

Fair Trade Commission Disposal Directions(Guidelines) on Selling Presale Houses

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2005

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1. (Purpose)

These Guidelines are adopted to ensure free and fair competition, maintain trading order and consumers' interests, and effectively review cases involving the selling of presale houses by real estate developers and the real estate broking agencies that is involved in violation of the Fair Trade Law.

2. (Definition)

Terms used in these Guidelines are defined as follows:

- (1) The term "real estate developer" refers to an enterprise investing in construction of residence or multi-story building, or engaging in the development, rental and sale of other buildings.
- (2) The term "real estate broking agency" refers to an enterprise engaging in the real estate broking or sales business.
- (3) The term "presale house" refers to a building with construction license, not yet finishing construction, and the future finished one being the trading object.

3. (Pre-contractual information disclosure)

The conduct of the real estate developer or the real estate broking agency is obviously unfair when selling presale houses without providing the following important trading information in a written form to the purchaser:

- (1) a copy of construction license;
- (2) approved location map of the site, site drawing (proposed site drawing), plan drawing of each floor and of parking space;
- (3) latest overview of rights of shared land divided individually approved by the construction authority upon selling (the information provided herein should be sufficient to indicate the area of floor space, additional facilities, common space and its share held by each household);
- (4) presale house contract (the contract should include items of common space and its area or how the share of common space is calculated);
- (5) the name of the financial institution which provides the loan support for the construction plan; and
- (6) readjustment expenses and restrictive information if the land located in land readjustment area.

If the real estate developer or the real estate broking agency publicly displays the documents as stipulated in the preceding paragraph at the sales site for the purchaser's freely review and signing confirmation of having read the aforementioned information, the transaction data detailed in the preceding paragraph shall be considered duly provided.

4. (Inappropriately restrict the purchaser from reviewing contract)

The real estate developer or the real estate broking agency shall not engage in obviously unfair act, as specified below, that inappropriately restrict the purchaser from reviewing contract:

- (1) Requiring deposit or a certain fee prior to providing the purchaser with the presale house contract; or

- (2) Failure to provide the purchaser at least 5 days to review the contract before entering into contract with each other unless the purchaser has fully reviewed the contract and agreed to shorten the time period as specified above.

The presale house contract can be provided in the form of sample, photocopy, CD-ROMs or other electronic media which could display the content of the contract.

5. (Deceptive or obviously unfair conducts made after signing a contract)

Upon signing a presale house contract with the purchaser, the real estate developer or the real estate broking agency shall not engage in obviously unfair conducts, as specified below:

- (1) unilaterally altering the design of the unsold part of presale houses in order to increase the number of household for sale unless the purchaser has agreed such alternation, or alternatively, contract termination, price reduction, or other resolutions are provided to the purchaser; or
- (2) requiring the purchaser to return the contract.

The real estate developer has engaged in a deceptive conduct if he requires the purchaser to adjust the payment upon transferring the household for the items of common space not included in the presale house contract.

6. (Legal effect)

If the real estate developer or the real estate broking agency violates the provisions of Clause 3, Clause 4 or Clause 5 of these Guidelines and is likely to affect trading order, the real estate developer or the real estate broking agency is in violation of Article 25 of the Fair Trade Law.

7. (The regulation of other unfair conducts)

The presale house sales conduct shall be governed by these Guidelines as well as other provisions as stipulated in "Fair Trade Commission Guidelines on Handling Cases Governed by Article 21 of

the Fair Trade Law", " Fair Trade Commission Guidelines on Cases of Real Estate in Advertising", " Fair Trade Commission Guidelines on Comparative Advertising", and "Fair Trade Commission Guidelines on the Application of Article 25 of the Fair Trade Law ".

Appendix: Illustration for types of conducts that the Fair Trade Law does not apply.

Type of Conducts	Applicable Laws or Rules
Return of Deposit	Resolution through a civil action under applicable provisions of Civil Code.
Delayed Construction	Resolution through a civil action under applicable provisions of Civil Code or by contract terms.
Delayed home Closing	Resolution through a civil action under applicable provisions of Civil Code or by contract terms.
Defective Construction Work	Resolution through a civil action under applicable provisions of Civil Code or by contract terms.
Shortage in actual area	Resolution through a civil action under applicable provisions of Civil Code or by contract terms.
Builder’s Responsibilities regarding chloride-ioned houses and radiated house clearly stated in the contract	Resolution through a civil action under applicable provisions of Civil Code or by contract terms.
Failure to provide necessary terms as required by “Mandatory Provisions to be included in and prohibitory provisions of standard form Contract for the presale house sales ” as announced by the Ministry of Interior.	Resolution through a civil action under applicable provisions of Consumer Protection Act.
Safety issues related to construction structure and public construction work	Report to Construction and Planning Agency of the Ministry of Interior or the local construction management unit of the municipal or county (city) competent authority of construction under construction and planning laws, or resolution through a civil action under applicable provisions of

	Civil Code.
Insufficient or incorrect building material and fire safety equipment	Report to Construction and Planning Agency of the Ministry of Interior or the local construction management unit or fire office of the municipal or county (city) competent authority of construction under relevant construction and planning laws, or resolution through a civil action under applicable provisions of Civil Code.
Building's noncompliance with rules regarding floor area ratio	Report to Construction and Planning Agency of the Ministry of Interior or the local construction management unit of the municipal or county (city) competent authority of construction under relevant construction and planning laws, or resolution through a civil action under applicable provisions of Civil Code.
Allocation of parking lots	Resolution through a civil action under applicable provisions of Civil Code or by contract terms.
Request payment from the bank which provides the home loan even prior to settlement	Resolution through a civil action under applicable provisions of Civil Code or by contract terms.
Disputes concerning property right title and usage right over basement, bomb shelter and other shares area etc	Report to the Ministry of Interior in accordance with Statute for Management of Apartment Buildings or provisions on Land Registration, or resolution through a civil action under applicable provisions of Civil Code.
Dispute concerning sloping rate of building	Report to Construction and Planning Agency of the Ministry of Interior or the local construction management unit of the municipal or county (city) competent authority of construction under construction and planning laws, or resolution through a civil action under applicable provisions of Civil Code.
Property rights and usage rights over lane, alley or other	Report to the Ministry of Interior in accordance with Statute for Management of Apartment Buildings, for

public road.	resolution through a civil action under applicable provisions of Civil Code.
Management of Building and Community Common Area	Report to the Ministry of Interior in accordance with Statute for Management of Apartment Buildings, or resolution through a civil action under applicable provisions of Civil Code.
Management Fee Charge	Report to the Ministry of Interior in accordance with Statute for Management of Apartment Buildings, or resolution through a civil action under applicable provisions of Civil Code.
Market sales prior to the issuance of a construction permit	Report to the Ministry of Interior in accordance with Statute for Management of Apartment Buildings, or resolution through a civil action under applicable provisions of Civil Code.
Double sale	Resolution through a civil action under applicable provisions of Civil Code or by contract terms.
Title Dispute Issue	Resolution through a civil action under applicable provisions of Civil Code or by contract terms.
Dissolution of Building Developer	Resolution through a civil action under applicable provisions of Civil Code or by contract terms
Bankruptcy of the building developer	Resolution through a civil action under applicable provisions of Civil Code or by contract terms.
"Hijacked" by the salesperson	Resolution through a civil action under applicable provisions of Civil Code or by contract terms
Continuing Construction of Dwelling (Building Developer's transfer of creditor rights or Debt)	Resolution through a civil action under applicable provisions of Civil Code or by contract terms.
Tax Evasion	Report to the Ministry of Finance in accordance with Income Tax Act or Business Tax Act.
Agency Fee (Water and Electricity Charges, Government Fees, Notarization Fee and Insurance Premium etc)	Resolution through a civil action under applicable provisions of Civil Code or by contract terms.
Dispute on Land Boundary	Report to the Ministry of Interior in accordance with Land Act.

Rental and Sale of Public Land	Report to the Ministry of Finance in accordance with National Property Act or provisions on Rental Management of National and Non-Public Real Estate Properties.
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