

LegCo Panel on Housing

Question raised by the Hon. Chan Kam-lam on 27 October 2000

Q.1 What are the respective numbers of applications made by the landlords under the Landlord and Tenant (Consolidation) Ordinance (“the Ordinance”) to the Lands Tribunal for the repossession of leased premises and recovery of rent in arrears over the past three years?

A.1 The number of applications made by the landlords over the past three years under the Landlord and Tenant (Consolidation) Ordinance to the Lands Tribunal for the repossession of leased premises and recovery of rent in arrears are shown below:

1997	1998	1999	2000 (up to 31 Oct)
3,506 cases	4,284 cases	4,084 cases	3,310 cases

Q.2 What are the respective average time normally required for the repossession of leased premises and recovery of rent in arrears under the Ordinance at present?

A.2 The average time normally required for the repossession of leased premises and recovery of rent in arrears is –

(i) Listing of hearing before Court

- from application of repossession to the recovery of premises takes about 107 days

(ii) In cases where no opposition is filed, application for granting of court order by way of affidavit.

- from application of repossession to the recovery of premises takes about 92 days.

Q.3 In case of a defaulting tenant having no assets under his name, or his whereabouts being unknown, what protection is available to the landlord under the existing Ordinance?

A.3 If a landlord has obtained an order for possession and recovery of rent from the court, he can regain possession of the premises even if the tenant has no asset under his name or his whereabouts being unknown. If the asset or whereabouts of the tenant is

subsequently known, the landlord may apply to the court to execute the order for recovery of rent which has been already granted.

Q.4 If a defaulting tenant has vandalized the decoration or furniture in the premises concerned during the landlord's application for repossession, what action can the landlord take to protect his own interest?

A.4 A landlord should report to the police to investigate whether the tenant has committed criminal damage by maliciously damaging the premises. If criminal damage cannot be established, the landlord can still take civil action to sue the tenant for damages. To protect his own interest, the landlord should take prompt action when he finds that tenant has vandalized the decoration or furniture of the premises. Moreover, since deposits taken upon signing of tenancy agreements could be used to compensate landlord's loss if the tenant damages the decoration or furniture of the premises, landlords should demand adequate deposit to reduce the loss.

Q.5 To prevent abuse of tenancy protection provisions by some tenants, will the Administration consider amending the Ordinance to expedite the termination of tenancy by landlords and the procedures for repossession of premises?

A.5 In fact, among the recommendations made by the Working Group on review of statutory procedures for repossession of premises and recovery of rent, two of them proposed legislative amendments to the Landlord and Tenant (Consolidation) Ordinance. The Working Group suggested that an implied forfeiture provision should be added to the Ordinance to the effect that the tenancy can be forfeited if the tenant fails to pay rent within 15 days of the due date unless otherwise provided for under the tenancy agreement. This proposal allows landlords who have not specified a forfeiture clause in the tenancy agreements to repossess the premises on the ground of non-payment of rent. The Working Group also proposed to introduce fast-track repossession procedures under Part IV of the Ordinance which could shorten the whole process of repossession from 4 months to about 2.5 months.