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28 March 2013

**Legal Advisory and Conveyancing Office ("LACO")**  
**Circular Memorandum No. 71**

**Lands Department Consent Scheme**  
**Transitional arrangements in relation to**  
**the Residential Properties (First-hand Sales) Ordinance**

The Residential Properties (First-hand Sales) Ordinance ("the Ordinance") will come into full operation on 29 April 2013 ("the Operation Date"). Transitional arrangements, which relate to consent to enter into agreements for sale and purchase of residential units given before the Operation Date ("the Subsisting Consent"), will be implemented under the Consent Scheme. The transitional arrangements aim to make the consent conditions subject to which the Subsisting Consent is given ("the Consent Conditions") compatible with the provisions under the Ordinance and offer an opportunity to a vendor to follow the requirements under the Ordinance before the Operation Date. Where the Subsisting Consent relates to both residential units as well as parking spaces constituting separate units, the transitional arrangements will deal with the same together.

Upon the Ordinance coming into operation, the Consent Conditions must be modified to be compatible with the requirements under the Ordinance, in so far as they apply to sales on or after the Operation Date. Among others, a new standard form of Agreement for Sale and Purchase which contains all the mandatory provisions as are required under the Ordinance is to be adopted.

To this end, an application for modification of the Consent Conditions is required to be submitted to LACO through the vendor's solicitors. If the application is approved, the Consent Conditions shall, with effect on and from the Operation Date, be deemed to be substituted by a set of consent conditions which shall apply in so far as relating to any residential unit and where applicable, parking space sold on or after that date.

A vendor must not proceed with the sale of residential units which are unsold pursuant to the Subsisting Consent on or after the Operation Date unless and until the vendor has applied for and obtained LACO's approval for modification of the Consent Conditions.

To minimize any interruption likely to be caused to sales straddling the Operation Date, transitional arrangements will be offered to allow the vendor to follow the requirements under the Ordinance before the Operation Date. The transitional arrangements comprise the following main features:

- (a) With effect on and from the date a revised Statutory Declaration (in the case where the Statutory Declaration approved under the Subsisting Consent has not been made by the solicitors acting for the vendor) or a Supplemental Statutory Declaration (in the case where the Statutory Declaration approved under the Subsisting Consent has been made by the solicitors acting for the vendor) is made up to and inclusive of 28 April 2013 (“the pre-commencement period”), the Consent Conditions shall be deemed to be substituted by a set of consent conditions which impose, inter alia, obligations to follow the requirements under the Ordinance which shall be deemed to be incorporated into and form part of the consent conditions. This set of consent conditions shall apply in so far as relating to any residential unit and where applicable, parking space sold during the pre-commencement period.
- (b) Pursuant to the Consent Conditions as modified, the vendor is required to make available sales brochure and price list which must in all respects comply with the Ordinance and the Consent Conditions as modified after the revised Statutory Declaration or the Supplemental Statutory Declaration (as the case may be) is made. The vendor must cease making available any sales brochure and price list which have been prepared and made available pursuant to the Consent Conditions.
- (c) The Consent Conditions as modified will provide certain circumstances in which, subject to fulfilment of certain conditions, the vendor is allowed to continue the sale before the relevant conditions relating to the availability of sales brochure and price list are complied with.

A vendor who intends to modify the Consent Conditions to take effect respectively during the pre-commencement period and on or after the Operation Date is required to submit to LACO an application through its solicitors. If the application is approved, the Consent Conditions shall, with effect on and from the date a revised Statutory Declaration or a Supplemental Statutory Declaration (as the case may be) is made up to and inclusive of 28 April 2013, be deemed to be substituted by a set of consent conditions which shall apply in so far as relating to any residential unit and where applicable, parking space sold during the pre-commencement period, and the Consent Conditions as modified shall, with effect on and from the Operation Date, be deemed to be substituted by another set of consent conditions which shall apply in so far as relating to any residential unit and where applicable, parking space sold on or after that date.

An application for modification of the Consent Conditions must be accompanied with the following documents for LACO’s approval:

- \_\_\_\_\_
- (a) where the Statutory Declaration approved under the Subsisting Consent has not been made by the solicitors acting for the vendor, a draft Statutory Declaration (in duplicate) in the standard form at Annex I; or
- \_\_\_\_\_
- (b) where the Statutory Declaration approved under the Subsisting Consent has been made by the solicitors acting for the vendor, a copy of that Statutory Declaration duly made together with a draft Supplemental Statutory Declaration (in duplicate) in the standard form at Annex II; and
- \_\_\_\_\_
- (c) where the proposed form of Agreement for Sale and Purchase contains variations to the standard form at Annex III, a draft Agreement for Sale and Purchase (in duplicate) with the proposed variations highlighted together with full justification for each of the proposed variations.

This Circular Memorandum and any transitional arrangements offered are without prejudice to the operation of and the requirements under the Ordinance. It is at all times the obligation of the vendor and the solicitors acting on its behalf to ensure that all the requirements under the Ordinance are complied with in conducting any sale of the residential units on or after the Operation Date.

Copies of this Circular Memorandum with Annexes I to III can be downloaded from Lands Department website at [www.landso.gov.hk](http://www.landso.gov.hk).



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for Director of Lands

To: All Solicitors

c.c. Transport and Housing Bureau  
The Real Estate Developers Association of Hong Kong  
Consumer Council  
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The Hong Kong Institute of Surveyors  
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