

Residential Properties (First-hand Sales) Ordinance

Frequently Asked Questions and Answers (FAQs)

FAQs on Sales Arrangements and Other Information

FAQs are not guidelines. They aim to facilitate the trade to understand how the Sales of First-hand Residential Properties Authority (SRPA) looks at specific provisions of the Residential Properties (First-hand Sales) Ordinance (Ordinance).

Users of the FAQs should not rely on the information in the FAQs as professional legal advice and are strongly advised to seek legal or other professional advice should there be doubts about the application of the Ordinance in individual circumstances. Whilst every effort has been made to ensure the accuracy of the FAQs, the SRPA shall not be responsible for any liability howsoever caused to any person by the use or reliance on the FAQs.

Q1.1 Is there any requirement that the Provisional Agreement for Sale and Purchase (PASP) for a specified residential property must be signed at the sales office during its business hours?

A1.1 Under section 47(2)(a) of the Ordinance, the date and time when, and the place where, the specified residential properties will be offered to be sold, should be set out in the document containing the sales arrangements. The objective of section 47(2) of the Ordinance is to let the general public and prospective purchasers in general know where and when the specified residential properties are offered to be sold. It does not mean that a PASP must be physically signed at the sales office during its business hours.

However, vendors must ensure that this will not be in conflict with the methods to be used to determine the order of priority among prospective purchasers as set out in the document

containing the sales arrangements for the development in accordance with sections 47(2)(d) and 47(2)(e) of the Ordinance. Vendors must also ensure that they comply with section 47(4) of the Ordinance which states that the specified residential property must not be sold, or offered to be sold, before the date and time set out in the document containing the sales arrangements.

Q1.2 Can vendors offer to sell or sell first-hand residential properties outside the business hours of the sales office as set out in the document containing the sales arrangements?

A1.2 Under section 47(2)(a) of the Ordinance, the date and time when, and the place where, the specified residential properties will be offered to be sold, should be set out in the document containing the sales arrangements.

Section 47(4) of the Ordinance stipulates that the specified residential properties must NOT be sold, or offered to be sold, before the date and time published in the document containing the sales arrangements.

If the vendor wishes to change the business hours of the sales office, he should make available the new business hours by making available a revised document containing the sales arrangements or a new sales arrangements reflecting the revised business hours of the sales office, and comply with section 47(1) of the Ordinance.

Notwithstanding the above, there may be occasions where prospective purchasers, who have selected properties, are still waiting for the signing of the Preliminary Agreement for Sale and Purchase (PASP) upon the closing time of the sales office on a particularly busy day. Having considered the issue from the perspective of practicability and consumer expectation, we consider that vendors may, on an ad hoc and one-off basis, continue to open the sales office beyond the prescribed business hour on that day until those who have been waiting for the signing of PASP before the scheduled closing time of the sales office have completed the signing of the PASP.

Q1.3 In what way can the vendor let prospective purchasers know that some properties are kept by the vendor for leasing purpose?

A1.3 A vendor's decision to offer to sell which of the properties in the development is reflected in the documents containing the sales arrangement in which the vendor is required to state a description of the residential properties that would be offered to be sold.

Q1.4 How should the vendor state the information in the document containing the sales arrangements for specified residential property that will be offered to be sold by way of tender or auction?

A1.4 Sale by Tender

For the date and time of sale, the vendor should fill in the commencement date and closing date of the tender, and the office hours of the agent handling the tender (e.g. solicitors' firm or surveying firm).

For the place where the sale will take place, the vendor should fill in the address of the handling agent for the tender.

For the method to be used to determine the order of priority, the vendor should fill in "sale by tender – see details and particulars in the tender notice".

Under section 47(1)(a) of the Ordinance, the vendor should make available hard copies of the document containing information on the sales arrangement for collection by the general public during a period of at least 3 days immediately before a date of the sale and on such a date of sale.

The vendor should provide hard copies of the document containing information on the sales arrangements at least 3 days before the first day on which tender is accepted and from the first day on which tender is accepted up to and including the tender closing date. The vendor should also follow the

abovementioned dates in making the document containing the sales arrangements available for inspection on the designated website as required under section 47(1)(b) of the Ordinance.

The vendor should make available documents referred in section 48(1)(a) to (e) of the Ordinance at the place where the tender will be submitted (e.g. the agent handling the tender) from the first day on which tender is accepted up to and including the tender closing date.

Sale by Auction

For the date and time of sale, the vendor should fill in the auction date and time.

For the place where the sale will take place, the vendor should fill in the address at which the auction will take place.

For the method to be used to determine the order of priority, the vendor should fill in “sale by auction – see details and particulars of the auction”.

The vendor should provide hard copies of the document containing information on the sales arrangements at least 3 days before the day on which the auction is to take place and on that day. The vendor should also follow the abovementioned date in making the document containing the sales arrangements available for inspection on the designated website as required under section 47(1)(b) of the Ordinance.

The vendor should make available documents referred in section 48(1)(a) to (e) of the Ordinance at the place where the auction will take place on each of the auction date.

Q1.5 In the documents setting out the sales arrangements according to section 47 of the Ordinance, can more than one method be set out for determining the order of priority?

A1.5 Section 47(2)(d) and (e) of the Ordinance requires a vendor to specify in the document containing the sales arrangements the respective methods to determine the order of priority in which a person may select among the properties that he wishes to purchase and, where there are two or more persons interested in a particular property, in which who may proceed with the purchase of that property. In determining the order of priority, vendors may wish to use different methods during different time periods or under different circumstances. In this respect, a vendor may need to specify in the document containing the sales arrangement more than one method for the purpose of section 47(2)(d) or (e). Sufficient details should be provided so that the public can be certain about which particular method is to be used and when it is to be used. For example, a vendor may state that for the first three days of sale, the order of priority will be determined by ballot whereas for some other specified dates, it will be on a first-come-first-served basis.

Q1.6 Can the vendor adopt any registration arrangement before the first day on which the specified residential properties are offered to be sold?

A1.6 Section 47(2)(d) of the Ordinance requires a vendor to specify in the document containing the sales arrangements the method to be used to determine the order of priority in which each of the persons interested in purchasing any of those specified residential properties may select the residential property that the person wishes to purchase.

The intention of section 47(2)(d) of the Ordinance is to ensure that the sales arrangements are open and transparent so that prospective purchasers are well aware of the method to be used for determining the order of priority for selecting the specified residential property that a person wishes to purchase. The vendor should provide sufficient details in the document containing the sales arrangements on the method it will adopt.

If there is a registration system, the vendor should provide

sufficient details in the document containing the sales arrangements on the registration procedures (including how registration is to be made, the date and time when the registration commences and closes, whether any production of cashier order is required at the time of registration and whether the order of registration will have any impact on the order of priority for selecting the residential property, etc.). This is because the registration arrangement is an important information, and forms part and parcel of the sales arrangements in totality. The registration arrangement affects a prospective purchaser's chance of purchasing any residential property in the development and / or selecting the property he wishes to purchase.

The vendor should also ensure that any registration arrangements in relation to the sales of specified residential properties (whether or not accompanied by a payment of money) which take place before the first day on which the specified residential properties are offered to be sold will not constitute the vendor's seeking or acceptance of a specific expression of intent, otherwise it will amount to a contravention of section 34(2) of the Ordinance.

Q1.7 Section 48(1)(d) in the Ordinance requires that a copy of the land grant should be made available for inspection by the general public free of charge at the place where the sale is to take place. Does such a land grant include “lease modification” and “extension” which relates to a portion of the lot which has no connection with the residential portion?

A1.7 Section 48 (1)(d) of the Ordinance provides that a copy of the land grant should be made available on a date of sale for inspection by the general public at the place where the sale is to take place. In this respect, “lease modification” and “extension” should form part of the land grant.

There could be cases where separate Government leases are deemed to have been issued for different sections of the lot, for example Government rent apportionment has been done in respect of different sections of the lot and the apportionment has

been gazetted under section 22(1) of the Government Rent and Premium (Apportionment) Ordinance (Cap. 125). In such case, only the “lease modification” with respect to the section on which the development is built needs to be disclosed.

Q1.8 Section 49 of the Ordinance requires the vendor to make available the deed of mutual covenant (DMC) at the vendor’s designated website and at the sales office for inspection by the public. If the DMC has been executed and contains the personal data of the owner of the residential property in question, can such personal data be anonymized in the DMC made available to the public?

A1.8 If the DMC has been executed and contains the personal data of the owner of the residential property in question, vendor can anonymize the personal data in the DMC before making it available for inspection at the vendor’s designated website and at the sales office.

Sales of First-hand Residential Properties Authority
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