
INFORMATION NOTE

Tenancy control in selected places

1. Introduction

1.1 In recent years, high flat rentals have been an area of concern for many people in Hong Kong. According to the Rating and Valuation Department, overall flat rentals rose by 54% between 2009 and 2013. Within the total, rentals of small-sized flats, i.e. Class A units with a saleable area of less than 40 sq m, increased most rapidly by 60% during the period.¹ However, nominal wage increased by 24% between 2009 and 2013, undermining tenants' affordability to rent.

1.2 There are suggestions from some members of the public for the Government to re-introduce rent control in order to protect the public from soaring rentals. In response, the Government has stated that rent control might have the adverse effects such as reducing the supply of rental flats with the landlords being selective on their tenants. Nevertheless, it is still committed to studying the issue in view of divergent views on rent control in the community. At its meeting on 3 March 2014, the Panel on Housing requested the Research Office to study the tenancy control² in other places to facilitate its future discussion of re-introduction of rent control in Hong Kong.

1.3 Relatively few places have rent control today with gradual removal of the control in a number of countries since the late 1980s.³ In Asia, there are now only a few cities with a tenancy control system. For example, Taiwan enacted the *Land Act* as early as in 1936 to limit the annual rental of a residential unit to 10% of its rateable value as determined by the local government.⁴ The local government is empowered to reduce the rental if it exceeds the permitted level. Rent control is a non-issue in Taiwan as an ample supply of rental units and weak economic performance have kept flat rentals at relatively low levels in recent years. Indeed, the rent control law has remained unimplemented since its enactment as the ratio of annual rental to the rateable value of a residential unit has never exceeded the permitted level.⁵

¹ During 2009-2013, flat rentals for Class B units (with a saleable area of 40-69.9 sq m) rose by 57%, Class C units (70-99.9 sq m) by 44%, Class D units (100-159.9 sq m) by 34% and Class E units (160 sq m and above) by 26%.

² In this information note, tenancy control covers the aspects of rent control and security of tenure.

³ For examples, England and Wales removed their rent control in 1988 and Singapore in 2001.

⁴ In Taipei, the responsible authority is the Department of Land of Taipei City Government.

⁵ For example, the ratio ranged between 2% and 4% over the past decades in Taipei.

1.4 This information note studies New York City of the United States and Ontario of Canada in view of the salient features of the tenancy control measures in these two places. Hong Kong's past experience in implementing tenancy control is also highlighted for reference. New York City has put in place a long-running tenancy control system which dates back to the mid-1940s. Ontario re-introduced tenancy control in 1977 in order to arrest rising rental pressures facing the province at that time. The tenancy control system had remained intact until 1996 when the provincial government overhauled the system in order to strike a better balance between the interests of landlords and tenants.

1.5 Based on the information presented in Sections 2 and 3, the salient features of tenancy control implemented by New York City and Ontario are highlighted below for members' reference:

Approaches of rent control

1.6 Rent control can limit the initial rentals that landlords can charge as well as any subsequent increases.⁶ It can also take the form of limiting the initial amount of rentals payable (as in Taiwan) or regulating the maximum amount of rental increases. The most widely adopted approach is to regulate the amount of rental increases and New York City and Ontario have adopted this approach for implementing their respective rent control regimes.

Coverage

1.7 Both New York City and Ontario control rentals of older buildings only to avoid disincentivizing developers from building new accommodations. New York City applies rent control only to residential buildings constructed before February 1947, while the cut-off date for Ontario is November 1991. In Ontario, there has been public pressure to cover all rental units under tenancy control, but the provincial government has kept its rent control policy unchanged after having balanced the benefits and costs involved.

⁶ For example, England put in place controls to limit the initial rentals that landlords could charge as well as any subsequent increases in response to housing shortages during and following the First and Second World Wars. See UK Parliament (2014).

Rental increases

1.8 New York City and Ontario consider different factors when determining the annual allowable rental increases. New York City takes into account a basket of factors such as sewer and water rates, maintenance costs, interest rates, cost of living, the supply of housing units and vacancy rates. This approach aims to strike a balance between the interests of tenants and landlords in that it limits the amount of rental increases while providing incentive for landlords to maintain their rent-controlled properties properly by allowing them to recoup the costs so incurred. Yet the landlords may apply for rental increases higher than the prescribed amount if they face financial hardship. In contrast, Ontario has put in place a simple and transparent rent control system under which rental increases are based on the provincial Consumer Price Index ("CPI"). The amount of increase is capped at the lower of CPI or 2.5% in order to ensure affordable housing for tenants.

Incentive measures to ease negative effects of tenancy control

1.9 Both New York City and Ontario have implemented financial incentive measures to ease any negative impact of tenancy control on development of new housing. New York City has implemented the 421-a tax incentive programme for new renter- and owner-occupied multi-family properties, under which landlords are exempt from paying additional real estate taxes due to increased value of the property resulting from improvements made. Eligible projects must be new construction of multiple dwellings on lots that are vacant, predominantly vacant, or improved with a nonconforming use three or more years before the new construction commenced. In Ontario, the provision of mortgage insurance allows property developers of rental housing to borrow more than 75% of the cost of a construction project, thereby easing their financial burden by reducing the amount of upfront equity required.

Security of tenure

1.10 Security of tenure is a set of provisions in the landlord-tenant contract which safeguards against a landlord's repossession of his or her rental properties through arbitrary forced eviction, harassment and other means. New York City and Ontario have offered security of tenure assurance to rent-regulated tenants. If a tenant opts to renew the tenancy at the prevailing market rental, the landlord is obliged to agree to the tenancy renewal. The landlord may re-possess his or her rental property only on certain exceptional grounds, such as default of rental payments by the tenant or occupation of the property for his or her own use. New York City and Ontario have enacted laws to prohibit a landlord's unlawful of eviction of tenants from his or her rental properties. For example, a landlord found guilty of harassing his or her tenant with the intent to force the latter to leave is subject to a fine for each violation.

2. New York City

Historical development of the tenancy control system

2.1 New York City's tenancy control system, which began in 1943, is the longest-running in the United States. During the past 70 years or so, the laws governing the tenancy control have been substantially amended and the corresponding regulatory regimes can be categorized into following four phases: (a) federal rent control (1943-1950); (b) state rent control (1950-1962); (c) rent control and rent stabilization (1962-1984); and (d) state regulation (1984-present).

2.2 The regulatory changes over the years marked the shift of the responsibility for administering the rent regulatory system between various governmental jurisdictions. It also reflected the prevailing state of the leasing market, i.e. tenancy control was introduced when rental pressures were severe amid imbalance between supply of and demand for rental housing.

Federal rent control (1943–1950)

2.3 During the Second World War, the *Emergency Price Control Act* was enacted in 1942 to provide for the establishment of a nationwide price regulatory system which included rent controls for rental apartments. Price controls were the government's response to inflationary pressures resulting from a fully employed wartime economy that channelled resources exclusively to the war effort.

2.4 With the end of the Second World War and the normalization of the national economy, the *Emergency Price Control Act* was allowed to expire in June 1947. In its place Congress enacted the *Federal Housing and Rent Act* which became effective in July 1947. Under this law, new construction after 1 February 1947 was totally exempted from controls while pre-1947 buildings remained subject to continuing regulation. Even today, the 1 February 1947 initial occupancy date remains a key determinant in establishing the control status of housing accommodations in New York City.

State rent control (1950–1962)

2.5 In anticipation of the withdrawal of federal controls and because of the continuing housing shortage, New York State adopted its own set of regulations. In 1951, it passed the first tenancy control law covering all rental units and established rent offices to regulate the relationships between landlords and tenants concerning rentals, services and evictions.

2.6 As the severe housing shortage created by a large number of soldiers returning home after the Second World War and the inflationary pressure caused by the Korean War gradually abated, New York State enacted a series of limited decontrol measures. For example, apartments in one or two-family houses which became vacant on or after 1 April 1953 were deregulated.

Rent control and rent stabilization (1962–1984)

2.7 New York State continued with the decontrol measures throughout most of the 1960s until 1969 when economic conditions changed as the result of national and local economic factors. Nationally, the Vietnam War caused a surge in the rate of inflation and locally, housing production slumped. The overall vacancy rate which stood at 3.2% in 1965 fell to 1.2% in 1968. Rentals escalated rapidly in the non-regulated sector.

2.8 The tightening of the rental housing market led New York City to enact the *Rent Stabilization Law* in 1969 for residential buildings having six or more units. The *Rent Stabilization Law*, containing a built-in rent adjustment mechanism and a simplified procedural structure, was designed to more readily adapt to changes in the housing market. It also provided for the establishment of the Rent Guidelines Board with the power to establish levels of rental increases for renewal leases and new tenancies. Approximately 400 000 New York City apartments, in buildings containing six or more units, which were previously exempt from rent control became covered by rent stabilization.

2.9 In 1971, under pressure from landlords, the State legislature adopted a decontrol measure which allowed landlords to set market rentals upon vacancy. However, the rentals rose rapidly during the 1971-1974 period led to the passage of the *Emergency Tenant Protection Act* in 1974. The *Act* placed buildings with six or more units that were completed between 11 March 1969 and 31 December 1973 under rent stabilization for the first time. In addition, rent controlled and rent stabilized units, in buildings with six or more units and deregulated by vacancy decontrol, were re-regulated and placed under rent stabilization.

State regulation (1984–present)

2.10 In June 1983, the *Omnibus Housing Act* was enacted to transfer the administration of rent control and rent stabilization in New York City to the New York State Division of Housing and Community Renewal.⁷ Nevertheless, the New York City Rent Guidelines Board is still responsible for setting rental adjustments for rent stabilized apartments.

⁷ The Division also performs other main functions such as overseeing and regulating the State's public assisted rental housing and administering community preservation programmes.

2.11 New York City's tenancy control framework has remained virtually unchanged after the passage of the *Omnibus Housing Act*. In 2011, 47% or 1.025 million of rental apartments were subject to tenancy control. Within the total, 987 000 or 96% were rent stabilized units and 38 000 rent or 4% rent controlled units.⁸

Tenancy control in New York City

2.12 Tenancy control in New York State takes the form of rent control and rent stabilization programmes, which are intended to protect tenants in privately-owned buildings from illegal rental increases and evictions while allowing landlords to maintain their buildings and realize a reasonable profit. Rent control is the older of the two systems of tenancy control. It dates back to the housing shortage immediately following the Second World War and generally applies to buildings constructed before 1 February 1947. Rent stabilization generally covers buildings built between 1 February 1947 and 1 January 1974, and apartments removed from rent control.

Rent control

(i) Coverage

2.13 In New York City, the rent control programme applies to residential buildings constructed before 1 February 1947. For an apartment qualified for rent control, the tenant⁹ must have been living in that apartment continuously since 1 July 1971. When a rent controlled apartment becomes vacant, it either becomes rent stabilized, or, if the unit is in a building with fewer than six units, it is generally removed from any regulation. In some cases, a tenant living in a one- or two-family house may qualify for rent control if the tenant has lived there since 1953, but once the apartment or house has been vacated, the apartment or house (if in a two-family) is deregulated.

⁸ See *New York City Housing and Vacancy Survey 2011*.

⁹ This may also refer to the tenant's lawful successor such as a family member, spouse, or adult lifetime partner.

(ii) Rental increases

2.14 The Division of Housing and Community Renewal is responsible for determining the maximum rentals that can be charged for individual rent-controlled apartments under the Maximum Base Rent ("MBR") system. Under the system, MBR is adjusted every two years to reflect changes in cost factors such as maintenance expenses, real estate taxes, as well as water and sewer charges. Landlords are entitled to raise rentals by 7.5% each year until they reach MBR. If a tenant considers that the rate of increase is unacceptable, he or she may file the case with the Division for judgment.

2.15 Rentals may also be increased during the lease period in any one of three situations:

- (a) with the written consent of the tenant in occupancy, the landlord increases services or equipment, or makes improvements to an apartment;
- (b) with the Division of Housing and Community Renewal's approval, the landlord undertakes a building-wide major capital improvement project; or
- (c) the landlord is in financial hardship.

(iii) Rental reductions for decreases in services

2.16 Rentals may be reduced if the landlord (a) fails to provide the required services, or (b) fails to make necessary repairs for an individual flat or on a building-wide basis. Examples of such conditions are lack of heat/hot water and broken door locks. If a tenant receives a rent reduction order issued by the Division of Housing and Community Renewal, the landlord must refund the overcharged rentals. In case of the refund is not made, the tenant can proceed to court to enforce the order.

(iv) Security of tenure

2.17 The tenant has the statutory right to renew the lease for a term of one or two years, at his or her choice. The landlord may refuse to renew the lease for reasons such as repossession of the rental unit for his or her own use or for the use of an immediate family member. Yet he or she must give a written notice of non-renewal 90 to 150 days before the expiration of the current lease. If the tenant encounters any difficulty in obtaining a renewal lease, he or she may file a complaint with the Division of Housing and Community Renewal which is tasked to gather evidence and issue a written order for final decision.

(v) Penal provision

2.18 The law prohibits harassment of rent regulated tenants. Landlords found guilty of intentional actions to force a tenant to vacate a residential unit are subject to a fine of up to US\$5,000 (HK\$38,780) for each violation.

Rent stabilization

(i) Coverage

2.19 In New York City, a rent stabilized apartment would generally be located in a building constructed between 1 February 1947 and 1 January 1974 with six or more housing units. However, a residential unit may be deregulated from the rent stabilization programme if the tenant (a) has an annual household income exceeding US\$200,000 (HK\$1.5 million) for two consecutive years, and (b) pays the rental over US\$2,500 (HK\$19,390) per month. The purpose of this arrangement is reportedly to curb perceived abuses of the system which allows the rich to enjoy rental increase protection intended to cover the grassroots.

(ii) Rental increases

2.20 Each year, the Rent Guidelines Board¹⁰ establishes guidelines for rental adjustments in rent stabilized apartments that are legally binding on landlords. The guidelines are formulated after taking into account a basket of economic and housing market factors, including (a) sewer and water rates, (b) maintenance costs, (c) interest rates, (d) cost of living, (e) the supply of housing units, and (f) vacancy rate.

2.21 In June 2013, the Board announced the latest guidelines stipulating the following annual rental adjustments for rent stabilized apartments:

- (a) 4.0% for one-year renewal lease commencing on or after 1 October 2013 and on or before 30 September 2014; and
- (b) 7.75% for two-year renewal lease commencing on or after 1 October 2013 and on or before 30 September 2014.

(iii) Rental reductions for decreases in services, security of tenure and penal provision

2.22 Members of the public may communicate their views to the Rent Guidelines Board by testifying at public hearings and submitting written testimony. Similar to those of rent controlled apartments, rentals for rent stabilized apartments may be raised during the lease period in accordance with one of the three conditions set out in paragraph 2.15 above.

2.23 Tenants of rent stabilized apartments are entitled to receive required services, to have their leases renewed, and may not be evicted except on grounds allowed by the relevant laws. The existing arrangements for rent reductions for decreases in services, security of tenure and penal provision of rent stabilized apartments are the same as those specified for rent controlled apartments (see paragraphs 2.16 - 2.18 for details).

¹⁰ The Board consists of nine members, all of whom are appointed by the Mayor. Two members represent tenant interests, two for landlord interests and the other five members (including the chairperson appointed by the Mayor) who must have at least five years of experience in either finance, economics or housing for the benefits of the general public. The Board members are normally appointed for a term of two to four years.

Senior Citizen Rent Increase Exemption scheme

2.24 To ensure the elderly maintain quality of life, the New York City government has implemented the Senior Citizen Rent Increase Exemption scheme which exempts the elderly living in rent-controlled and rent stabilized apartments from future increases in rentals. The qualifying conditions for the scheme stipulate that:

- (a) the tenant, or the older spouse of the tenant, must be aged 62 or above¹¹;
- (b) the annual household income after deducting income taxes and social security taxes must be less than US\$29,000 (HK\$224,924); and
- (c) the rental payable must be at least one-third of the household income at the time of applying for the Senior Citizen Rent Increase Exemption or as of the effective date of an upcoming rental increase.

2.25 When a landlord raises the rental, tenants with the Senior Citizen Rent Increase Exemption do not have to pay the increased rentals. Instead of the increased rent payment, the landlord is eligible to receive a credit against his or her real estate taxes from the city government. The amount of tax credit equals to the difference between the tenant's frozen rent and the current legal rent.

Impact of tenancy control on housing supply

2.26 As shown in **Table 1**, completion of new residential units in New York City fluctuated between 1990 and 2013, ranging from a low of 5 579 units in 1993 to a high of 26 382 in 2007. Nevertheless, it had generally been on the rise in the 2000s before easing somewhat during 2011-2013. In theory, new housing supply should be a function of factors such as land supply, labour and construction costs, flat prices and government measures (such as introduction of tenancy control).

¹¹ Disabled tenants may also be eligible for the scheme regardless of their age.

2.27 The Research Office has conducted a literature review on empirical studies of factors affecting supply of new flats in New York City. Yet there is no conclusive evidence as to the importance of various contributory factors (including tenancy control). Against this, the Research Office has written to both the Division of Housing and Community Renewal and the Rent Guidelines Board requesting for information about the determinants of flats supply in New York City. As at the publication of this information note, they have not yet responded to the request.

2.28 It is worth noting that the New York City government has introduced various tax incentive measures to ease any possible negative impact of tenancy control on the flat supply. Of particular importance is the introduction of 421-a tax incentive programme for new renter- and owner-occupied multi-family properties containing three or more rental units. This programme exempts landlords from paying additional real estate taxes due to the increased value of the property resulting from the improvements made. Eligible projects must be new construction of multiple dwellings on lots that are vacant, predominantly vacant, or improved with a nonconforming use three or more years before the new construction commenced.

Table 1 – Completion of new residential flats in New York City, 1990-2013

| Year | Number of units |
|-------------|------------------------|
| 1990 | 12 772 |
| 1991 | 7 611 |
| 1992 | 8 523 |
| 1993 | 5 579 |
| 1994 | 6 953 |
| 1995 | 7 892 |
| 1996 | 7 118 |
| 1997 | 6 945 |
| 1998 | 10 097 |
| 1999 | 8 977 |
| 2000 | 12 794 |
| 2001 | 13 480 |
| 2002 | 16 228 |
| 2003 | 12 779 |
| 2004 | 19 366 |
| 2005 | 19 493 |
| 2006 | 23 768 |
| 2007 | 26 382 |
| 2008 | 24 045 |
| 2009 | 24 452 |
| 2010 | 24 045 |
| 2011 | 13 984 |
| 2012 | 9 455 |
| 2013 | 12 682 |

Source: New York City Rent Guidelines Board.

3. Ontario

Historical development of the tenancy control system

3.1 Tenancy control was first introduced in Ontario¹² in 1944 with the enactment of the *National Housing Act* regulating rental increases in all the cities and municipalities of the province. At that time, landlords charged exorbitant amounts in rental rates amid strong demand and tight supply in the housing market. Due to intensive lobbying by business interests, the tenancy control was removed five years later.

3.2 Ontario re-introduced tenancy control in July 1977 with the passage of the *Residential Premises Rent Review Act* to clearly define the amount and the circumstances where rentals could be raised by a landlord. The re-introduction of tenancy control came shortly after the provincial election, in which the Ontario Progressive Conservative Party won the election with an election manifesto promising, among other things, to bring in a tenancy control system to limit rental increases.

3.3 In December 1986, the new Liberal government tightened tenancy control with the enactment of the *Residential Rent Regulation Act* to cap the rental increases at 4% each year for all residential rental buildings. The subsequent enactment of the *Rent Control Act* in 1992 introduced a wider range of reforms to promote increased construction of rental units. The new Act also safeguarded tenant rights such as (a) requiring a landlord to give the tenant a written notice of the proposed rental increases in the form prescribed in the *Rent Control Act*, and (b) prohibiting a landlord from raising the rentals if the residential unit was not properly maintained.

¹² In Canada, each province can enact its own tenancy control legislation limiting the percentage of rental increases.

3.4 In 1997, the *Rent Control Act* was repealed by the *Tenant Protection Act*. The new *Act* prescribed, among other things, the establishment of the Ontario Rental Housing Tribunal to resolve disputes between landlords and tenants. Before that, the disputes could only be formally handled through the court system in Ontario. In 2006, the *Residential Tenancies Act* replaced the *Tenant Protection Act* and set out the framework for the present tenancy control system in Ontario. Specifically, it established the Landlord and Tenant Board to replace the Ontario Rental Housing Tribunal which was criticized for being biased in favour of landlords. The Landlord and Tenant Board is responsible for, among other things, (a) resolving disputes between landlords and tenants through mediation or adjudication, (b) regulating rental increases, and (c) educating landlords and tenants about their statutory rights and responsibilities.

Tenancy control in Ontario

Coverage

3.5 Under the *Residential Tenancies Act*, only rental units and buildings that were occupied or built before November 1991 is subject to tenancy control.¹³ The application of tenancy control to older units/buildings is not to disincentivize developers from building new accommodations. Today, this legislation covers about 1.31 million or 29% of the total number of renter households in Ontario. In recent years, there has been mounting public pressure to cover all rental units under tenancy control. Tenants living in uncontrolled flats have complained of the magnitude of rent increases upon lease renewal. In response, the provincial government has reiterated that there is no plan to amend the *Residential Tenancies Act* after balancing the benefits and costs involved.

¹³ The repealed *Tenant Protection Act* had the same exemption clause. After considering the socio-economic factors, the Ontario provincial government decided to retain the exemption clause in the *Residential Tenancies Act*.

Rental increases

3.6 Each year, the Ontario government announces the province's Rent Increase Guideline by 31 August for rental increases that will take effect on or after 1 January of the following year. The guideline is the maximum amount that most landlords can increase a tenant's rental during the year without making an application to the Landlord and Tenant Board. It is based on the Ontario's CPI, which is a measure of inflation calculated by the Statistics Canada.

3.7 In June 2012, an amendment was made to the *Residential Tenancies Act* to ensure that Ontario's annual Rent Increase Guideline does not exceed 2.5% beginning in 2013. The amendment is to cap rental increases at the lower of CPI or 2.5%, which should ensure affordable and stable housing for tenants and a fair return for landlords to properly maintain their rental properties.

3.8 A landlord may apply to the Landlord and Tenant Board for a rental increase above the guideline if:

- (a) the landlord's costs for municipal taxes and charges, and/or utilities (such as fuel, electricity or water) have increased significantly; or
- (b) the landlord has undertaken major repairs or renovations.

Rental reductions for decreases in services

3.9 A tenant may apply to the Landlord and Tenant Board for rental reduction if:

- (a) the municipal taxes or charges on the rental property go down;
- (b) the landlord has reduced the services provided to him or her without reducing the rentals; or
- (c) the landlord has not met the maintenance obligations.

Security of tenure

3.10 The *Residential Tenancies Act* defines the circumstances under which a tenancy may be terminated before the end of the lease period. To terminate the tenancy, landlords must provide notice in writing to the tenant, and the required notice times vary depending on the reasons for the notice. For example, the landlord must give a 60-day notice if he or she requires the rental unit for himself or herself or a member of his or her family. The notice period can be shortened to 14 days for non-payment of rentals. In case of any disputes of the termination of tenancy, both the landlord and tenant may apply to the Landlord and Tenant Board for a hearing. A board member will be assigned to evaluate the evidence provided by both parties and issue an order for final decision.

Penal provision

3.11 According to the *Residential Tenancies Act*, a landlord shall not harass, obstruct, coerce, threaten or interfere with a tenant in such a manner that the tenant is induced to vacate the rental unit. The fine for individuals guilty of such an offense (including the landlord and employees/agents of the landlord) are liable for fines of up to CAN\$25,000 (HK\$188,250) and for corporations up to CAN\$100,000 (HK\$753,000).

Impact of tenancy control on housing supply

3.12 According to the Canada Mortgage and Housing Corporation¹⁴, the supply of new residential flats in Toronto (the provincial capital of Ontario) remained relatively stable during 2004-2013, ranging between 28 350 units and 39 620 units per year (see **Table 2**). Same as the case of New York City, the supply of new residential flats in Toronto should be affected by a basket of supply factors, possibly including the government's tenancy control measures. As such, the Research Office has conducted a literature study on the impact of the tenancy control on housing supply in Toronto, but failed to identify any relevant empirical studies on the issue.

¹⁴ The corporation is a national housing agency in Canada that provides mortgage loan insurance and mortgage-backed securities.

Table 2 – Completion of new residential flats in Toronto, 2004-2013

| Year | Number of units |
|------|-----------------|
| 2004 | 39 620 |
| 2005 | 39 296 |
| 2006 | 38 121 |
| 2007 | 30 357 |
| 2008 | 36 258 |
| 2009 | 28 356 |
| 2010 | 31 393 |
| 2011 | 33 831 |
| 2012 | 31 907 |
| 2013 | 33 708 |

Source: Canada Mortgage and Housing Corporation.

3.13 Against this, the Research Office has written to the relevant government authorities and academics for information. The Landlord and Tenant Board has not responded to the request as at the publication of this information note. Nevertheless, the Canada Mortgage and Housing Corporation has confirmed the lack of any empirical studies on the impact of tenancy control system on housing supply in Toronto.

3.14 Meanwhile, Professor Lawrence Smith¹⁵ of the Department of Economics at the University of Toronto has replied that it is difficult to quantify the impact of tenancy control system on housing supply in Ontario. He has also highlighted that the government usually enforces complementary policy measures to alleviate the impact of tenancy control on housing supply. In Ontario, the provision of mortgage insurance allows property developers of rental housing to borrow more than 75% of the cost of a construction project, thereby easing their financial burden by reducing the amount of upfront equity required.

3.15 Apart from mortgage insurance, Professor Smith has also mentioned that the Ontario's government has put in place two safeguard measures intended to minimize any negative effects of tenancy control. They are the exemption of new residential flats from the tenancy control and the imposition of financial penalties on landlords for failure to maintain property standards.

¹⁵ Professor Smith is widely-known and respected as one of Canada's leading specialists in housing and land economics.

4. Hong Kong

4.1 Statutory tenancy control in Hong Kong dates back to 1921 with the enactment of the *Landlord and Tenant (Consolidation) Ordinance* (Cap. 7) ("Ordinance") to limit rental increases and provide tenants with security of occupation against landlord's arbitrary eviction (i.e. security of tenure). It was not until 1998 and 2004 that rent control and security of tenure were removed respectively through the enactment of the *Landlord and Tenant (Consolidation) (Amendment) Ordinance*.

Rent control

4.2 During the rent control era, rent levels were controlled in tenancies in pre-war domestic premises and in post-war domestic premises completed before 19 June 1981. However, exemptions were granted to (a) new lettings created on or after 10 June 1983, and (b) tenancies of premises with a rateable value of HK\$30,000 or more as at 10 June 1983.

4.3 In 1993, the Legislative Council endorsed the amendments to the *Landlord and Tenant (Consolidation) Ordinance* to provide for controlled rents to be increased progressively up to market levels so that rent control could be removed by the end of 1996. According to the Administration, rent control distorted the market and rentals suppressed at artificially low levels would discourage landlords from maintaining their premises.

4.4 The phased programme suffered a setback in 1996 as some Members considered it inappropriate for the Administration to allow rent control to lapse without any complementary measures to improve the rent-to-income ratio of tenants in controlled premises. In December 1996, the Legislative Council passed a resolution to defer the ending date of decontrol by two years¹⁶, lower the permitted rental levels from 90% of the prevailing market rent to 80%, and reduce the maximum rental increases from 30% to 20%. In December 1998, rent control was finally abolished.

¹⁶ In order to establish the number of tenants that might be affected by the removal of rent control, the Rating and Valuation Department conducted a survey on rent controlled tenancies in the middle of 1998. The survey showed that there were: (a) around 15 000 rent controlled tenancies in Hong Kong, involving some 18 000 households and accounting for about 1% of all private domestic premises in the territory, and (b) about 4 500 sub-tenants living in small bedrooms, bedspaces and cocklofts.

Control of security of tenure

4.5 The *Landlord and Tenant (Consolidation) Ordinance* previously provided for security of tenure for tenants of domestic properties. Under these provisions, if a tenant wished to renew the tenancy at the prevailing market rentals, the landlord would have to agree to the tenancy renewal. Only on certain exceptional grounds, such as default of rental payments by tenant or self-occupation or redevelopment of premises by landlord, could the landlord refuse to renew the tenancy.

4.6 Penalties were prescribed for harassment of a protected tenant with intent to induce him or her to leave. It was a criminal offence for anyone to evict a tenant or sub-tenant without a court order or to try to make the tenant leave by intimidation and violence. Anyone convicted of such offence was liable on first conviction to a fine of HK\$500,000 and imprisonment for 12 months, and on a subsequent conviction, to a fine of HK\$1 million and imprisonment for three years.

4.7 In July 2004, the Legislative Council passed the amendment proposed by the Administration to remove the security of tenure. The Administration considered that the amendment would restore the free operation of the residential rental market. In particular, it considered that a security of tenure system was no longer justified in the face of an ample supply of rental units and fallen rentals, and had impeded market efficiency.

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New York City

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