

LCQ2: Regulation of sales of first-hand residential units by way of tender

Following is a question by Hon Wilson Or and a reply by the Secretary for Transport and Housing, Mr Frank Chan Fan, in the Legislative Council today (May 29):

Question:

It has been reported that recently, some units of a residential development were offered for sale by way of tender. According to the tender results, a certain unit was sold unexpectedly at a price of \$470,000 higher than that of another unit with the same orientation and size but 12 storeys higher, which was sold on the same day, and five other units with the same size and orientation but on different floors were sold surprisingly at the same price. There are comments that the sale of units by way of tender has resulted in a lack of information transparency, thereby placing prospective purchasers in an unfavourable position. Besides, as the payment terms drawn up by developers are multifarious, it is difficult to calculate their cash equivalents, rendering the "transaction prices" shown on the registers of transactions (RT) unable to reflect the actual prices at which the units were sold. In this connection, will the Government inform this Council:

(1) whether it will consider, by making amendments to the Residential Properties (First-hand Sales) Ordinance, stepping up the regulation of the sale of residential units by way of tender, e.g. requiring that only units larger than a certain size may be sold by way of tender, and no more than a certain proportion of the units of a development may be sold by way of tender; and

(2) given that although developers are required to set out, in the RT of developments, the payment terms for the units sold (including any discount on the price as well as any gift, financial advantage or benefit offered to the purchaser), it is difficult for ordinary prospective purchasers to compare the payment terms across different developments and different units, whether the Government will require developers to make public in the RT the cash equivalents of the payment terms calculated in accordance with a prescribed formula, so as to make it easier for prospective purchasers to grasp the actual prices at which the various units were sold?

Reply:

President,

The objectives of the Residential Properties (First-hand Sales) Ordinance are to strike a balance between enhancing the transparency as well

as fairness in the sales of first-hand residential properties to strengthen protection of consumers, and allowing vendors the flexibility in making business decisions with a view to providing a level playing field for the first-hand residential properties market. Though the requirement on the provision of price lists does not apply to developments sold by way of tender, the Ordinance stipulates that other provisions relating to sales brochure, show flat and Register of Transactions disclosing transaction information still apply.

The Government has all along been closely monitoring the implementation of the Ordinance and will intervene appropriately when necessary. We have adopted a three-pronged approach to enforce the Ordinance in regulating the sales of first-hand residential properties: firstly, monitoring developers' and concerned persons' compliance with the Ordinance and taking enforcement action when necessary; secondly, issuing timely guidelines to the trade when necessary for the more effective and practical compliance with the Ordinance; thirdly, fostering public awareness of the Ordinance to better protect consumer interests. Irrespective of the methods of sales, developers and concerned persons' must strictly comply with the Ordinance to ensure open, transparent and fair transaction information.

In respect of law enforcement, the Sales of First-hand Residential Properties Authority (SRPA) has spotted by proactive surveillance that sales practices and the transaction information of some individual first-hand residential properties sold by tender recently were not transparent enough. On one of the cases, the SRPA has completed the work of evidence collection and initiated prosecution. The case will be heard on July 9. The SRPA is taking follow up action on the rest of the cases. The SRPA does not rule out the possibility of further prosecution action subject to evidence available.

On enhancing the trade's compliance with the Ordinance, section 61 of the Ordinance states that the purpose of 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 transaction information timely to make a decision when purchasing first-hand residential properties. The SRPA has earlier issued a Reminder to the Trade and a Frequently Asked Question and Answer requiring vendors to set out full details of the terms of payment in the Registers of Transactions of first-hand residential developments, and has reminded vendors that in the sales of first-hand residential properties, if they have offered any discount, gift, financial advantage or benefit (whether in terms of cash or not) to purchasers, they should set out the full details of the terms of payment as agreed between the vendor and the purchaser for 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. Having issued the Reminder, the situation has generally improved and prospective purchasers can better understand the actual transaction information of individual units.

To promote public awareness of the Ordinance, the SRPA launched a new

radio Announcement in the Public Interest on May 17, named "Bidding First-hand Residential Properties". The purpose is to remind prospective purchasers that before bidding a first-hand residential property, they should obtain the prices, rebates and benefits of similar properties of the development from the Register of Transactions.

Meanwhile, the Estate Agents Authority (EAA) is conducting investigation 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. The EAA has also issued a Letter to Licensees reminding all licensees 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 reminds 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.

On further enhancing the trade's compliance with the Ordinance, the SRPA intends to issue a Best Practice for the Trade in the near future illustrating how a developer should list out various discount, financial advantage or benefit in monetary terms in the Register of Transactions in a clear and orderly manner so that prospective purchasers could have a better grasp of the transaction information of individual units.

The SRPA will also upload case examples on its website to elaborate the calculation of various discount, financial advantage or benefit in the Register of Transactions so that prospective purchasers could have a good grasp of the methods of calculating the actual prices of the units to make a decision.

The Government will continue to implement the above measures. The SRPA and the EAA will monitor closely the sales of first-hand residential properties by tender and take necessary measures 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 with a view to safeguarding consumer interests.