

LCQ4: Resale of subsidised sale flats

Following is a question by the Hon Leung Man-kwong and a reply by the Secretary for Housing, Ms Winnie Ho, in the Legislative Council today (February 21):

Question:

The Hong Kong Housing Authority (HA) has indicated that among the cases of suspected breach of the live-in requirements for subsidised sale flats (SSFs) it handled recently, a case involved a flat which had been resold and its owner had surrendered to the HA all the profits earned from the resale of the flat. In addition, it has been reported that in the past, there were a number of cases in which SSF owners resold their "unmodified flats". In this connection, will the Government inform this Council:

- (1) of the number of cases of suspected breach of the live-in requirements for SSFs followed by reselling such flats which are being followed up by the HA, and whether the HA will consider setting up a reporting mechanism;
- (2) for SSF owners breaching the live-in requirements for SSFs followed by reselling their flats, in addition to requiring such owners to surrender all the profits earned, whether the Government has other ways to follow up and whether it will consider increasing the penalties; and
- (3) for SSFs bought first-hand which have not been occupied and renovated, whether the Government will consider stepping up efforts to provide guidelines for real estate intermediaries in respect of handling the purchase and sale of such flats?

Reply:

President,

To ensure proper utilisation of precious and limited public housing resources, owners of subsidised sale flats (SSFs) are required to comply with the live-in requirements. According to the Agreement for Sale and Purchase (ASP) made between the owner of SSF for the purchase of the flat and the Hong Kong Housing Authority (HA), the flat concerned shall be occupied by the owner and all members of the family named in the Application Form for the purchase of the flat. If the owner or any family member ceases to actually or permanently live in the flat without the prior written consent of the HA, the HA has the right to require the owner to assign the flat back to the HA at the costs and expenses of the owner.

The HA has been taking stringent follow-up actions on cases of suspected breaches of the live-in requirements and complaints received. The HA will take appropriate actions after investigation and considering the circumstances of each case. If the owner is found to have breached any of the

concerned requirements, the HA will not approve the application from the parties concerned for the issuance of a Certificate of Availability for Sale (CAS) under the Home Ownership Scheme (HOS) Secondary Market Scheme (SMS). Even if a CAS has been issued, the HA also has the right to revoke the CAS so that the owner concerned will not be able to sell the flat under the SMS. At the same time, purchasers should also note that if the original owner is in breach of the live-in requirements, the HA will not issue the Letter of Nomination in respect of the flat concerned, and both the purchaser and vendor will need to bear the risk that the sale and purchase cannot be completed.

Having regard to the special circumstances of some individual cases, e.g. the owner is hospitalised due to sickness or has to take care of a family member with serious health problems, rendering it impracticable for him to handle decoration and removal issues, the HA may withhold the enforcement actions for non-compliance of the requirements under the ASP and at the same time require the owner to move in the flat concerned within 60 days from the date of the HA's notification in order to comply with the requirements under the ASP. The HA will also monitor the live-in condition of the flat concerned to ensure that the breach has been remedied.

Amongst some recent cases, there was a flat which was being resold in the Secondary Market and the owner was in breach of the live-in requirements. According to the ASP, the HA has the right to require the owner to assign the flat back to the HA. After receiving the demand from the HA to buy back the flat concerned, the owner had on his volition proposed to surrender to the HA all the profits obtained from the sale of the flat, and the HA accepted the proposal in handling the matter after considering the specific circumstances of the case, including minimising the impact on the uninformed purchaser.

Apart from the follow-up actions on suspected cases and complaints, the HA has also reminded stakeholders of the requirements concerned through various channels. For owners, the live-in requirements have been set out in the application guide and the ASP of relevant sale exercises. Applicants of SSFs are required to sign a declaration at the time of flat selection to declare and undertake that they will notify all the members of the family named in the application form to comply with the live-in requirements. Owners of SSFs are fully aware that they are required to comply with the live-in requirements. Recently, the HA has also sent a letter to owners who have recently been issued with a CAS reminding them of the live-in requirements. In addition, in the press release issued last month in respect of the flat selection arrangements for HOS 2023, the HA had specifically reminded the owners, purchasers and licensees for estate agency work of the requirements concerned. The Housing Department (HD) will continue to step up publicity and remind stakeholders, including setting out the details of the live-in requirements in sales/application documents, HA/HD's designated websites, flat selection letter, notice for completion of sale and purchase, letters related to the application for a CAS, etc.

In addition, the HA is maintaining a close liaison with the Estate Agents Authority (EAA) on this matter. The EAA had issued a letter to its

licensees on January 26, 2024 to remind again all licensees not to participate in any sale of SSFs where the owners have breached the live-in requirements. The EAA also reminds agents and educates the industry to act cautiously and prudently, as well as be mindful of the live-in requirements in handling transactions concerning SSFs; otherwise they may be subject to disciplinary actions, including admonishment, reprimand, fine, suspension of licence or even revocation of licence, etc. If an estate agent participates in the sale of a flat and the purchaser subsequently suffers from losses or damages because of the breach of the live-in requirements by the owner, the estate agent concerned may be sued by the purchaser in civil actions for failing to exercise due care and due diligence to protect the purchaser's interest. The EAA will also keep a watch out for advertisements issued by licensees regarding SSFs, and spot check whether suspected breaches of the live-in requirements of SSFs are involved. If the HA discovers cases breaching the live-in requirements and the involved estate agents are suspected of breaching EAA's Code of Ethics, the EAA will conduct follow-up investigations.

I reiterate that SSF owners must comply with the terms and conditions as set out in the ASP entered into with the HA for the purchase of the flats. Once again, I would like to remind purchasers and vendors of SSFs and estate agents that they should be careful and mindful about the concerned requirements.

Thank you, President.