Residential Properties (First-hand Sales) Ordinance

Frequently Asked Questions and Answers (FAQs)

FAQs on Sales Brochure

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.

1. General

Q1.1 Can the sales brochure prepared for the purposes of section 25 of the Ordinance be divided in two or more volumes?

A1.1 Vendors may split the sales brochure for a development or a phase of a development into two or more volumes. However, the information should be set out in the order as specified in sections 19 to 21 of the Ordinance. Also, vendors should make available all the volumes to the general public in the sales offices and websites.

Q1.2 How to define a phase of a development under the Ordinance?

A1.2 The definition of a "development" is set out in section 3(1) of the Ordinance.

Having defined what constitutes a "development", section 3(3) of the Ordinance further defines the factors for determining whether a development is divided into two or more phases. For the purposes of the Ordinance, whether a development is divided into two or more phases depends on the building plans approved under the Buildings Ordinance (Cap. 123).

Assuming Development A consists of 4 blocks of buildings. If building plans are submitted to the Building Authority (BA) in respect of all the four blocks of buildings as a whole and the plans are subsequently approved by the BA, Development A is regarded as a single development.

If two sets of building plans are submitted to the BA, each covering two blocks of buildings, and the plans are subsequently approved by the BA, the development is considered as having two phases.

If all four blocks of buildings are submitted to and approved by the BA in one set of plans including a phasing plan which demarcates the development as comprising two phases, the development is considered as having two phases.

Q1.3 Can the name of the development be set out in a sales brochure? Can the district of the development be set out in a sales brochure?

A1.3 While there are various requirements under Division 2 of Part 2 of the Ordinance on the contents of sales brochure for a development, there is no requirement as to how a development is to be identified in the sales brochure. Thus, the development may be referred to in the sales brochure by its name.

Vendors should only provide the street name and the street number of the development as allocated by the Commissioner of Rating and Valuation, but not the district of the development, in the sales brochure.

Q1.4 Can company logo of the vendor or any of its holding companies or the sales hotline be shown in a sales brochure?

A1.4 According to section 23(1) of the Ordinance, the sales brochure for the development must not set out any information other than the information required or authorized by this Ordinance. There is no provision in the Ordinance which requires or authorizes the provision of company logo or sales hotline in a sales brochure.

Q1.5 The Ordinance requires various mandatory information be set out in a sales brochure of the development. Can such information be set out in the sales brochure in the form of a remark or footnote?

A1.5 Information required to be set out in a sales brochure under sections 19 to 23 of the Ordinance is important information for prospective purchasers. The use of explanatory notes or remarks for the main text are allowed in order to provide some flexibility as to the presentation of the requisite information in the sales brochure, which may be more readable as a result. There is no reason why information that should be set out in the main text is all placed in the explanatory notes or remarks. Inappropriate presentation of information in the sales brochure will cause confusion to readers, which should be avoided.

Q1.6 Section 24(7) of the Ordinance stipulates that a reference to an explanatory note or remark for the main text of the sales brochure excludes a note or remark that qualifies the contents of the main text. What does it mean by "qualifies the contents of the main text"?

A1.6 If a note or remark gives information that will impose condition(s) or restriction(s) on the main text, it has qualified the contents of the main text.

Examples of notes or remarks which may be regarded as "qualifiers" are as follows –

- "In case of inconsistency between English version and Chinese version, the English version shall prevail"; and
- "The residents may need to pay a fee to use the facilities mentioned above".

Examples of "explanatory remark" are as follows –

- The figures have been rounded up to 2 decimal places; and
- The plan is prepared according to the building plans approved by the Building Authority on 1 January 2012.

Section 24(7) of the Ordinance requires that:

(a) for a "qualifier" in the English text, the size of a letter or number must not be smaller than the size of the same letter or number in 10 point Times New Roman typeface; and
(b) for a "qualifier" in the Chinese text, the size of a character or number must not be smaller than the size of the same character or number in 10 point "新細明體" typeface.

Q1.7 The Ordinance requires setting out different information relating to the development in the sales brochure (as set out in sections 19 to 23 of the Ordinance). What if the information is not yet confirmed and not yet available at the time of printing of the sales brochure?

A1.7 For information required to be provided in a sales brochure under sections 19(2) and Part 2 of Schedule 1 as applied by section 19(3) of the Ordinance, if the required information is not applicable to the development, a paragraph for such information with the appropriate heading should be provided in the sales brochure stating that such information is not applicable to the development. For example, if the information on "maintenance of slopes" under section 27 in Part 2 of Schedule 1 to the Ordinance is not applicable to the development, an appropriate heading (e.g. maintenance of slopes") should be provided and "not applicable" should be stated. If the information required under a **subsection** of a section in Parts 1 and 2 of Schedule 1 is

not applicable, vendor should state clearly which subsection is not applicable.

If the required information is applicable to the development but is not yet confirmed at the time when the sales brochure is printed, vendors should in their best endeavor provide in the sales brochure the latest information on those aspects known to him, though not yet confirmed. The accuracy of the information in question should be considered when the sales brochure is examined as provided under section 17 of the Ordinance and such information may be revised if necessary.

Q1.8 If there are changes to the information contained in the sales brochure but the "3-month period" is yet to expire, does the vendor have any obligation to examine and revise the sales brochure?

A1.8 Section 17(1) of the Ordinance stipulates that vendors may, for the purpose of making sales brochure available to general public in accordance with section 25 of the Ordinance, examine to ascertain whether or not the information set out in the sales brochure is accurate as at the date of the examination. Section 25(9) of the Ordinance stipulates that a reference to the sales brochure for the development is a reference to the sales brochure for the development printed, or examined under section 17(1) of the Ordinance, within the previous 3 months. In other words, vendors are obliged to make available a sales brochure that is printed/examined/revised within the previous 3 months.

While vendors have no obligation under the Ordinance to examine the sales brochure before the 3-month period is expired, they may wish to consider the need to examine and revise the sales brochure if there are substantial changes to the contents of the sales brochure taking into account public expectation.

Q1.9 Section 24(1) of the Ordinance requires the sales brochure be printed in English and Chinese. For the Chinese version, should it be traditional Chinese or simplified Chinese?

A1.9 The sales brochure should be printed in English and Chinese. For the Chinese version, either traditional Chinese or simplified Chinese is acceptable as far as the Ordinance is concerned. That said, vendors may wish to consider public acceptance if they intend to produce the Chinese version of a sales brochure in simplified Chinese only, taking into account the target readers of the sales brochure.

Q1.10 How can vendors provide information which is not required or authorized to be shown in the sales brochure by the Ordinance?

A1.10 Section 23(1) of the Ordinance specifies that the sales brochure for the development must not set out any information other than the information required or authorized by the Ordinance. For information that is not required or authorized by the Ordinance, vendors may set out such information in other publications or promotional materials. However, vendors should ensure that such publications or promotional materials will not provide false or misleading information.

2. Information on vendors and others involved in the development

Q2.1 Section 2 in Part 1 of Schedule 1 to the Ordinance requires the provision of the name of the holding company of the vendor in the sales brochure. If there is no holding company within the meaning of the Companies Ordinance (Cap. 32), can the names of all the companies which hold shares in the vendor be given in the sales brochure?

A2.1 According to section 2 of the Ordinance, "holding company" means a holding company within the meaning of the Companies Ordinance. There will not be any holding company for the vendor of the development if no such company falls within the meaning of "holding company" as provided in the Companies Ordinance. In such circumstances, the company which holds shares in the vendor should not be described as a holding

company in the sales brochure as part of the information required under section 2(2) of Part 1 of Schedule 1 to the Ordinance. Vendors may however provide such information in the advertisements or other publications.

Q2.2 If a vendor has a chain of holding companies, does the vendor have to state the names of every holding company in relation to the "information on vendor and others involved in the development" in a sales brochure?

A2.2 For the purpose of section 2(2)(a) in Part 1 of Schedule 1 to the Ordinance, "every holding company of that vendor" means each and every company in the chain of holding companies at the bottom of which is the vendor. This is also applicable to section 73(3)(a) of the Ordinance in stating the name of every holding company of the vendor in printed advertisement.

Q2.3 If more than one authorized person (AP) or building contractor has been hired for the building works of a development at different time points, should the names of all such APs and building contractors be provided in the sales brochure under section 2(2) in Part 1 of Schedule 1 to the Ordinance?

A2.3 If more than one AP or building contractor has been hired for a development at different time points, vendors are only required to state the name of the person holding such capacity as at the date of printing of the sales brochure.

However, if vendors so wish, they may provide the names of all the APs or building contractors that have been hired for the development in the past, provided that the period of appointment in relation to each of such persons is clearly indicated.

Q2.4 According to section 2(2)(e) in Part 1 of Schedule 1 to the Ordinance, vendor is required to provide the name of any authorized institution that has made a loan, or has undertaken to provide finance, for the construction of the

development. If the loan has been settled, or if the undertaking has been expired or terminated, should such information be provided in the sales brochure?

A2.4 According to section 2(2)(e) in Part 1 of Schedule 1 to the Ordinance, vendors are required to provide the name of any authorized institution that has made a loan, or has undertaken to provide finance, for the construction of the development. Even if the loan has been settled, or the undertaking has been expired or terminated, such information should still be provided in the sales brochure, but a remark or an explanatory note may be added to state the current status of the loan or the undertaking.

3. Location plan

Q3.1 Section 6(2)(b)(iii) in Part 1 of Schedule 1 to the Ordinance requires that the location plan of the development should show every building, facility or structure (if any) if they are used principally as the items specified in section 6(4) in Part 1 of Schedule 1 to the Ordinance. If only one floor in a multi-storey building is used as a library, is the library a principal use of that building?

A3.1 The objective of the requirement to show the building, facilities or structure the principal use of which is set out under items (a) to (zq) of section 6(4) in Part 1 of Schedule 1 to the Ordinance is to provide prospective purchasers of first-hand residential properties of a development to be aware of those facilities near the development. Items set out in section 6(4) in Part 1 of Schedule 1 to the Ordinance are likely to give rise to concerns on aspects such as traffic, noise level, air quality, odour, environment, hygiene, fire hazard, pedestrian flow, crowdedness, or tranquility, which affects the day-to-day living of residents in the development.

Vendors are expected to conduct field trips to identify those items under section 6(4) in Part 1 of Schedule 1 to the Ordinance, the majority of which are self-explanatory.

We set out below what SRPA expects vendors to include under the following items:

- A columbarium (item b): any public columbarium as shown on the list of public columbaria in the Food and Environmental Hygiene Department's (FEHD) website, and any private columbarium as shown on the list of private columbaria in the Development Bureau's website.
- A clinic (item y): any of the clinics run by the Hospital Authority and/or the Department of Health.
- A refuse collection point (item ze): any of the refuse collection points managed by FEHD.
- A market (including a wet market and a wholesale market) (item zg): a market, including a wet market and a wholesale market, but excluding a supermarket and a shopping centre.
- A school (including a kindergarten) (item zn): a school, including a kindergarten, that is registered under the Education Ordinance (Cap. 279).
- Social welfare facilities (including an elderly centre and a home for the mentally disabled) (item zo): any of the social service facilities as set out in the Social Welfare Department's website.
- Sports facilities (including a sports ground and a swimming pool) (item zp): sports facilities, including a sports ground and a swimming pool, managed by the Leisure and Cultural Services Department.

As regards "a religious institution (including a church, a temple and a Tsz Tong)" (item zm), vendors are expected to show on the location plan those religious institutions that a member of the public will visually notice and recognize as a religious institution.

If the principal use of a structure or facility that is situated within 250 metres from the boundary of the development is one of those specified in section 6(4) in Part 1 of Schedule 1 to the Ordinance, it must be shown on the location plan of the development regardless of the percentage of areas that such structure or facility accounts for the total area of the building in which it is situated.

Q3.2 Are vendors required under the Ordinance to show in the location plan the name of street, or building, facility or structure specified in section 6(4) in Part 1 of Schedule 1 to the Ordinance that is situated within the boundary of a development?

A3.2 According to section 19(2)(f) of the Ordinance, the sales brochure for a development must set out a location plan of the development. Section 6(2)(b)(ii) and (iii) in Part 1 of Schedule 1 to the Ordinance requires that the location plan must show the name of every street that is situated within 250 metres from the boundary of the development and every building, facility or structure (if any) specified in section 6(4) in Part 1 of Schedule 1 to the Ordinance that is situated within 250 metres from the boundary of the development.

The Ordinance does not include specific provisions to require the vendors to show in the location plan the name of the street, or building, facility or structure specified in section 6(4) in Part 1 of Schedule 1 to the Ordinance that is situated within the boundary of the development.

That said, if there is any feature within or outside the boundary of a development which is likely to materially affect the enjoyment of any residential property in the development, and such information is not otherwise required to be set out in the sales brochure and is known to the vendor but is not known to the general public, the vendor should provide such information under section 20(1) of the Ordinance (see also No. 20.2 and 20.3 of FAQs on Sales Brochure regarding relevant information below).

4. Outline Zoning Plan

Q4.1 Can more than one outline zoning plan (OZP) be provided in the sales brochure according to section 8 in Part 1 of Schedule 1 to the Ordinance if a single outline zoning plan cannot cover all the areas within 500m from the boundary of

the development? What should the vendor do if the location of the development on any of the OZPs falls outside the coverage of the relevant OZP?

A4.1 If more than one OZP are required to cover all the areas within 500m from the boundary of the development, all of such OZPs should be shown in the sales brochure. Vendors are advised to provide the "title", "plan number" and "gazette date" of all such plans in the same page where the plan is provided in the sales brochure. If the location of the development on any of such OZPs falls outside the coverage of the relevant OZP, vendors are advised to, for readers' reference, mark the boundary of the development in the blank area of the OZP concerned so as to indicate, to scale, the distance from the development to those areas shown on that OZP.

5. Layout plan

Q5.1 Is it necessary for vendors to set out the details of the layouts within the residential properties in the development when preparing the layout plan in the sales brochure? In cases where the development is of a large size, can the vendor include in the sales brochure more than one plan that highlights the layout of a particular part of the development?

A5.1 According to section 19(2)(i) of the Ordinance, the sales brochure for a development must set out a layout plan of the development in compliance with Part 1 of Schedule 1 to the Ordinance. It is required under section (9)(2)(a) and (b) in Part 1 of Schedule 1 to the Ordinance that the layout plan must have the scale to which it is drawn marked on that plan and must show the location and layouts of the buildings, the open areas, the facilities, and the undeveloped land (with the intended use), within the boundary of the development. The layout plan of a development is not required to set out details of the layouts within the residential properties in the development.

Also, the SRPA takes the view that vendors may, in addition to the layout plan of the development, include in the sales brochure more than one plan that highlights the layout of a particular part of the development as long as all those plans must comply with the requirements as set out under section 9 in Part 1 of Schedule 1 to the Ordinance.

Q5.2 Section 9 in Part 1 of Schedule 1 to the Ordinance requires the provision of a layout plan of the development and should state the estimated date of completion of the buildings or facilities that have not been completed. Are vendors only required to provide the estimated date of completion of those buildings as set out in the general building plans approved by the Building Authority? What should the vendor do if the development comprises many phases some of which are not yet planned?

A5.2 Section 9 in Part 1 of Schedule 1 to the Ordinance requires the provision of a layout plan of the development, which, if any of the buildings or facilities of the development are not yet completed, must state the estimated date of completion of these buildings or facilities, as provided by the authorized person (AP) for the development.

If the construction of a building or facility in the development is still at a stage where no building plans have been approved, the vendor may omit that building or facility in the layout plan. Once the building plans of such a building or facility have been approved by the Building Authority, SRPA expects vendors to include such information in the layout plan when the sales brochure is examined under section 17(1) of the Ordinance.

If a vendor has no planning as to the use of a particular phase in the development and no AP has been appointed in respect of that phase, the vendor may indicate such phase in the layout plan with a remark that the intended use of the phase has not been decided and no AP has been appointed.

Q5.3 According to section 9(2)(c) in Part 1 of Schedule 1 to the Ordinance, the layout plan of a development must state the estimated date of completion of those buildings or facilities which are not yet completed as provided by the authorized person (AP) for the development. In estimating the date of completion of those buildings or facilities, what is the definition of "completion" of those buildings or facilities?

A5.3 In estimating the date of completion of those buildings or facilities, the AP for the development should work on the basis of the estimated date for issue of Occupation Permit for the building or facility concerned. Vendors should set out the date as provided by the AP for the development in the layout plan to comply with section 9(2)(c) in Part 1 of Schedule 1 to the Ordinance.

6. Plans and photographs

Q6.1 The Ordinance requires the provision of a location plan, an aerial photograph and an outline zoning plan in the sales brochure, and such plan/photo should show the area within 250 metres, 250 metres and 500 metres from the boundary of the development respectively (i.e. sections 6, 7 and 8 of Part 1 of Schedule 1 to the Ordinance). Can the plan/photo show the area beyond 250 metres/500 metres from the boundary of the development?

A6.1 The location plan, aerial photograph and outline zoning plan should only show the area within 250m, 250m and 500m from the boundary of the development respectively, except due to technical reason such as the irregular boundary of the development which makes it impractical to show exactly 250m/500m from all the points on the boundary of the development.

If, due to technical reason, the location plan, aerial photograph or the outline zoning plan has shown more than the area required

under the Ordinance, vendors may add an explanatory note or remark to state such facts.

If there is any feature outside the 250m/500m boundary which is likely to materially affect the enjoyment of the residential property, and the information is known to the vendor but is not known to the general public, vendor is advised to provide such information as "relevant information' under section 20(1) of the Ordinance.

7. Floor plans of residential properties in the development

Q7.1 Assuming the vendor will provide furniture (e.g. a dining table) to the purchaser, is the vendor required to show the furniture and state the dimension of the furniture in the floor plan in a sales brochure under section 10(2)(b) in Part 1 of Schedule 1 to the Ordinance?

A7.1 The Ordinance requires the dimensions of furniture to be stated if they are shown in a floor plan in the sales brochure (under section 10(2)(b) in Part 1 of Schedule 1) or in any other publications to be made available by the vendor for collection or inspection by the general public (under section 50(1) of the Ordinance). Whether the furniture is sold together with the residential property is irrelevant, i.e. the furniture shown on the floor plan may or may not be sold together with the residential property, and vendors are not obliged to show the furniture to be sold together with the residential property on the floor plan.

Q7.2 What is the meaning of "furniture" in section 10(2)(b) in Part 1 of Schedule 1 to the Ordinance? Does "dimension" of furniture include height? Will "furniture" fall within some of the items of "fittings, finishes and appliances" under section 22 in Part 2 of Schedule 1 to the Ordinance?

A7.2 "Furniture" is different from "fittings, finishes and appliances". "Furniture" is to be construed according to the natural meaning

of the word, which generally refers to "movable" articles that are used to make a room or building suitable for living or working in, such as tables, chairs, or desks. For "fittings, finishes and appliances", section 22 in Part 2 of Schedule 1 to the Ordinance sets out the specific information to be set out in a sales brochure, e.g. the type of wall finishes used for kitchen, connection points for telephone, shower or bath tub, kitchen cabinet and built-in wardrobe.

The Ordinance does not require that vendors must show furniture in the floor plans of residential properties in the sales brochure or in any other publications to be made available by the vendor for collection or inspection by the general public. However, the Ordinance requires that if furniture is provided in any floor plans provided by the vendor, information on the dimensions of furniture (i.e. length x width) should be provided.

Q7.3 Under section 10(2)(c)(i) in Part 1 of Schedule 1 to the Ordinance, the thickness of the floor slabs of each residential property should be stated in the sales brochure. Does it mean the floor slab of the ceiling immediately above each residential property, or the floor beneath the residential property? Should the thickness of the floor slab cover the depth of the beams in the property?

A7.3 Vendors should set out the thickness of the floor slab of each residential property in the sales brochure as shown in the structural plans approved by the Building Authority under the Buildings Ordinance (Cap. 123).

The floor slab mentioned in section 10(2)(c)(i) in Part 1 of Schedule 1 to the Ordinance refers to the floor slab of the ceiling immediately above each residential property.

Thickness of floor slab should not cover the depth of the beams. Also, information on the depth of the beams is not required to be shown in the sales brochure.

There is no need to state the locations in the property where the measurements are taken, i.e. there is no need to mark the corresponding thickness of the floor slab on the floor plans in the sales brochure. If the thickness of floor slab in the residential property varies, vendors should state the various thicknesses according to the information set out in the approved structural plans, e.g. 100mm, 150mm and 200mm. Vendors should not give approximate number such as "approximately 150mm" or a range such as "100 to 200mm" without specifying the exact thicknesses.

Q7.4 Under section 10(2)(c)(ii) in Part 1 of Schedule 1 to the Ordinance, the floor-to-floor height of each residential property should be stated in the sales brochure. Different parts of a unit may have a different floor-to-floor height. How should such figures be presented in the sales brochure?

A7.4 If the floor-to-floor height differs from point to point in a residential property, vendors should state the varying heights according to the information set out in the building plans approved by the Building Authority under the Buildings Ordinance (Cap. 123), e.g. 3.0m, 3.5m and 5.0m. There is no need to state the locations in the property where the measurements are taken, i.e. there is no need to mark the corresponding floor-to-floor height on the floor plans in the sales brochure.

Vendors should not give approximate number such as "approximately 3.0m" or a range such as "3.0m to 5.0m" without specifying the exact heights. For a house with more than one storey, the floor-to-floor height of each floor should be shown in the sales brochure.

For a residential property on the top floor of a building with a pitched or slanted roof, instead of giving exact measurements, vendors can state the corresponding range of floor-to-floor height of the property according to the information set out in the building plans approved under the Buildings Ordinance.

Q7.5 Section 10(2)(d) in Part 1 of Schedule 1 to the Ordinance requires the sales brochure to state the external and internal dimensions of each residential property. Should such dimensions include or exclude the plaster or finishes? What if such dimensions are not provided in the approved building plans? If cladding or loss formwork is provided, should it be counted as part of the enclosing wall?

A7.5 Section 19(2)(j) of the Ordinance requires that floor plans of all residential properties in the development have to be shown in the sales brochure. Section 10(2)(d) in Part 1 of Schedule 1 to the Ordinance requires that, in a sales brochure, floor plans of residential properties in the development must state the external and internal dimensions of each residential property. The external dimensions and internal dimensions in section 10(2)(d) of Part 1 of Schedule 1 to the Ordinance do not cover the height of the residential properties, but the floor-to-floor height of each residential property is required to be provided under section 10(2)(c) of Part 1 of Schedule 1 to the Ordinance.

The external and internal dimensions of residential properties as provided in the sales brochure should exclude plaster and finishes. All kinds of external wall finishes (such as claddings and loss formwork) should not be counted as part of an enclosing wall. This also applies to the measurement of saleable area.

If the external dimensions and internal dimensions of the residential properties are provided in the approved building plans, vendors must provide such information in the sales brochure according to the approved building plans.

Even if some internal and external dimensions are not provided in the approved building plans, vendors should possess the information and should provide the information in the sales brochure as required. The approved building plans however are not the source of information of those internal and external dimensions.

Q7.6 What is the meaning of "internal dimensions" and "external dimensions" of a residential property" under section 10(2)(d) in Part 1 of Schedule 1 to the Ordinance? Do balconies, utility platforms, air-conditioning platforms and bay windows affect such "internal dimensions" and "external dimensions"?

A7.6 The external dimensions of a residential property refer to the outer dimension of the enclosing walls of the residential property. The internal dimensions of a residential property refer to the inner dimensions of such enclosing walls of a residential property.

The enclosing walls mentioned above also include the enclosing walls of any balcony, utility platform, verandah or bay window that forms part of the residential property. The measurement of the floor areas of balconies, utility platforms and verandahs is set out in section 8(3) of the Ordinance, while that of bay windows is set out in section 1 in Part 2 of Schedule 2 to the Ordinance, all of which should not affect the "internal dimensions" and "external dimensions" of a residential property shown on the floor plans.

Air-conditioning platforms should not be counted as part of the enclosing wall and should not affect the external dimensions of the residential property. Vendors may add explanatory note or remark to the floor plans of the residential properties in a sales brochure stating the area of the air-conditioning platforms (No. 1.1 of FAQs on Areas of Residential Properties is relevant).

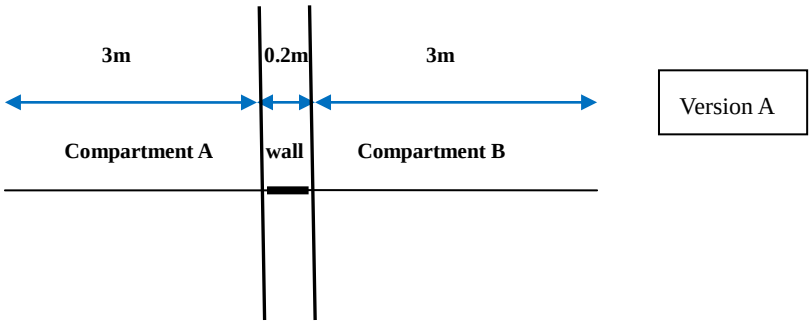
Q7.7 What is the meaning of "internal partitions" under section 10(2)(d)(iii) in Part 1 of Schedule 1 to the Ordinance? Does it include sliding partitions and glass partitions?

A7.7 All internal partitions shown on the building plans approved by the Building Authority under the Buildings Ordinance (Cap. 123) inside a residential property are "internal partitions". The thicknesses of such partitions should be stated in the sales brochure.

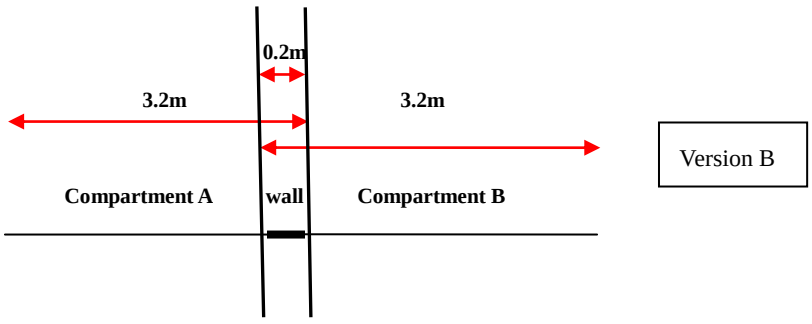
Q7.8 Section 10(2)(d)(iii) in Part 1 of Schedule 1 to the Ordinance requires the setting out of the thickness of internal partitions of each residential property in the floor plan. If 2 individual compartments are separated by a wall, will the external dimensions of the 2 compartments double count the thickness of the wall?

A7.8 Vendors may mark the external dimensions of individual compartments of a residential property on the floor plan of the sales brochure in the following ways.

[Note: in the two diagrams below, we measure from the surface of the wall, NOT from the surface of any external wall finishes of the wall.]



OR



With clear indication, both Version A and Version B show the external dimensions of the two compartments clearly and the issue of "double-counting" will not arise.

Q7.9 How to mark the dimensions of a residential property that is in irregular shape?

A7.9 When marking the external and internal dimensions of a residential property in the floor plan, reference should be made to the approved building plans for the development as required under section 10(3) in Part 1 of Schedule 1 of the Ordinance. If the residential property is in irregular shape, say for example, part of the enclosing wall is in curvilinear shape and no information on the external and internal dimensions of that part is provided in the approved building plans, the internal and external arc length of that part of the enclosing wall should be marked on the floor plan.

Q7.10 Can the sales brochure include floor plans showing the commercial parts of the development according to section 10 in Part 1 of Schedule 1 to the Ordinance?

A7.10 According to section 10 in Part 1 of Schedule 1 to the Ordinance, vendors should provide in the sales brochure each of the floor plans of the **residential properties** in the development. Therefore, floor plans showing the commercial parts of the development should not be provided in the sales brochure under section 10 in Part 1 of Schedule 1 to the Ordinance.

If a floor of a development comprises both residential and commercial accommodation, vendors can show the full floor plan but the commercial portion should be blurred on the floor plan.

As for a residential floor with no non-residential uses, the full floor plan including the common areas such as lift lobby and corridor can be shown.

Q7.11 Section 10(2) in Part 1 of Schedule 1 to the Ordinance requires the provision of floor plans of residential properties. If alteration to the residential properties have been made by way of minor works or exempted works under the Buildings Ordinance after completion of the development, should the floor plans be provided according to the approved building plans or the "as-is" layout of the properties? What may vendors do if a remark or explanatory note cannot present the alterations in a clear manner?

A7.11 According to section 10 in Part 1 of Schedule 1 to the Ordinance, vendors should provide in the sales brochure each of the floor plans of the residential properties in the development. Information on thickness of the floor slabs and floor-to-floor height should be provided according to the approved building plans.

As regards the information required under section 10(2)(d) in Part 1 of Schedule 1 to the Ordinance in the floor plan -

(a) where the information required under section 10(2)(d) in Part 1 of Schedule 1 to the Ordinance is provided in the approved building plans, the floor plan must state the information as so provided in the approved building plans. A remark or explanatory note should be added to set out the alterations made. Floor plans may be included as part of the remark or explanatory note to illustrate the alterations made; and

(b) where the information required under section 10(2)(d) in Part 1 of Schedule 1 to the Ordinance is not provided in the approved building plans, the floor plan should show the "as-is" status of the properties.

Q7.12 According to section 19(2)(j) of the Ordinance, the floor plans of all residential properties in the development have to be shown in the sales brochure. Does the vendor need to provide the floor plans of the residential properties in the development which are not owned by the vendor?

A7.12 According to section 19(2)(j) of the Ordinance, floor plans of the residential properties in the development have to be shown in the sales brochure. There is no exemption provided by the Ordinance on the basis that the residential properties in the development are not owned by the vendor. For residential properties which are no longer owned by the vendor, the vendor may show in the sales brochure the status of such properties according to the set of floor plans based on which the properties were sold.

Q7.13 Is it necessary to show bedroom doors on floor plans of the residential properties in the development?

A7.13 If bedroom doors will be installed and provided upon handover of the residential properties to purchasers, a description of the doors has to be provided under the section for "Fittings, finishes and appliances" in the sales brochure, and the floor plans of the residential properties in the development in the sales brochure should show those doors where they will be installed and provided. Otherwise, there may be confusion as to where and the number of bedroom doors are to be installed and provided.

8. Floor plans of parking spaces in the development

Q8.1 Section 12(2) in Part 1 of Schedule 1 to the Ordinance requires the provision of floor plans showing the parking spaces in the development. What if the parking spaces are not owned by the vendor? Also, if the floor plan in question shows both the parking spaces as well as some area not for parking purpose, can the whole floor plan be shown in the sales brochure?

A8.1 Vendors should provide in the sales brochure floors plans showing the parking spaces in the development according to the latest building plans approved by the Building Authority under the Buildings Ordinance (Cap. 123).

When showing the floor plan of parking spaces of the development in a sales brochure and if the parking spaces are no longer owned by the vendors, vendors may add an explanatory note to the floor plans of the parking spaces in the sales brochure stating that the parking spaces are not owned by the vendors, and that the floor plan of the car park in the sales brochure is prepared according to the set of approved building plans based on which the occupation permit of the development was issued.

If there are parking spaces as well as areas not for parking

purpose in a floor, the vendor can show the full floor plan but the area not for parking purpose should be blurred on the floor plan.

9. Summary of DMC

Q9.1 Section 14(2)(a) in Part 1 of Schedule 1 to the Ordinance requires that a summary of the provisions of the DMC which deal with the common parts of the development be set out in the sales brochure. Which types of provisions in the DMC may meet the requirements of Section 14(2)(a) in Part 1 of Schedule 1 to the Ordinance?

A9.1 Section 14(2)(a) in Part 1 of Schedule 1 to the Ordinance requires that a sales brochure must contain a summary of the provisions of the DMC (or the draft DMC) which deal with various matters, one of which is the common parts of the development.

Vendors should, according to the DMC, set out the major provisions which deal with the common parts of the development, such as major provisions which deal with car park common area, estate common areas, estate common facilities, residential common area and residential common facilities.

If the relevant provision of the DMC refers to a plan attached to it which shows the common parts of the development, such plan may be included as part of the information to be provided in the sales brochure under section 14(2)(a) in Part 1 of Schedule 1 to the Ordinance.

Q9.2 The answer to No. 9.1 of FAQ on Sales Brochure above states that if the relevant provision of the DMC refers to a plan attached to it which shows the common parts of the development, such plan may be included as part of the information to be provided in the sales brochure under section 14(2)(a) in Part 1 of Schedule 1 to the Ordinance. If the relevant provision of the DMC refers to a plan attached to it which shows the commercial part of the development and if

the plan shows a staircase which is the common part of the development, can that plan be provided in the sales brochure under section 14(2)(a) in Part 1 of Schedule 1 to the Ordinance?

A9.2 If the relevant provision of the DMC refers to a plan attached to it showing a staircase which is a common part of the development, such plan may be included as part of the information to be provided in the sales brochure under section 14(2)(a) in Part 1 of Schedule 1 to the Ordinance.

Q9.3 Section 14(2)(b) in Part 1 of Schedule 1 to the Ordinance requires the provision of "the number of undivided shares assigned to each residential property in the development" in the sales brochure. How can the potential purchasers know the undivided share of a particular property in relation to the whole development if the total number of undivided shares of the development is not provided in the sales brochure?

A9.3 Apart from providing the number of undivided shares assigned to each residential property in a development, the number of undivided shares assign to each residential property in a development may also be presented in the form of a fraction, so that the total number of undivided shares of the development is also made known to the potential purchasers. For example, if a residential property is allocated with 50 units of undivided shares, such information can be presented as "50/[total number of undivided shares for the development]" in the sales brochure. If vendors wish to let prospective purchasers know the total number of undivided shares of the development, they may set out the information in publications other than the sales brochure.

Q9.4 If some types of management expenses on non-residential areas are to be shared by owners of residential properties, can such information be provided in the sales brochure?

A9.4 Section 14(2)(d) in Part 1 of Schedule 1 to the Ordinance requires vendors to set out in the sales brochure, as part of the summary of

the provisions of the DMC, the basis on which the management expenses are shared among the owners of the residential properties in the development. Therefore, vendors should provide under section 14(2)(d) in Part 1 of Schedule 1 to the Ordinance the basis on which the management expenses are shared among the owners of the residential properties in the development, which expenses may include expenses related to the common areas and common facilities for the use and benefit of all the owners in the development.

Q9.5 Section 14(2)(f) in Part 1 of Schedule 1 to the Ordinance requires that the area (if any) in the development retained by the owner for that owner's own use should be set out in the sales brochure. What does it mean by "retained by the owner"? Does it include the area where, according to the DMC, has been allocated to the owner and the owner is entitled to dispose of it.

A9.5 As required under section 14(2) in Part 1 of Schedule 1 to the Ordinance, the sales brochure must set out a summary of the DMC provisions that deal with various matters, one of which is "the area (if any) in the development retained by the owner for that owner's own use".

In this respect, such area refers to all areas retained by the owner for his own use as set out in the DMC regardless of whether and when the owner will dispose of the area. In general, such area is usually not a residential accommodation, a commercial accommodation or a car park or individual residential units, commercial units or parking spaces therein.

For example, area reserved for un-used gross floor area to be utilized by the owner.

10. Summary of land grant

Q10.1 Assuming a piece of land granted under a land grant has been sub-divided into two different sections (e.g. Section A

and the Remaining Portion). If a development is built on Section A, according to sections 15 and 16 in Part 1 of Schedule 1 to the Ordinance, whether it is necessary to also disclose a land grant provision which affects the Remaining Portion only?

A10.1 If a piece of land under a land grant is partitioned (or carved out) into different sections (e.g. Section A and the Remaining Portion) but is still held under a single land grant and a development is built only on Section A, the land grant provisions relating to Section A on which the development is built as well as the facilities on the Remaining Portion that are required under the land grant to be constructed and provided for Government, or for public use, should be disclosed as required under sections 15 and 16 of Part 1 of Schedule 1 to the Ordinance respectively.

In the above situation, as sections 15(2)(a), (c), (e) and (f) in Part 1 of Schedule 1 to the Ordinance refer specifically to the land on which the development is built, vendor is not required to provide the land grant conditions relating to the Remaining Portion.

Q10.2 Vendors are required to set out various information relating to land grant under sections 15 and 16 in Part 1 of Schedule 1 to the Ordinance. Should vendors provide such information according to the land grant, or should they also provide the related information contained in the waivers or no objection letters in relation to the land grant?

A10.2 Vendors are advised to set out various required information under sections 15 and 16 of Part 1 of Schedule 1 to the Ordinance according to the land grant as varied by say, waivers or no objection letter, if any.

Q10.3 Section 15(2)(c) in Part 1 of Schedule 1 to the Ordinance requires the vendor to set out the user restriction applicable to that land in the sales brochure. Should such provisions be set out in detail and in full?

A10.3 According to section 15(2) in Part 1 of Schedule 1 to the Ordinance, the sales brochure must contain a summary of the provisions of the land grant concerning various matters including the user restrictions applicable to the land. While there is no need to copy in full all the relevant provisions in the sales brochure, if there are specific user restrictions for different parts of the land or the building(s) erected or to be erected thereon as stipulated in the land grant (e.g. specific user restrictions for different floors of the building(s)), the summary should cover all such specific user restrictions.

Q10.4 Vendors are required under section 15(2)(e) in Part 1 of Schedule 1 to the Ordinance to provide information on the grantee's obligation to lay, form or landscape any areas, or to construct or maintain any structures or facilities, within or outside that land. Should information on "building covenant" be set out under this section? If the building covenant applicable to the building(s) previously erected on that land (and such building(s) have been demolished for redevelopment) is still contained in the land grant, should such expired building covenant be set out in the sales brochure?

A10.4 According to section 15(2)(e) in Part 1 of Schedule 1 to the Ordinance, vendors should set out in the sale brochure the grantee's obligation to lay, form or landscape any areas, or to construct or maintain any structures or facilities, within or outside that land.

Information on "building covenant" should be set out under section 15(2)(e) in Part 1 of Schedule 1 to the Ordinance.

Where the building covenant which has been complied with or spent of effect upon issue of the Occupation Permit in respect of the building(s) previously erected on the land is still contained in the land grant, the expired building covenant should still be set out in the sales brochure, but an explanatory note or remark should be included to explain that the expired building covenant is not applicable to the new development.

Q10.5 Vendors are required under Section 15(2)(d) in Part 1 of Schedule 1 to the Ordinance to provide information on the facilities that are required to be constructed and provided for the Government, or for public use. Should the vendor set out the relevant conditions in the land grant in relation to those facilities provided for the previous development(s) which have been demolished for the new development?

A10.5 If the land grant requires construction and provision of facilities for the Government or for public use upon development or redevelopment of the land, so long as the relevant condition is subsisting and applies to redevelopment, a summary thereof, which relates to the facilities so provided within the redevelopment and not the development previously erected, should be included in the sales brochure for the redevelopment as required under section 15(2)(d) in Part 1 of Schedule 1 to the Ordinance.

11. Information on public facilities and public open spaces

Q11.1 Section 16(2)(b) in Part 1 of Schedule 1 to the Ordinance requires the provision in the sales brochure a description of any facilities that are required under the land grant to be managed, operated or maintained for public use at the expense of the owners of the residential properties in the development. If the maintenance costs are to be borne by the owners of the commercial accommodation only according to the deed of mutual covenant (DMC), should such information be set out under the aforesaid provision?

A11.1 Under section 16(2)(b) in Part 1 of Schedule 1 to the Ordinance, the sales brochure must contain a description of any facilities that are required under the land grant to be managed, operated or maintained for public use by the grantee (i.e. all owners of the lot and not just owners of residential properties). Under section 16(6) in Part 1 of Schedule 1 to the Ordinance, the sales brochure must set out the DMC provisions that concern those facilities.

If the DMC provides that the management expenses of those facilities will only be borne by the commercial owners, such DMC provision should be set out in the sales brochure under section 16(6) in Part 1 of Schedule 1 to the Ordinance.

12. Warning to purchasers

Q12.1 Is it necessary for vendor to include a warning to purchasers which recommend purchasers to hire their own solicitors as set out under section 17 in Part 2 of Schedule 1 to the Ordinance if, separate legal representation has already been arranged by the vendor?

A12.1 The warning to purchasers as set out under section 17 in Part 2 of Schedule 1 to the Ordinance must be set out in the sales brochure. There is no exception arrangement.

13. Cross-section plan

Q13.1 According to section 18 in Part 2 of Schedule 1 to the Ordinance, sales brochure should include cross-section plan(s) in relation to every building in the development. The plan should show a cross-section of the building in relation to every street adjacent to the building? How should such requirements apply to house-type development? What is the meaning of "street" in this provision? Does it include bridges and tunnels?

A13.1 The Ordinance requires the provision of cross-section plans(s) in relation to every building in a development. If there is a street immediately adjacent to each side of a building or a house, there should be at least two cross-section plans for that building or house.

For the meaning of "street" in section 18 in Part 2 of Schedule 1

to the Ordinance, please make reference to the definition of "street" in section 3 of the Interpretation and General Clauses Ordinance (Cap. 1). It covers, among other things, bridges and tunnels.

Under most circumstances, a bridge or a tunnel will not be immediately adjacent to a residential building or house. Rather, there may be a street, a path, a yard or a garden separating the bridge/tunnel from the building/house. In that case, it will be sufficient for the cross-section plan to show the adjacent street but not the bridge/tunnel.

Q13.2 What is the meaning of the "lowest residential floor" in section 18(b) in Part 2 of Schedule 1 to the Ordinance? Is plaster on the floor slab included in determining the level?

A13.2 In accordance with section 18(b) in Part 2 of Schedule 1 to the Ordinance, the "lowest residential floor" of a building/house means the lowest level in a building/house that is used for residential purpose. As long as there is residential element in a floor, it should be regarded as a residential floor in determining the "lowest residential floor" under section 18(b) in Part 2 of Schedule 1 to the Ordinance. In other words, a floor used for both residential and non-residential purposes may be regarded as the "lowest residential floor" if it is the lowest floor in a building where there is residential element.

Plaster should not be included in determining the level of the lowest residential floor.

14. Elevation plan

Q14.1 According to section 19 in Part 2 of Schedule 1 to the Ordinance, the sales brochure should include a plan showing all elevations of the development. If there is a fence wall outside the development, should the fence wall be included in the elevation plan? How many elevation plans should be shown?

A14.1 The elevation plan(s) should be prepared on the basis of the approved building plans for the development. In case there is a fence wall on any side of the development and the authorized person has shown in the approved building plans the elevations of the development both with and without the fence wall, the elevation plan(s) as required under section 19 in Part 2 of Schedule 1 to the Ordinance should be prepared on the same basis, i.e. the elevations of the developments with and without the fence wall.

Generally speaking, vendors are advised to make reference to the approved building plans when deciding the number of elevation plans of the development to be shown in the sales brochure under Section 19 in Part 2 of Schedule 1 to the Ordinance.

Q14.2 According to section 19 in Part 2 of Schedule 1 to the Ordinance, the sales brochure should include a plan showing all elevations of the development. In the case of house developments, should the elevations show the whole development or each individual house?

A14.2 According to section 19 in Part 2 of Schedule 1 to the Ordinance, the sales brochure should include a plan showing all elevations of the development. The above requirement applies to all types of development.

Since the elevation plan should be prepared on the basis of the approved building plans for the development, vendors are advised to make reference to the approved building plans when considering the number of elevation plans to be shown in a sales brochure and from which perspective those plans are drawn.

Q14.3 Section 19(3) in Part 2 of Schedule 1 to the Ordinance requires the elevation plan provided in the sales brochure be certified by the authorized person (AP) for the development. Is the certificate required to be reproduced in the sales brochure? What if the AP for the development of which the building works have been completed is not available to do the certification?

A14.3 The vendor should ensure the elevation plan shown in the sales brochure is certified by the AP for the development. There is no need to reproduce the certificate in the sales brochure.

In the event that the AP for such a development is not available to do the certification, the vendor should still provide in the sales brochure an elevation plan in colour, on the basis of the approved building plans and in general accordance with the outward appearance of the development as at the date of printing of the sales brochure, and state that the plan has not been certified by the AP for the development as required under section 19(3) in Part 2 of Schedule 1 and state the reason(s) (e.g. the AP for the development has passed away). The SRPA will take into account such reason(s) and consider the circumstances of the case in determining whether or not to take enforcement action against the vendor for not complying with Section 19(3) in Part 2 of Schedule 1 to the Ordinance.

Q14.4 According to section 19 in Part 2 of Schedule 1 to the Ordinance, the sales brochure should include a plan showing all elevations of the development. The plan should be in colour, and should be certified by the authorized person for the development that the elevations are prepared on the basis of the approved building plans and are in general accordance with the outward appearance of the development. If some properties that are not owned by the vendor of the development have undergone some alterations which affect the outer appearance of the development, should such alterations be reflected in the elevation plan?

A14.4 If there are substantial alterations to a residential development and the outward appearance is substantially affected by the alterations, we believe that such alterations should have been reflected in the approved building plans. If the alterations are minor in nature, it is unlikely that such alterations will significantly affect the outward appearance of the development. According to section 19(3)(b) in Part 2 of Schedule 1 to the Ordinance, the elevation plan should be in general accordance

with the outward appearance of the development. In other words, the plans are not required to be exactly the same as the "as is" outward appearance of the development.

15. Common facilities

Q15.1 Section 20(1) in Part 2 of Schedule 1 to the Ordinance requires the provision of the area of residents' clubhouse, communal sky garden and covered and landscaped play area in the sales brochure. How should such area be measured?

A15.1 The area of residents' clubhouse, communal sky garden and covered and landscaped play area in the sales brochure should be measured according to the information set out in the building plans approved by the Building Authority under the Buildings Ordinance (Cap. 123). If the residents' clubhouse, communal sky garden or communal garden has uncovered parts, even though the areas of those uncovered parts may not be set out in the building plans, information of those areas should be a matter of facts and the vendors should have those information.

16. Fitting, finishes and appliances

Q16.1 Section 22 in Part 2 of Schedule 1 to the Ordinance requires the provision of information on fittings, finishes and appliances in sales brochure. What is the meaning of "appliances"?

A16.1 "Appliance" should generally refer to a device or piece of equipment used for a specific task. For the purposes of section 22 in Part 2 of Schedule 1 to the Ordinance, item 6 would cover electrical appliances that are commonly found and used in a residential property, such as a cooker or washing machine.

Q16.2 Assuming that some of the residential properties in a completed development were sold before the commencement

of the Ordinance. After the Ordinance comes into operation, when the vendor prepares a sales brochure for the purpose of section 25 of the Ordinance, whether information on the fitting, finishes and appliances in respect of those residential properties which have been sold has to be provided in the sales brochure according to section 22 in Part 2 of Schedule 1 to the Ordinance? What if the information in question is not available?

A16.2 According to section 19(3) of the Ordinance, the sales brochure for the development must set out the information required by Part 2 of Schedule 1 to the Ordinance.

Section 22 in Part 2 of Schedule 1 to the Ordinance requires a vendor to set out in the sales brochure description of various items in the development in relation to fittings, finishes and appliances. The purpose is to ensure that prospective purchasers will be informed of what they may get upon purchase of the properties, in particular if the development has not yet been completed at the time of purchase.

In the case where the residential properties to be sold are inside a completed development and some of the residential properties inside that development have been disposed of by the vendor before the Ordinance comes into operation:

(a) for those residential properties which are being offered for sale, vendors should provide up-to-date information on the fittings, finishes and appliances according to section 22 in Part 2 of Schedule 1, e.g. interior fittings of bathroom and interior finishes of the lobby; and

(b) for the residential properties which are no longer owned by the vendors, vendors are advised to set out in the sales brochures as far as possible the information known to them on the fittings, finishes and appliances of those residential properties when they were sold as first-hand residential properties. If the vendor cannot provide part or any of the

required information even after reasonable steps have been taken, a remark or an explanatory note on the reason for not being able to provide such information should be set out in the sales brochure, e.g. the vendor no longer keeps the information on fittings, finishes and appliances of the residential properties in the development which were sold before [which year]. The SRPA will take into account such reason and consider the circumstances of the case in determining whether or not to take enforcement action against the vendor for not complying with section 19(3) of the Ordinance.

Q16.3 Sales brochure should contain the floor plans (section 10 in Part 1 of Schedule 1 to the Ordinance) and information on fittings, finishes and appliances on residential properties in the development (section 22 in Part 2 of Schedule 1 to the Ordinance). How should such information be provided if the residential property is held under a tenancy?

A16.3 For residential properties that are to be sold subject to an existing tenancy, or to be sold upon the expiry of an existing tenancy, vendors should provide information on the residential properties in the sales brochure that reflects the conditions of the properties (including the floor plan and the fittings, finishes and appliances) when they are being handed over to the purchasers.

Q16.4 Are vendors required to provide information on fittings, finishes and appliances of clubhouse in the sales brochure under section 22 in Part 2 of Schedule 1 to the Ordinance?

A16.4 Vendors are required to provide information on fittings, finishes and appliances according to the table under section 22 in Part 2 of Schedule 1 to the Ordinance. Information on clubhouse is not required to be provided under this section.

Q16.5 How can vendors provide information on fittings and finishes (e.g. a bar) in the residential property which are not shown in general building plans and are not permitted to be shown

under the section of "Fittings, finishes and appliances" in the sales brochure?

A16.5 On the provision of information on fittings, finishes and appliances under section 22 in Part 2 of Schedule 1 to the Ordinance, vendors should provide such information strictly according to the requirements set out therein, i.e. information that is not required to be provided should not be set out under the section on fittings, finishes and appliances.

If a vendor wishes to provide information on some special features of the property in the sales brochure and if the special features can be considered as "furniture" (please refer to No. 7.2 of FAQs on Sales Brochure above on the meaning of "furniture"), it can be marked on the floor plan, and section 10(2)(b) in Part 1 of Schedule 1 to the Ordinance should be followed. If the special features cannot be considered as "furniture", the vendor may wish to provide such information in other publications. However, the vendor should ensure that such publications or promotional materials will not provide false or misleading information.

Q16.6 As required under items 3(g)(ii) and 3(j)(ii) of the Table under section 22 in Part 2 of Schedule 1 to the Ordinance, the sales brochure must state whether electrical conduits and water pipes are concealed or exposed. What is the meaning of "concealed"? If the electrical conduits or water pipes are partly concealed within concrete (e.g. electrical conduits which run partly through false ceiling and partly through concrete wall), how should vendors set out such information in the sales brochure and is it necessary to state the respective location? If the electrical conduits or water pipes are protected with suitable materials and the protective materials are concealed within concrete, should such electrical conduits or water pipes be regarded as "concealed" or "exposed"?

A16.6 The SRPA takes the view that only those electrical conduits or water pipes which are concealed within concrete (without

limiting to any particular type of concrete) may be regarded as "concealed" for the purposes of the aforementioned section of the Ordinance.

The SRPA takes the view that electrical conduits or water pipes which are protected with suitable materials will be regarded as "concealed" for the purposes of the aforementioned section of the Ordinance, if such suitable materials are concealed within concrete.

Electrical conduits or water pipes which are not concealed within concrete are regarded as "exposed" for the purposes of the aforementioned section of the Ordinance, notwithstanding that they may be covered or hidden by other materials. If a vendor wishes to inform prospective purchasers that, while the electrical conduits and/or water pipes in the specified residential property are not concealed within concrete, they are not readily visible as they are placed behind false ceilings, cabinets, claddings or floor skirting etc, he may do so by adding an explanatory note to the relevant descriptions in the sales brochure.

In the scenario where electrical conduits or water pipes are partly concealed within concrete, the SRPA takes the view that it is sufficient for the vendor to state in the relevant part of the sales brochure that the electrical conduits or water pipes are "partly concealed and partly exposed" for the purposes of the aforementioned section of the Ordinance.

17. Service agreements

Q17.1 Section 23 in Part 2 of Schedule 1 to the Ordinance requires setting out in the sales brochure information on any agreement with a utility company for providing utility service for the specified residential property. What exact information is required to be disclosed?

A17.1 It is quite common that the vendor may have signed agreements with specific utility companies for providing utility services for

the development before the residential properties are offered to be sold. For example, if the vendor has signed an agreement with a company for the provision of tele-communication services to all the individual owners of the residential properties in the development, the name of the service provider and the major terms of the agreement which will directly affect the individual owners of the development (e.g. whether there are any restrictive terms such as the individual owners could not choose to use tele-communication services provided by other service providers, and the expiry date of the agreement) should be set out in the sales brochure.

18. Defect liability warranty period

Q18.1 If a vendor chooses to provide a defect liability warranty period that is longer than the period as stipulated in the agreement for sale and purchase, can such information be provided in the sales brochure under section 26 in Part 2 of Schedule 1 to the Ordinance?

A18.1 According to section 26 in Part 2 of Schedule 1 to the Ordinance, the sales brochure can only state the defect liability warranty period as provided in the agreement for sale and purchase.

Q18.2 Under the section for "Defect liability warranty period" in the sales brochure, should vendors set out information in accordance with section 26 in Part 2 of Schedule 1 to the Ordinance or clause 26 in Part 1 of Schedule 5 to the Ordinance?

A18.2 Section 26 in Part 2 of Schedule 1 to the Ordinance requires that the sales brochure must state the duration of the period during which the vendor is liable to make good any defect in the specified residential property, as provided in the agreement for sale and purchase. For the purpose of complying with section 26 in Part 2 of Schedule 1 to the Ordinance, it is sufficient to state in the sales brochure "within six months after

the date of completion of the sale and purchase" as the duration of the period during which the vendor is liable to make good any defect in a specified residential property. That said, if the vendor has set out in the sales brochure information as provided under clause 26 in Part 1 of Schedule 5 to the Ordinance, he is considered as having complied with the requirement under section 26 in Part 2 of Schedule 1 to the Ordinance.

19. Modification

Q19.1 If the vendor will reserve a right under the sale and purchase agreement to apply for a land grant modification but has yet to make the application, can such information be provided in the sales brochure under section 28 in Part 2 of Schedule 1 to the Ordinance?

A19.1 Section 28 in Part 2 of Schedule 1 to the Ordinance is only applicable where the owner has applied to the Government for a modification of the land grant, and the application is not yet granted.

Q19.2 Can the vendor provide information on "licence, waivers, no-objection letter and approval letter" in the sales brochure under section 28 in Part 2 of Schedule 1 to the Ordinance?

A19.2 Section 28 of Part 2 of Schedule 1 to the Ordinance stipulates that where the owner has applied to the Government for a modification of the land grant, and the application is not yet granted, the sales brochure must state the nature of the modification sought and the condition sought to be modified.

Whether an application is for a modification of the land grant will depend on the contents and nature of the application, howsoever the application is named, which must be examined in each individual case. Generally speaking, "waiver", "no objection letter", "approval letter" and "licence (say offensive trade licence)" may be included.

20. Relevant information

Q20.1 Is information contained in a document that has been registered with the Land Registry regarded as "relevant information" under section 20(1) and (7) of the Ordinance?

A 20.1 Information contained in a document that has been registered with the Land Registry will not be regarded as "relevant information" under the Ordinance.

Q20.2 Vendors are required to provide "relevant information" (which means any matter that is likely to materially affect the enjoyment of the residential property) under section 20(1) of the Ordinance. Does "relevant information" include something that will likely bring positive and material impact to the enjoyment of the residential property?

A20.2 Section 20(1) of the Ordinance provides that the sales brochure must set out "relevant information" that is specific to a residential property in the development or "relevant information" that is specific to the development, if (a) the information is not otherwise required to be set out in the sales brochure; and (b) the information is known to the vendor but is not known to the general public.

"Relevant information" is defined in section 20(7) of the Ordinance to mean (a) in relation to a residential property, information on any matter that is likely to materially affect the enjoyment of the residential property; or (b) in relation to a development, information on any matter that is likely to materially affect the enjoyment of any residential property of the development. In this respect, it is a question of degree whether, in a particular case, a matter is likely to materially affect the enjoyment of a property by enhancing or diminishing the enjoyment of the property.

Q20.3 Where and how should the "relevant information" required under section 20(1) of the Ordinance be provided in the sales brochure?

A20.3 The relevant information required under section 20 of the Ordinance should be provided after the information required under section 19 of the Ordinance.

All "relevant information" should be grouped under the heading "relevant information". If no such information is provided in the sales brochure, there is NO NEED to state the heading of "relevant information" and insert "NA" in the sales brochure.

Q20.4 Can the vendor state the particulars of a tenancy in the sales brochure for the property that is sold subject to tenancy?

A20.4 If some properties in a development are to be sold subject to tenancy, vendors are advised to state in the documents containing the sales arrangements which properties are to be sold subject to tenancy. Vendors may also include particulars of the tenancy in such documents, or in other publications.

Vendors should consider whether, in relation to a residential property, the existence of a tenancy and the particulars of such tenancy constitute information on matters that are likely to materially affect the enjoyment of the residential property and hence should be set out in the sales brochure as required by section 20 of the Ordinance.

29 April 2015
Sales of First-hand Residential Properties Authority
Transport and Housing Bureau