

**For discussion
on 10 April 2018**

Legislative Council Panel on Housing

The Work of the Sales of First-hand Residential Properties Authority

This paper provides Members with an update on the work of the Sales of First-hand Residential Properties Authority (“SRPA”).

Background

2. The Residential Properties (First-hand Sales) Ordinance (Cap. 621) (“the Ordinance”) came into full implementation on 29 April 2013. The Ordinance aims to enhance the transparency and fairness of the sales of first-hand residential properties, strengthen consumer protection, and provide a level playing field for vendors of first-hand residential properties.

3. The Ordinance sets out detailed requirements in relation to sales brochures, price lists, sales arrangements, register of transactions, show flats, viewing of completed residential properties, advertisements, and the mandatory provisions for the preliminary agreement for sale and purchase (“PASP”) and agreement for sale and purchase (“ASP”) for the sales of first-hand residential properties. It also provides for prohibitions against misrepresentation and the dissemination of false or misleading information.

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

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

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

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

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

6. The requirements for the sales of first-hand residential properties as set out in the Ordinance primarily serve to address the undesirable situations in the sales of first-hand residential properties in the past which the public has denounced. Since the implementation of the Ordinance, generally speaking, vendors have strictly complied with the requirements of the Ordinance which include:

- (a) presenting the area, and price per square foot and per square metre of a first-hand residential property in terms of saleable area only;
- (b) if any show flat for a first-hand residential property in an uncompleted development/phase is to be made available, the vendor must first make available an unmodified show flat of that residential property before making available a modified show flat;
- (c) making available the sales brochure for a period of at least seven days immediately before the date of sale, making available the price list(s) and the sales arrangement(s) for a period of at least three days immediately before the date of sale, and waiting for three days before offering to sell those first-hand residential properties if there are amendments made to the price list(s) and the document(s) containing the sales arrangement(s) of those residential properties;
- (d) on each date of sale, irrespective of whether there is a transaction on a particular date, making available the register of transactions for inspection by the general public free of charge at the sales office; from the first date of sale until the date on which the first assignment of the last property of the development/phase sold is registered in the Land

Registry, making available the register of transactions for inspection on the designated website, and at the same time, providing an electronic copy of the register of transactions to SRPE after an entry into the register of transactions has been made; and

- (e) purchasers may make use of the SRPE and the website designated by the vendor at any time to inspect the various sales documents and the register of transactions for a development/phase to get to know the sales situation of the development/phase.

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

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

9. There has been a smooth supply of first-hand residential properties since the Ordinance has come into implementation. In the period from the full implementation of the Ordinance on 29 April 2013 to 28 February 2018, vendors have offered to sell about 76 000 first-hand residential properties in about 341 residential developments/phases. The breakdown by calendar year is as follows:

Year	Number of first-hand residential properties offered for sale by vendors
2013 (since 29 April 2013)	8 295
2014	15 944
2015	16 423
2016	15 482
2017	18 466
2018 (as at 28 February 2018)	1 405
Total	76 015

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

Work of the SRPA

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

Compliance checks on sales documents

12. The SRPA examined the sales brochures, price lists, documents containing the sales arrangements, registers of transactions and the designated websites which were made available to the public by vendors. Also, the SRPA examined advertisements for first-hand residential properties, and other forms of promotional materials on first-hand residential properties.

13. As at 28 February 2018, the SRPA has examined sales documents of 354 developments/phases, including sales brochures, price lists, documents containing the sales arrangements and advertisements. Also, the SRPA has conducted inspections of registers of transactions and vendors' designated websites of these developments.

Inspections of sales offices and show flats

14. The SRPA has inspected all the sales offices and show flats of first-hand residential properties open to the public on or after 29 April 2013. As at 28 February 2018, the SRPA has conducted about 2 900 inspections of those sales offices and show flats, including those jointly conducted with the Estate Agents Authority ("EAA").

Investigations and prosecutions

15. It is the function and work of the SRPA to conduct investigations into whether the vendors or any persons are suspected of contravening the Ordinance during the sales of first-hand residential properties. The authority to decide whether there is sufficient evidence to prove if the vendors or any persons are

suspected of contravening the Ordinance and if prosecution action is to be taken is vested with the Prosecutions Division of the Department of Justice (“DoJ”).

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

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

18. As at 28 February 2018, prosecutions have been taken against the vendors of four developments (including one arising from a complaint case and three from self-initiated investigations) involving 77 counts of offence. The charges are mainly about contraventions of the provisions of the Ordinance in respect of sales brochures, price lists, advertisements and the mandatory provisions for PASP and ASP. The vendors concerned were convicted and fined a total of HK\$1.868 million. The SRPA has uploaded information of the offences concerned onto its website for public viewing.

Educating the public on matters relating to the Ordinance

19. To give the general public a better understanding of and the consumer protection afforded by the Ordinance, as well as the points prospective purchasers should pay attention to when purchasing first-hand residential properties, the SRPA has published a comic booklet titled “Everything You Need to Know When Purchasing a First-hand Residential Property” to deliver the above messages in a simple and user-friendly manner.

20. The SRPA will launch a new set of TV and radio Announcements in the Public Interest (API) in mid-April 2018 to remind prospective purchasers to study the sales brochures, price lists and sales arrangements made available by vendors of the development, check the payment terms, mortgage details and total expenses and think about their affordability before purchasing first-hand residential properties.

21. To highlight the points prospective purchasers should note when purchasing first-hand residential properties, the SRPA has updated the content of “Notes to Purchasers of First-hand Residential Properties” (“the Notes”) and its promotional pamphlet. Prospective purchasers are reminded that the estimated material date of a development/phase is not the handover date; dimensions of residential properties in floor plans exclude plaster and finishes; whether pets can be kept in a residential development can be checked from a deed of mutual covenant. They are also advised to check information on the progress of sales from the “consumption table” displayed in the sales offices and study details of mortgage loan plan before signing the PASP.

22. To enhance consumer protection, the SRPA has distributed the Notes, promotional pamphlets and other publicity materials in sales offices and show flats of first-hand residential developments/phases to draw prospective purchasers’ attention to the things they need to consider when purchasing first-hand residential properties. Publicity materials carry slogans reminding them to check mortgage details and take into account their affordability before signing the PASPs. From May 2017 to 28 February 2018, such materials were distributed on 39 occasions covering 22 first-hand residential developments/phases.

23. Besides, from January 2017 to end-March 2018, the SRPA has published one Frequently Asked Question and Answer (“FAQ”), four reminders and four experience sharing cases to warn prospective purchasers against market rumors. They should refrain from purchasing units beyond their affordability or not their preference; check the number of units in the development/phase not yet offered for sale by the vendor and the sales situation of the development/phase from the registers of transactions and consumption tables; and also be aware that the estimated material date of the development/phase is not the handover date. At the same time, prospective purchasers should take note that the surrounding environment of a development/phase is subject to change in the future and should study the information regarding the ancillary facilities provided by vendors of the residential developments; and think carefully before submitting bids to purchase first-hand residential properties offered to be sold by way of tender. All the above information can be found on the SRPA website.

Helping the trade to understand the requirements of the Ordinance

24. According to section 88(1) of the Ordinance, the SRPA issues guidelines, practice notes and FAQs to help the trade understand the requirements of the Ordinance. In response to issues raised by Members of the Panel at the last meeting, the SRPA has issued three FAQs for the trade providing information regarding public utility installations, whether pets are

allowed in a residential property development and management fees. From April 2013 to end-March 2018, the SRPA has issued six sets of guidelines covering matters on sales brochures, price lists, sales arrangements, register of transactions and how to submit documents to the SRPA and the SRPE; and prepared eight sets of practice notes and 124 FAQs to the trade. The SRPA will continue to maintain close liaison with vendors, related parties and relevant stakeholders to understand their concern and to exchange views.

25. In most circumstances, estate agents are the first contact point of prospective purchasers in the course of purchasing first-hand residential properties. Their understanding of and compliance with the Ordinance are of paramount importance in maintaining transparency and achieving consumer protection in the sales process. Therefore, in collaboration with the EAA, the SRPA held a seminar for estate agents in November 2017 under the EAA 'Continuing Professional Development Scheme' for estate agents. In the seminar, representatives from the SRPA explained the key requirements of the Ordinance especially those for advertisements that estate agents should take note of when promoting first-hand residential properties and prohibitions against misrepresentation and dissemination of false or misleading information. The SRPA would prepare FAQs on the points about which estate agents had concerns and upload them onto the SRPA website. In addition, the SRPA has provided questions related to the Ordinance for the EAA for reference when setting questions for Estate Agents Qualifying Examination.

26. The SRPA attaches great importance to whether the sales arrangements adopted by the vendors are in line with the principles of transparency and fairness. For sales arrangements which do not contravene the Ordinance but may possibly cause a public order problem or affect purchasers' interest, the SRPA will advise the concerned vendors on improvement measures and issue guidelines to the trade. In March 2018, the SRPA issued a reminder on sales arrangements to ask the trade to comply with the provisions of the Ordinance and refer to the guidelines and practice notes to make available relevant documents and information in a timely manner when selling first-hand residential properties.

Handling enquiries

27. As at 28 February 2018, the SRPA has received about 6 100 enquiries.

28. The enquiries were made by vendors, stakeholders relating to the sales of first-hand residential properties such as conveyancing solicitors and authorised persons, and members of the public. The enquiries were diversified in nature, including the application of the Ordinance, the interpretation of specific provisions of the Ordinance, and how individual first-hand residential

developments/phases might comply with the Ordinance. The SRPA has promptly responded to enquiries which are straightforward in nature, and has responded to the majority of those more complicated enquiries within 21 days from the date of receipt of the enquiries.

Handling complaints

29. The SRPA will issue an interim reply or an acknowledgement of receipt to a complainant within 10 days from the date of receipt of the complaint. For complaints of a straightforward nature, the SRPA will reply within 21 days from the date of receipt of the complaint. For complaints of a complicated nature, the SRPA will have to collect evidence and conduct investigations, and may have to seek the advice of DoJ in the process. If a substantive reply cannot be made within 21 days from the date of receipt of the complaint, the SRPA will inform the complainant in writing on or before the prescribed due date for a substantive reply and inform the complainant the progress of the complaint case on a monthly basis.

30. As at 28 February 2018, the SRPA has received 267 complaint cases (see **Annex**). Among them, 214 cases are related to the Ordinance while the remaining 53 cases are not. Amongst those 214 complaint cases relating to the Ordinance, the offender of one case was prosecuted and convicted. 181 complaint cases are not substantiated. The SRPA is still following up on the remaining 32 cases.

31. The SRPA has a record-low number of complaints in 2017. This reflects that the work of the SRPA in the past year in strengthening public education, fostering public awareness of the Ordinance and improving compliance of the Ordinance by the trade has effectively enhanced the transparency and fairness of the sales of first-hand residential properties and strengthened protection to purchasers.

Looking ahead

32. The SRPA believes that public education on the requirements of the Ordinance and efforts to assist the trade in understanding the requirements of the Ordinance are vital to its effective implementation. The SRPA will continue to remind prospective purchasers issues they should pay attention to when purchasing first-hand residential properties through different channels. The SRPA plans to produce short video clips to help prospective purchasers understand how to read sales documents and the protection the Ordinance affords them.

33. In the meantime, the SRPA will continue to communicate with the trade and issue reminders in response to different issues to help vendors make improvement and enhance estate agents' understanding of the requirements of the Ordinance. The SRPA will continue to organise seminars in conjunction with the EAA on a regular basis. Besides, the SRPA will step up inspection of estate agencies and foster closer ties with estate agents to draw their attention to the requirements of the Ordinance for advertisements and the prohibitions against misrepresentation and the dissemination of false or misleading information.

34. The SRPA expects more new challenges ahead given that more and more first-hand residential properties will be offered for sale. The SRPA will continue the three-pronged approach to step up compliance checks and inspections; improve the trade's compliance with the Ordinance; and foster public awareness of the Ordinance, with a view to further enhancing the transparency and fairness of the sales of first-hand residential properties, strengthening consumer protection, and providing a level playing field for vendors of first-hand residential properties.

**Sales of First-hand Residential Properties Authority
Transport and Housing Bureau
March 2018**

**Complaints Received by the Sales of First-hand Residential Properties Authority
(From April 2013 to February 2018)**

	Category of Complaint	2013 (from 29 April)	2014	2015	2016	2017	2018 (as at 28 February)	Cumulative Total
(a)	Sales brochure	4	10	12	9	6	7	48
(b)	Price list	1	1	0	4	1	0	7
(c)	Sales arrangements	14	10	6	6	5	0	41
(d)	Show flats	0	0	0	2	1	0	3
(e)	Viewing of completed residential properties	0	5	1	0	0	0	6
(f)	Preliminary agreement for sale and purchase and/or agreement for sale and purchase	1	0	1	0	0	0	2
(g)	Register of transactions	1	1	0	1	0	0	3
(h)	Advertisements	2	6	15	27	7	0	57
(i)	Website	1	0	0	0	0	0	1
(j)	Misrepresentation and/or dissemination of false or misleading information	6	15	9	10	6	0	46
(k)	Others (Not related to the Ordinance)	5	24	8	11	5	0	53
	Total	35	72	52	70	31	7	267