

Developers and estate agents should comply with relevant ordinances and guidelines in tender process of first-hand residential developments

The Secretary for Transport and Housing, Mr Frank Chan Fan, has earlier pointed out that there were some individual first-hand residential properties offered to be sold by way of tender where the sales process was undesirable and not transparent enough. In this connection, the Sales of First-hand Residential Properties Authority (SRPA) under the Transport and Housing Bureau (THB) has proactively monitored the sales process of developments on the market and has spotted cases with insufficient transparency in the sales process and the transaction information, which might have contravened the Residential Properties (First-hand Sales) Ordinance. The SRPA is investigating the cases and will strictly enforce the Ordinance based on evidence. The SRPA does not rule out the possibility of taking prosecution action. Meanwhile, the Estate Agents Authority (EAA) is looking into cases to ensure that estate agents are strictly observing the Estate Agents Ordinance and EAA's guidelines when participating in the sales of residential properties by tender.

Mr Chan also mentioned that the SRPA would issue a Reminder for the Trade and EAA would also issue a reminding letter to estate agents.

The SRPA today (April 12) issued a Reminder for the Trade and Frequently Asked Questions and Answers (FAQ) requiring vendors to set out full details of the terms of payment in the Register of Transactions of first-hand residential developments. Meanwhile, the EAA also issued a Letter to Licensees reminding them to strictly comply with the relevant ordinances and guidelines when participating in the sales of first-hand residential properties by tender.

According to Section 61 of the Residential Properties (First-hand Sales) Ordinance, the purpose of the Register of Transactions of a development is to provide a member of the public with the transaction information relating to the development for understanding the market conditions. Prospective purchasers can thus get accurate market information and make an informed decision when purchasing first-hand residential properties.

"The main purpose of the Reminder for the Trade and the FAQ issued by the SRPA is to remind vendors that in the sales of first-hand residential properties, if they have offered any discount, gift, financial advantage or benefit (no matter in term of cash or not) to the purchasers, they should set out the full details of the terms of payment as agreed between vendor and purchaser for the purchase of each specified residential property. Moreover, the Register of Transactions should be self-contained so that prospective

purchasers do not have to refer to other documents or materials for details of the terms of payment.

"The Residential Properties (First-hand Sales) Ordinance has clearly stipulated the sales arrangements of first-hand residential properties. These arrangements, particularly those about transaction information, should meet the requirements of the Ordinance regardless of the method of sales. This is to ensure the fairness and transparency of the sales arrangements and the transaction information of first-hand residential properties for the protection of the rights of consumers," a spokesman for the THB said.

Meanwhile, the EAA also issued a Letter to Licensees today to remind all licensees participating in the sales of first-hand residential properties to comply with the Estate Agents Ordinance and the relevant guidelines set out in the Practice Circular issued by the EAA, regardless of the method of sales adopted by developers for selling their properties. In particular, the EAA reminded the licensees that without obtaining a vendor's written endorsement, they must not issue any materials promoting the sales of any first-hand residential properties by tender, including the materials containing information on the suggested bidding price.

The trade must strictly comply with the Residential Properties (First-hand Sales) Ordinance, the Estate Agents Ordinance and relevant guidelines. The Government will continue to monitor closely the sales of first-hand residential properties by tender and will take any possible measures when necessary to ensure the level of transparency of the sales of first-hand residential properties by tender is the same as that for open sales with price lists.