

## **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 construction development enterprises and the real estate brokerage agencies that is involved in violation of the Fair Trade Act.

### 2. (Definition)

Terms used in these Guidelines are defined as follows:

- (1) The term "construction development enterprise" 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 brokerage agency" refers to an enterprise engaging in the real estate brokerage 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 construction development enterprise or the real estate brokerage agency is obviously unfair when selling presale houses without providing the following important trading information 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 prepared in accordance with the most recent building permit 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); and
- (5) readjustment expenses and restrictive information if the land located in land readjustment area.

The documents specified in the preceding subparagraphs may be provided by the construction development enterprise or real estate brokerage enterprise in the form of hard copies, e-mail, electronic storage devices, social media, or communication software, and it shall be ensured that the purchaser is able to access such information for review.

With respect to whether the important transaction information specified in subparagraphs of Paragraph 1 has been provided, the construction development enterprise or real estate brokerage agency shall produce proof thereof.

4. (Inappropriately restrict the purchaser from reviewing contract)

The construction development enterprise or the real estate brokerage 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 construction development enterprise or the real estate brokerage 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 construction development enterprise 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 construction development enterprise or the real estate brokerage agency violates the provisions of Point 3, Point 4 or Point 5 of this Guidelines and is likely to affect trading order, the construction development enterprise or the real estate brokerage agency is in violation of Article 25 of the Fair Trade Act.

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 Disposal Directions (Guidelines) on Handling Cases Governed by Article 21 of the Fair Trade Act "," Fair Trade Commission Disposal Directions (Guidelines) on Cases of Real Estate in Advertising"," Fair Trade Commission Disposal Directions (Guidelines) on Comparative Advertising", "Fair Trade Commission Disposal Directions (Policy Statements) on the Use of Endorsements and Testimonials in Advertising",and "Fair Trade Commission Disposal Directions (Guidelines) on the Application of Article 25 of the Fair Trade Act ".

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

<b>Type of Conducts</b>	<b>Applicable Laws or Rules</b>
Return of deposit	Resolution through a civil action in accordance with the applicable provisions of the Civil Code.
Delayed construction	Resolution through a civil action in accordance with the applicable provisions of the Civil Code or by contract terms.
Delayed home closing	Resolution through a civil action in accordance with the applicable provisions of the Civil Code or by contract terms.
Defective construction work	Resolution through a civil action in accordance with the applicable provisions of the Civil Code or by contract terms.

Shortage in actual area	Resolution through a civil action in accordance with the applicable provisions of the Civil Code or by contract terms.
Builder's Responsibilities regarding sea-sand houses and radiation-contaminated houses clearly stated in the contract	Resolution through a civil action in accordance with the applicable provisions of the Civil Code or by contract terms.
Failure to provide necessary terms as required by "Mandatory and Prohibitory Provisions of Standard Contracts for Pre-sale House" as announced by the Ministry of Interior.	Report to the Ministry of the Interior or land administration authority of the special municipality/ county /city government in accordance with the Equalization of Land Rights Act, or resolution through a civil action under applicable provisions of the Consumer Protection Act.
Safety issues related to construction structure and public construction work	Report to the Ministry of the Interior or construction management authority of the special municipality/ county /city government in accordance with construction regulations, or resolution through a civil action under applicable provisions of the Civil Code.
Insufficient or incorrect building material and fire safety equipment	Report to the Ministry of the Interior or construction management authority of the special municipality/ county /city government in accordance with construction regulations, or resolution through a civil action under applicable provisions of the Civil Code.
Building's noncompliance with rules regarding floor area ratio	Report to the Ministry of the Interior or construction management authority of the special municipality/ county /city government in accordance with construction regulations, or resolution through a civil action under applicable provisions of the Civil Code.
Allocation of parking lots	Resolution through a civil action in accordance with the applicable provisions of the 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 in accordance with the applicable provisions of the Civil Code or by contract terms.
Disputes concerning property rights to ownership and use of basement, bomb shelter and other shared areas, etc.	Report to the Ministry of the Interior or construction management/ land administration authority of the special municipality/ county/city government in accordance with the Condominium Administration Act or the Regulations of the Land Registration, or resolution through a civil action under applicable provisions of the Civil Code.
Dispute concerning sloping rate of building	Report to the Ministry of the Interior or construction management authority of the special municipality/ county/ city government in accordance with construction regulations, or resolution through a civil action under applicable provisions of the Civil Code.
Property rights to use and ownership of lanes and alleys within a condominium or community	Report to the Ministry of the Interior or construction management authority of the special municipality/ county/ city government in accordance with the Condominium Administration Act, or resolution through a civil action under applicable provisions of the Civil Code.
Management of shared areas of a condominium or community	Report to the Ministry of the Interior or construction management authority of the special municipality/ county/ city government in accordance with the Condominium Administration Act, or resolution through a civil action under applicable provisions of the Civil Code.
Management fee charge	Report to the Ministry of the Interior or construction management authority of the special municipality/ county/ city government in accordance with the Condominium Administration Act, or resolution through a civil action under applicable provisions of the Civil Code.

Market sales prior to the issuance of a construction permit	Report to the Ministry of the Interior or construction management authority of the special municipality/ county/ city government in accordance with the Condominium Administration Act, or resolution through a civil action under applicable provisions of the Civil Code.
Double sale	Resolution through a civil action in accordance with the applicable provisions of the Civil Code or by contract terms.
Title dispute issue	Resolution through a civil action in accordance with the applicable provisions of the Civil Code or by contract terms.
Dissolution of building developer	Resolution through a civil action in accordance with the applicable provisions of the Civil Code or by contract terms
Bankruptcy of the construction development enterprise	Resolution through a civil action in accordance with the applicable provisions of the Civil Code or by contract terms.
"Hijacked" by the salesperson	Resolution through a civil action in accordance with the applicable provisions of the Civil Code or by contract terms
Continuing construction of dwelling (building developer's transfer of creditor rights or debt)	Resolution through a civil action in accordance with the applicable provisions of the Civil Code or by contract terms.
Tax evasion	Report to the Ministry of Finance in accordance with the Income Tax Act or the Business Tax Act.
Agency fee (water and electricity charges, government fees, notarization fee and insurance premium, etc.)	Resolution through a civil action in accordance with the applicable provisions of the Civil Code or by contract terms.
Dispute on land boundary	Report to the Ministry of the Interior or land administration authority of the special municipality/ county /city government in accordance with the Land Act.

Rental and Sale of Public Land	Report to the Ministry of Finance in accordance with the National Property Act or the Regulations for Leasing of National Non-public Use Real Estate.
Disputes concerning the property rights to use and ownership of the rooftop	Resolution through a civil action in accordance with the applicable provisions of the Civil Code or by contract terms.
Disputes concerning the property rights to use and ownership of statutory vacant space	Resolution through a civil action in accordance with the applicable provisions of the Civil Code or by contract terms.
Parking space area(size)	Resolution through a civil action in accordance with the applicable provisions of the Civil Code or by contract terms.
Price of the parking space	Resolution through a civil action in accordance with the applicable provisions of the Civil Code or by contract terms.
Failure of real estate brokerage agency to explain or provide the instruction of real estate	Report to the Ministry of the Interior or land administration authority of the special municipality/ county /city government in accordance with the Real Estate Brokerage Management Act, or resolution through a civil action under applicable provisions of the Civil Code.