



Legislative Council Panel on Housing

HKIS Written Submission on “Public Consultation on the Proposed Legislation to Regulate the Sale of First-hand Residential Properties”

The Hong Kong Institute of Surveyors (HKIS) welcomes the issue of the “Consultation Paper on the Proposed Legislation to Regulate the Sale of First-hand Residential Properties” (Consultation Paper) by the Transport and Housing Bureau in November 2011, which has basically incorporated all the recommendations of the Steering Committee on Regulation of First-hand Residential Properties by Legislation as stipulated in its report submitted to the Secretary for Transport and Housing in October 2011 for the better protection of prospective purchasers. These include:

1. Only saleable area shall be used in all price lists, sales brochures, advertisements and any promotional materials.
2. Provision of aerial photo for the development site and its surrounding area in the sales brochure.
3. Disclosure of transaction information within 24 hours after signing of the preliminary agreement for sales and purchase (PASP).
4. Agreement for sales and purchase shall be signed within 6 working days after signing of the PASP.
5. Disclosure of advantages offered in relation to sale of a unit as that may have bearing on the price of such a unit.
6. Disclosure of transactions that involve senior staff members not just the board directors.
7. No modified show flat should be provided without an unmodified show flat of the same type be provided first. Measurement as well as photo and video takings shall be allowed in the unmodified show flats.

HKIS, while supporting the measures to regulate sales of first-hand residential properties as provided under the proposed legislation in the Consultation Paper, would like to offer its further views on the Consultation Paper.



Only Saleable Area should be used

Unlike Saleable Area which has standardized definition and method of measurement, the term "Gross Floor Area (GFA)" has been used in various situations for different purposes but there is no unified definition to which the lay public could refer. Indeed, adopting a common definition for GFA is also not a practical proposal. Currently, different developers could have their own way to include or exclude which part of the common areas and which part of the accountable or non-accountable GFA when describing the GFAs of individual units in the price lists and sales brochures, leading to a totally confusing or misleading situation that even with the same set of approved building plans, different developers can prescribe different GFA for the same unit. Given the situation that the term GFA could carry different definitions and interpretations adopted across the industry, it will be even more complicated and confused if a new definition of "GFA" is created. Some people may argue that the GFA of all the units stated in the price lists and sales brochures are certified by Authorized Persons (AP) who must be an architect, engineer or surveyor. However, due to the complications in describing GFA of a building, there exists no rule nor practice note governing how the AP should calculate the GFA of the individual units. As such, the GFA figures so certified may vary from one AP to another AP. Since it is unlikely that such misleading situation could be resolved in the foreseeable future, we do not consider it appropriate to provide GFA in any price list and sales related materials.

Reservation of a Residential Property

HKIS has no strong views as to whether the date when the price list is issued or the date when sale commences should be used as the cut-off date for reservation of a residential property before which reservation is not allowed. However, if the former cut-off date is adopted, the definition of reservation should be clearly defined so that reservation of a specified unit at a specified price for a particular person must not be allowed as such reservation is in effect a property sale activity which shall not be allowed during a period of 3 days after the issue of the price list under the proposed legislation.



Exemption of HA Properties

While we note that the proposed legislation shall not apply to residential properties constructed by the Hong Kong Housing Authority (HA) for reasons explained in the Consultation Paper, HKIS considers that HA should follow the same requirements as stipulated under the legislation as far as they are applicable and practically possible notwithstanding the said exemption under the legislation.

Submitted by
The Hong Kong Institute of Surveyors
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