(Version 02.2014)

II. From estate agent Y

**代辦支票/本票同意書**

日期: \_\_\_\_\_

致: \_\_\_\_\_

物業單位: \_\_\_\_\_

本票/支票抬頭: \_\_\_\_\_

本公司/本人 \_\_\_\_\_

\*香港/中國身份證號碼/商業登記證號碼: \_\_\_\_\_

現委託 \_\_\_\_\_ (以下簡稱“ ”)代辦\*本票/支票一張, 銀行名稱 \_\_\_\_\_  
 金額為港幣\$ \_\_\_\_\_ \*本票/支票號碼 \_\_\_\_\_ 用  
 作本公司/本人購買上述物業之用; 本公司/本人選擇由本公司/本人之\*信用卡/銀聯/現金/支票轉賬於  
 之賬戶, 由 \_\_\_\_\_ 代辦 \*支票/本票後向發票商申請認購; 本公司/本人明白及確認如未能成功購得上  
 述物業, 訂金將由 \_\_\_\_\_ 直接無息發還予本公司/本人, 而 \_\_\_\_\_ 及有關銀行均毋須為此負上任何責任。

本公司/本人承諾於 \_\_\_\_\_ 年 \_\_\_\_\_ 月 \_\_\_\_\_ 日 \_\_\_\_\_ 時或之前, 金額為港幣\$ \_\_\_\_\_,  
 以現金形式存入「 \_\_\_\_\_ 」戶口。若未能達成承諾, 則當作違約論。本公司/本人願承擔  
 一切法律責任及賠償一切費用及損失。

本公司/本人同意以\*信用卡/銀聯/現金/支票繳付支票金額:

持咭號碼	授權號碼	金額
		港幣\$
		港幣\$
		港幣\$
		港幣\$
		港幣\$
付款形式	付款金額	行政費
VISA/ MASTER	港幣\$	港幣\$
銀聯	港幣\$	港幣\$
現金	港幣\$	港幣\$
支票	港幣\$	港幣\$
付款金額+行政費總共	港幣\$	

買家及持卡主簽署 \_\_\_\_\_ 員工確認 \_\_\_\_\_

姓名: \_\_\_\_\_ 姓名: \_\_\_\_\_

\_\_\_\_\_ 職位: \_\_\_\_\_

\_\_\_\_\_ 分行名稱: \_\_\_\_\_

\_\_\_\_\_ 聯絡電話: \_\_\_\_\_

\*請用不退還票  
 \_\_\_\_\_

## **Appendix 5 – Summary list of legislative requirements on sales brochure**

### **Information required to be set out in sales brochure:**

1. Information on the development
2. Information on vendor and others involved in the development
3. Relationships between parties involved in the development
4. Information on design of the development
5. Information on property management
6. Location plan of the development
7. Aerial photograph of the development
8. Outline zoning plan etc. relating to the development
9. Layout plan of the development
10. Floor plans of residential properties in the development
11. Area of residential properties in the development
12. Floor plans of parking spaces in the development
13. Summary of preliminary agreement for sale and purchase
14. Summary of deed of mutual covenant
15. Summary of land grant
16. Information on public facilities and public open spaces
17. Warning to purchasers
18. Cross-section plan of building in the development
19. Elevation plan
20. Information on common facilities in the development
21. Inspection of plans and deed of mutual covenant
22. Fittings, finishes and appliances
23. Service agreements
24. Government rent
25. Miscellaneous payments by purchaser
26. Defect liability warranty period
27. Maintenance of slopes
28. Modification
29. Information in application for concession on gross floor area of building
30. Previous aerial photograph
31. Other common facilities
32. Designated website address
33. Date of printing
34. Date of examination and revision

## **Appendix 6 – Overseas legislation on the regulation of residential properties**

### **Introduction**

The Council conducted a desktop research on the regulations of residential properties of six jurisdictions, based on the available sources of information collected through the Internet and obtained from relevant regulator.

The six jurisdictions were Australia (Melbourne), Canada (British Columbia), Mainland China, Singapore, Taipei, and United Kingdom (England and Wales).

Key areas under study included:

- Scope of legislation;
- Disclosure of information;
- Floor area measurements;
- Advertisements;
- ‘Cooling-off period’;
- Sale and purchase agreement;
- Completion of sales and vacant possession; and
- Defects liability period.

Details of each jurisdiction are presented below.

### **1. Australia (Melbourne)**

In Melbourne, the Sale of Land Act (SLA) regulates property developers on the sales practices of private residential properties. SLA is a provincial level legislation for the State of Victoria, of which Melbourne is the capital. The law is administered by the Consumer Affairs Office (CAO) for the State of Victoria. Along with the Act, a few regulations and guidelines are found to be relevant to purchase of properties.

#### *(i) Scope of legislation*

In Melbourne, the purchase of property involves the procurement of “Land” on which it is located as well. According to the SLA, “Land” is defined as land of any tenure, buildings or part of the buildings. In that sense, the purchase of apartment (strata) also contains the strata title behind.

The relevant legislations and guidelines applicable to the sales of properties in Melbourne are listed below:

Legislations:

1. Building Act 1993 (BA)



2. Sale of Land Act 1962 (SLA)
3. Australian Consumer Law (ACL)
4. Competition and Consumer Act 2010 (CCA)
5. Domestic Building Contracts Act 1995 (DBCA)
6. Estate Agents (Contracts) Regulation 2008 (EACR)

Guidelines:

1. Real Estate: A Guide for Buyers and Sellers (REGBS)
2. Real Estate: Guidelines for Real Estate Salespeople – Price Advertising and Underquoting (REGRES)
3. Method of Measurement for Residential Property 2008 (MMRP)

*(ii) Disclosure of information*

According to the SLA, vendors are required to provide a “section 32 statement” (commonly known as “Vendor’s statement”) to prospective purchasers before proceeding to the Contract of Sale. Information regarding building permit, details of subdivision plan and details of non-connected services supply such as electricity, gas, water, sewerage and telephone must be included in the statement.

Vendor’s statement is an important document, which no terms and conditions in the Contract of Sale can exclude, modify or restrict the provision of that statement. The SLA also stipulates that purchasers can rescind the contract and are entitled to the rebate of all fee paid if vendors provide false information in the statement or in any documents attached to it or fail to supply all the required information or fail to give a purchaser the statement.

*(iii) Floor area measurement*

There is no standardized floor area measurement parameter for residential property in Victoria. But the Property Council of Australia has promulgated the MMRP, which has also been endorsed by the Royal Institution of Chartered Surveyors and the Australian Institute of Quantity Surveyors.

Square meter is commonly adopted as the measurement parameter. To represent floor area of a property, Gross Floor Area (GFA), which is defined as the sum of interior space, common area and addition area, is adopted.

Purchasers are entitled to rescind the contact for changes of subdivision plan under certain condition. If the vendor wants to make an amendment to the subdivision plan after the contract is signed, the purchaser shall be advised in written form within 14 days. The purchaser may rescind a prescribed contract of sale within 14 days after being advised if the amendment will materially affect the lot to which the contract relates.

*(iv) Advertisements*

The SLA stipulates that any person with the intention of inducing any person to buy the property should comply with its regulations. Vendors of property who knowingly or recklessly make or publish any false representation, wilfully false promise, misleading and deceptive statement, or conceal any material facts, would be found guilty of an offence against the act.

Also, the CCA prohibits developers from making false or misleading representation of the sales of residential property.

“Underquoting” is a sale practice strictly prohibited as mentioned in the REGRES. Underquoting occurs when a sale-person advertises or advises a prospective purchaser with a property price less than the vendor’s asking price or a price lesser than the sale-person’s current estimation, or gives an inaccurate appraisal of the current market price of a property.

*(v) ‘Cooling-off’ period*

As stipulated in the SLA, purchaser is entitled to terminate the contract within cooling-off periods (3 clear business days) after the contract of sale is signed. A written notice is to be given to the vendor by the purchaser within this period. After receiving the notice, the vendor should return any money paid under the contract, except for AUD\$100 or 0.2% of the purchase price whichever is greater, to the purchaser.

While it is noted that the cooling-off period arrangement is not applicable to transaction for a few situations including the sale is by publicly advertised auction or the purchaser and the vendor have previously signed a contract for the sale of the same land in substantially the same terms.

*(vi) Sale and purchase agreement*

A standard form of Contract of Sale is prescribed under the EACR. This form sets out the relevant information of the property and the regulations on both the vendor and the purchaser.

Under this contract, both parties can insert necessary conditions for the satisfaction of transaction requirements. For example, “subject to finance” clause could be added, that means the transaction would only be completed if the purchaser could obtain sufficient mortgage from relevant authority. Yet, the insertion of these clauses would be optional and on mutual agreement.

*(vii) Completion of sales and vacant possession*

Under the SLA, it protects the purchaser from unreasonable delay of vacant possession. It is in the SLA that the purchaser can rescind the contract if the plan of subdivision is not registered within 18 months after the date prescribed in the contract. This 18-month requirement is negotiable between the vendor and the purchaser. The purchaser is entitled to the immediate return of the deposit money with the deduction of occupation fees paid by the purchaser.

*(viii) Defects liability period*

The DBCA states clearly that the builder needs to comply with the general warranties requirements for all domestic building contracts. These warranties ensure that the builder has to carry out the work in accordance with the plan and specification set out in contract, all materials used in the work will be good, suitable and new, and the work will be completed by the date specified by the contract. These legal warranties apply to building works for 10 years.

Purchasers of uncompleted properties (known as off-plan sales) are also protected by statutory consumer guarantees in the ACL. Under the ACL, the goods and services provided must be of acceptable quality. The purchaser has a right of action against the vendor who failed to comply with this guarantee and seeks for remedy depending on the level of failure.

This consumer guarantee also gives the purchaser a right to terminate the contract if the vendor fails to deliver the goods or services within a reasonable time.

## **2. Canada (British Columbia)**

Canada is a country with 10 provinces and 3 territories. Since the administration systems and regulations vary among provinces, British Columbia is chosen in this section as an example. It is known that a few types of housing exist in Canada, including house and apartment. The ownership of apartment in British Columbia is called strata title.

*(i) Scope of legislation*

The Real Estate Council (REC) of British Columbia is responsible to oversee real estate development, sale and licensing individuals and brokerages engaged in real estate sales. It administers the Real Estate Services Act and the following legislations and guides:

1. Real Estate Development Marketing Act (REDMA)
2. Real Estate Council Rules (RECR)
3. Professional Standards Manual - Real Estate Council (Manual – REC)

Along with the REC, Homeowner Protection Office (HPO) is another authority to regulate real estate development, which all home builders must register under the HPO. The following legislation administered by the HPO is relevant to this study:

1. Homeowner Protection Act (HPA)
2. Homeowner Protection Act Regulation (HPAR)

*(ii) Disclosure of information*

Under the REDMA, developers are required to file “Disclosure Statement”, which details the information of properties, to the superintendent before initiating the sales of property. Such disclosure statement should also be provided prospective purchasers before proceeding to purchase agreement.

The government has set out specific items to be included in the disclosure statement. General descriptions of the property include developer information, total no. of strata lots and no. of strata lots to be sold. If the development property is constructed in phases, no. of phases, no. of strata lots in each phase and the phase or phases the developer is currently selling should also be stated clearly in the statement.

Besides, the statement should clearly disclose the common property and facilities, also any limited common property. And if the developer has already engaged in the management contract with particular company, it should also be stated in the statement with the management contract attached.

Recently, there is a new policy statement on the disclosure statement for not yet completed properties. Developer is required to alert the purchaser that this property is not completed yet and explains the provisions in which both parties can terminate the contract of sale and purchase where applicable.

*(iii) Floor area measurements*

In Canada, the commonly used floor area measurement is square feet. There is no legislative requirement on the specific usage of floor area measurement. According to the Manual – REC, one suggested term is “Square Area”. It is preferable to calculate the area of a strata lot with reference to its walls which measurements should be taken from the centre line of the demising walls.

*(iv) Advertisements*

To ensure proper advertisements of properties, the REC sets out the RECR to regulate false and misleading advertisements. It is in the RECR that false and misleading advertising is prohibited, in which responsible person shall not publish advertisements with false, misleading and misrepresentation concerning real estate.

*(v) 'Cooling-off period'*

Developer is required to provide prospective purchaser with the "Disclosure Statement" detailing property information before accepting deposit and proceed with signing the contract.

The REDMA empowers purchasers with a "Rights of rescission" to terminate the contract for both uncompleted and completed developments, which is a 7-day period starting at either the date of signing the contract or the acknowledge date of receiving the disclosure statement (whichever is earlier). Purchaser, however, must notify the developer by written notice for the termination of contract. Once the developer receives the notice, the deposit shall be returned to the purchaser in full.

*(vi) Sale and purchase agreement*

Along with the standard Contract of Purchase and Sale, the REC suggests to insert a "Subject to" clause on mortgage as a way to further protect purchasers upon mutual agreement. The suggested clause is as follow:

*New First Mortgage Clause*

*Subject to a new first mortgage being made available to the Buyer on or before (date) , in the amount of \$ (amount) at an interest rate not to exceed \_\_\_ % per annum calculated (select either half-yearly or monthly) , not in advance, with a \_\_\_\_ - year amortization period, \_\_\_\_ - year term and repayable in blended payments of approximately \$ (amount) per month including principal and interest (plus 1/12 of the annual taxes, if required by the mortgagee).*

*(vii) Completion of sales and vacant possession*

It is upon mutual agreement between the developer and purchaser to designate a completion date for vacant possession. Before the closing or resettlement, there is a common practice for both the developer and the purchaser to conduct a "Walk-through" (also called a new home orientation or pre-delivery inspection). Developer may provide a checklist for the purchaser to verify all the contract terms have been met and to inspect every room and system of the property. The record of walk-in will serve as an information for home insurance providers to determine whether or not they will cover physical damage to materials.

*(viii) Defects liability period*

It is in the HPA that the commencement of building works shall not start unless the builder has registered with mandatory "Home Warranty Insurance" by a warranty provider. The minimum requirement of home warranty insurance is in the form of 2-5-10, which covers 2 years on labour and materials, 5 years on the building

envelope, including water penetration and 10 years on structure. The coverage of 2-year warranty depends on property type, which 12 months coverage is for detached homes and on non-common property in strata units, and 15 months warranty is on common property of strata buildings. In addition, there is a 24-month warranty on defects related to the delivery and distribution systems (electrical, plumbing, heating ventilation, air conditioning, etc.) for all buildings.

### 3. Mainland China

Private residential properties in China are called “commodity premises (商品房)”. The sale of first-hand commodity premises is jointly regulated by government authorities at both national and municipal levels.

#### *(i) Scope of legislation*

The Council identified 10 pieces of legislations, which regulate real estate developers on property developments from different perspectives, e.g. development, sales and purchase, advertisements, etc. The relevant legislation and guidelines are listed below:

1. Administration of Urban Real Property Development and Business Regulation (AURPD)  
城市房地產開發經營管理條例
2. Administration of Urban Real Property Law (AURPL)  
城市房地產管理法
3. Circular on Issues Concerning Further Strengthening the Supervision and Administration of the Real Estate Market and Improving the Pre-Sale System of Commodity Housing (Circular – SAREL)  
關於進一步加強房地產市場監管完善商品住房預售制度有關問題的通知
4. Measures for the Administration of Pre-sale of Urban Commodity Housing (2<sup>nd</sup> Revision) (MAPCH)  
城市商品房預售管理辦法(第二次修正)
5. Measures for the Administration of the Sale of Commodity Housing (MASCH)  
商品房銷售管理辦法
6. Provisions on Selling Real Estate at Expressly Marked Prices (PSEMP)  
商品房銷售明碼標價規定
7. Real Estate Sales Contract (Pre-sale) Template and Real Estate Sales Contract (Existing) Template (Contract – Pre-sale or Contract - Existing)  
商品房買賣合同(預售)示範文本及商品房買賣合同(現售)示範文本
8. Regulation on the Quality Management of Construction Projects (RQMCP)  
建設工程質量管理條例
9. Tentative Provisions on Publication of Real Estate Advertisement (TPPREA)

房地產廣告發布暫行規定

10. The Calculation of Commodity Premises Sale Areas and Sharing of Common Building Areas Provisions (CCPSA)

商品房銷售面積計算及公用建築面積分攤規則

*(ii) Disclosure of information*

Before signing of the pre-sale contract, the developer shall show the pre-sale license of commodity housing to the purchaser. With regard to the authenticity and validity of the pre-sale license and the possibilities of limited transfer of rights caused by the facts that the said commodity house has been presold repeatedly or sealed up by judicial authorities, the purchaser may make an enquiry to the district/county real estate trading center where the said commodity house is located.

To protect the legal rights and interests, developers and purchasers can make the pre-sale advertisement and brochure as the annex of the commodity housing pre-sale contract upon agreement.

In the PSEMP, it is required that developers to expressly disclose the management service and fee to prospective purchasers if property management company is being appointed. At the point of sale, price list or display panels of sale price should be placed at eye-catching locations to prospective purchasers. Computer systems and digital display panels would be an aid if possible.

*(iii) Floor area measurements*

The Ministry of Land and Resources (國土資源部) promulgated a national-level legislation, the CCPSA in 1995. The commonly used method of area measurement used in sales material is Gross Floor Area, GFA (建築面積、房屋建築面積或套(單元)建築面積) and Saleable Area (商品房銷售面積). The legislation defines GFA as the sum of Interior Gross Floor Area (套內建築面積), Common Area and Balcony Area. The sum of Interior Gross Floor Area is the sum of Interior Usable Area (套(單元)內的使用面積) and Interior Walls Area (套內牆體面積).

Interior Usable Area includes bedroom, dining room, living room, corridor, kitchen, bathroom, toilet and storage room within the residential unit. Common Area includes lift, lift well, staircase, garbage area, electrical room, storage, lobby, aisles, security area and any other areas that are commonly used.

When delivering the House, the seller shall demonstrate the “Commodity Housing Area Mapping Report” issued by the entrusted qualified real estate mapping organization, and provides the actual measured area of the house to the purchaser (hereinafter refers as the measured area). If there is any discrepancy between the

measured area and the design area and no contract terms have been specified for the solution, the following principle from the MASCH adopts:

- (1) If the absolute discrepancy rate of the interior building area is within 3% (including 3%), developers sell charge the purchase price according to the actual measured area;
- (2) If the absolute discrepancy rate of the interior building area exceeds 3%, the purchaser has the right to cancel the order. If the purchaser cancels the order, the seller must return the effected payment to the purchaser within 15 days after receiving the notification of canceling the order, and pay the corresponding interest according to the interest rate of individual housing loan issued by the bank in the corresponding period. If the purchaser doesn't cancel the order, when the measured area of the interior building area is larger than the design area with the discrepancy rate within 3% (including 3%), the purchaser shall pay for the extra area; while if the discrepancy rate exceeds 3%, the cost of the extra area will be borne by the seller and the ownership belongs to the purchaser. When the measured area of the interior building area is less than the design area with the discrepancy rate within 3% (including 3%), the seller shall return the cost of the less area to the purchaser; while if the discrepancy rate exceeds 3%, the seller shall return twice more than the cost of the less area to the purchaser.

The formula of the absolute discrepancy rate of the interior building area:

$$\frac{\text{The measured area} - \text{the design area}}{\text{The design area}} \times 100\%$$

*(iv) Advertisements*

Under the TPPREA, the location of the property development project shall be described as the actual distance from the project to reach a specific reference in the existing trunk roads, rather than the time required to travel across the distance.

The decoration effects and internal design depicted in the advertisement should be true and accurate, while it is prohibited to involve any decoration effect in the advertisement of uncompleted residential properties,

*(v) 'Cooling-off' period*

Information regarding cooling-off period in China is not depicted in the regulations and legislations reviewed by Council Staff.



*(vi) Sale and purchase agreement*

If purchasers fail to get the mortgage loans from banks, the deposits will be forfeited and the developers concerned are able to cancel the contract and ask for the reimbursements.

Where developers receive deposits from purchasers by means of subscription, order or reservation, etc. as the guarantee for concluding the contract for the sale of commodity houses, the provisions in the law on deposit shall be abided by if the contract for the sale of commodity houses fails to be concluded due to the reason of one party; or the seller shall refund the deposit to the purchaser if the contract for the sale of commodity houses fails to be concluded due to the reason for which neither party shall be liable.

*(vii) Completion of sales and vacant possession*

It is in the Contract – Pre-sale and Contract – Existing that developers are liable for paying penalties to purchasers for delivery of vacant possession after the mutually agreed date in the contract. Besides the date of delivery of vacant possession, both parties are agreed on the penalty conditions in the contract.

Two scenarios for late delivery vacant possession apply unless of force majeure. For late within certain days as stipulated in the contract, a penalty should be paid by developers which is calculated daily at a rate in ten thousandth of the total purchase price. However, if the late is after the stipulated period, purchasers are entitled to terminate the contract and rebate of any price paid within 15 days with daily interest of the total price, which is calculated at the rate of not less than the benchmark lending rate over the same period under the People's Bank of China (不低於中國人民銀行公佈的同期貸款基準利率).

*(viii) Defects liability period*

Under the AURPD, when developers sell residential properties to purchasers, they are required to provide the Residential Manual (住宅使用說明書) and the Quality Warranty Manual (住宅質量保證書). The Residential Manual states the property's structure, effectiveness and the standards of the different parts of the property and the things to be noted relating to the property. On the other hand, the Quality Warranty Manual states the warranty period and the warranty responsibilities of the residential developer for the different parts of the property under normal circumstances.

The warranty period of the building should be computed from the completion-based check. Warranty periods of different structures are stipulated in the RQMCP and the Contract – Pre-sale and Contract – Existing. Below is a summary of the minimum

warranty periods under the current regulations.

Item	Warranty period
Basic facilities, foundations and main parts of buildings (基礎設施工程、房屋建築的地基基礎工程和主體結構工程)	The year of reasonable use as prescribed in the design documents
Roofing waterproof, and leak prevention of the toilets, rooms and outside walls (屋面防水工程、有防水要求的衛生間、房間和外牆面的防滲漏)	5 years
Heat supply and air-conditioning systems (供熱與供冷系統)	2 warming and air-conditioning periods (2 個採暖期、供冷期)
Electric wires, gas, water supply and drainage pipes (電氣管線、給排水管道)	2 years
Equipment installation and decoration (設備安裝和裝修工程)	2 years

In case the foundations and main parts of buildings are found to be failure under the completed-based check, purchasers are entitled to terminate the contract and rebate of any price paid within 15 days. Developers are also liable for paying daily interest of the total price which is calculated at the rate of not less than the benchmark lending rate over the same period under the People's Bank of China. For other defects, developers are liable for repair and maintenance within the period or to designate another party for such responsibility in the contract.

#### 4. Singapore

Singapore has promulgated legislations to govern the sales practices of private residential properties. The Urban Redevelopment Authority is the regulator of private housing development in the country, mainly through the Housing Developers (Control and Licensing) Act and Housing Developers Rules, which is formulated under the Act.

##### (i) Scope of legislation

Private housing development is regulated by the Urban Redevelopment Authority (URA) in Singapore. The following regulations and guidelines are administered by URA on private housing development, including development and sale:

##### 1. Housing Developers (Control and Licensing) Act (HDCLA)

2. Housing Developers Rules (HDR)
3. Residential Property Act (RPA)
4. The Development Control Parameters Handbook on Gross Floor Area (2011) (DCPH-GFA)

*(ii) Disclosure of information*

Under HDR, vendors will provide property particulars (Form 3 in the Schedule and property plans) to purchasers before accepting booking fees. The particulars details the address of the property and the estimated land area of the property.

If the property is in the form of strata title, developers shall provide a copy of the schedule of strata units and notify prospective purchasers whether there is any limited common property and the exclusive benefit of the limited common property. Purchasers shall be informed of the estimated total floor area and provided with descriptions of all floor spaces for different uses, ranging from bedrooms, living and dining areas, and kitchen to void area. All the above information shall be available for the inspection of purchasers. It is also the responsibility of vendors to obtain written acknowledgment from purchasers on the above documents.

In addition, property plans (location plan, site plan & floor plan) which are drawn in scale shall be supplemented. Location plan must include the location of property, streets, prominent buildings and features in the vicinity within radius of 500m. Site plan should detail communal facilities according to the approved building plan. Floor plan, detailing individual rooms and spaces, shall only be provided if the property is in strata title.

Vendors are also required to maintain a Register of Bookings for the inspection of URA upon request. The standard format of register is depicted in Form 1 in the Schedule of HDR, which covers details of purchasers and properties, purchasing prices and option fees (i.e. deposit) etc.

To provide prospective purchasers with latest market information, the Singapore Government has set up a web-based platform for the upload of transaction price within the period of the recent 36 months. Only purchase with caveat lodged will be uploaded on this platform.

*(iii) Floor area measurements*

Singapore adopts square meter (sqm) as the floor area measurement parameter. The URA has promulgated "The Development Control Parameters Handbook on Gross Floor Area" to define GFA of a residential building. Under the definition,

*"All covered floor areas of a building, except otherwise exempted, and uncovered areas for commercial uses are deemed the gross floor area of*

*the building for purposes of plot ratio control and development charge. The gross floor area is the total area of the covered floor space measured between the centre line of party walls, including the thickness of external walls but excluding voids.” GFA covers bay windows, household shelters, lift motor room etc., but excludes lift shafts, main entrance etc.*

For prospective purchasers, they will be informed of the detailed information of the property before paying booking fee. The table below shows the floor area information if the property is of strata title.

Estimated Total Floor Area of the property	_____ square metres
Estimated Floor Area of — Bedroom 1 <sup>1</sup> (including attached bathroom and bay windows (if any))	_____ square metres (approx.)
<sup>1</sup> Bedroom 2 (including attached bathroom and bay windows (if any)) <sup>1</sup> Please add other bedrooms if applicable. Living/Dining area/ <sup>2</sup> Kitchen (including bay windows (if any))	_____ square metres (approx.) _____ square metres (approx.)
<sup>2</sup> Bathroom/toilet (including bay windows (if any))	_____ square metres (approx.)
<sup>2</sup> Utility room or area	_____ square metres (approx.)
<sup>2</sup> Household shelter	_____ square metres (approx.)
<sup>2</sup> Balconies (excluding planter boxes/planting areas within or attached to the balcony)	_____ square metres (approx.)
<sup>2</sup> Bay windows (not being part of any room or area listed above)	_____ square metres (approx.)
<sup>2</sup> Private enclosed spaces	_____ square metres (approx.)
<sup>2</sup> Roof terraces	_____ square metres (approx.)
<sup>2</sup> All planter boxes/planting areas forming part of the property	_____ square metres (approx.)
<sup>2</sup> Air-conditioner ledges	_____ square metres (approx.)
<sup>2</sup> Void areas	_____ square metres (approx.)
<sup>2</sup> Others (e.g. foyer) — please specify <sup>2</sup> Delete if not applicable.	_____ square metres (approx.)

Purchasers are entitled to have rebate if the floor area of the property is different from the Agreement of Sale and Purchase. Section 14 of the Agreement states that purchasers are entitled to reduction in purchase price as to any change of using cheaper materials, any omission of works or reduction in scale of works. Nonetheless, section 18 assures purchasers with reduction in purchase price by proportional to every square meter if the deficiency on floor area is 3% or more than the stated one in the agreement.

*(iv) Advertisements*

HDR sets out rules for the particulars mandatory to be included or prohibited in

property advertisements. Mandatory information is set out in Rule 3 covering:

- (1) name and license number of the vendor;
- (2) tenure of the land and encumbrances;
- (3) expected vacant possession date;
- (4) expected date of legal title of the units to be conveyed to the purchasers; and
- (5) location of the property, such as lot number and Mukim/Town Subdivision.

Rules 6 and 7, on the other hand, set out prohibited information in advertisements. Rule 6 states that any advertisement could not contain anything which suggests or is calculated to suggest:

- (1) the patronage of the President or of any of the members of his family;
- (2) any connection with any Government department, statutory body or public building or place; or
- (3) any attribute to which the housing developer cannot genuinely make a claim.

While rule 7 is about false particulars in advertisements, where no person shall advertise the housing property if:

- (1) contains any statement, information or material which is false or misleading;
- (2) fails to comply with the requirements of rule 3, where applicable; or
- (3) contravenes rule 6.

(v) *'Cooling-off period'*

According to URA, the conveyance practice in Singapore provides 3 weeks for prospective purchasers to consider "Non-exercise of Option" (similar to the concept of 'cooling-off periods').

URA sets out a standardized "Option to Purchase" (OTP) as the preliminary agreement for vendors and prospective purchasers. The OTP specifies the price and details of the property. Once the OTP is signed, the vendor shall deliver the property to the purchaser by the stated purchase price. Prospective purchaser is required to pay a booking fee (no less than 5% to no more than 10% of the purchase price) for the OTP.

The vendor is then required to provide the original or copies of the title deeds of the Property and the Sale and Purchase Agreement within 14 days after the Option date. The Agreement will be valid for a maximum of 3 weeks which purchaser could consider to proceed with the transaction or not. If the purchaser decides the "Non-exercise of Option", he/ she could ask for the refund of booking fee within 4 weeks, while an amount equivalent to 25% of booking fee, or 1.25% of the purchase price will be forfeited.

*(vi) Sale and purchase agreement*

URA has specified a Sale and Purchase Agreement under HDR (Form 4). All property transactions shall adopt this agreement unless otherwise approved. The agreement standardizes the payment schedule and all terms and conditions of property sales in Singapore.

*(vii) Completion of sales and vacant possession*

The Sale and Purchase Agreement also states the details of the delivery of vacant possession of property. The vendor is required to deliver the property to the purchaser by the vacant possession date stated in the agreement or no later than 21 days after receiving the instalment paid by purchaser when the purchaser receives the Temporary Occupation Permit (TOP)/ Certificate of Statutory Completion (CSC); and notification on the completion of basic facilities.

Failing to comply with the above terms, the purchaser is liable to claim for compensation (which is called “liquidated damages” in the HDR) from the vendor. Such compensation is to be calculated on daily basis at the rate of 10% per annum on the total sum of all the instalments paid by the purchaser towards the purchase price. In the event of the following situations, vendors are not liable to pay for compensation of late delivery:

- (1) the Purchaser requests for or agrees to the delivery of vacant possession of the Property to him at a later date; or
- (2) for any reason for which the Vendor is not responsible, the Purchaser does not take delivery of vacant possession of the Property until a later date.

*(viii) Defects liability period*

Purchasers are protected with a 12-month defects liability period in Singapore. Section 17 of the agreement states that vendors are required to offer 12-month defects liability period from either the date of delivery of vacant possession to the Purchaser, or from the 15th day after receiving TOP/ CSC and notification on the completion of basic facilities (e.g. connection of water and electricity supplies and road networks etc.) by the purchaser.

Vendor is required to rectify any defects within one month after receiving notice from the purchaser. The vendor is liable to pay for the maintenance cost if rectification works are done by purchaser’s own workmen under the following situations:

- (1) purchaser provided an estimation cost and quotation from a building or renovation contractor, and
- (2) the vendor does not carry out the rectification works within 14 days immediately

receiving the notice from purchaser.

## 5. Taipei

Private properties in Taipei are referred to as “Pre-sale Houses” (預售屋) and “Existing Houses” (成屋). The latter comprises more than those newly built properties, but also second-hand properties and auction properties. With the scope of this study in first-hand property, the information on pre-sale houses and existing houses (only newly built properties) are also covered.

### (i) Scope of legislation

The Fair Trade Commission, FTC (公平交易委員會) regulates the sales of properties via two main directions. Along with that, the Consumer Protection Commission, CPC (消費者保護委員會) also issued standard contract templates and circulars to protect consumer interests in purchasing properties.

FTC has promulgated the following directions:

1. Disposal Directions (Guidelines) on Cases of Real Estate in Advertising (DDG)  
不動產廣告案件之處理原則
2. Disposal Directions (Policy Statements) on Selling Presale Houses (DDPS)  
預售屋銷售行為之規範說明

CPC has also published the following standard contract templates and circulars for real estate transactions:

1. Standardized Contract Template Regarding Pre-sale Housing (SCPSH)  
預售屋買賣契約書範本
2. Circular Regarding Information be Included and Not Be Included in The Standardized Contract of Pre-sale Housing (Circular – SCPSH)  
預售屋買賣定型化契約應記載及不得記載事項
3. Standardized Contract Template Regarding Existing Housing (SCEH)  
成屋買賣契約書範本
4. Circular Regarding Information be Included and Not Be Included in The Standardized Contract of Existing Housing (Circular – SCEH)  
成屋買賣定型化契約應記載及不得記載事項

Other legislations relevant to sales of properties in Taipei include:

1. Civil Code (CC)  
民法

2. Real Estate Transaction Information Reporting and Pricing Enquiry Regulation (RETIRPER)

不動產成交案件實際資訊申報登錄及查詢收費辦法

*(ii) Disclosure of information*

FTC administers the DDPS on the necessary information to be disclosed to prospective purchasers before accepting deposit and signing the contract.

For pre-sale houses, a copy of construction license, cadastral map of proposed site, transaction contract, name of designate loan bank and expenses on legally mandatory land readjustment or restrictive information concerning land readjustment, shall be provided for purchasers to review. Written acknowledgment on having 5-day review of transaction contract must be obtained from purchasers before accepting deposit fee.

While for existing houses, only the transaction contract with a 5-day reading period must be offered.

To enhance transparency, Ministry of the Interior (內政部) has promulgated the RETIRPER. Under this regulation, information of any real estate transaction, including price, area size, location and transaction date of the property, shall be reported to the authority by vendors/ agents within 30 days of the completion of transaction. The information would then be displayed at a designated website (<http://lvr.land.moi.gov.tw>) operated by the ministry and the general public can have access to the website for information.

*(iii) Floor area measurements*

Ping (坪), which is around 3.3058 square meter or 35.586 square feet, is commonly adopted in Taipei for the measurement of floor area. It is essential for the vendor to list out the total property area in the contract for both pre-sale and existing houses, while it is more stringent for the vendor of pre-sale houses to provide details on the area of common-use portions, ancillary building area etc.

“Privately Owned Area” (登記面積) is a legislative requirement for all residential properties. It refers to the sum of Interior Usable Area (主建築物面積), Public Facility Area (共有部分面積) and Subsidiary Area (附屬建築面積).

For pre-sale houses, purchasers are entitled to claim for compensation if there is deficiency of floor area between the offer and the contract – SCPSH. Termination of contract would be allowed if the deficiency is more than 3%, while the vendor shall rebate in monetary value to purchaser if such deficiency is less than 3%. In the event



that the completed house is of larger area than the stated in the contract, vendors could claim for in maximum 2% of the purchase price from purchasers.

*(iv) Advertisements*

FTC sets out DDG to regulate property advertisements. Under the DDG, in general, discrepancies between information in the advertisement (e.g. property location, building materials and equipment, building surroundings, view and landscape) and the reality should not be of a degree unacceptable to the general public (其差異難為一般消費大眾所接受者).

It also stipulates that only statutory language "building area," "base area," "main building area," "ancillary building area," or "area of common-use portions" can be used in all advertisements to describe floor area. Other than that, the appearance, design, and layout of the property shown in the advertisement should be the same with the reality, or otherwise the developer would be prosecuted.

*(v) 'Cooling-off period'*

There is virtually no cooling-off period in Taipei. In contrast, there is a "reading period" (契約審閱期) for purchasers to review the contract agreement before signing. The above reading period requirement is applicable for both the selling of pre-sale and existing houses.

Under Circular – SCPSH and Circular – SCEH, the reading period is designated as at least 5 days. Vendors could only accept deposits after 5-day reading period. Once both parties sign the contract, purchasers could not withdraw from the transaction. Only when problems are attributed to the vendors can purchasers request for refund of deposit.

*(vi) Sale and purchase agreement*

SCPSH and SCEH, published by the CPC, are two standardized document for property transactions.

SCPSH, for pre-sale houses, sets out the situations which purchasers can terminate the contract if insufficient mortgage is granted. If the reasons of insufficient mortgage is not attributed to any party, vendor can choose to lend the deficiency (for case with less than 30% difference between mortgage and purchase price) to the purchaser; or lending the deficiency to purchasers for not less than 7 years (for case with 30% or more difference); or termination of contract. While if the reasons are attributed to either the vendor or purchaser, the handling method should be the vendor to lend the difference to the purchaser or the purchaser to pay the difference within 30 days.

For existing houses, similar clauses on mortgage are also depicted in the SCEH, where the vendor can choose to lend the money to the purchaser or termination of contract by both parties.

*(vii) Completion of sales and vacant Possession*

The delivery of vacant possession varies among pre-sale houses and existing houses. For pre-sale houses, the vendor shall complete the sale and transfer the property to the purchaser within six months of obtaining “Building Use Permit” (BUP), or otherwise the vendor is subject to a penalty which is calculated on 0.05% of purchase price daily.

Besides, there is a requirement that the commencement building works should not be later than the stated date in the contract. A penalty calculated on 0.05% of purchase price daily will be applied for any late commencement. If the works do not commence after 3 months of the stated date, the purchaser could ask for the termination of contract.

However, if the delay of vacant possession is due to force majeure (i.e. natural disaster, 天災地變) and government policy, the developer reserves the right of delaying vacant possession.

For the transaction of existing houses, it is a mutual agreement between the developer and purchaser to designate a date in the SCEH. If the delay is attributed to the developer, he/ she shall pay at the rate of 0.05% of purchase price per day.

*(viii) Defects liability period*

The defects liability period varies among pre-sale houses and existing houses. For pre-sales houses, SCPSH lists out the warranty details for purchasers. Vendor is required to provide a House Warranty Card (房屋保固服務紀錄卡) detailing the warranty period and the types of defects covered. Under the legislation, a 15-year warranty is provided by vendor on structural defects (e.g. beam, stair), while only a 1-year warranty is offered for fixed building materials and facilities (e.g. door, window).

Yet, the defects liability period of existing houses is not specified. Purchasers shall inspect and check for any defect before vacant possession and report to vendors immediately for repair. After the vacant possession, purchasers are, according to the CC, entitled to a maximum of 5 years warranty period.

## **6. United Kingdom (England and Wales)**

Developers are allowed to sell uncompleted (locally known as “off-plan” properties)

and completed properties in the UK. Sales practices are mainly regulated by the trade itself through a voluntary code of practice - "Consumer Code for Home Builder" (CCHB). In addition, general legislations on consumer protection are relevant and important.

*(i) Scope of legislation*

There is no specific legislation regulating conveyancing practice in the United Kingdom (UK), but through regulations on consumer protection and voluntary code of practice. The following are relevant regulations and codes.

Regulations:

1. Consumer Protection from Unfair Trading Regulations 2008 (CPUTR)
2. Consumer Protection (Amendment) Regulations 2014 (CPAR)

Codes:

1. Consumer Code for Home Builders (CCHB)
2. Royal Institution of Chartered Surveyors - Code of Measuring Practice 6<sup>th</sup> edition (RICS - Code)

Amongst the above regulations and codes, CCHB is a voluntary and industry led code of conduct for builders, aiming to make the property buying process fairer and more transparent for purchasers. CCHB applies to all homebuilders registered under the three main new home warranty providers (i.e. National House Building Council, Premier Guarantee and LABC warranty) and the clauses of CCHB, governing marketing, selling of homes and after-sales customer service, are applicable to new home purchasers.

*(ii) Disclosure of information*

There is no legislative requirement on information to be disclosed for prospective purchasers. CCHB, in contrast, outlines the pre-purchase information that can help prospective purchasers make a clear, fully informed decision. This information shall include a written Reservation Agreement, an explanation of the coverage of Home Warranty and a description of any management to which the purchaser will be committed and an estimate of their cost.

The pre-purchase information should be fair and reliable. One particular item is the description of management fee. It should cover any management services and organization to which the purchaser will be committed, with an itemized estimate of the management service charges, maintenance costs and fees, and the terms that the charges and fees may alter.

For sales of uncompleted properties, supplementary information, including a brochure or plan showing the layout, appearance and plot position of the property, a

list of the property's contents and the standards to which the property is being built, is necessary to be provided by vendors.

*(iii) Floor area measurements*

Both the square meter and square feet are commonly adopted in the UK as the floor area measurement parameter. As there is no legislation on any specific use of parameter, RICS - Code serves as a voluntary guideline to define floor area.

Two main floor area definitions are Net Sale Area (NSA) and Effective Floor Area (EFA).

- (1) NSA is the Gross Internal Area (the area of a building measured to the internal face of the perimeter walls at each floor level) of new or existing residential dwelling. Area of basements, mezzanines galleries and hallways are included.
- (2) EFA is the usable area of the rooms within a building measured to the internal face of the walls of those rooms. It includes living rooms, bedrooms kitchens, areas occupied by fitted cupboards within those rooms, a floor area which contains ventilation/ heating grille and areas occupied by skirting. It excludes bathrooms, showers, toilets, stairwells, lift-wells, halls, landings and balconies, corridors, internal walls (whether structural or not, columns, piers, chimney breasts and vertical ducts), areas with a headroom less than 1.5 meter, fuel stores, lift rooms, tank rooms, plant rooms and cupboards; areas under the control service or other external authorizes including meter cupboards and statutory service supply points.

Before legal completion, even after the exchange of contract of sale, purchasers are entitled to terminate the contract and have full refund without any deduction if any change of design, size and appearance is unacceptable to him. The vendor should formally consult the purchaser and get his agreement if there is a change to the design, construction or materials to be used in the Home that would significantly and substantially alter its size, appearance or value. However, minor changes like appearance or construction material used that will not greatly affect the home do not require purchaser's consent and notify him.

*(iv) Advertisements*

CPUTR is set to ensure all traders to deal fairly with consumers and not to use aggressive or misleading practices in all sectors. Unfair commercial practices, such as giving false or misleading information to consumers, hiding or failing to provide material information to consumers and exerting undue pressure in consumers, are strictly prohibited under CPUTR.

In addition, misleading practices where a representation or advertisement contain a

false statement or fact, conceals or leaves out important facts, promises to do something when there is no intention to carry out or creates a false impression are not allowed.

“Aggressive commercial practice” is regulated under CPUFR. It is in the regulation that developers or real estate agents cannot adopt practice that intimidate or exploit purchasers, restricting or likely to restrict how they act or their ability to make free or informed choices and which cause or are likely to cause the purchaser to take a different decision.

Nonetheless, CCHB advises that any sales and advertising material of vendors should be clear and truthful.

*(v) ‘Cooling-off period’*

CCHB requests that a Reservation Agreement is to be signed between vendors and prospective purchasers before signing the Contract of Sale. A deposit and reservation fee, which the amount is based on mutual agreement between vendor and purchaser, will be made by the purchaser to reserve the unit at a specific price.

After the Reservation Agreement, there is a reservation period, normally between 10 and 14 days, in which purchasers could ask for the termination of the contract. Purchasers can, within this period, either do not proceed with or leave the agreement to expire. For any termination within the reservation period, purchasers are entitled to have the refund of reservation fee with a deduction in administration fee set out in the agreement.

*(vi) Sales and purchase agreement*

There is no standard Contract of Sale in the UK. According to CCHB, the contract should be clear and fair, to comply with relevant regulations and clearly states the contract termination right.

*(vii) Completion of sales and vacant possession*

According to CCHB, the vendor must give reliable and realistic information on when the construction of the property may be finished, the date of Legal Completion, and the date for handover of the Home to the purchaser in the Contract of Sale.

The CCHB suggests that the vendor should keep the purchaser informed of the status of the building works. When the works approach completion stage, a more accurate completion date shall then be advised.

The purchaser has the right to withdraw from the contract and rebate of deposit and reservation fee in full without any deduction if there has been unreasonable delay

beyond the date given in the Contract of Sale. The CCHB suggests that a definition be included in the Contract of Sale for “unreasonable delay”, which the period must be no more than 6 months for houses or 12 months for apartments if the Contract of Sale is exchanged before the roof is completed and the building weatherproof, or the period should be no more than 2 months for houses or 4 months for apartments if the Contract of Sale is exchanged at an advanced stage of construction.

Upon completion of works, the vendor should arrange the handover of property to the purchaser and to show its facilities and how they work. If there is any outstanding works at the time of handover, the arrangements of completion of those works should be explained to the purchaser. For large developments, the information should relate to the relevant phase of the development for that Home and the facilities directly affecting the Home.

If the purchaser moves into a home where building work is still in progress on surrounding properties, that purchaser must be advised of any necessary health and safety precautions they need to take.

*(viii) Defects liability period*

The CCHB explicitly states that the vendor must provide the purchaser with an accessible after-sales service, and explain what the service includes, who to contact, and what guarantees and warranties apply to the Home.

It is a voluntary requirement for all new home builders to register the property with a home insurance warranty. Since most of the members adopting the CCHB should have registered under the three major providers in the UK, it is clear that a 10-year warranty would be offered. Taking the warranty insurance from National House Building Council, any defect detected within the first 2 years will be repaired and paid by the vendor, while for the 3 – 10 years, only the cost of maintenance works exceeds the minimum claim value would then be paid by the insurance provider.

**Appendix 7 – Illustration of the proposed “consolidated” information list platform**

**a) Index page of a residential development**

Name of Development	Property Development A						
Block	5						
Floor	Flat						
7	A	B	C	D	E	F	G
6	A	B	C	D	E	F	G
5	A	B	C	D	E	F	G
4	A	B	C	D	E	F	G
3	A	B	C	D	E	F	G
2	A	B	C	D	E	F	G
1	A	B	C	D	E	F	G

Hyperlink to details of the flat

**Legend**

	Available
	Sold (PASP)
	Sold (ASP)
	Not available

**b) Details of individual property**

Name of Development		Development A
<b>Description of Property</b>		Block 5 Floor 3 Flat D
<b>Status</b>		Available
<b>Sales Method</b>		Balloting
<b>Price List No.</b>		3C
<b>Saleable Area sq. metre (sq. ft.)</b>		68.843 (741) Balcony: 2.000 (22) Utility Platform: 1.496 (16)
<b>Original List Price (\$) (Price List 3)</b>		\$8,100,000
<b>No. of revision in List Price</b>		2
<b>Current List Price (\$) (Price List 3C)</b>		\$8,806,000
<b>% change in List Price</b>		8.7%
<b>Unit Rate \$ per sq. metre (\$ per sq. ft.)</b>		127,914 (11,884)
<b>Calculated Transaction Price (\$)</b>		\$XXX,XXX,XXX
<b>Area of other specified items sq. metre (sq. ft.)</b>	<b>Air- conditioning plant room</b>	-
	<b>Bay window</b>	4.085 (44)
	<b>Cockloft</b>	-
	<b>Flat roof</b>	-
	<b>Garden</b>	-
	<b>Parking space</b>	-
	<b>Roof</b>	28.124 (303)
	<b>Stairhood</b>	-
	<b>Terrace</b>	-
	<b>Yard</b>	-
<b>More Detailed Information</b>		

Hyperlink to latest Sales Arrangement

Hyperlink and results retrieved from Price Calculator

Hyperlink to Price List No. 3C



**c) Price calculator – details of transaction price**

Price Calculator	
Price (\$):	\$8,806,000
Discounts: (Please choose any suitable options)	
a) Terms of Payment	
(1) Cash or Immediate Mortgage Payment - 5% discount from the Price, and	(i)/(ii)
(i) the benefit of "Second Mortgage for 30% of Transaction Price" : Second mortgage from XXX Finance Company Limited or any other company referred by vendor (subject to the approval of the mortgagee concerned); or	
(ii) the benefit of "Second Mortgage for 30% of Transaction Price" : Second mortgage from financial institution/bank arranged by YYY Mortgage Brokerage Services (subject to the approval of the mortgagee concerned)	
(2) Regular Payment - 4% discount from the Price	Yes/No
a) "Ad Valorem Stamp Duty Subsidy" Benefit: An extra 3.75% discount from the Price	Yes/No
c) An extra 3% discount from the Price for purchaser who signs the PASP to purchase a residential property on or before the relevant specified date	Yes/No
b) "Home Purchase" Benefit: An extra 3.25% discount from the Price	Yes/No
Calculation Result	\$

Default settings or validation rule can be implemented



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