

Circular

Circular No. 06-05 (CR)

- Matters to be attended to by practitioners involved in first sales of residential properties

First Sales of Residential Properties

In view of recent community concerns about sales activities in the first-hand property market, practitioners involved in first sales of residential properties should pay attention to the following matters: -

1. ***Price Lists***

Where the practitioner has been given a price list by the developer, he should provide the same to prospective purchasers without any charge, restriction, or conditions. Also, practitioners should not prepare price lists with other prices without the developer's instruction.

Practitioners who provide additional information to prospective purchasers concerning the price or price calculation such as the "price per square foot", payment methods or mortgage plans, must ensure that such information is accurate and that they have taken all reasonable steps and exercised all due diligence to verify such information. Practitioners should refer to Circular No. 04-02 (CR) for more detailed guidelines on introducing/explaining information on mortgage schemes/terms of first-hand properties.

2. ***"Deposits"***

In cases where the practitioner acts for the developer only or for both the developer and the prospective purchaser, he should not accept any money, whether described as a deposit or not, from a prospective purchaser without the developer's authorisation.

In the case of the Consent Scheme, if the agent is so authorised by the developer, the sum of money should be same as the preliminary deposit payable to the developer referred to in the Government's consent letter in respect of the development concerned.

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3. ***Authorisation for advertising***

Unless the practitioner is authorised by the developer in writing, he should not issue any advertisements in respect of a development.

4. ***Accuracy of advertisements***

If the practitioner is authorised by the developer to issue an advertisement in respect of a development, he should ensure that any key features mentioned, such as the location plan, floor area and floor plan, fittings and finishes, anticipated completion date, management and details of amenities/facilities, are correctly described in the advertisement.

5. ***Representations by agents***

If authorised by the developer, the practitioner may, on behalf of the developer, make written and/or oral representations in respect of a development. Nevertheless, the practitioner should restrict such representations made on behalf of the developer to information contained in the sales brochure and documents supplied by the developer and which the practitioner has taken all reasonable steps and exercised all due diligence to verify.

6. ***Publication of sales information***

Practitioners should not publicise information on the sales figures or performance of a development on behalf of the developer, unless they have verified the same by taking all reasonable steps and exercising all due diligence.

7. ***Obtaining potential purchasers' identity cards***

Practitioners must not keep their purchaser clients' identity cards unless they have been given authority to do so by these clients. Practitioners should, therefore, obtain their purchaser clients' authority before keeping purchaser clients' identity cards for verification of identity in preparing preliminary agreements for sale and purchase between the developer and the potential purchaser.

Under Sections 7A(1A) and 7A(2) of the Registration of Persons Ordinance, any person who, without lawful authority or reasonable excuse, has in his custody or possession another person's identity card commits an offence.

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8. *Number of agents at sales sites*

Estate agency companies should comply with the maximum number of estate agents who may be sent and stationed at the sales site at a particular time as may be specified by the developer.

9. *Maintaining order at sales sites*

Practitioners should comply with the rules and regulations as may be set by the developer for maintaining order at a sales site.

10. *Compliance with laws, rules and regulations when conducting sales activities in the vicinity of sales sites*

Practitioners should comply with laws, rules and regulations (such as the Road Traffic Ordinance, bye-laws of the Mass Transit Railway Corporation/Kowloon Canton Railway Corporation, etc.) when conducting sales activities in the vicinity of a sales site.

Practitioners who do not observe the above may, in addition to breaching the law, discredit or bring the estate agency trade into disrepute by their conduct, which may in turn affect their being fit and proper persons to hold licences.

Practitioners are also reminded to pay attention to matters relating to first sales contained in the following circulars:

- 01-02 (CR) Proper Documentation of Incentives and Gifts
- 01-17 (CR) Guidelines for Sales Descriptions of Uncompleted Residential Properties
- 02-11 (CR) First Sales (Law and order, etc.)
- 04-02 (CR) Introducing/explaining information on mortgage schemes /terms of first-hand properties
- 05-03 (CR) Identification of Personnel at First-Sales Site
- 05-04 (CR) Provision of Information on First-hand residential properties
- 05-06 (CR) Obtaining of vendor's written consent prior to the issue of Advertisement
- 06-03 (CR) Duties of management in ensuring effective control of their estate agency business

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