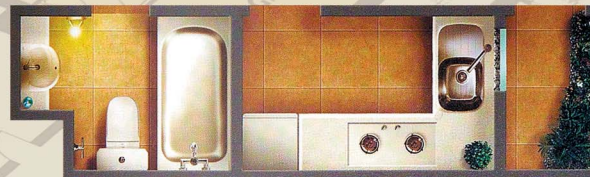


# 置業須知

GUIDE TO PURCHASING PROPERTIES



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本冊子的資料僅作一般參考用，並非法律意見。如有需要，閣下應尋求法律意見。  
The information contained in this booklet is for use as a general reference only and should not be relied upon as legal advice. You should seek legal advice if necessary.

# 1

## 視察及查詢

1. 有意置業人士，無論是購置「樓花」或「二手樓」，都應親身到發展項目或物業所在地了解實際的居住環境，特別要留意交通情況，以及是否有噪音、空氣污染等問題。如有疑問，應進一步查詢，才作決定。
2. 有意置業人士應先了解發展項目及物業周邊地區的資料，包括：
  - ◆ 顯示城市規劃委員會對有關地區建議的土地用途和主要公路系統的「分區計劃大綱圖」；
  - ◆ 附近的公共設施，例如鐵路車站及公共交通交匯處、學校、公園、公眾停車場、醫院、垃圾站或墓地等設施。
3. 發展商於「樓花」售樓說明書所載的位置圖，應提供上述資料。如有疑問，可向發展商查詢。
4. 要獲得更詳盡的城市發展及規劃資料，可前往規劃署規劃資料查詢處（北角渣華道333號北角政府合署17樓或沙田上禾輦路1號沙田政府合署14樓）要求查看有關地區「分區計劃大綱圖」或「發展審批地區圖」。如有需要，亦可到地政總署購買一份有關大綱圖；或瀏覽法定規劃綜合網站（[www.ozp.tpb.gov.hk/default.aspx](http://www.ozp.tpb.gov.hk/default.aspx)）。
5. 有意購買大型屋苑「樓花」者亦須了解屋苑範圍內不同地段的發展計劃及用途。售樓說明書應載有屋苑的布局圖，顯示屋苑內各項公用設施與預計落成日期。
6. 置業人士宜查詢屋苑內各項設施的財政狀況，例如使用時是否須要另外繳費。
7. 購置「二手樓」者在簽署任何形式的買賣合約前，應仔細視察所購單位，留意以下事項：
  - ◆ 除業主外，是否有其他人士在有關單位居住，以及 / 或擁有該單位的實益權益；
  - ◆ 物業是否有任何加建部分或經過改動；
  - ◆ 物業是否佔用任何公用地方；
  - ◆ 如單位連同傢俬、電器及裝修出售，這些資料應列明於買賣合約內，而置業人士亦應清楚檢查有關的傢俬、電器及裝修。

# 2

## 物業用途

1. 每個物業單位必有指定用途。發展商的「樓花」售樓說明書應載有政府租契（地契）的主要條款，包括物業的用途限制。如有疑問，應向發展商詳細查詢。
2. 有意購置「二手樓」者，應向地產代理或業主查明物業有關單位的准可用途。此外，參考以下資料，以資確認：
  - ◆ 地段的用途限制應在有關的政府土地契約中列明；
  - ◆ 分層單位的用途限制，在入伙紙及大廈公契中列明。
3. 物業用途必須符合入伙紙及大廈公契之規定，例如，入伙紙指定為非住宅用途的物業，不可作住宅用途；入伙紙指定為住宅用途的物業，不可作非住宅用途。

# 3

## 單位面積

1. 對置業人士來說，物業單位內實際可以使用的樓面面積 - 俗稱「內籠面積」或「實用面積」，一定是最重要的資料。可惜，要獲得這方面的準確資料並不容易，市場提供的資料也往往相當混亂。例如，售樓廣告中聲稱的「尺價」一般都沒有說明用哪一種標準來計算，置業人士要用來參考或直接比較，很容易犯上「聽價唔聽斗」的錯誤，實際與想像的情況可能有很大的差距。
2. 描述物業面積最常見的名詞有「建築面積」及「出售面積」（俗稱「實用面積」）。部分「樓花」是按地政總署發出的預售樓花同意書規定出售的。依照同意書的規定，發展商提供的「樓花」售樓說明書，必須列出「出售面積」（saleable area）的資料。根據地政總署批核的預售樓花合同，單位各部份的「出售面積」（saleable area）均有指定的計算方式，有關詳情，請參閱附件。  
  
至於住宅物業的「建築面積」，一向沒有統一的定義，其涵蓋的範圍會因個別建築物而異。根據2001年6月香港地產建設商會提供關於「樓花銷售說明書」的指引，單位的「出售面積」和「建築面積」的計算方法應該統一。出售面積應按照地政總署批核的預售樓花合同所載的定義計算；建築面積則指單位的出售面積、獲攤分之公用面積及該單位的其他私用面積之總和。此外，單位之獲攤分公用面積如會所、電梯大堂及管理處等，須清楚列明。
3. 雖然有些售樓說明書有標示「實用率」，但置業人士很難估計這些資料的準確程度，故這些資料只適宜用作粗略估算。
4. 地政總署預售樓花同意書規定，發展商須在「樓花」售樓說明書內，列出各單位之「出售面積」，並須把窗台、天台、平台及天井（如有的話）的出售面積分別列明。不過，置業人士必須留意，若售樓說明書上沒有清楚列出上述各項的「出售面積」，置業人士應向發展商查詢。另外，如置業人士購買多層大廈的分層單位，其「出售面積」或「建築面積」大多不包括車位的面積。
5. 置業人士應注意，現時大部分售樓書所載的「出售面積」是把窗台及冷氣機位所佔的面積計算在出售單位的總「出售面積」之內。因此，置業人士有意購入的單位，若是附有窗台、平台或冷氣機位等地方，置業人士就不應「照單全收」，把這個出售面積當作該單位的「內籠樓面面積」或俗稱的「實用面積」。置業人士應實際了解窗台、平台或冷氣機位等地方的面積及其所佔總「出售面積」的比率（可能高達5%-10%），以衡量該單位的內籠樓面面積及其「尺價」。

# 3

## 單位面積

6. 「樓花」售樓說明書須附載物業的樓面平面圖。樓面平面圖應具有樓層的布局及間隔；亦應標明單位內部間隔的尺寸及層與層之間的高度。如售樓說明書沒有列明這些資料，置業人士應向售樓者或發展商索取上述資料。
7. 購置「二手樓」者可向地產代理索取單位的「出售面積」資料，必要時也應詳細查詢或實地查看聲稱的「出售面積」所涵蓋的範圍，例如，是否包括窗台、平台或冷氣機位的面積。

# 4

## 建築材料及設備說明

1. 有意購置「樓花」者應詳細閱讀售樓說明書所列出的建築材料及設備說明，並特別留意物業內部裝修和裝置的資料，例如有沒有列明有關裝置的類別、牌子及型號。物業內牆、外牆、門、窗、地台等用料的規格，也應有詳盡的說明。
2. 「樓花」的示範單位應陳列有關設備及用料的樣本。
3. 購置「樓花」者於入伙驗樓時，應小心檢查單位內設備用料及施工，如發現任何不妥之處，應詳細記錄在驗樓紙上，並盡快通知發展商。
4. 購置「二手樓」者應親身到有關單位實地視察，特別留意屋內天花、窗台及牆壁是否有水漬，地板有否鬆脫，以了解單位曾否受滲水影響。
5. 購置「二手樓」者亦應檢查單位內的電線、電掣、水喉、去水渠、浴缸、廁所等是否操作正常。如發現電線或水喉殘舊，可詢問業主曾經維修或更換的日期。

# 5

## 物業保養

1. 新入伙的物業，一般有半年至一年的保養期。經地政總署批核的「樓花」買賣合約的物業保養期為成交日起半年。
2. 如發展項目周邊有斜坡，售樓說明書、地契及公契也應說明維修責任屬誰，售樓說明書還須同時顯示有關斜坡的圖則。
3. 「二手樓」一般以現狀出售，沒有保養期。因此，如有需要，置業人士在決定是否購買前，可先委託專業人士檢驗和評估物業的狀況。
4. 購置「二手樓」者亦應查詢屋苑或整幢物業是否有計劃或在短期內需要全面維修，如更換電力裝置、升降機電纜、粉飾外牆、維修斜坡等。
5. 若屋苑或樓宇需要進行維修工程，應查詢每戶預計需要分攤的費用。此外，也應與賣方協議交樓前及交樓後需分攤的維修費用由哪方負責。

# 6

## 地契年期

1. 樓宇所在地的地契（租契）年期對置業人士的長遠經濟負擔有重大的影響，因此應先細心查明才決定是否購買。
2. 購置「樓花」者應留意售樓說明書有關地契（租契）年期的資料；購置「二手樓」者應向地產代理查明有關資料，包括：
  - ◆ 年期的長短；
  - ◆ 年期開始的日期；
  - ◆ 尚餘的年期；
  - ◆ 是否仍須支付地價；若需要，費用若干。
3. 置業人士簽署任何買賣合約前，應向代表律師查詢地契（租契）續期的條款。下列是常見的續期條款：
  - ◆ 可續期的地契，無須補地價，但每年須繳納新地租，年租額是相當於該年的土地應課差餉租值的3%。
  - ◆ 在中英聯合聲明生效之日（即1985年5月27日）起至1997年6月30日前滿期而沒有續期權利的地契（即大部分新界地的地契），均可獲續期至2047年6月30日或之前，但須從續期之日起，每年繳納相當於該年的土地應課差餉租值3%的地租。
4. 由於物業當前的業主須繳付物業的所有地稅 / 地租，包括積欠的地稅 / 地租，置業人士應向律師查詢有關繳納地稅 / 地租的事宜（包括買賣雙方在應繳、積欠、預繳地稅 / 地租金額上的法律責任），以確保物業的欠繳地稅 / 地租全部繳清。置業人士也可向地政總署查詢物業尚欠的地稅或向差餉物業估價署查詢物業尚欠的地租。

# 7

## 樓宇公契

1. 樓宇公契是一份有約束力的法律文件，規範所有共同擁有一座大廈或屋苑的業主之權利與責任。發展商應在售樓前已經擬訂其條款。
2. 「樓花」售樓說明書應載有公契的主要條款，包括：
  - ◆ 公用地方及設施；
  - ◆ 每戶所佔的不可分割份數；
  - ◆ 每戶攤分之管理費；
  - ◆ 委任管理人；
  - ◆ 發展商所保留的有關權利。
3. 置業者要特別留意公契有關公用地方及設施，如會所、外牆、升降機大堂、大廈走廊等使用限制。
4. 置業者亦須詳細查詢有關物業管理的資料，包括：
  - ◆ 管理權誰屬；
  - ◆ 釐訂管理費的準則；
  - ◆ 管理組織（如業主委員會）的組成；
  - ◆ 管理人的委任、解僱及可收取的酬金。

# 8

## 賣方的業權及產權負擔

1. 購置「二手樓」者應
  - i 向賣方了解以下事項：
    - ◆ 賣方是否以業權擁有人或其他身分出售；
    - ◆ 物業是否已有按揭、押記、法庭命令、建築命令、租約、訴訟或其他登記為產權負擔的項目。
  - ii 向賣方取得保證，確保有關單位沒有違例加建或改動，及賣方沒有收到政府或業主立案法團或管理公司發出有關該物業違例加建或改動的通知。
  - iii 確保賣方可償還有關物業出售前的所有負債，例如贖回按揭所需金額、管理費、地租、差餉及其他債權人的押記等。
2. 為了更詳盡了解賣方的產權負擔，購置「二手樓」者可向賣方、地產代理及屋苑管理公司查詢以下事項：
  - ◆ 所購單位是否有違例建築物或佔用任何公用地方；
  - ◆ 管理公司曾否向有關單位發出任何清拆令、投訴等；
  - ◆ 所購單位是否有拖欠繳交管理費；
  - ◆ 管理費按金、公用水電設施按金、儲備金等可否轉名，金額若干；
  - ◆ 大廈業主立案法團或所有業主是否面臨任何龐大索償、訴訟及判決；
  - ◆ 大廈業主立案法團是否已為大廈公共地方購買第三者保險；
  - ◆ 有關樓宇之管理賬目是否有虧損和賣方所應攤分繳付的金額。

# 9

## 簽署買賣合約

1. 購置新落成樓宇或「樓花」的人士，在簽約前應向發展商查詢與交易有關的費用，例如律師費、釐印費、圖則費、經核證的業權契據副本費、大廈公契費、管理費按金、儲備金、泥頭費等。
2. 在一般情況下，購置「二手樓」的人士須先簽署一份臨時買賣合約。在簽署臨時買賣合約前，應細閱各項條文及了解須繳付的各項費用，並要求地產代理解釋清楚合約內容及應繳費用。凡未填上所有資料的臨時買賣合約，置業者不應簽署。
3. 置業人士簽訂臨時買賣合約前，應要求地產代理提供最新業權資料。如對業主還款贖樓能力有懷疑，置業人士應要求訂金由律師行託管，以防一旦業主不能完成交易時，侵吞訂金。
4. 臨時買賣合約是一份有效力及具約束力的法律文件。簽署臨時買賣合約前宜先徵詢律師意見。一般而言，買賣雙方須聘用不同的律師代表。然而，倘若買賣雙方有聯繫、樓價不超過一百萬元及聘用同一名律師並不會引起利益衝突、或有關買賣是樓花或建成單位的首次交易，買賣雙方則可聘用同一名律師。雖則如此，在所有情況下，買賣雙方亦宜聘用不同律師，以保障自己的利益和避免出現利益衝突的情況。
5. 律師樓處理買賣樓宇的收費不一，置業人士宜預先查核。

# 10 樓宇按揭

1. 決定購置物業前，置業人士應清楚了解自己的經濟狀況、還款能力及財務安排。
2. 選擇銀行或財務機構作貸款安排，宜按以下各點考慮：
  - ◆ 物業估值及可做按揭金額；
  - ◆ 還款年期及期數、每期供款額；
  - ◆ 利率釐訂的準則；
  - ◆ 利率調整後的實施時間；
  - ◆ 延遲供款計息的問題，例如利率；
  - ◆ 提早贖樓補息及通知期問題；
  - ◆ 按揭的手續費、律師費、保險費、估值報告費等。
3. 供款期間，置業人士應向銀行或財務機構索取一份繳款清單，列明：
  - ◆ 欠款餘額；
  - ◆ 每期供款額；
  - ◆ 尚餘供款期數；
  - ◆ 本金及利息數額。

# 11 交樓日期

1. 購置「樓花」者應向發展商查明預計入伙或交樓的日期。「樓花」的正式買賣合約大都有註明預計有關樓宇的建成日期。
2. 一般的「樓花」買賣合約均訂明，若有關樓宇之建造受到一些因素影響，例如工人罷工、異常降雨量、颱風、暴亂或重大的意外事件等，以致延誤，發展商可以申請延期完工，而預計的入伙日期亦可能因此押後。置業者應在簽約前向律師查詢了解詳情。
3. 購置「樓花」者應特別留意，倘發展商未能依合約條款交樓或完成買賣，合約上賦予買方的權利為何。
4. 購買「二手樓」者須留意，臨時買賣合約應註明交易日期及是否在交易日交樓（即「交吉」）。



# 12 轉讓限制

1. 某些物業是有轉讓限制的。這些物業的業主均不得自由轉讓其物業。一般而言，業主須要向政府補地價才可消除上述限制。在某些情況下，這些買賣亦涉及特別的程序和表格。
2. 有轉讓限制的物業包括以下類別：
  - ◆ 房屋委員會轄下的「居者有其屋」、「私人參建居屋」及「租者置其屋」計劃下的單位；
  - ◆ 房屋協會轄下的「夾心階層住屋」及「住宅發售計劃」的單位；
  - ◆ 原居村民物業（俗稱「丁屋」）；
  - ◆ 前公務員建屋合作社單位。
3. 任何有意購置有轉讓限制的物業的人士，須注意有關限制，以及所須的程序和表格。如有疑問，應在簽訂任何買賣協議前尋求法律意見。

# 13 委託地產代理

1. 只有持牌地產代理才可接受準買家的委託。
2. 與代理簽訂《地產代理協議》，以保障雙方利益。
3. 協議應列明：
  - ◆ 協議有效期；
  - ◆ 地產代理的職責；
  - ◆ 代理與置業人士議定的佣金及收取佣金的時間；
  - ◆ 所選擇委託的形式是「單邊代理」（即只代表置業人士）或「雙邊代理」（即同時代表置業人士和業主）；
  - ◆ 若是雙邊代理，代理向雙方收取的佣金數額或比率。
4. 向代理索取有關物業的指定物業資料，包括面積、樓齡、用途限制、業權人、產權負擔、政府租契年期，及由業主提供關於改建及維修費用的資料。
5. 向代理索取所有與代理簽訂的文件副本。
6. 給予代理明確清晰的指示，特別在議價過程中向業主提出的出價或還價。
7. 繳付任何款項後，應立即要求代理發給收據作實。
8. 若交易告吹，要求代理立即交還代為託管的款項。
9. 代理應向置業人士解釋《地產代理協議》所載各項條款。

## 「出售面積」的定義：

- i 如屬由牆壁圍繞的單位，其「出售面積」則指單位的樓面面積（包括任何露台及陽台的樓面面積），由單位圍牆外圍起計，但如圍牆分隔兩個毗連單位，則須由牆壁的中央起計。單位的樓面面積包括單位的內部間隔及支柱，但不包括單位圍牆以外的公共地方。如任何圍牆連接公共地方，則包括該圍牆的整個厚度；
- ii 如屬閣樓，其「出售面積」則指閣樓的樓面面積，由閣樓圍牆內圍起計；
- iii 如屬不伸展至單位地板水平的窗台，其「出售面積」則指窗台的面積，由窗台圍牆外圍或玻璃窗外圍起計，及由窗台與垂直至地板水平的牆壁相接之處起計，但不包括該牆壁的厚度；
- iv 如屬車位，其「出售面積」則指車位的面積，由其分界線或圍牆內圍起計（視屬何情況而定）；
- v 如屬天井、大陽台、花園、平台或天台，其「出售面積」則指天井、大陽台、花園、平台或天台的面積，由其分界線內圍起計。如以牆壁為分界，則由牆壁內圍起計；及
- vi 如屬沒有被牆壁圍起的工作平台，其「出售面積」則指樓面面積，由其邊界外圍起計。若工作平台被牆壁圍起，其樓面面積則由圍繞著該工作平台之牆壁或邊界的外圍起計，但如該牆壁或邊界分隔兩個毗連工作平台，則須由牆壁或邊界的中央起計。工作平台的樓面面積須包括其內部間隔及支柱，但不包括圍繞有關工作平台之牆壁或邊界以外的公共地方及毗連任何單位之牆壁或邊界的整個厚度。如任何圍繞工作平台之牆壁或邊界連接公共地方，則包括該圍牆或邊界的整個厚度。

1. Be it an "uncompleted residential unit" or a "second-hand property", visit the site of the development project or the property in person to learn about its actual environment, in particular, the traffic conditions, and to find out whether there is any noise or air pollution problem. If in doubt, make further enquiries before coming to any decision.
2. Study information about the areas surrounding the property, including:
  - ◆ the Outline Zoning Plan (OZP) of those areas which shows the land uses and major road system proposed by the Town Planning Board;
  - ◆ the public facilities nearby, for example, railway stations, public transport interchanges, schools, parks, public car parks, hospitals, waste collection points, cemeteries, etc.
3. In the case of an uncompleted residential unit, the location plan in the sales brochure should contain the above information. If there are any questions, ask the developer.
4. To obtain more detailed information about the planning and development of a district, visit the Planning Department's Planning Enquiry Counters (17/F, North Point Government Offices, 333 Java Road or 14/F, Sha Tin Government Offices, 1 Sheung Wo Che Road, Sha Tin) and request for inspection of the OZP or the Development Permission Area Plans for the relevant district. One may also buy a copy of the OZP from the Lands Department for reference or visit the Statutory Planning Portal ([www.ozp.tpb.gov.hk/default.aspx](http://www.ozp.tpb.gov.hk/default.aspx)).
5. In the case of an uncompleted residential unit in a large residential development, be aware of plans for and uses of different sections of the development. The sales brochure should include the layout plan of the development showing all public facilities and the anticipated completion dates.
6. Enquire if any financial contribution has to be made to the housing development's facilities, for example, whether charges have to be paid for use.
7. In the case of a second-hand property, carefully inspect the property before signing any sale and purchase agreement. The following should also be noted:
  - ◆ whether there is any person, other than the registered owner(s), residing in the property, and/or owning beneficial interest in the property;
  - ◆ whether there are any additions or alterations to the structure of the property;
  - ◆ whether the property is occupying any common area;
  - ◆ whether furniture, electrical appliances and decoration are included in the sale of property; if this is the case, have the inclusion specified in the agreement for sale and purchase and inspect the furniture, electrical appliances and decoration carefully.

# 2

## Property User

1. Each property unit has its specified purpose. In regard to an uncompleted residential unit, the sales brochure should contain the salient provisions of the Government Lease (Land Grant), including restrictions on the use of the property. If in doubt, ask the developer for further details.
2. In respect of a second-hand property, ask the estate agent or the owner about its permitted use.  
And seek confirmation from:
  - ◆ the Government Lease (Land Grant) regarding user restrictions of the land;
  - ◆ the Occupation Permit and the Deed of Mutual Covenant of the building regarding user restrictions of the flat.
3. The property must be used in compliance with the Occupation Permit and the Deed of Mutual Covenant of the building. For example, if the Occupation Permit specifies the use of the property as non-domestic, the property cannot be used for domestic purposes; if the Occupation Permit specifies the use of the property as domestic, the property cannot be used for non-domestic purposes.

# 3

## Property Area

1. The space of a property that can be used practically is commonly referred to as the "internal floor area" or "usable area". The usable area is one of the most important pieces of information a buyer needs to know. Unfortunately, market information is often confusing, and precise information is not easy to obtain. For example, the "unit price" mentioned in property advertisements does not usually specify the standard by which it was measured. The impression given by such information may be quite different from what it actually is.
2. The usual terms to describe the area of a property are "gross floor area" and "saleable area" (commonly known as "net usable area"). The saleable area of an uncompleted residential unit sold in accordance with the Lands Department Consent Scheme must be specified in the sales brochure. Saleable areas of respective parts of that unit, which are specified in the agreement for sale and purchase approved by the Lands Department under the Consent Scheme, are measured in specified ways. For details, please refer to Annex.

There is no uniform definition of the gross floor area of a residential property and the area to which it refers may differ in different property developments. However, according to the guidelines issued by The Real Estate Developers Association of Hong Kong in "Sales Brochures of Uncompleted Residential Flats" (June 2001), the methods of calculation for the saleable area and gross floor area should be standardised. The saleable area should be calculated in accordance with the definition as set out in the agreement for sale and purchase for uncompleted residential units approved by the Lands Department under the Consent Scheme. The gross floor area of a unit should be the sum of its saleable area, its apportioned share of the common areas and any other area which is for the exclusive use of its purchaser. The apportionment to individual residential property attributable to common areas such as the clubhouse, lift lobbies, management offices, etc., shall be listed clearly.

3. Although some sales brochures specify the "efficiency rate", it is difficult for purchasers to assess the accuracy of such information. It should therefore only be seen as a basis for rough estimation.
4. According to the Lands Department Consent Scheme for uncompleted residential flats, the developer has to set out in the sales brochure the saleable area of such unit. The saleable area of bay windows, roofs, flat roofs and open yards (if any) should be specified separately. If the sales brochure contains no such information, ask the developer. For a flat in a multi-storey building, the saleable area or gross floor area will in most cases not include the area for the car park.
5. It should be noted that, at present, the saleable area mentioned in most sales brochures includes the areas occupied by bay windows and air-conditioners. Therefore, one should not take the total value of the saleable area as the internal floor area or "net usable area" without further investigation. Find out the total area for bay windows, flat roof or space for air-conditioners, etc., and its proportion to the total saleable area (it may be as high as 5% to 10%) so as to calculate the internal floor area of a unit or its unit price.

# 3

## Property Area

6. The sales brochure for an uncompleted residential unit must contain the property's floor plan. The plan should include the layout and partitioning of the floor. It should also be clearly marked with the measurements of the unit and the height between floor levels. If the sales brochure does not contain such information, ask the vendor or developer about this.
7. In the case of a second-hand property, find out its saleable area from the estate agent. If necessary, ask for further details or inspect on site what is covered by the saleable area, for example, whether it includes the area for bay windows, flat roof or air-conditioners.

# 4

## Specifications for Building Materials and Facilities

1. When considering an uncompleted residential unit, carefully read the specifications of building materials and facilities listed in the sales brochure. Take note of information about the fittings and finishes, for example, whether types, brands and model numbers are supplied. Specifications of materials used for internal and external walls, doors, windows, flooring, etc., should also be detailed in the sales brochure.
2. The show flat for an uncompleted residential unit should display samples of the relevant fittings and materials.
3. As regards purchase of an uncompleted residential unit, when taking possession of the unit, carefully inspect its fittings, finishes and the workmanship. If there is anything unsatisfactory, jot it down in detail in the inspection record and notify the developer as soon as possible.
4. In the case of a second-hand property, inspect it in person. Pay particular attention to the ceiling, bay windows and walls to see if there is any water stain, and check if the flooring is loose to ascertain whether there have been water leakages.
5. Buyers of second-hand property should also inspect electrical wiring, switches, water pipes, drains, bath-tubs and toilets to see if they are working properly. If electrical wiring or water pipes are worn out, ask the vendor when they were last replaced or repaired.

# 5

## Maintenance

1. In the case of a newly completed property, there is usually a maintenance period of six months to one year. The maintenance period set out in the agreement for sale and purchase approved by the Lands Department under the Consent Scheme is six months from the date of completion.
2. If there are slopes close to the development, the sales brochure, Government Lease and Deed of Mutual Covenant should state the party responsible for maintenance. The sales brochure must also include a plan of such slopes.
3. A second-hand property is normally sold on an "as-is" basis without a maintenance period. If necessary, ask professionals to inspect and assess the property's condition before making any decision to buy.
4. In the case of a second-hand property, enquire whether the housing development or building has any plan or need for repairs and/or maintenance in the near future, for example, replacing electricity installations or lift cables, painting external walls, maintaining slopes, etc.
5. If repairs and/or maintenance are required, ask for an estimate of the cost apportioned to each household and negotiate with the vendor as to who will be responsible for these charges before and after delivery of possession of the property.

# 6

## Government Lease

1. The term of the Government Lease (Land Grant) for the land on which the property stands may in the long run have significant implications on a purchaser's financial obligation. Prospective buyers should find it out before buying.
2. In the case of an uncompleted residential unit, take note of the term of the Government Lease stated in the sales brochures. When buying a second-hand property, ask the estate agent for the relevant information, including:
  - ◆ the length of the term;
  - ◆ the date of commencement of the term;
  - ◆ the remainder of the term;
  - ◆ whether any premium is required to be paid and, if so, the amount.
3. Before signing any agreement for sale and purchase, prospective buyers should ask their solicitors about the terms for renewing the Government Lease (Land Grant). Usually the renewal terms include:
  - ◆ a renewable Government Lease may be renewed without payment of any additional premium, but the lessees have to pay a new yearly Government rent. The yearly Government rent is equivalent to 3% of the rateable value of the property in that current year.
  - ◆ Government Leases expiring between the effective date of the Sino-British Joint Declaration (i.e. 27 May 1985) and 30 June 1997 with no right of renewal (i.e. most Government Leases in the New Territories) may all be extended for lease terms expiring no later than 30 June 2047. From the date of commencement of the extended term, the lessees have to pay the yearly Government rent equivalent to 3% of the rateable value of the property in that current year.
4. Since a current owner is liable to pay all Government rent, including accumulated arrears, prospective buyers should enquire with their solicitors about matters relating to such payments (including the respective legal obligations of the purchaser and vendor in relation to the amount payable, accumulated arrears or advance payment of Government rent) to ensure a full settlement of all or Government rent arrears. They can also check with the Lands Department or the Rating and Valuation Department on any outstanding amount.

# 7

## Deed of Mutual Covenant

1. The Deed of Mutual Covenant of a building is a legally binding document. It regulates the rights and obligations of property owners who share the ownership of a building or housing development. The developers should have drafted the provisions before the property is put up for sale.
2. The sales brochure for an uncompleted residential unit should include the salient provisions in the Deed of Mutual Covenant, including:
  - ◆ common areas and facilities;
  - ◆ undivided shares allotted to each unit;
  - ◆ management fees shared by each unit;
  - ◆ appointment of the manager;
  - ◆ relevant rights reserved by the developer.
3. Prospective buyers should take special note of user restrictions in the Deed of Mutual Covenant in relation to common areas and facilities, such as the clubhouse, external walls, lift lobbies, corridors of the building, etc.
4. Also, find out details on property management, including:
  - ◆ ownership of management rights;
  - ◆ criteria for determining management fees;
  - ◆ composition of the management organisation (e.g. the owners' committee);
  - ◆ appointment, dismissal and remuneration of the manager.

# 8

## Vendor's Title and Encumbrances

1. Prospective buyers of second hand properties should
  - i ascertain from the vendor:
    - ◆ whether he/she is selling the property as beneficial owner or in any other capacity;
    - ◆ whether any mortgage, charge, court order, building order, tenancy agreement, litigation, or other instruments have been registered as encumbrances against the property.
  - ii obtain a warranty from the vendor that neither the property has any illegal structure nor has it been altered, and that the vendor has not received any notice from the Government, the Incorporated Owners, or the management company in relation to any illegal structure or alteration.
  - iii ensure that the vendor is able to repay all outstanding liabilities before the property is sold, for example, the amount necessary for the discharge of the mortgage, management fees, Government rent, rates and other creditors' charges on the property, etc.
2. To learn about the vendor's encumbrances in more detail, ask the vendor, estate agent and the development's management company whether:
  - ◆ the relevant property has any illegal structure or occupies any common area;
  - ◆ the management company has served any demolition order or complaint on the property;
  - ◆ there are management fees in arrears;
  - ◆ management fee deposits, water and electricity deposits, reserve fund, etc., are transferable, and the amount of the same;
  - ◆ the Incorporated Owners of the building or all the co-owners have to settle any substantial claim, litigation or judgment;
  - ◆ the Incorporated Owners have taken out third-party insurance for the common areas;
  - ◆ there is any deficit in the management account and the amount payable by the vendor.

# 9

## Signing an Agreement for Sale and Purchase

1. Before signing any sale and purchase agreement for a newly built or uncompleted residential unit, one should ask the developer about the charges relating to the transaction, for example, legal fees, stamp duty, building plan fees, charges for certified copies of title deeds, charges for the Deed of Mutual Covenant, management fee deposits, reserve funds, debris collection charges, etc.
2. Usually, prospective buyers of second-hand properties would first sign a provisional agreement for sale and purchase before signing a formal one. They should read carefully every clause of the provisional agreement and take note of the fees payable. Also, they should ask the estate agent to clearly explain the same to them. They should not sign the provisional agreement if some information has yet to be filled in.
3. Before signing a provisional agreement for sale and purchase, ensure the estate agent provides the latest information on the title. If there is any doubt about the owner's ability to repay the loan for the redemption of the property, make it a requirement that deposits are paid to solicitors as stakeholders lest the vendor misappropriates them when he is unable to complete the transaction.
4. The provisional agreement for sale and purchase is a valid and legally binding contract and prospective buyers should seek legal advice before signing one. Generally speaking, both the vendor and purchaser have to engage their own legal representatives. However, they may engage the same solicitor if they are associated parties; or if the purchase price does not exceed \$1 million and there will be no conflict of interest arising from joint representation; or if the transaction concerns the sale and purchase of an uncompleted unit or the first sale of a completed unit. Nevertheless, in all cases, it is always advisable for the vendor and purchaser to instruct their own solicitors to protect their interests and to avoid conflicts of interest arising from joint representation.
5. Conveyancing fees charged by solicitors vary. Prospective buyers should shop around.

# 10

## Mortgages

1. Before deciding to buy a property, one should ascertain his own financial position, loan repayment ability and the necessary financial arrangement.
2. When choosing a bank or financial institution for loans, consider the following:
  - ◆ the property valuation and mortgage amount offered;
  - ◆ the term for repayment, number of instalments and amount of each instalment;
  - ◆ the criteria for determining interest rates;
  - ◆ the date for implementing interest rate adjustments;
  - ◆ the issues arising from arrears in instalments, for example, interest rates;
  - ◆ the early redemption penalties and the notice period;
  - ◆ mortgage handling fees, legal fees, insurance fees, charges for the valuation report, etc.
3. During the instalment period, ask the bank or financial institution for a schedule of repayment, setting out:
  - ◆ the outstanding amount of the loan;
  - ◆ the amount of each instalment;
  - ◆ the number of outstanding instalments;
  - ◆ the respective amounts of principal and interest.

# 11

## Date for Delivery of Possession

1. When buying an uncompleted residential unit, ask the property developer for the anticipated date of completion or date of delivery of possession. Most formal sale and purchase agreements for such units will specify the date when the building concerned will be completed.
2. In general, the sale and purchase agreement for an uncompleted residential unit provides that if completion of the building concerned is delayed due to strikes, heavy rainfall, typhoons, riots or serious accidents, etc., the developer can apply for an extension of time for completion of the building. This will probably cause delay in the anticipated completion of the transaction. Prospective buyers should ask their solicitors for details before signing the agreement.
3. In the case of an uncompleted residential unit, take particular note of the purchaser's rights specified in the agreement in the event that the developer fails to deliver possession of the property or complete the transaction according to the terms of the agreement.
4. Second-hand property buyers should note that the provisional agreement for sale and purchase should specify the date of completion of the sale and purchase of the property and whether vacant possession of the property shall be delivered on completion.

# 12

## Alienation Restrictions

1. Some properties are subject to certain alienation restrictions. Owners are restricted from selling these properties. Generally speaking, a premium is payable to the Government before the restriction is removed. In some cases, special procedures have to be followed and special forms to be used.
2. Properties that are subject to alienation restrictions include:-
  - ◆ Flats under the Housing Authority's Home Ownership Scheme, Private Sector Participation Scheme and Tenant Purchase Scheme;
  - ◆ Flats under the Housing Society's Sandwich Class Housing Scheme and Flat-For-Sale Scheme;
  - ◆ Indigenous villagers' properties;
  - ◆ Ex-Co-operative Building Societies flats.
3. Prospective buyers interested in buying such properties should take note of the relevant restrictions and the procedures and forms required. If in doubt, obtain legal advice before entering into any sale and purchase agreement.



1. Only licensed estate agents can accept appointment.
2. You should sign an Estate Agency Agreement with the agent to protect both parties' interests.
3. The Agreement should specify:
  - ◆ the period during which the Agreement is valid;
  - ◆ the estate agent's duties;
  - ◆ the commission as agreed between the agent and the purchaser and when the commission is to be paid;
  - ◆ whether the appointment is "single agency" (i.e. the agent represents only the purchaser) or "dual agency" (i.e. the agent represents both the purchaser and the vendor);
  - ◆ in the case of dual agency, the amount or rate of commission that the agent will receive from both sides.
4. You can ask the agent for specific information about the relevant property, including the area, age, user restrictions, owner, encumbrances, Government Lease term, and information supplied by the owner in relation to alterations and management fees.
5. Ask the agent for photocopies of all the documents you have signed with the agency.
6. Give precise and clear instructions to the agent, especially offers or counteroffers during negotiation.
7. Ask for a receipt upon paying a fee.
8. If the transaction falls through, ask the agent for immediate return of any money held on your behalf.
9. An agent should explain to his client all the terms of the Estate Agency Agreement.

**Meaning of Saleable Area**

- i In relation to a unit enclosed by walls, the floor area of such unit (which shall include the floor area of any balconies and verandahs), measured from the exterior of the enclosing walls of such unit except where such enclosing walls separate two adjoining units, in which case the measurement shall be taken from the middle of those walls, and shall include the internal partitions and columns within such unit; but shall exclude the common parts outside the enclosing walls of such unit Provided That if any of the enclosing walls abut onto a common area, then the whole thickness of the enclosing walls which so abut shall be included;
- ii In relation to any cockloft, the floor area of such cockloft measured from the interior of the enclosing walls of such cockloft;
- iii In relation to any bay window which does not extend to the floor level of a unit, the area of such bay window measured from the exterior of the enclosing walls or glass windows of such bay window and from the point where the bay window meets the wall dropping to the floor level of a unit but excluding the thickness of such wall;
- iv In relation to any car parking space, the area of such car parking space measured from the interior of its demarcating lines or enclosing walls, as the case may be;
- v In relation to any yard, terrace, garden, flat roof or roof, the area of such yard, terrace, garden, flat roof or roof measured from the interior of their boundary lines, and where the boundary consists of a wall, then it shall be measured from the interior of such wall; and
- vi In relation to any utility platform not enclosed by a solid wall, the floor area measured from the external boundary and if it is enclosed by walls, the floor area of the said utility platform measured from the exterior of the enclosing walls or boundary of the said utility platform except where such enclosing walls or boundary separate two adjoining utility platforms, in which case the measurement shall be taken from the middle of those walls or boundary, and shall include the internal partitions and columns within the said utility platform; but shall exclude the common parts outside the enclosing walls or boundary of the said utility platform and exclude the whole thickness of the enclosing walls or boundary which abut onto any units Provided That if any of the enclosing walls or boundary abut onto a common area, then the whole thickness of the enclosing walls or boundary which so abut shall be included.