

Notes to Estate Agents
Observe the Residential Properties (First-hand Sales) Ordinance
when Promoting First-hand Residential Properties

Sales of First-hand Residential Properties Authority
www.srpa.gov.hk

The Residential Properties (First-hand Sales) Ordinance

The Residential Properties (First-hand Sales) Ordinance (the Ordinance) (Cap.621) came into effect on 29 April 2013. It sets out detailed requirements on sales of first-hand residential properties.

The Sales of First-hand Residential Properties Authority (SRPA) is responsible for ensuring the effective implementation of the Ordinance.

To help estate agents provide accurate information to prospective purchasers when promoting first-hand residential properties, this pamphlet sets out issues relating to the Ordinance that concern estate agents. They include:

- requirements for advertisement;
- prohibitions against misrepresentation;
- prohibitions against dissemination of false or misleading information; and
- practical tips for estate agents, covering issues relating to sales brochure, definition of saleable area, price list, sales arrangement, promotional material, mortgage, expense, etc.

The SRPA advises estate agents to check the SRPA website (www.srpa.gov.hk) and the Sales of First-hand Residential Properties Electronic Platform (SRPE) (www.srpe.gov.hk) for detailed information about first-hand residential properties.

This pamphlet is for general reference only. Please refer to the Ordinance for details.

Requirements for advertisement in the Residential Properties (First-hand Sales) Ordinance

According to the Ordinance, any document or information purporting to promote the sale of first-hand residential property can be considered as an advertisement. In other words, advertisements and information of first-hand residential properties published by estate agents are subject to regulation of the Ordinance.

It is not specified in the Ordinance the form and mode of media for an advertisement. Information published on newspapers, websites, TV, vehicles, promotional leaflets, posters, models, stickers, advertising light boxes, promotional souvenirs (e.g. calendars, pens and bags) is considered as an advertisement.

Any person (including estate agents), before publishing advertisements to promote the sale of first-hand residential properties, must exercise caution to ensure that the advertisements are in compliance with requirements for advertisements under the Ordinance.

An advertisement must contain NO false or misleading information. Offenders will be liable to a maximum fine at \$5,000,000 and an imprisonment up to 7 years.

General requirements for advertisement

An advertisement must state the following:

Estimated material date – If a development is an uncompleted development or is a completed development pending a certificate of compliance or a consent to assign issued by the Director of Lands, the advertisement must state the “estimated material date”.

Offenders will be liable to a maximum fine of \$500,000.

Publishing of advertisement – If an advertisement is published by the vendor or by another person with the consent of the vendor, the advertisement must state that fact.

Offenders will be liable to a maximum fine of \$100,000.

Size and unit price of property – Only saleable area will be used in quoting

property size and property price per square foot/per square metre.

Offenders will be liable to a maximum fine of \$500,000.

Refer to the sales brochure – If a sales brochure has been made available at the time when an advertisement is published, the advertisement must remind prospective purchasers to read the sales brochure.

Statement in a Chinese advertisement: 詳情請參閱售樓說明書。

Statement in an English advertisement: Please refer to the sales brochure for details.

Offenders will be liable to a maximum fine of \$100,000.

Additional requirements for printed advertisement

Printed advertisements include:

- an advertisement in a newspaper;
- an advertisement by the display of posters, notices, signs, labels, showcards or goods; and
- an advertisement by the distribution of circulars, brochures, catalogues or any other materials.

A printed advertisement must state the following information:

Date of printing – A printed advertisement must state the date on which it is printed.

Offenders will be liable to a maximum fine of \$100,000.

Other information – A printed advertisement must state the names of the following:

- the vendor and every holding company of that vendor;
- the authorized person for the development and his/her firm or corporation;
- the building contractor;
- the firm of solicitors acting for the owner;
- any authorized institution that has made a loan or has undertaken to provide finance for the construction of the development; and
- any other person who has made a loan for the construction of the development.

Offenders will be liable to a maximum fine of \$100,000.

Location of the development - A printed advertisement must state the location of the development, including:

- the district in which the development is situated;
- the name of the street; and
- the street number.

Offenders will be liable to a maximum fine of \$500,000.

Website address – A printed advertisement must state the address of the website designated by the vendor for the development.

Offenders will be liable to a maximum fine of \$100,000.

Statement specified in the Ordinance – If an advertisement contains a picture, image, drawing or sketch showing an artist’s impression of the development or its surrounding area, the advertisement must contain a statement specified in the Ordinance.

If the advertisement is solely or principally in Chinese, the statement is:

本廣告／宣傳資料內載列的相片、圖像、繪圖或素描顯示純屬畫家對有關發展項目之想像。有關相片、圖像、繪圖或素描並非按照比例繪畫及／或可能經過電腦修飾處理。準買家如欲了解發展項目的詳情，請參閱售樓說明書。賣方亦建議準買家到有關發展地盤作實地考察，以對該發展地盤、其周邊地區環境及附近的公共設施有較佳了解。

If the advertisement is solely or principally in English, the statement is:

The photographs, images, drawings or sketches shown in this advertisement/promotional material represent an artist’s impression of the development concerned only. They are not drawn to scale and/or may have been edited and processed with computerized imaging techniques. Prospective purchasers should make reference to the sales brochure for details of the development. The vendor also advises prospective purchasers to conduct an on-site visit for a better understanding of the development site, its surrounding environment and the public facilities nearby.

Offenders will be liable to a maximum fine of \$100,000.

Information about a specified New Territories (NT) development – If the development is a specified NT development, the advertisement must state:

- the period for which the authorized person for the development is appointed to supervise the construction of the development; and
- the period for which the building contractor for the development is appointed to construct the development.

Offenders will be liable to a maximum fine of \$100,000.

The Ordinance sets out requirements on size of letters and numbers or total area for the following information and statement: location of the development, website address and statement specified in the Ordinance.

Size of the advertisement	Chinese	English
≤ 1,039 cm ²	≥ point 10 新細明體 typeface	≥ point 10 Times New Roman
> 1,039 cm ² ≤ 2,077 cm ²	≥ point 12 新細明體 typeface	≥ point 12 Times New Roman
> 2,077 cm ² ≤ 4,155 cm ²	≥ point 16 新細明體 typeface	≥ point 16 Times New Roman
> 4,155 cm ²	Occupy at least 3% of the area of the advertisement	Occupy at least 3% of the area of the advertisement

Offenders will be liable to a maximum fine of \$100,000.

Prohibitions against misrepresentation and dissemination of false or misleading information

Any person (including estate agents):

- commits an offence if the person makes a fraudulent misrepresentation or a reckless misrepresentation for the purpose of inducing another person to purchase first-hand residential properties;
- commits an offence if the person disseminates or authorizes the dissemination of information that is likely to induce another person to purchase any first-hand residential property, and if the person knows that, or is reckless as to whether, the information is false or misleading as to a material fact.

Offenders will be liable to a maximum fine at \$5,000,000 and an imprisonment up to 7 years.

**Practical tips for estate agents
when promoting sale of first-hand residential properties**

Sales brochure

Electronic copy of a sales brochure is uploaded onto:

- the website designated by the vendor for the development/phase
- SRPE (www.srpe.gov.hk)

Hard copy of a sales brochure can be collected free of charge at:

- the venue designated by the vendor or the sales office

- The sales brochure is prepared by the vendor in accordance with requirements in the Ordinance. It provides comprehensive information.
- Estate agents should advise prospective purchasers to read the sales brochure carefully. Abbreviated pamphlets or publicity materials prepared by the vendor are never a substitute for the sales brochure.

Estate agents could provide accurate information to prospective purchasers if they are conversant with the sales brochure. Estate agents are advised to pay particular attention to the following items set out in the sales brochure:

- Notes to Purchasers of First-hand Residential Properties
 - issued by the SRPA;
 - published at the beginning of the sales brochure.
- Estimated material date
 - If a development is an uncompleted development or is a completed development pending a certificate of compliance or a consent to assign issued by the Director of Lands, the sales brochure must state the “estimated material date” in the “Information on the development” section.

- This date refers to the estimated date on which the development is completed in compliance with the approved building plans or the estimated date on which the conditions of the land grant are complied with.

“Estimated material date” is not the handover date. There may be an interval of more than six months between these two dates. Estate agents should remind prospective purchasers to allow sufficient time to avoid a time gap between moving out from the current residence and moving in to the new one.

- Location plan of the development
 - The plan shows:
 - ✧ location of the development;
 - ✧ the name of every street situated within 250 metres from the boundary of the development; and
 - ✧ 43 kinds of building, facility or structure.
 - The principal use of these buildings, facilities or structures may affect the traffic, noise, air quality, odour, environment, hygiene, fire safety, pedestrian flow, crowdedness or tranquility, e.g. a landfill, a refuse collection point, a public convenience, a petrol filling station or a hospital.
- Floor plans
 - The dimensions measured at the actual residential unit will not be identical to those stated in the floor plan. This is a normal phenomenon but the differences should not be massive.
 - The differences are caused by the following:
 - ✧ The dimensions shown on a floor plan excludes the thicknesses of plaster and finishes but there are plaster and finishes on the walls of the actual property.
 - ✧ The “floor-to-floor height” shown on a floor plan includes the thickness of the floor slabs and thus it is not identical to the “ceiling height” measured at the actual property.

Q : How to read a floor plan?

A : On a floor plan:

- a structural wall is represented by a black bold line;
- a window is represented by three parallel lines;
- fixed windows which cannot be opened are indicated;
- open kitchens are indicated;
- if the wall of a washroom is enclosed by a black bold line, it means it is a washroom with no windows.

If the prospective purchaser prefers a residential unit with an open kitchen, remind the prospective purchaser that:

- It can be checked from “floor plans of residential properties in the development” in the sales brochure whether the kitchen in a residential unit is of open kitchen design. They can also check from “fittings, finishes and appliances” in the sales brochure description on fire service installations and equipment, including smoke detector and sprinkler head fitted in or near open kitchen.
- Owners of units with open kitchens shall observe and comply with the fire safety regulations related to fire service installations and equipment and any relevant provisions under the deed of mutual covenant. To comply with those requirements, expenses will be incurred. Owners should also allow registered fire safety installation contractors to access to their units for annual inspection and maintenance of the fire service installations and equipment.
- They may check with the vendors to see if the management offices will assist owners in arranging annual inspection. They can also visit the website of the Fire Services Department (www.hkfsd.gov.hk) for information on annual inspection and maintenance of the fire service installations and equipment in open kitchens.

- Summary of deed of mutual covenant
 - On management expenses, this section sets out the basis on which these expenses are shared among the owners of the residential properties in the development.
 - The amount of management fee of each residential property is not set out in the sales brochure.
 - ✧ If the prospective purchasers would like to know the estimated amount of management fee of an uncompleted residential property, estate agents could help them check with the vendor.
 - ✧ The management fee of a completed residential property is set out in the “Vendor’s Information Form”.
- Information on public facilities and public open spaces
 - This section sets out:
 - ✧ whether owners of residential properties are required to share the expenses of managing, operating or maintaining the public facilities and public open spaces within or outside the boundary of the development; and
 - ✧ the location of those public facilities and public open spaces.

- Cross-section plan
 - The plan shows the difference in height between the lowest residential floor of a building and the street level.
 - If some floors in a development are lower than the street level, pay attention if the properties preferred by prospective purchasers are on the floors which are close to the street level.
- Maintenance of slopes
 - This section sets out whether owners of the residential properties have responsibility to maintain the slopes at their own cost.
- Relevant information
 - This section sets out information on any matter likely to materially affect the enjoyment of the residential property, which is known to the vendor but not to the public.
 - Examples:
 - ✧ Fixed windows are installed in residential properties for noise mitigation.

The residential properties will be affected by noise problems.

- ✧ Gondolas are used during inspection, maintenance, cleaning and repairing of the external walls of the residential building.

The use and maintenance of gondola will incur expenses.

- ✧ Architectural features with illumination are installed outside the external walls of the residential building.

The illumination may cause light nuisance to property residents. Cleaning and maintenance of the architectural features may incur expenses.

- ✧ An area for plant nursery next to the development site is let under a short term tenancy.

The use of the area for plant nursery may change upon termination of the short term tenancy.

Definition of “saleable area”

- Saleable area means the floor area of the residential property, which includes the floor area of:
 - (i) balcony;
 - (ii) utility platform; and
 - (iii) verandah.
- It excludes an air-conditioning plant room, a bay window, a cockloft, a flat roof, a garden, a parking space, a roof, a stairhood, a terrace or a yard even it forms part of the residential property.

- Under the Ordinance, the floor area of a residential property:
 - is to be measured from the exterior of the enclosing walls of the residential property;
 - includes the area of the internal partitions and columns within the residential property; and
 - excludes the area of any common part outside the enclosing walls of the residential property.

Price list

Electronic copy of a price list is uploaded onto:

- the website designated by the vendor for the development/phase
- SRPE (www.srpe.gov.hk)

Hard copy of a price list can be collected free of charge at:

- the venue designated by the vendor or the sales office

- A price list sets out prices of residential properties, terms of payment, the basis on which any discount on the price is available; gifts; financial advantages or benefits.
- Estate agents must explain clearly and accurately to prospective purchasers each and every detail set out in the price list, which includes:
 - whether the discounts offered by vendors are conditional offers;
 - if the vendor offers financial advantages, whether the purchaser has to submit an application to the vendor before a specified deadline;
 - if the vendor offers a stamp duty rebate, check whether the rebate will be deducted directly from the purchase price or be paid directly by the vendor to the Inland Revenue Department.
- The vendor may not offer to sell all the residential properties that are covered in a price list. Pay attention to the sales arrangements to check which residential properties will be offered for sale.
- Before the relevant price lists for residential properties are made available by the vendor, the vendor cannot seek or accept any specific or general expression of intent of purchasing any residential property. Before the sale of the relevant

property has commenced, the vendor cannot seek or accept any specific expression of intent of purchasing that particular property.

Sales arrangement

Electronic copy of the document containing information on sales arrangements is uploaded onto:

- the website designated by the vendor for the development/phase

Hard copy of the document containing information on sales arrangements can be collected free of charge at:

- the venue designated by the vendor or the sales office

- The following details are set out in the document containing information on sales arrangements:
 - the date, time and place for the sales of residential properties;
 - which residential properties will be offered to be sold; and
 - the method to be used to determine the order of priority among prospective purchasers for the selection of residential properties.
- Remind prospective purchasers to bring all documents required on the date of sale, including proofs of relationship with spouse or relatives.

Mortgage and expense

- The financial standing of each prospective purchaser is different. Do not assure a prospective purchaser that he/she will be able to obtain a mortgage loan or a financial advantage.
- Advise prospective purchasers to check the terms and approved amount of mortgage loans with banks/ financial institutions/ vendors concerned direct.
- Explain clearly to prospective purchasers the payment details, the basis on which discounts are offered, gifts, application deadlines for financial advantages from vendors, requirements for mortgagors and conditions of approval under each mortgage loan plan offered by vendors, etc..
- Remind prospective purchasers that buying a residential property involve a host

of miscellaneous expenses on top of property prices. These expenses may cost hundreds of thousands of dollars. If the prospective purchasers have doubts, advise them to check with lawyers and vendors direct.

Expenses a homebuyer needs to pay:

- property prices
- solicitors' fees
- charges for certified copies of title deeds
- mortgage charges
- insurance fees
- stamp duties
- Government rent
- management fees payable in advance
- special funds payable
- deposits for creation of water, electricity and gas accounts
- debris removal fees

Help prospective purchasers avoid financial loss

- Remind prospective purchasers to think carefully before signing a preliminary agreement for sale and purchase (PASP):
 - his/her affordability to take out a mortgage loan, including whether his/her affordability will be able to pass requirements of the “stress test”;
 - take into account all miscellaneous expenses when assessing affordability;
 - the preliminary deposit which amounts to 5% of the purchase price will be forfeited if the agreement for sale and purchase is not signed within 5 working days after the signing of the PASP.

Treasure relationships established with prospective purchasers

- Protect interests of prospective purchasers;
- Uphold integrity and your reputation;
- Sustainable relationships maintained with prospective purchasers are assets to estate agents.

Sales of First-hand Residential Properties Authority

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