

## Circular

Circular No. 10-04 (CR)

- **Practitioners must bring the following matters to the attention of prospective purchasers:**
  - **Saleable Area means the floor area of a unit, including balconies, utility platforms and verandahs, but exclusive of “Other Areas”.**
  - **The price lists issued by developers include the price per square foot/metre calculated from both the saleable area and the gross floor area of the units.**
  - **The sales brochures contain all information required under the Consent Scheme, the pre-sale consent letter and the guidelines of the Real Estate Developers Association of Hong Kong. They must not include any promotional materials.**
- **Practitioners must advise prospective purchasers to consult the price lists, sales brochures, draft deed of mutual covenant and Government lease before entering into any agreement for sale and purchase.**

### First Sale of Residential Properties (3)

#### Property information

#### Introduction

This Circular sets out the matters which practitioners must pay attention to in respect of the definition of saleable area and the guidelines of the Real Estate Developers Association of Hong Kong (REDA) to its members concerning price lists, sales brochures and advertisements in relation to the sale of uncompleted residential properties.

## 1. Saleable area

In respect of the sale of uncompleted residential properties which are subject to the Lands Department Consent Scheme (Consent Scheme), the definition of “Saleable Area” has been standardized. “Saleable Area” means the floor area of a unit enclosed by walls (inclusive of the floor area of any balconies, utility platforms and verandahs, but exclusive of “Other Areas” [namely, cockloft, bay window, car-parking space, yard, terrace, garden, flat roof, roof and air-conditioning plant room]).

For details concerning the measurement of “Saleable Area” and “Other Areas”, practitioners should refer to the proforma Agreement for Sale and Purchase in the Lands Department Consent Scheme, which is available on the Lands Department’s website: [www.info.gov.hk/landsd/](http://www.info.gov.hk/landsd/).

The above definition of “Saleable Area” and revised standard form of Agreement for Sale and Purchase have been adopted for all consents to sell uncompleted residential units issued on or after 10 October 2008. (Those Agreements for Sale and Purchase entered or to be entered into pursuant to consent to sell uncompleted residential units issued prior to 10 October 2008 shall remain unaffected.)

Practitioners must bring the above matters to the attention of prospective purchasers.

## 2. Price lists

Commencing 1 December 2009, the price lists issued by developers of uncompleted residential properties include the price per square foot or square metre calculated from both the saleable area and the gross floor area of the units, according to the guidelines of REDA. Practitioners must bring this matter to the attention of prospective purchasers.

Section 9(3) of the Estate Agents Practice (General Duties and Hong Kong Residential Properties) Regulation (Practice Regulation) provides that a licensed estate agent shall not cause or permit to be advertised a residential property in respect of which he is acting as such agent at a price or rental or on terms different from that instructed by the client concerned.

Where practitioners have been given the price list and the list of units on offer by the developer, they must provide the same to prospective purchasers or remind them to obtain the same at the sales office before entering into any agreement for sale and purchase (which includes Memorandum, Provisional Agreement, Offer to Sell, etc.).

Practitioners are reminded that they will contravene section 9(3) of the Practice Regulation if they advertise a price which has not been instructed by the developer.

### **3. Sales brochures and advertisements**

On 7 October 2009, the REDA issued new guidelines to its members on “Sales Descriptions of Uncompleted Residential Properties”. The guidelines aim to enhance the clarity and transparency of information in the sales brochures and advertisements for uncompleted first-hand residential developments. Sales brochures bearing a printing date from November 2009 onwards are subject to the new guidelines.

The guidelines may be viewed at and downloaded from the following EAA webpage: “Consumers’ Corner – Guidelines issued by the Real Estate Developers Association of Hong Kong (REDA)”.

Briefly, for each uncompleted first-hand residential development (or a specific phase/grouping of the development as appropriate) under the Consent Scheme, all information required under the Consent Scheme, the respective pre-sale consent letter and REDA’s guidelines (as appropriate) should be contained in one booklet entitled “Sales Brochure”. Any other booklets (e.g. promotional materials) made available to prospective purchasers should not be called “Sales Brochure”. The sales brochure must not include any promotional materials, including artist impression pictures/graphics.

For details about the information that should be incorporated in a sales brochure, reference should be made to Appendix XII of Legal and Advisory And Conveyancing Office Circular Memorandum No. 60. This

memorandum may be viewed at and downloaded from the Lands Department web-site at [www.landsd.gov.hk](http://www.landsd.gov.hk).

Practitioners must familiarize themselves with the information contained in the sales brochures issued by developers. Estate agency companies must take all reasonable steps, including necessary staff briefings, to ensure that their staff are familiar with such information.

#### **4. Explanation to prospective purchasers**

Practitioners must advise prospective purchasers to consult the price lists, sales brochures, draft deed of mutual covenant and Government lease in respect of the development before entering into any agreement for sale and purchase.

Practitioners must exercise due care and due diligence in ensuring that the information is accurate when providing and explaining property information to prospective purchasers.

Practitioners must observe the guidelines set out in this Circular. Failure to do so may be a cause of disciplinary action by the Estate Agents Authority.

This Circular supercedes Circular No. 01-17(CR), 05-04(CR) and 08-07(CR).

May 2010

Holders of Statements of Particulars of Business  
 must bring this Circular to the attention of all staff  
 engaged in estate agency work