

Corporate Real Estate

Enhanced Protections, Information for Home Buyers: Public Consultation on Changes to Housing Developers Rules

Introduction

Recently, the Urban Redevelopment Authority ("URA") launched a [public consultation](#) on proposed changes to the Housing Developer Rules ("HDR") that would grant home buyers more protections and require developers to provide more information. This includes some changes to the standard sale and purchase agreement ("SPA").

The amendments generally favour buyers, with some changes imposing greater liability on developers, such as the reduction of the claim threshold where units fall short of the area stated in the SPA. Developers should review the proposed changes, and submit any input to URA.

We summarise the proposed changes below in the following categories:

1. Enhanced protections;
2. Additional information provided to home buyers; and
3. Other amendments, namely a simplified payment schedule and a later start for the defects liability period.

The public consultation opened on 5 January 2022 and closes on **5 February 2022**.

Enhanced Protections

Measure	Details
Restrictions on changes to unit area, site plans, unit floor plans	<p><i>Reduction of threshold for claims for shortfall in area</i></p> <ul style="list-style-type: none"> • Currently, developers must compensate home buyers when the actual area of the unit is smaller than the area stated in the SPA by more than 3%. This will be reduced to 2%, given the technological advancements in accuracy and standard of construction. <p><i>Requirement for home buyers' consent</i></p> <ul style="list-style-type: none"> • Currently, developers must build in accordance with the approved building plans. • Under the proposed new HDR, developers must also build in accordance with the scaled unit floor plan and site plan provided to purchasers before accepting the booking fee. It should be noted

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Measure	Details
	<p>that, per the below, the proposed amendments also require additional details to be included in the scaled unit floor plan and site plan. By extension, developers must build in accordance with the additional details.</p> <ul style="list-style-type: none"> Unless the changes are necessary to comply with new government requirements issued after the Option to Purchase ("OTP") was issued, developers must obtain consent from home buyers for (i) any change to the unit floor plan, and/or (ii) any substantive change to the site plan for common facilities. <p><i>Features included in advertisements</i></p> <ul style="list-style-type: none"> Developers will be required to obtain prior approval from the relevant agencies for these features before including the development features (such as landscaping, water features, and vehicle pick-up points) in the advertisements. This is to assure home buyers that such features will indeed be built.
Enhanced refund coverage if SPA is annulled	<p>Currently, if an SPA is annulled pursuant to Clause 14 of the SPA (i.e. due to changes in the unit or substantial changes in the common area), developers must refund all instalment payments and stamp duty paid. Under the proposed new HDR, developers will also be required to refund home buyers for any:</p> <ol style="list-style-type: none"> Interest paid on loans; Loan cancellation charges; and Legal fees; <p>The above will be subject to a cap of 15% of the purchase price.</p>

Additional Information

Measure	Details
Developer's track record and past projects	Developers will be required to provide their Construction Quality Assessment System and Quality Mark scores, as well as their Green Mark certification for completed projects in the past five years.
More details in plans given to home buyers	<p>Developers must provide additional information, including:</p> <ul style="list-style-type: none"> Site plan and storey plan – apart from providing the location of key communal facilities in the site plan and storey plan, developers must

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Measure	Details
	<p>state clearly the storey on which the communal facilities are located if they are located on different storeys.</p> <ul style="list-style-type: none"> • Storey layout plan – the plan must include location of communal facilities (e.g. lifts, refuse chutes etc.) on the same storey as the purchaser's unit. • Unit floor plan – developers must include: <ul style="list-style-type: none"> ○ marking out of void areas and all areas excluded from the strata area of the unit (e.g. reinforced concrete ledge); ○ location and number of air-conditioner condenser units; ○ the type of walls (ie. structural or non-structural), windows, doors (including swing and slide positions), distribution box, service pipes (exposed or boxed-up) and refuse chute, if any; and ○ clear labelling and explanations of lines, abbreviations, and symbols used. • For landed properties – in addition to the currently required plan showing the land area, it has been proposed that developers include scaled floor plans to reflect the following: <ul style="list-style-type: none"> ○ the individual rooms, spaces, and features on each storey; ○ the type of walls (i.e. structural or non-structural), windows, doors (including swing and slide positions), distribution box, service pipes (exposed or boxed-up) and refuse chute, if any; and ○ clear labelling and explanations of all lines, abbreviations, and symbols used. <p>The storey layout plan and unit floor plan must be provided to the purchaser prior to booking the unit.</p>
Information on reversionary owner and ground rent	Where applicable (such as for 999 years leasehold land), developers must include in the OTP and SPA information on the landowner's identity and any ground rent payable.
TOP and CSC dates to be included in advertisements	Temporary Occupation Permit (" TOP ") or Certificate of Statutory Completion (" CSC ") dates must be included in advertisements for developments where such dates have already been obtained. Home buyers will thus know when they can move into the units.

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However, developers will not be required to include information on land encumbrances in advertisements, as such details are generally not relevant to home buyers at that time and moreover will be set out in the OTP.

Other Amendments

Measure	Details
Later commencement of Defects Liability Period ("DLP") and home buyers' liability for maintenance charges	<p>Currently, the SPA stipulates that (i) *the 1 year DLP by developers and (ii) **the purchasers' liability to pay maintenance charges, shall commence *after / **on (a) the <u>15th day</u> after receipt of notice of TOP or (b) the actual date the property is delivered to the purchaser, whichever is earlier.</p> <p>It has been proposed that the above be revised to: "(i) the 1 year DLP by developers and (ii) the purchasers' liability to pay maintenance charges, shall commence <u>on</u> (a) the <u>35th day</u> after receipt of notice of TOP or (b) the actual date the property is delivered to the purchaser, whichever is earlier.</p> <p>This 35-day period was calculated in accordance with the 14 days for home buyers to pay the TOP instalment, and the 21 days to deliver vacant possession to the home buyer.</p>
Simplified payment schedule	<p>Instead of the current schedule, where the timing of the payment of the final 15% of the purchase price can vary, home buyers will only need to make two payments, namely the first and second stages in the below URA diagram:</p> <p>The diagram illustrates the following stages:</p> <ul style="list-style-type: none"> 1st stage: Issue of CSC (13%) <ul style="list-style-type: none"> 8% to Developer 5% to Singapore Academy of Law 2nd stage: Completion Date (2%) <ul style="list-style-type: none"> 2% to Developer 3rd stage: Expiry of defects liability period (Final Payment Date) <ul style="list-style-type: none"> 5% or 5% less deductions (SAL pays developer) <p>Currently, there is no timeline under the SPA to obtain the CSC. With the revised payment schedule, the developer is indirectly required to obtain the CSC within three years from TOP, as the deadline for legal completion under the SPA is three years from TOP.</p>

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Concluding Remarks

Largely favouring home buyers, the proposed changes seek to help home buyers make better-informed decisions and to improve protections for buyers of uncompleted private residential properties.

For developers, some changes may not create much difficulty especially for established developers, such as providing information on their track record and past projects. However, other changes may result in some increase in compliance costs, particularly with regard to the enhanced refund coverage and the reduced threshold for claims for a shortfall in unit area.

If you wish to find out more about this development, please feel free to reach out to our team below who will be happy to assist.

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