

CONTROLLING OFFICER'S REPLY

THB(H)043

(Question Serial No. 3022)

Head: (62) Housing Department

Subhead (No. & title): (-) Not Specified

Programme: (2) Private Housing

Controlling Officer: Permanent Secretary for Transport and Housing (Housing)
(Donald TONG)

Director of Bureau: Secretary for Transport and Housing

Question:

Please advise this Committee on the following:

1. the number of complaints, with a breakdown by nature, that the Sales of First-hand Residential Properties Authority (SRPA) received each year since the commencement of the Residential Properties (First-hand Sales) Ordinance, as well as the numbers of cases substantiated, under investigation and not substantiated, and the numbers of non-compliant developers and estate agents respectively;
2. the details of the substantiated complaints since the commencement of the Residential Properties (First-hand Sales) Ordinance, as well as the number of prosecutions and the penalties imposed on non-compliant persons and developers;
3. the number of complaints against estate agents received by the Estate Agents Authority (EAA), the main reasons for the complaints (with a breakdown by type), the penalties on non-compliant persons, as well as the numbers of revoked and suspended licences in the past 5 years; and
4. the enhanced regulatory measures that SRPA and EAA have in place to safeguard the rights of consumers, in view of the repeated non-compliance of developers and estate agents.

Asked by: Hon WAN Siu-kin, Andrew (LegCo internal reference no.: 32)

Reply:

- 1&2. During the period from the commencement of the Residential Properties (First-hand Sales) Ordinance (the Ordinance) (Cap. 621) on 29 April 2013 up to the end of 2019, the Sales of First-hand Residential Properties Authority (SRPA) received a total of 369 complaints.

A breakdown of the complaints by year and category is as follows:

	Categories of complaints	2013 (since 29 April 2013)	2014	2015	2016	2017	2018	2019	Cumulative Total
(a)	Sales brochure	4	10	12	9	6	16	22	79
(b)	Price list	1	1	0	4	1	1	0	8
(c)	Sales arrangements	14	10	6	6	5	2	3	46
(d)	Show flats	0	0	0	2	1	0	1	4
(e)	Viewing of completed residential properties	0	5	1	0	0	0	0	6
(f)	Preliminary agreement for sale and purchase (PASP) and/or agreement for sale and purchase (ASP)	1	0	1	0	0	0	0	2
(g)	Register of transactions	1	1	0	1	0	0	0	3
(h)	Advertisement	2	6	15	27	7	7	12	76
(i)	Website	1	0	0	0	0	0	0	1
(j)	Misrepresentation and/or dissemination of false or misleading information	6	15	9	10	6	9	20	75
(k)	Others	5	24	8	11	5	7	9	69
	Total	35	72	52	70	31	42	67	369

Among the above 369 complaints, 300 were related to the Ordinance, while the remaining 69 were not. Of the 300 complaints relating to the Ordinance, 20 cases were substantiated while 243 cases were not substantiated. The SRPA is still following up on the remaining 37 cases. 3 developers were involved in the 20 substantiated complaint cases, which were related to 17 complaints, 2 complaints and 1 complaint respectively. These 3 developers have been prosecuted and convicted. No estate agent was involved in the substantiated complaint cases.

Apart from conducting investigation arising from complaints and media enquiries received, the SRPA also initiates compliance checks on related sales documents. If there are any suspected contraventions of the Ordinance, the SRPA will carry out investigations, consult the Department of Justice on the findings to determine whether there is sufficient evidence for prosecution.

Since the commencement of the Ordinance up to end of 2019, 7 cases involving 111 counts of offences have been prosecuted and convicted for contraventions of the Ordinance. The charges were mainly about contraventions of the provisions of the Ordinance in respect of sales brochures, price lists, advertisements, register of transactions, the mandatory provisions for PASP and ASP, etc. The vendors of the developments concerned were convicted and fined a total of \$2.338 million. Details of the offences involved in the convicted cases have been uploaded to the website of the SRPA for public perusal.

3. The number of complaints received by the Estate Agents Authority (EAA) in 2015-16 to 2019-20 (up to end February 2020) are as follows:

Year	2015-16	2016-17	2017-18	2018-19	2019-20 (up to end February 2020)
No. of complaints	339	477	425	291	246

The complaints mainly involved improper handling of the provisional agreement for sale and purchase/provisional agreement for lease; issue of non-compliant advertisements; failure to sign with clients or explain to them the estate agency agreement; and provision of inaccurate or misleading property information (e.g. area of property and user restrictions), etc.

Disciplinary sanctions that may be imposed on licensees include admonishment, reprimand, fine, attachment of conditions to licence, suspension of licence and revocation of licence.

The number of suspended and revoked licences in 2015-16 to 2019-20 (up to end February 2020) are as follows:

Year	2015-16	2016-17	2017-18	2018-19	2019-20 (up to end February 2020)
No. of suspension	22	25	31	24	14
No. of revocation	56	29	30	34	54

4. The SRPA will continue to take a three-pronged approach to enforce the Ordinance in regulating the sales of first-hand residential properties: first, monitoring developers' and concerned persons' compliance with the Ordinance and taking enforcement action when necessary; second, issuing timely guidelines to the trade when necessary for the more effective and practical compliance with the Ordinance; third, fostering public awareness of the Ordinance to better protect consumer interests.

The EAA is committed to enhancing professionalism and service standard of estate agents and undertakes the following measures to regulate estate agents and educate the trade – reviewing the contents of the qualifying examinations; updating the existing practice circulars or issuing new ones in the light of the latest situation and laws; educating the trade on the compliance with new standards and regulations; monitoring their compliance through inspections of estate agencies; monitoring licensees’ conduct in relation to the sale of first-hand residential properties; and enhancing the voluntary Continuing Professional Development Scheme. Moreover, the EAA will continue to take disciplinary actions against licensees who are found to have breached the Estate Agents Ordinance (Cap. 511), or the Code of Ethics or practice circulars issued by the EAA. The EAA reviews the effectiveness of these measures from time to time and will introduce new measures as necessary.

The EAA also puts much efforts in educating the consumers, including reminding the public from time to time of issues that they should pay attention to when engaging estate agents to deal with property sales or leases through producing pamphlets and videos, as well as conducting public seminars, etc.

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