

## Consultation paper on local completed residential properties

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A sub-committee of the Law Reform Commission (LRC) today (January 8) issued a consultation paper to seek the public's views on its proposals to improve the information provided to purchasers of local completed residential properties. The consultation paper contains the preliminary recommendations of the LRC's Descriptions of Flats on Sale Sub-committee.

Mr Kennedy Wong Ying-ho, the Chairman of the Sub-committee, said that the law currently imposes few, if any, obligations on the vendor of a second-hand completed property to disclose particulars of the property for sale. In some overseas jurisdictions, the vendor is required to provide certain minimum information to the prospective purchaser. Mr Wong said that the lack of a positive disclosure requirement, and experience elsewhere, had convinced the sub-committee of the desirability of requiring the provision of a Vendor's Information Form (VIF).

Mr Wong said the VIF would be filled in by the vendor and would contain various particulars of the unit offered for sale in the second-hand market. This would include details such as the saleable area, the level of management fees and the particular services available. A vendor would be required to make the VIF available when his unit is put on the market for sale, whether or not this was done through an estate agent. Mr Wong said the Sub-committee had also considered the possibility of inserting a number of standard clauses into the preliminary agreement.

The sub-committee's main recommendations in respect of properties offered for sale on the second-hand market are:

- The introduction of a VIF for the sale of completed residential properties, which should be encouraged by the relevant professional bodies in Hong Kong. Only if VIF cannot be introduced voluntarily in this way should the Government consider introducing legislation to make the VIF compulsory.
- If the Government decides to make the VIF compulsory, the Government should review the Estate Agents Ordinance to reconcile the disclosure duties of the vendor and the estate agent.
- The Administration should consider establishing a centralised property information system.
- The preliminary agreement should contain a standard clause giving the purchaser a cooling-off period of three working days. This standard clause should be implied by legislation into preliminary agreements.

So far as completed residential properties sold for the first time are concerned, the sub-committee's main recommendations are:

- A sales brochure must be available from the time when the completed property is offered for sale. All information in a sales brochure must be accurate at the time the completed property is offered for sale.

- If developers, by themselves or through estate agents, advertise the sale of local completed residential properties otherwise than by means of a sales brochure, the advertisement should advise purchasers to refer to the sales brochure. Information given in the advertisement must be consistent with that given in the sales brochure.
- The definitions of saleable area should be standardised by legislation for use in sales literature. It should be mandatory to include saleable areas in sales literature. Any areas exempted from the calculation of gross floor area should be excluded from the calculation of saleable areas of the individual units.
- Where there is no right of inspection before entering a preliminary sale and purchase agreement, the sales brochure should contain certain details of the fittings and finishes.
- The developer should be required to state accurately in the sales brochure the intended uses of the land within the boundaries of the development which are known to the developer at the date of printing of the sales brochure.

Mr Wong added that the Sub-committee takes the view that purchasers can best protect themselves by exercising due care before entering into a transaction. The Sub-committee therefore recommends that the Government should launch publicity programmes to educate the public on the need to exercise due care when buying a residential property.

The present consultation paper is the third part of an LRC project on the sales description of residential property. The sub-committee's recommendations on the sales description of local uncompleted residential property were contained in a Commission report published in April 1995. In September 1997, the Commission published their final recommendations in respect of the sales description of overseas uncompleted residential property.

The Consultation Paper can be obtained either from the Secretary, Law Reform Commission, 20/F, Harcourt House, 39 Gloucester Road, Hong Kong, or on the Internet at <<http://www.info.gov.hk/hkreform>>. Comments should be submitted to the Secretary by 31 March 2001.

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