



地政總署
法律諮詢及田土轉易處
LEGAL ADVISORY AND CONVEYANCING OFFICE
LANDS DEPARTMENT

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本署檔號 Our Ref: (57) in SF(13) to LACO 7/316/61
來函檔號 Your Ref:

11 December 2001

Secretary General
The Law Society of Hong Kong,
3/F, Wing On House,
71 Des Voeux Road, Central
Hong Kong

Dear Sir,

Lands Department Consent Scheme
Late registration of Agreements for Sale and Purchase

One of the terms for LACO giving consent to sell uncompleted units in residential developments is that the Agreements for Sale and Purchase ("ASP") must be lodged for registration in the Land Registry within one calendar month from the date of the preliminary agreement.

Quite frequently, we are informed by the Land Registry that Solicitors have failed to comply with this requirement for ASPs under the Consent Scheme. According to a survey conducted by this Office, about 3% of the total Consent ASPs had not been lodged for registration on time for the last 21 months. In some large developments involving substantial number of residential units, the percentage of ASPs presented late for registration was as high as 15% and in one particular case 29%.

The usual factors causing the delay, as claimed by the Solicitors, are the inadvertence of their staff; the absence from Hong Kong of companies' directors for executing the ASPs; shorter working period due to intervening public holidays; large quantity of ASPs handled by the firm etc. Another common explanation is the delay in stamping the ASPs, in particular when purchasers exercised the option to defer payment of stamp duty for their agreement for sale. Although LACO is clearly not in a position to dispute these reasons in detail, as the firms concerned are generally substantial conveyancing practices, I find it unacceptable that essentially administrative office arrangements are putting parties legal interests at risk.

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As you appreciate, any delay in registering the ASPs will put purchasers, and possibly mortgagees, at risk of losing priority for their transaction. LACO is very concerned with this persistent breach of the consent requirement. While I will follow up with the Collector of Stamp Revenue the alleged delay in stamping on their part, I would emphasise that it is incumbent upon the Solicitors for the developer vendor, in also acting for the purchaser in most cases, to comply with all requirements of the Consent Scheme and use their best endeavours to lodge the ASPs for registration in the Land Registry within time.

In future, LACO will monitor late registrations and will consider how this condition of consent can be better enforced against persistently offending firms.

Yours faithfully,

A handwritten signature in dark ink, appearing to read 'T.E. Berry', with a stylized flourish at the end.

(T.E. Berry)
Deputy Director/Legal
for Director of Lands