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(Thursday)

## **Law Reform Commission Issues Report on Local Completed Residential Properties**

The Law Reform Commission (LRC) today (Thursday) issued a report on sales descriptions and other pre-contractual matters relating to the sale of completed residential properties in Hong Kong.

Mr Kennedy Wong Ying-ho, the Chairman of the LRC's Description of Flats on Sale Sub-committee, said that the law currently imposes few positive duties, if any, on a vendor of a second-hand 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 LRC 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 report also recommends a cooling-off period of three working days for both the vendor and the purchaser in the sale of second-hand completed flats. He said there may be circumstances where a purchaser is persuaded to enter into a contract against his better judgment by an aggressive estate agent or vendor. The provision of a cooling-off period would allow the purchaser to withdraw from the preliminary agreement if he subsequently considered it not to be in his best interests to complete the transaction. He added that the party making use of the cooling-off period to cancel the preliminary agreement would be liable to forfeiture of a specified percentage of the purchase price. This forfeiture provision would work as an effective deterrent to potential speculative activities.

The LRC'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 the VIF cannot be introduced voluntarily in this way should the Government consider introducing legislation to make the VIF compulsory.
- If the Government should decide 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 vendor and the purchaser of second-hand completed flats 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 by developers in the first-hand market are concerned, the LRC's main recommendations are:

- For "left-over" units (meaning those flats which were first marketed when uncompleted but are still unsold by the time they are completed), developers should be required to make available the most recent sales brochures and a VIF. However, up-to-date sales brochures should always be made available for flats marketed for the first time after completion. All information in a sales brochure must be accurate at the time the completed property is offered for sale.
- The definition of saleable area should be standardised for use in sales literature. It should be mandatory to include saleable areas in sales literature.
- 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.
- All the recommendations in respect of the first-hand market should be implemented by legislation.

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

The present report is the third part of an LRC project on the sales description of residential property. The LRC'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 report 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>>.

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