

CONTROLLING OFFICER'S REPLY

HB004

(Question Serial No. 1420)

Head: (62) Government Secretariat: Housing Bureau

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

Programme: (3) Private Housing

Controlling Officer: Permanent Secretary for Housing (Agnes WONG)

Director of Bureau: Secretary for Housing

Question:

Regarding the implementation of the Residential Properties (First-hand Sales) Ordinance to regulate the sale of first-hand residential properties, please advise this Committee of the following:

1. the annual number of complaints received from 2020 to 2022 by category and, among which, the respective numbers of cases substantiated, under investigation and not substantiated;
2. the number of complaints substantiated, the details of such complaints, the number of prosecutions initiated, and the penalties imposed by the court on non-compliant persons or developers upon successful prosecutions each year from 2020 to 2022 respectively;
3. the number of complaints against estate agents received by the Estate Agents Authority (EAA), the categories of such complaints and a breakdown of the penalties imposed on non-compliant persons from 2020 to 2022 respectively; and
4. the regulatory measures to be implemented by the Sales of First-hand Residential Properties Authority and the EAA in the coming year so as to increase the protection for the rights of consumers.

Asked by: Hon CHAN Hok-fung (LegCo internal reference no.: 36)

Reply:

1&2. During the period from 2020 to 2022, the Sales of First-hand Residential Properties Authority (SRPA) received a total of 208 complaints.

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

	Categories of complaints	2020	2021	2022
(a)	Sales brochure	3	5	9
(b)	Price list	2	2	2
(c)	Sales arrangements	3	5	6
(d)	Show flats	0	1	0
(e)	Advertisement	6	10	5
(f)	Misrepresentation and/or dissemination of false or misleading information	8	4	94 (Note1)
(g)	Others (unrelated to the Residential Properties (First-hand Sales) Ordinance (the Ordinance))	10	13	20
	Total	32	40	136 (Note 2)

Note 1: Of the 94 complaints categorised under “Misrepresentation and/or dissemination of false or misleading information” received in 2022, 79 complaints contained the same allegations against the Vendor of one particular development in respect of suspected misleading information about mortgage arrangements.

Note 2: Among the 136 complaints received in 2022, 92 were related to one particular development while the remaining 44 were related to other developments.

Among the above 208 complaints, 165 were related to the Ordinance, while the remaining 43 were not. Of the 165 complaints relating to the Ordinance, the investigation of 66 cases was completed and no complaint was substantiated. The SRPA is following up on the remaining 99 cases (in which 80 involve one particular development).

During the period from 2020 to 2022, the statistics on prosecutions, convictions and sentencing in relation to the suspected contravention of the Ordinance by year are as follows:

	2020	2021	2022
No. of prosecution cases heard by court	4	1	1 (Note 3)
No. of conviction cases	4	1	1
Sentence of convicted cases	Fined ranging from \$40,000 to \$80,000 respectively	Fined \$72,000	Fined \$74,000

Note 3: The court hearing of another prosecution case has been scheduled in 2023.

3. According to the information provided by the Estate Agents Authority (EAA), the number of complaints against estate agents received by the EAA from 2020 to 2022 (including cases related to first-hand residential properties and other properties) and

the number of licensees subject to sanctions during the same period are listed at **Annex**. Since there are many reasons of complaints, only the 3 main reasons are listed and the rest are shown as “Other reasons”.

4. The SRPA will continue to take a three-pronged approach to enforce the Ordinance and regulate the sales of first-hand residential properties: (a) monitor developers’ and concerned persons’ compliance with the Ordinance and take enforcement action when necessary; (b) issue timely guidelines to the trade when necessary for the more effective and practical compliance with the Ordinance; and (c) foster public awareness through various publicity channels, including online platforms, electronic and print media, 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, 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 in much efforts in educating the consumers. The EAA will continue to remind the public of issues which they should pay attention to when engaging estate agents to deal with property sales or leases through producing pamphlets and videos, holding public seminars, etc.

**Number of complaints received by EAA
and actions taken in 2020-2022**

(including cases related to first-hand residential properties and other properties)

2020

	Reasons of complaints	Number of complaints
1	Improper handling of the provisional agreement for sale and purchase / provisional tenancy agreement	60
2	Issue of non-compliant advertisements	79
3	Provision of inaccurate or misleading property information (e.g. property area and usage restriction)	41
4	Other reasons	147
	Total	327

2021

	Reasons of complaints	Number of complaints
1	Issue of non-compliant advertisements	121
2	Improper handling of the provisional agreement for sale and purchase / provisional tenancy agreement	54
3	Provision of inaccurate or misleading property information (e.g. property area and usage restriction)	30
4	Other reasons	126
	Total	331

2022

	Reasons of complaints	Number of complaints
1	Issue of non-compliant advertisements	66
2	Improper handling of the provisional agreement for sale and purchase / provisional tenancy agreement	52
3	Provision of false or misleading information on rental return	32
4	Other reasons	123
	Total	273

Actions Taken Against Licensees or Former Licensees¹

	2020	2021	2022
Number of licensees or former licensees involved	215	426	416
Type of actions²			
Admonishment/reprimand	130	307	298
Fine	108	265	243
Attachment of conditions to licence ³	91	189	177
Suspension of licence	13	16	14
Revocation of licence	41 ⁴	34 ⁴	41 ⁴

¹ These actions were taken pursuant to powers under the Estate Agents Ordinance. Some actions were disciplinary in nature whereas others were decided by the Licensing Committee of EAA. As the relevant procedures may take more time to complete, some cases were carried over from previous years.

² In some cases, more than one action was imposed on the same licensee or former licensee.

³ Some conditions were attached upon the granting of licences while others were attached subsequently.

⁴ These cases were decided by the Licensing Committee on the ground that the licensees concerned no longer met the relevant licensing requirements.

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