

LCQ8: Unsold first-hand private residential units

Following is a question by the Hon Dennis Kwok and a written reply by the Secretary for Transport and Housing, Mr Frank Chan Fan, in the Legislative Council today (May 30):

Question :

According to the Statistics on Private Housing Supply in Primary Market released by the Transport and Housing Bureau, as at the end of last year, there were 9 000 unsold units in the completed private buildings in the territory. On the other hand, the Collector of Stamp Revenue may grant, under section 45 of the Stamp Duty Ordinance (Cap. 117), stamp duty relief to an instrument that conveys or transfers a beneficial interest in an immovable property from one associated body corporate to another. In this connection, will the Government inform this Council:

(1) whether the aforesaid 9 000 unsold units include those leased out by the developers concerned; if so, of the number concerned; if not, the reasons for that;

(2) of a breakdown of the aforesaid 9 000 unsold units by (i) name of development and (ii) the unit floor area classification used by the Rating and Valuation Department in compiling the statistics and, among such units, the number of those which were leased out by the developers concerned;

(3) of the following information in respect of each of the developments mentioned in (2):

(i) the District Council district in which the development is located;

(ii) the street number;

(iii) the date on which the occupation permit was granted;

(iv) the date on which the certificate of compliance (commonly known as "letters of satisfaction") was granted;

(v) the sum of the prices of the unsold units concerned on the price list; and

(vi) the sum of the rateable values of the unsold units concerned;

(4) among the aforesaid 9 000 unsold units, whether there are units in respect of which the beneficial interests have been conveyed or transferred upon completion and the instruments concerned have been granted stamp duty reliefs by the Collector of Stamp Revenue under section 45 of the Stamp Duty Ordinance; if so, of the number of such units; if not, the reasons for that;

(5) under the existing requirement, when the transferee of a conveyance or transfer mentioned in (4) sells the unit concerned subsequently to a third person who is not his or her associate, whether the former is required to make retrospective payment in respect of the stamp duty relief granted by the

Collector of Stamp Revenue under section 45 of the Stamp Duty Ordinance; if so, of the number of such cases in each of the past three years and the amount of stamp duty involved in each case;

(6) of the number of instruments involving conveyance or transfer of beneficial interests of private domestic units which were granted stamp duty reliefs under section 45 of the Stamp Duty Ordinance in each of the past three years and, in respect of each instrument, the date of conveyance or transfer and the amount of stamp duty involved (set out in a table); and

(7) given that if the association between two body corporates ceases within two years after the date of execution of the instrument, the Collector of Stamp Revenue shall have the right to withdraw the stamp duty relief that has already been granted under section 45 of the Stamp Duty Ordinance, of the number of cases in which the Collector of Stamp Revenue withdrew the stamp duty reliefs in each of the past three years, and the amount of stamp duty involved in each case (set out in a table); whether the authorities have reviewed the implementation of the relief requirement; if not, of the reasons for that; if so, the details, including whether such requirement will be amended?

Reply:

President,

After consulting the Inland Revenue Department (IRD), my reply to various parts of the question raised by the Hon Dennis Kwok is as follows:

(1), (2) and (3) The Government releases statistics on private housing supply in the primary market on the website of the Transport and Housing Bureau (THB) on a quarterly basis, including the number of unsold units in completed projects. The concerned statistics are consolidated by THB based on inputs provided by various Government departments (e.g. Buildings Department, Land Registry, etc.) for the purposes of projecting the supply of first-hand private residential units in the coming three to four years.

As at March 31, 2018, there were around 9 000 unsold first-hand private residential units in completed projects. These unsold units may be vacant units, units occupied by the developers for self-use or units rented out by developers (e.g. serviced apartments). As developers are not required to declare the occupancy of these unsold units, we do not have information about the number of units rented out by developers among these 9 000 units. We also do not compile statistical data on the size, the District Council district in which the relevant development is located, the street number, the dates on which the occupation permit and certificate of compliance were granted, the prices and the rateable values of these unsold units.

(4) The above 9 000 unsold units refer to the number of unsold first-hand private residential units in completed projects. In other words, if the units have been transferred to other persons or companies through agreement for sale and purchase, these units would not be counted as unsold units.

(5) According to the Stamp Duty Ordinance, if a transferee of an instrument executed by associated bodies corporate in relation to sale and purchase or transfer of residential property sells or transfers the residential property covered by the instrument to an unassociated third party in future, the transferee is not required to pay to the Collector of Stamp Revenue the stamp duty in respect of the instrument for which relief has been granted. However, unless the transaction for sale or transfer of residential property to an unassociated third party fulfills the exemption conditions prescribed in the Stamp Duty Ordinance, the relevant transaction will be subject to Special Stamp Duty, Buyer's Stamp Duty and the New Residential Stamp Duty with reference to applicable rates.

(6) In the past three financial years, the number of residential property cases and the amount of stamp duty involved therein where stamp duty relief was granted by the IRD on grounds of property transfer between associated bodies corporate under sections 29H(3) and 45 of the Stamp Duty Ordinance are set out in the table below:

Financial year	Number of cases (Note 1)	Amount of stamp duty involved (Note 2) (\$ Million)
2015-16	206	2,626
2016-17	168	1,874
2017-18	253	3,014

Note 1: The numbers of cases listed in the table above are classified by the date on which IRD granted the relief. IRD has not performed analysis on the date of conveyance of and the amount of stamp duty involved in each individual case.

Note 2: It only includes the amount of relieved ad valorem stamp duty and Buyer's Stamp Duty. Since it is not necessary to provide the date of acquiring the relevant residential property at the time of applying for the relief, the amount of relieved Special Stamp Duty cannot be computed.

(7) According to section 45(5A) of the Stamp Duty Ordinance, if associated bodies corporate no longer qualify for the associated relationship as defined under section 45(2) within two years from the date of executing the instrument for sale and purchase or transfer of property, the relevant bodies corporate have to pay the stamp duty for which relief has been granted. In the past three financial years, IRD had no record of withdrawing stamp duty relief by reason of cessation of associated relationship.

Section 45 of the Stamp Duty Ordinance can effectively cater for the genuine need of transferring properties between associated bodies corporate, and at the same time empower the Collector of Stamp Revenue to refuse granting relief and recover stamp duty under appropriate circumstances for the protection of Government revenue. Since the relevant provision has all

along been effective and there are no signs of abuse, the Government currently has no plan to amend the relevant provision.