

Residential Properties (First-hand Sales) Ordinance

Frequently Asked Questions and Answers (FAQs)

FAQs on Areas of Residential Properties

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 Apart from the “saleable area” as stipulated in section 8 of the Ordinance and the areas of any of those 10 items as specified in Part 1 of Schedule 2 to the Ordinance, there may be other types of areas which form part of a specified residential property and which the vendors are selling to the purchaser. How and where in a sales brochure can the vendors describe and set out those areas?

A1.1 Information required to be provided in a sales brochure and a price list is stipulated in the Ordinance. In respect of the area schedule in a sales brochure and a price list, vendors should only provide (i) saleable area and (ii) the area of the 10 items specified in Part 1 of Schedule 2 to the Ordinance which forms part of the residential property. These requirements are set out in section 11 in Part 1 of Schedule 1 to the Ordinance (sales brochure) and section 31(2) of the Ordinance (price list). Provision of additional area

information in the area schedule in sales brochure and price list is not allowed under sections 23(1) and 31(9) of the Ordinance. Vendors must not add additional information on their own.

While vendors must not add additional information to the area schedule in a sales brochure and a price list, if there is any feature of a residential property to which the vendors would like to draw the purchaser's attention, information such as dimensions and areas of the features may be marked on the relevant floor plan or provided in an explanatory note or remark for the relevant floor plans in the sales brochure.

Q1.2 Can air handling unit (AHU) room or variable refrigerant volume (VRV) room be regarded the same as the air-conditioning plant room in Part 1 of Schedule 2 to the Ordinance?

A1.2 AHU is a kind of air-conditioning plant. VRV system is basically a multiple split type air-conditioning system with a condenser which may be placed inside a residential property. There may also be other types of air-conditioning plant room under various different names.

For residential developments which have room(s) solely used for housing AHU, the condenser of a VRV system (or facilities which are in fact a kind of air-conditioning plant regardless of the different names they are called), the sales brochure should set out the floor area of such room(s) in the way as specified under section 11(2)(c) in Part 1 of Schedule 1 to the Ordinance.

Q1.3 If there is a swimming pool on the roof, can the area of the swimming pool be included in the roof as set out under Part 1 of Schedule 2 to the Ordinance?

A1.3 The area of a swimming pool within a roof should be included in the area of the roof. Likewise, if there is a swimming pool within a garden, the area of the swimming pool should be included in the area of the garden.

If vendors wish to inform the prospective purchasers that there is a swimming pool within the roof (or garden), he may do so by adding an explanatory note or remark to the relevant floor plan in the sales brochure. The dimensions and area of the swimming pool may also be indicated in that note or remark (No.1.1 of FAQs on Areas of Residential Properties above is relevant).

Q1.4 Can the floor area of a staircase leading to a garden be included in the area of garden set out under Part 1 of Schedule 2 to the Ordinance?

A1.4 In computing the area of a garden for the purpose of section 4 in Part 2 of Schedule 2, the area of any uncovered and unenclosed staircase leading to the garden should be included.

Q1.5 Whether the bay window of a residential property should be measured up to the external edges of the window frames or the window glass surfaces?

A1.5 According to Part 2 of Schedule 2 to the Ordinance, the area of a bay window is to be measured from the exterior of the enclosing walls or glass windows of the bay window. If a bay window is to be measured from the exterior of the glass windows, it can be measured up to the external edges of the window frames.

Q1.6 If part of the enclosing wall of a residential property is a column and not a wall, should the thickness of the column be included in the saleable area of that residential property according to section 8 of the Ordinance?

A1.6 If part of the enclosing wall of a residential property is a column and not a wall, the “column” is considered as the enclosing wall. The saleable area of the residential property shall be measured up to the exterior of the enclosing walls (i.e. the full thickness of the walls (excluding wall finishes) is included) or the centre line of a separating wall between adjoining units.

Q1.7 If the enclosing wall of a residential property adjoins a non-residential property, shall the measurement of saleable area of the residential property be taken from the middle of the wall according to section 8 of the Ordinance?

A1.7 It has been an established practice that, for an enclosing wall which separates a residential property from an adjoining residential/non-residential property, the measurement is to be taken from the middle of the separating wall.

The Ordinance is silent on how the area of a residential unit adjoining a non-residential unit should be measured. If, in the case of a residential property which has an enclosing wall adjoining a non-residential property, vendors follow the established practice of taking the measurement of that wall from the middle of it, the SRPA will not consider the vendor having breached section 8 or any other provisions of the Ordinance.

Q1.8 Can the area of filtration plant room be counted as saleable area of a residential property?

A1.8 Whether an item can be considered as part of the saleable area of a residential property will depend on whether it falls within the definition of “saleable area” under section 8 of the Ordinance, which question turns on the particular facts of an individual case.

Q1.9 Can “private lift lobby” be counted into the “saleable area” of a first-hand residential property?

A1.9 Whether an item can be considered as part of the saleable area of a residential property will depend on whether it falls within the definition of “saleable area” under section 8 of the Ordinance, which question turns on the particular facts of an individual case.

Under section 8(1) of the Ordinance, “saleable area” in relation to a residential property –

- (a) means the floor area of the residential property;

- (b) includes the floor area of every one of the following to the extent that it forms part of the residential property -
 - (i) a balcony;
 - (ii) a utility platform;
 - (iii) a verandah; and

- (c) excludes the area of every one of the items specified in Part 1 of Schedule 2 to the extent that it forms part of the residential property.

According to section 8(2) of the Ordinance, for the purposes of the Ordinance, the floor area of a residential property –

- (a) subject to subsection (4), is to be measured from the exterior of the enclosing walls of the residential property;

- (b) includes the area of the internal partitions and columns within the residential property; and

- (c) excludes the area of any common part outside the enclosing walls of the residential property.

Whether a “private lift lobby” can be counted into the “saleable area” of a first-hand residential property should depend on whether the “private lift lobby” is both (i) legally and (ii) physically made for the exclusive use of the owner of the residential property in question.

In general, if a “private lift lobby” is to be counted into the saleable area of a residential property, the provisions of the deed of mutual covenant of the development / phase, the agreement for sale and purchase of the residential property and the assignment of the residential property should clearly provide that the “private lift lobby” is to be made legally for the exclusive use of the owner of the residential property in question. Therefore, one may ascertain if a “private lift lobby” is for the exclusive use of the owner of a residential property by reviewing the provisions of the relevant deed of mutual covenant, agreement for sale and purchase, and assignment applicable to the residential property.

As to whether a lift lobby is physically made for the exclusive use of the owner of the residential property, it depends on whether the owner of the residential property can assert exclusive physical control of the entrance(s) to the lift lobby (e.g. by keys, access cards or other security system or equipment), in other words, whether the lift lobby can be reasonably secured to prevent any other persons from entering into it whether as of right or accidentally. This is a matter of fact and depends on the physical construction and layout of the lift lobby.

For instance, for a private lift lobby to be counted into the saleable area of a first-hand residential property, the design of the path of the exit route(s) for the other residents of the other parts of the development to escape in the event of a fire should not pass through the lift lobby in question.

Q1.10 For house-type development, it is common that a carport, instead of merely a car parking area, is provided to a house. Should the entire carport or only the parking space be excluded from saleable area under section 8(1)(c) of the Ordinance?

A1.10 A carport is primarily for use by vehicle(s) and, in general, comprises area(s) for parking purposes and maneuvering area(s) for vehicles.

In a non-house type residential development, the maneuvering areas usually form part of the common areas of the development and therefore do not form part of a parking space.

In the case of a house type residential development, the area of the entire carport of a residential property may be taken into account in the measurement of parking space for the purpose of Part 1 of Schedule 2 to the Ordinance, and will be excluded from the saleable area of the residential property for the purpose of the Ordinance.

According to section 3 in Part 2 of Schedule 2 to the Ordinance, the area of a parking space is measured from the interior face of its enclosing walls where there are enclosing walls.

The area of a parking space of the residential property for the purpose of Part 1 of Schedule 2 to the Ordinance should be set out in the sales brochure according to section 11 in Part 1 of Schedule 1 to the Ordinance. If the land grant of a house type residential property has designated an area to be used for parking purposes, which is to be located within a carport, vendors are advised, for the sake of clarity, to state in the sales brochure the area inside the carport which is designated under the land grant for parking purposes, in order to distinguish it from the other area(s) of the carport .

Q1.11 According to section 11 in Part 1 of Schedule 1 to the Ordinance, vendors are required to provide information on saleable area and the area of the 10 items as specified in Part 1 of Schedule 2 to the Ordinance in the sales brochure in square feet and in square metres. What conversion formula should be adopted?

A1.11 Vendors are free to adopt their own conversion formula. In this respect, vendors may wish to add an explanatory note or remark in the sales brochure under the section of “area of residential properties in the development” to set out the conversion formula.

Sales of First-hand Residential Properties Authority
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