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Panel on Housing

**Subcommittee on Issues Relating to the Improvement of Living Conditions
of the Grass-roots Tenants**

Meeting on 28 October 2022

**Background brief on implementing the new provisions for
regulating tenancies of subdivided units in the Landlord and Tenant
(Consolidation) Ordinance**

Purpose

This paper provides background information and summarizes the discussions at meetings of the Legislative Council (“LegCo”) and its committees on issues relating to implementing the new provisions for tenancy control on subdivided units (“SDUs”) in the Landlord and Tenant (Consolidation) Ordinance (Cap. 7) (“the Ordinance”).

Background

Study on tenancy control on subdivided units

2. All along there have been suggestions from members of the public urging the Government to re-introduce tenancy control, such as control measures on rents and tenure of SDUs, with a view to safeguarding the interest of grass-roots tenants.¹ On 16 April 2020, the Administration announced the appointment of the Task Force for the Study on Tenancy Control of Subdivided Units (“the Task Force”) to study

¹ As mentioned in LC Paper No. [IN16/16-17](#), tenancy control in Hong Kong started with the enactment of the Rents Ordinance in 1921 to protect the tenants from unreasonable rent increases and arbitrary evictions. Since then, the two forms of tenancy control – rent control and security of tenure – had been implemented through the amendment and/or enactment of various relevant ordinances. In December 1998, rent control was abolished, and in July 2004, the security of tenure was removed.

and report to the Government the situation of SDUs in Hong Kong and advise the Government on whether tenancy control on SDUs should be implemented and the possible options.

3. The Task Force submitted its final report to the Government on 31 March 2021 and recommended that the Government should implement suitable tenancy control on SDUs to safeguard the interests of grass-roots tenants of SDUs, and put forth a regulatory framework and host of measures for effecting the proposed tenancy control on SDUs, including stipulating the rights and obligations of both parties, providing security of tenure to tenants, restricting the level of rent increase and prohibiting landlords from overcharging tenants on utility fees, etc.

Legislation for introducing tenancy control on subdivided units

4. The Administration introduced the Landlord and Tenant (Consolidation) (Amendment) Bill 2021 (“the Bill”) to LegCo on 14 July 2021 to amend the Ordinance to regulate tenancies of SDUs of buildings, and to provide for related matters. LegCo passed the Bill on 20 October 2021, and the new provisions (i.e. Part IVA of the Ordinance) for implementing tenancy control on SDUs came into force on 22 January 2022. The new provisions aim to regulate domestic tenancies in respect of SDUs and provides protection to SDU tenants in various aspects, including mandating the SDU landlords and tenants to sign a written tenancy agreement setting out their respective rights and obligations; providing four-year security of tenure for the tenants; restricting the rate of rent increase on tenancy renewal in accordance with the movement of the rental index of all classes of private domestic properties as compiled and published by the Rating and Valuation Department (“RVD”) and subject to a cap of 10%; and prohibiting landlords from overcharging tenants on utility charges, etc.

Members’ views and concerns

5. The Panel on Housing discussed issues on introducing tenancy control on SDUs and implementing the relevant new legislation at several meetings in recent years. A bills committee was formed to scrutinize the Bill. The major views and concerns of Members are summarized in the ensuing paragraphs.

Progress of implementing tenancy control on subdivided units

6. Following the enactment of the Bill, Members had enquired about the details of assistance that the Administration would provide to the landlords and tenants of “regulated tenancies” and the extra resources that RVD would put in place in anticipation of the considerable amount of work involved in administering the new provisions in the Bill. Members also enquired how the Government would ensure

that the landlords and tenants of SDUs had complied with the requirements under the Ordinance, and whether it would conduct random on-site inspections or adopt other approaches to find out if the tenants had been evicted or overcharged for miscellaneous fees or bills on water and electricity.

7. The Administration advised that RVD had set up a new section consisting of 50 staff responsible for the implementation of the new legislation, including promoting public awareness of the new regulatory regime; handling enquiries; providing free advisory and mediatory services on tenancy matters; publishing the reported rent data of SDUs after implementation of the legislation; and taking enforcement action as appropriate. Since the new legislation became effective and up to 31 March 2022, RVD had received a total of about 2 170 enquiries on SDU tenancy matters via hotline, emails, letters and office counters, etc.; and had processed 619 “Notices of Tenancy” (Form AR2)². RVD planned to publish the rent data of SDUs in the first quarter of 2023. If a landlord was suspected of breaching the regulations in the new legislation, for instance, charging any non-permitted money or reimbursement of charges for the specified utilities and services or harassing the tenant, the complainant might report to RVD via post, email, hotline or in person. RVD would investigate and take follow-up action in accordance with the Ordinance, and conduct site visits where necessary.

8. The Administration advised that in addition to following up on reported cases, RVD had been proactively enquiring about the tenancy situations of those tenants calling the enquiry hotline regarding “regulated tenancy”, and sending invitations to the tenants shown on the “Notices of Tenancy” received for interviews. Moreover, given the improvement of the situation of the 5th wave of the COVID-19 pandemic, RVD had been visiting tenants of SDUs starting from the second half of May 2022 to promote tenancy control on SDUs, as well as to understand directly from the tenants if their landlords were suspected of breaching the regulations in the new legislation, or if RVD’s mediatory service was required, and take follow-up actions as appropriate.

9. The Administration had engaged non-government organizations (“NGOs”) through open tender to set up six District Service Teams, which had been reaching out to the grass-roots since early January 2022 through various publicity activities such as street counters, home visits, promotion websites, talks and briefing sessions, etc. and their connection networks to supplement the efforts of RVD in promoting the new legislation at district level; raising public awareness of the new regulatory regime; and handling general enquiries, etc. As at 31 March 2022, the District Service Teams set up a total of 23 street counters at popular locations in

² According to Part IVA of the Ordinance, the landlord must, within 60 days after commencement of the term of the “regulated tenancy”, submit Form AR2 to notify the RVD of the particulars of the tenancy.

various districts, distributed and mailed some 18 900 leaflets, conducted 22 online talks and briefings, visited 133 SDU households and handled around 1 070 enquiries.

10. The Administration had also engaged an NGO to establish and manage an SDU web-based information portal for sharing of SDU-related information for publicity and education purpose. Such information included rent data of SDUs reported by landlords and published by RVD; details of promotional activities conducted by the District Service Teams, etc. The portal was launched on 21 March 2022.

Setting an initial rent for tenancies of subdivided units

11. When deliberating the Bill, some Members considered that the Administration should intervene in the SDU rental market by regulating the “initial rent” in SDU in order to prevent SDU landlords from massively increasing the rent in an attempt to counteract the restrictions on future rent increase upon tenancy renewal. Some Members suggested that the Administration should consider imposing a cap on the level of rent per square foot for SDU tenancies under the proposed tenancy control, and enquired whether and when the Administration would commence a study on regulating the “initial rent” of tenancies.

12. The Administration advised that it shared the Task Force’s view that in the absence of comprehensive rental information of SDUs at this stage, it was infeasible to formulate an objective and easy-to-administer mechanism for the purpose of fairly determining the maximum “initial rent” the landlords might charge in respect of each of the some 100 000 SDUs estimated to exist in Hong Kong, and that the individual characteristics of each SDU should be taken into account when deciding the “initial rent”.

13. The Administration stressed that its objective was to first require, through the legislation, landlords of “regulated tenancies” to submit information about the tenancy to RVD within 60 days after the term of the tenancy commences so that RVD could collect timely information about SDU rentals in the market and their actual conditions. This would facilitate the Administration’s assessment and review of the effectiveness of the tenancy control measures and enable the Administration to consider at an opportune time the case for prescribing the “initial rent” of SDUs.

Council motion and questions

14. The Council passed a motion on “Studying the enactment of an ordinance on regulating subdivided units” at its meeting of 5 December 2018 and the wording of the motion is at **Appendix 1**.

15. Council questions on water and electricity charges of tenants in inadequate housing, housing problems of the grass-roots families and regulation of SDUs were raised at the Council meetings of 11 January 2017, 9 December 2020 and 6 April 2022. The Council questions and the Administration’s replies are hyperlinked in **Appendix 2**.

Relevant papers

16. A list of relevant papers is set out in **Appendix 2**.

Council Business Division 1 and Public Complaints Office
Legislative Council Secretariat
24 October 2022

**Motion on
“Studying the enactment of an ordinance on regulating subdivided
units” moved by Hon Mrs Regina IP
at the Council meetings of 28 November and 5 December 2018**

**Motion as amended by Hon Alice MAK, Hon LEUNG Yiu-chung and
Hon Andrew WAN**

That the housing problem of grass-roots families in Hong Kong is acute and there are over 150 000 families and elderly singletons waiting for public rental housing, with an average waiting time of 5.3 years, and quite a number of applicants live in units of flats subdivided into separate units (commonly known as ‘subdivided units’); according to the estimate of the Government in 2017, there were about 91 800 households living in subdivided units across the territory; the Chief Executive has undertaken in the newly released Policy Address that the Government will actively facilitate various short-term community initiatives to increase the supply of transitional housing and allow wholesale conversion of industrial buildings for transitional housing; in the light of these new initiatives, it is believed that quite a number of transitional housing units leased out in the form of subdivided units will emerge in Hong Kong, but the existing Buildings Ordinance cannot comprehensively regulate the safety of flat subdivision works; in this connection, this Council urges the Government to adopt appropriate measures to regulate subdivided units by, among others, studying the enactment of an ordinance; the relevant measures include:

- (1) by drawing reference from the Housing Act 2004 of the United Kingdom and the experience of other countries, formulating policies on the regulation of subdivided units, which include establishing a licensing system for regulating the operation of subdivided units, and setting standards for the facilities, number of occupants and area of units, so as to ensure a comfortable and safe living environment for households;
- (2) enacting legislation to require the installation of separate water and electricity meters for each subdivided unit to prevent overcharging of water and electricity tariffs by landlords;
- (3) enacting legislation to regulate the rental of subdivided units, including regulating the rate of rental increase for subdivided units to prevent the households from being heavily burdened by rental;

- (4) before legislating for regulation, expeditiously providing a rental allowance for all grass-roots families which have been waitlisted for public rental housing for over three years and living in subdivided units;
- (5) reviewing the Landlord and Tenant (Consolidation) Ordinance to provide tenants of subdivided units with appropriate tenancy protection, e.g. requiring landlords to sign stamped tenancy agreements with their tenants, stipulating such information as the charging mode for electricity and water tariffs and the notification period for deferred vacation in tenancy agreements;
- (6) establishing a dedicated fund for transitional housing to be used for, among others, supporting the conversion of industrial buildings into subdivided units as transitional housing to ensure that the transitional housing units leased out in the form of subdivided units after conversion and their facilities are compliant with the legal requirements, so as to improve the living environment of grass-roots families;
- (7) extensively consulting the community on the study of the enactment of an ordinance on regulating subdivided units and the review of the Landlord and Tenant (Consolidation) Ordinance; and
- (8) enacting legislation to allow tenants of subdivided units to open water and electricity accounts of their own for paying tariffs;

moreover, this Council also urges the Government to establish a registration system for households of subdivided units or conduct an annual survey on households of subdivided units (including those living in factory buildings) through the Census and Statistics Department, so as to ensure that the Government can grasp the actual number of households of subdivided units, thereby formulating appropriate regulatory policies for them.

List of relevant papers

Council/ Committee	Date of meeting	Papers
Panel on Housing	14 January 2021	Minutes of meeting (LC Paper No. CB(1)1016/20-21)
Panel on Housing	1 February 2021	Administration's paper (LC Paper No. CB(1)504/20-21(06)) Minutes of meeting (LC Paper No. CB(1)938/20-21)
Bills Committee on Landlord and Tenant (Consolidation) (Amendment) Bill 2021	--	Report of the Bills Committee (LC Paper No. CB(1)1389/20-21)
Panel on Housing	20 October 2021	Administration's paper (LC Paper No. CB(1)1400/20-21(01)) Minutes of meeting (LC Paper No. CB(1)1499/20-21)
Panel on Housing	7 February 2022	Administration's paper (LC Paper No. CB(1)33/2022(01)) Minutes of meeting (LC Paper No. CB(1)289/2022) Administration's supplementary paper (LC Paper No. CB(1)160/2022(01))

Hyperlinks to relevant Council Questions and Motions:

Date	Council Question/Motion
11 January 2017	Council question on water and electricity charges of tenants in inadequate housing
9 December 2020	Council question on housing problems of the grassroots families
6 April 2022	Council question on regulation of subdivided units
28 November 2018 and 5 December 2018	Motion debate on “Studying the enactment of an ordinance on regulating subdivided units”