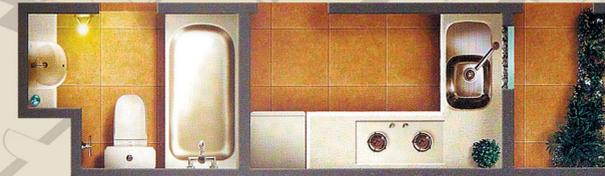


GUIDE TO PURCHASING PROPERTIES



ESTATE AGENTS AUTHORITY

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1

Inspection and Enquiries

1. Be it an "uncompleted residential unit" or a "second-hand property", visit the site of the development project or the property in person to learn about its actual environment, in particular, the traffic conditions, and to find out whether there is any noise or air pollution problem. If in doubt, make further enquiries before coming to any decision.
2. Study information about the areas surrounding the property, including:
 - ◆ the Outline Zoning Plan (OZP) of those areas which shows the land uses and major road system proposed by the Town Planning Board;
 - ◆ the public facilities nearby, for example, railway stations, public transport interchanges, schools, parks, public car parks, hospitals, waste collection points, cemeteries, etc.
3. In the case of an uncompleted residential unit, the location plan in the sales brochure should contain the above information. If there are any questions, ask the developer.
4. To obtain more detailed information about the planning and development of a district, visit the Planning Department's Planning Enquiry Counters (17/F, North Point Government Offices, 333 Java Road or 14/F, Sha Tin Government Offices, 1 Sheung Wo Che Road, Sha Tin) and request for inspection of the OZP or the Development Permission Area Plans for the relevant district. One may also buy a copy of the OZP from the Lands Department for reference or visit the Statutory Planning Portal (www.ozp.tpb.gov.hk/default.aspx).
5. In the case of an uncompleted residential unit in a large residential development, be aware of plans for and uses of different sections of the development. The sales brochure should include the layout plan of the development showing all public facilities and the anticipated completion dates.
6. Enquire if any financial contribution has to be made to the housing development's facilities, for example, whether charges have to be paid for use.
7. In the case of a second-hand property, carefully inspect the property before signing any sale and purchase agreement. The following should also be noted:
 - ◆ whether there is any person, other than the registered owner(s), residing in the property, and/or owning beneficial interest in the property;
 - ◆ whether there are any additions or alterations to the structure of the property;
 - ◆ whether the property is occupying any common area;
 - ◆ whether furniture, electrical appliances and decoration are included in the sale of property; if this is the case, have the inclusion specified in the agreement for sale and purchase and inspect the furniture, electrical appliances and decoration carefully.

2

Property User

1. Each property unit has its specified purpose. In regard to an uncompleted residential unit, the sales brochure should contain the salient provisions of the Government Lease (Land Grant), including restrictions on the use of the property. If in doubt, ask the developer for further details.
2. In respect of a second-hand property, ask the estate agent or the owner about its permitted use. And seek confirmation from:
 - ◆ the Government Lease (Land Grant) regarding user restrictions of the land;
 - ◆ the Occupation Permit and the Deed of Mutual Covenant of the building regarding user restrictions of the flat.
3. The property must be used in compliance with the Occupation Permit and the Deed of Mutual Covenant of the building. For example, if the Occupation Permit specifies the use of the property as non-domestic, the property cannot be used for domestic purposes; if the Occupation Permit specifies the use of the property as domestic, the property cannot be used for non-domestic purposes.

3

Property Area

1. The usual terms to describe the area of a property include "gross floor area" and "saleable area". Before making comparisons, buyers need to look at and understand the different types of area information. When calculating the per-square-foot-price, they should fully understand whether the calculation is based on the "saleable area" or the "gross floor area" of the unit.
2. New definition of "saleable area"
To address the problem of individual real estate developers' defining the term "saleable area" differently in the past, the Transport and Housing Bureau has standardised the definition of "saleable area" for uncompleted first-hand residential properties, after consultation with all relevant parties. The new definition officially came into effect on 10 October 2008. For uncompleted residential flats approved for pre-sale by the Lands Department from that day onwards, their sales brochure should adopt the standardised definition of, and format of presentation for, "saleable area":
 - ◆ The "saleable area" of a unit means the area of the unit (inclusive of the area of any balcony and utility platform).
 - ◆ Other areas, such as flat-roof, roof, garden, cockloft, yard, terrace, bay window and air-conditioning plant room, will be listed item by item, but will not be included as part of the "saleable area" (see annex for details).
3. "Gross floor area"
There is no standardised definition for the "gross floor area" of a residential property. The area it covers may be different in different developments.
 - ◆ According to the *Template for Presentation of Floor Area in Sales Brochures and Price Lists* issued by The Real Estate Developers Association of Hong Kong on 10 October 2008, the "gross floor area" means the sum of the unit covered area and the apportioned share of common areas. The apportioned share of common areas such as the clubhouse, lift lobbies, management offices, etc., should be listed clearly.
 - ◆ The unit covered area means the sum of the "saleable area", the area of the bay window and air-conditioning plant room, if any (exclusive of any air-conditioning platform).
 - ◆ For a unit in a multi-storey building, the "gross floor area" usually does not include the area of the car park.
4. The sales brochure of an uncompleted residential unit must contain the unit's floor plan. The floor plan should include the layout and partitioning of the floor. It should also be clearly marked with the measurements of the unit and the height between floor levels. If such information is not found in the sales brochure, buyers should ask the seller or the developer about it.
5. In the case of a second-hand property, purchasers should find out all types of area information (including the "saleable area") from the estate agent. If necessary, they should ask for further details or inspect on site what is covered by the "saleable area" and other areas.

4

Specifications for Building Materials and Facilities

1. When considering an uncompleted residential unit, carefully read the specifications of building materials and facilities listed in the sales brochure. Take note of information about the fittings and finishes, for example, whether types, brands and model numbers are supplied. Specifications of materials used for internal and external walls, doors, windows, flooring, etc., should also be detailed in the sales brochure.
2. The show flat for an uncompleted residential unit should display samples of the relevant fittings and materials.
3. As regards purchase of an uncompleted residential unit, when taking possession of the unit, carefully inspect its fittings, finishes and the workmanship. If there is anything unsatisfactory, jot it down in detail in the inspection record and notify the developer as soon as possible.
4. In the case of a second-hand property, inspect it in person. Pay particular attention to the ceiling, bay windows and walls to see if there is any water stain, and check if the flooring is loose to ascertain whether there have been water leakages.
5. Buyers of second-hand property should also inspect electrical wiring, switches, water pipes, drains, bath-tubs and toilets to see if they are working properly. If electrical wiring or water pipes are worn out, ask the vendor when they were last replaced or repaired.

5

Maintenance

1. In the case of a newly completed property, there is usually a maintenance period of six months to one year. The maintenance period set out in the agreement for sale and purchase approved by the Lands Department under the Consent Scheme is six months from the date of completion.
2. If there are slopes close to the development, the sales brochure, Government Lease and Deed of Mutual Covenant should state the party responsible for maintenance. The sales brochure must also include a plan of such slopes.
3. A second-hand property is normally sold on an "as-is" basis without a maintenance period. If necessary, ask professionals to inspect and assess the property's condition before making any decision to buy.
4. In the case of a second-hand property, enquire whether the housing development or building has any plan or need for repairs and/or maintenance in the near future, for example, replacing electricity installations or lift cables, painting external walls, maintaining slopes, etc.
5. If repairs and/or maintenance are required, ask for an estimate of the cost apportioned to each household and negotiate with the vendor as to who will be responsible for these charges before and after delivery of possession of the property.

6

Government Lease

1. The term of the Government Lease (Land Grant) for the land on which the property stands may in the long run have significant implications on a purchaser's financial obligation. Prospective buyers should find it out before buying.
2. In the case of an uncompleted residential unit, take note of the term of the Government Lease stated in the sales brochures. When buying a second-hand property, ask the estate agent for the relevant information, including:
 - ◆ the length of the term;
 - ◆ the date of commencement of the term;
 - ◆ the remainder of the term;
 - ◆ whether any premium is required to be paid and, if so, the amount.
3. Before signing any agreement for sale and purchase, prospective buyers should ask their solicitors about the terms for renewing the Government Lease (Land Grant). Usually the renewal terms include:
 - ◆ a renewable Government Lease may be renewed without payment of any additional premium, but the lessees have to pay a new yearly Government rent. The yearly Government rent is equivalent to 3% of the rateable value of the property in that current year.
 - ◆ Government Leases expiring between the effective date of the Sino-British Joint Declaration (i.e. 27 May 1985) and 30 June 1997 with no right of renewal (i.e. most Government Leases in the New Territories) may all be extended for lease terms expiring no later than 30 June 2047. From the date of commencement of the extended term, the lessees have to pay the yearly Government rent equivalent to 3% of the rateable value of the property in that current year.
4. Since a current owner is liable to pay all Government rent, including accumulated arrears, prospective buyers should enquire with their solicitors about matters relating to such payments (including the respective legal obligations of the purchaser and vendor in relation to the amount payable, accumulated arrears or advance payment of Government rent) to ensure a full settlement of all or Government rent arrears. They can also check with the Lands Department or the Rating and Valuation Department on any outstanding amount.

7

Deed of Mutual Covenant

1. The Deed of Mutual Covenant of a building is a legally binding document. It regulates the rights and obligations of property owners who share the ownership of a building or housing development. The developers should have drafted the provisions before the property is put up for sale.
2. The sales brochure for an uncompleted residential unit should include the salient provisions in the Deed of Mutual Covenant, including:
 - ◆ common areas and facilities;
 - ◆ undivided shares allotted to each unit;
 - ◆ management fees shared by each unit;
 - ◆ appointment of the manager;
 - ◆ relevant rights reserved by the developer.
3. Prospective buyers should take special note of user restrictions in the Deed of Mutual Covenant in relation to common areas and facilities, such as the clubhouse, external walls, lift lobbies, corridors of the building, etc.
4. Also, find out details on property management, including:
 - ◆ ownership of management rights;
 - ◆ criteria for determining management fees;
 - ◆ composition of the management organisation (e.g. the owners' committee);
 - ◆ appointment, dismissal and remuneration of the manager.

8

Vendor's Title and Encumbrances

1. Prospective buyers of second hand properties should
 - i ascertain from the vendor:
 - ◆ whether he/she is selling the property as beneficial owner or in any other capacity;
 - ◆ whether any mortgage, charge, court order, building order, tenancy agreement, litigation, or other instruments have been registered as encumbrances against the property.
 - ii obtain a warranty from the vendor that neither the property has any illegal structure nor has it been altered, and that the vendor has not received any notice from the Government, the Incorporated Owners, or the management company in relation to any illegal structure or alteration.
 - iii ensure that the vendor is able to repay all outstanding liabilities before the property is sold, for example, the amount necessary for the discharge of the mortgage, management fees, Government rent, rates and other creditors' charges on the property, etc.
2. To learn about the vendor's encumbrances in more detail, ask the vendor, estate agent and the development's management company whether:
 - ◆ the relevant property has any illegal structure or occupies any common area;
 - ◆ the management company has served any demolition order or complaint on the property;
 - ◆ there are management fees in arrears;
 - ◆ management fee deposits, water and electricity deposits, reserve fund, etc., are transferable, and the amount of the same;
 - ◆ the Incorporated Owners of the building or all the co-owners have to settle any substantial claim, litigation or judgment;
 - ◆ the Incorporated Owners have taken out third-party insurance for the common areas;
 - ◆ there is any deficit in the management account and the amount payable by the vendor.

9

Signing an Agreement for Sale and Purchase

1. Before signing any sale and purchase agreement for a newly built or uncompleted residential unit, one should ask the developer about the charges relating to the transaction, for example, legal fees, stamp duty, building plan fees, charges for certified copies of title deeds, charges for the Deed of Mutual Covenant, management fee deposits, reserve funds, debris collection charges, etc.
2. Usually, prospective buyers of second-hand properties would first sign a provisional agreement for sale and purchase before signing a formal one. They should read carefully every clause of the provisional agreement and take note of the fees payable. Also, they should ask the estate agent to clearly explain the same to them. They should not sign the provisional agreement if some information has yet to be filled in.
3. Before signing a provisional agreement for sale and purchase, ensure the estate agent provides the latest information on the title. If there is any doubt about the owner's ability to repay the loan for the redemption of the property, make it a requirement that deposits are paid to solicitors as stakeholders lest the vendor misappropriates them when he is unable to complete the transaction.
4. The provisional agreement for sale and purchase is a valid and legally binding contract and prospective buyers should seek legal advice before signing one. Generally speaking, both the vendor and purchaser have to engage their own legal representatives. However, they may engage the same solicitor if they are associated parties; or if the purchase price does not exceed \$1 million and there will be no conflict of interest arising from joint representation; or if the transaction concerns the sale and purchase of an uncompleted unit or the first sale of a completed unit. Nevertheless, in all cases, it is always advisable for the vendor and purchaser to instruct their own solicitors to protect their interests and to avoid conflicts of interest arising from joint representation.
5. Conveyancing fees charged by solicitors vary. Prospective buyers should shop around.

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Mortgages

1. Before deciding to buy a property, one should ascertain his own financial position, loan repayment ability and the necessary financial arrangement.
2. When choosing a bank or financial institution for loans, consider the following:
 - ◆ the property valuation and mortgage amount offered;
 - ◆ the term for repayment, number of instalments and amount of each instalment;
 - ◆ the criteria for determining interest rates;
 - ◆ the date for implementing interest rate adjustments;
 - ◆ the issues arising from arrears in instalments, for example, interest rates;
 - ◆ the early redemption penalties and the notice period;
 - ◆ mortgage handling fees, legal fees, insurance fees, charges for the valuation report, etc.
3. During the instalment period, ask the bank or financial institution for a schedule of repayment, setting out:
 - ◆ the outstanding amount of the loan;
 - ◆ the amount of each instalment;
 - ◆ the number of outstanding instalments;
 - ◆ the respective amounts of principal and interest.

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Date for Delivery of Possession

1. When buying an uncompleted residential unit, ask the property developer for the anticipated date of completion or date of delivery of possession. Most formal sale and purchase agreements for such units will specify the date when the building concerned will be completed.
2. In general, the sale and purchase agreement for an uncompleted residential unit provides that if completion of the building concerned is delayed due to strikes, heavy rainfall, typhoons, riots or serious accidents, etc., the developer can apply for an extension of time for completion of the building. This will probably cause delay in the anticipated completion of the transaction. Prospective buyers should ask their solicitors for details before signing the agreement.
3. In the case of an uncompleted residential unit, take particular note of the purchaser's rights specified in the agreement in the event that the developer fails to deliver possession of the property or complete the transaction according to the terms of the agreement.
4. Second-hand property buyers should note that the provisional agreement for sale and purchase should specify the date of completion of the sale and purchase of the property and whether vacant possession of the property shall be delivered on completion.

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Alienation Restrictions

1. Some properties are subject to certain alienation restrictions. Owners are restricted from selling these properties. Generally speaking, a premium is payable to the Government before the restriction is removed. In some cases, special procedures have to be followed and special forms to be used.
2. Properties that are subject to alienation restrictions include:-
 - ◆ Flats under the Housing Authority's Home Ownership Scheme, Private Sector Participation Scheme and Tenant Purchase Scheme;
 - ◆ Flats under the Housing Society's Sandwich Class Housing Scheme and Flat-For-Sale Scheme;
 - ◆ Indigenous villagers' properties;
 - ◆ Ex-Co-operative Building Societies flats.
3. Prospective buyers interested in buying such properties should take note of the relevant restrictions and the procedures and forms required. If in doubt, obtain legal advice before entering into any sale and purchase agreement.

1. Only licensed estate agents can accept appointment.
2. You should sign an Estate Agency Agreement with the agent to protect both parties' interests.
3. The Agreement should specify:
 - ◆ the period during which the Agreement is valid;
 - ◆ the estate agent's duties;
 - ◆ the commission as agreed between the agent and the purchaser and when the commission is to be paid;
 - ◆ whether the appointment is "single agency" (i.e. the agent represents only the purchaser) or "dual agency" (i.e. the agent represents both the purchaser and the vendor);
 - ◆ in the case of dual agency, the amount or rate of commission that the agent will receive from both sides.
4. You can ask the agent for specific information about the relevant property, including the area, age, user restrictions, owner, encumbrances, Government Lease term, and information supplied by the owner in relation to alterations and management fees.
5. Ask the agent for photocopies of all the documents you have signed with the agency.
6. Give precise and clear instructions to the agent, especially offers or counteroffers during negotiation.
7. Ask for a receipt upon paying a fee.
8. If the transaction falls through, ask the agent for immediate return of any money held on your behalf.
9. An agent should explain to his client all the terms of the Estate Agency Agreement.

"Saleable area"

- ◆ the floor area of a unit enclosed by walls (inclusive of the floor area of any balconies, utility platforms and verandahs but exclusive of the Other Areas), which area (including any balcony, utility platform or verandah enclosed by walls) shall be measured from the exterior of the enclosing walls of such unit, balconies, utility platforms or verandahs (as the case may be) except where such enclosing walls separate two adjoining units, balconies, utility platforms or verandahs (as the case may be), in which case the measurement shall be taken from the middle of those walls, and shall include the internal partitions and columns within such unit, balconies, utility platforms or verandahs (as the case may be); but shall exclude the common parts outside the enclosing walls of such unit, balconies, utility platforms or verandahs (as the case may be), and for balconies, utility platforms or verandahs, shall exclude the whole thickness of the enclosing walls or boundary which abut onto the unit. Provided That if any of the enclosing walls abut onto a common area, then the whole thickness of the enclosing walls which so abut shall be included. Where a balcony, utility platform or verandah is not enclosed by a solid wall, the floor area of such balcony, utility platform or verandah shall be measured from the external boundary of the said balcony, utility platform or verandah.

Other areas

- ◆ the area of any cockloft which shall be measured from the interior of the enclosing walls and shall include the internal partitions and columns within such cockloft;
- ◆ the area of any bay window which shall be measured from the exterior of the enclosing walls or glass windows of such bay window and from the point where the bay window meets the wall dropping to the floor level of a unit excluding the thickness of such wall;
- ◆ the area of any carparking space which shall be measured to the centre of its demarcating lines or the interior face of its enclosing walls, as the case may be;
- ◆ the area of any yard, terrace, garden, flat roof, roof and air-conditioning plant room which shall be measured from the interior of their boundary lines, and where boundary consists of a wall, then it shall be measured from the interior of such wall.