

LCQ2: Risks involved in acquisition of first-hand residential properties

Following is a question by Hon Kwok Wai-keung and a reply by the Secretary for Transport and Housing, Mr Frank Chan Fan, in the Legislative Council today (November 27):

Question:

Recently, quite a number of purchasers of first-hand residential properties have failed to complete their property transactions due to various reasons (e.g. changing home purchase decisions or failing to obtain mortgage loans from financial institutions). As a result, they had to bear losses amounting to several hundred thousand dollars at the least. According to the Residential Properties (First-hand Sales) Ordinance, if a purchaser does not execute an agreement for sale and purchase in respect of the property concerned with the vendor within five working days after entering into a preliminary agreement for sale and purchase (the cooling-off period), the transaction is forthwith cancelled and the vendor may forfeit the preliminary deposit which is equivalent to 5% of the purchase price (the deposit rate). In this connection, will the Government inform this Council:

(1) as the Consumer Council recommended in its Study Report on the Sales of First-hand Residential Properties published in 2014 that the cooling-off period be lengthened to between 7 and 14 working days and the deposit rate be lowered to between 1% and 3%, whether the Government has followed up those recommendations, such as conducting studies and public consultations; if so, of the details; if not, the reasons for that;

(2) whether it will introduce legislative amendments to lengthen the cooling-off period and lower the deposit rate; if so, of the implementation timetable; if not, the reasons for that; and

(3) of the new measures to step up its efforts in drawing consumers' attention to the various risks associated with the acquisition of properties?

Reply:

President,

The Residential Properties (First-hand Sales) Ordinance (the Ordinance) aims at enhancing the transparency and fairness in the sales of first-hand residential properties, as well as striking a balance between strengthening consumer protection and providing a level playing field for vendors of first-hand residential properties. Since its implementation, the Ordinance has brought about notable results in achieving the above targets.

My consolidated reply to the Hon Kwok Wai-keung's question is as follows:

The Ordinance stipulates that if a purchaser does not execute the agreement for sale and purchase (ASP) within five working days after signing the preliminary agreement for sale and purchase (PASP), the PASP is terminated and a preliminary deposit equivalent to five percent of the purchase price of the property will be forfeited by the vendor. The vendor, however, does not have any further claim against the purchaser for the failure. Such requirements are laid down in the light of the volatility of the residential property market in Hong Kong as well as the financial loss which a purchaser in the mass market will suffer for not completing a transaction.

Before the Ordinance has come into effect, if a purchaser of a first-hand residential property did not execute the ASP within three working days after signing the PASP, the PASP would be terminated and normally a preliminary deposit equivalent to 10 percent of the purchase price would be forfeited by the vendor. Under the current Ordinance, the amount of preliminary deposit has already been lowered from 10 percent to five percent of the purchase price, whereas the time limit for signing the ASP has been extended from three to five working days.

The Ordinance is the result of a year's discussion in the Steering Committee on the Regulation of the Sale of First-hand Residential Properties by Legislation set up under the Transport and Housing Bureau, a two-month public consultation exercise and thorough discussions in the Legislative Council, during which different stakeholders deliberated on the matter along the spirit of consensus building while respecting differences. The Consumer Council (CC), the trade and relevant stakeholders have actively participated in the discussions. According to the Study on the Sales of First-hand Residential Properties published by the CC in 2014, the CC proposed that the Ordinance should offer a longer "cooling-off period" for purchasers to sign an ASP after signing the PASP and that the amount of preliminary deposit to be forfeited should be lowered in case a purchaser does not execute an ASP. Indeed, relevant recommendations and similar issues have been deliberated fully during the legislative process of the Ordinance.

In addition to the provisions of "cooling-off period" for consumer protection, it is stipulated under the Ordinance that vendors of first-hand residential developments are required to make sales brochures available for collection by the general public free of charge at least seven days before the date of sale of the first-hand residential properties. Besides, vendors are required to make the price lists and information on sale arrangements available for collection by the general public free of charge at least three days before the date of sale. These provisions are set out for the protection of consumers by providing prospective purchasers adequate time and information to make a proper decision.

To safeguard the interests of consumers, the Sales of First-hand Residential Properties Authority (SRPA) has been making efforts in publicity and public education, including the production of a variety of promotional pamphlets, TV and radio Announcements in the Public Interest, video segments and radio dramas, to raise the awareness of prospective purchasers of first-hand residential properties on various points to note on property purchase,

some of which include failure to execute the ASP within five working days will result in the forfeiture of the preliminary deposit; careful calculation of the amount of mortgage loan and miscellaneous expenses should be carried out before purchasing a property; and a home purchase decision should only be made after ascertaining that approval of a mortgage loan plan within their repayment ability by a financial institution or bank could be secured so that prospective purchasers can avoid financial losses from failing to complete the transaction due to not having secured sufficient mortgage loan.

Such information is included in the Notes to Purchasers of First-hand Residential Properties (Notes to Purchasers) published by the SRPA. According to the Ordinance, vendors are required to first set out the Notes to Purchasers in the sales brochures for developments so that prospective purchasers are aware of the steps to take for their own protection before deciding to purchase a residential property.

The SRPA will continue to communicate with various stakeholders for exchange of views on the Ordinance in a bid to achieve the targets of enhancing the transparency and fairness in the sales of first-hand residential properties and strengthening consumer protection.