

## **Legislative Council Panel on Housing**

### **Impact of the relaxation of security of tenure on tenants**

#### **Background**

Abolition of security of tenure provisions is one of the policy initiatives adopted by the Administration to reduce market intervention, with a view to maintaining a reasonable balance between the interests of landlords and tenants and restoring free operation of the private residential property market. Security of tenure provisions were enacted in 1981 against the background of a serious shortfall of domestic accommodation in Hong Kong. With an inadequate supply of residential units to meet demand, some landlords had stronger bargaining power and might ask for significant rental increases on renewal of tenancies. In order to protect tenants' interests, the Administration introduced security of tenure protection: except on certain prescribed grounds (e.g. redevelopment, self-occupation or tenants' non-payment of rent), landlords in general were prohibited from not renewing tenancies with tenants upon expiry of the tenancy period.

2. While focusing on protecting the interests of tenants at the expense of landlords' interests, security of tenure was impeding the free operation of the private residential property market. Free market operation is essential to the balance between supply and demand of residential units. In view of these considerations and after conducting public consultations, the Administration put forward a Bill seeking to remove security of tenure provisions to resume the free operation of the private rental market and better balance the interests between landlords and tenants. After detailed scrutiny by the relevant Bills Committee, the Legislative Council passed the Landlord and Tenant (Consolidation) (Amendment) Ordinance 2004 ("the Amendment Ordinance") on 30 June 2004 repealing security of tenure provisions. The Amendment Ordinance was gazetted and came into force on 9 July 2004.

### **Transitional Arrangement**

3. Among the opinions expressed during the Bills Committee stage was the view that besides recognizing landlords' right not to renew tenancies, consideration should also be given to the time needed by tenants whose tenancies were not renewed to find alternative accommodation. Hence, one of the major concerns discussed at this stage was how to assist low-income tenants to adapt to changes arising from the removal of security of tenure provisions. In this regard, the Administration had extensive discussions with the Bills Committee, and it was concluded that the 12-month transitional period was a proper arrangement allowing sufficient time for landlords and tenants to make adjustments to the Amendment Ordinance. Under such arrangement, should a landlord choose not to renew a tenancy which was in existence before the Amendment Ordinance came into effect, he must serve a Transitional Termination Notice (TTN) after the term of the tenancy has expired. The TTN must be served by the landlord not less than 12 months before the intended termination date to allow the tenant adequate time to make relocation arrangements. During the 12-month notification period, all terms and conditions of the original rental agreement remain valid, hence allowing the affected tenants to enjoy the same tenancy terms as before while seeking new accommodation. If a tenant chooses to move out upon expiry of the tenancy, he must serve a TTN not less than one month before the intended termination date. As regards tenancy agreements signed after the Amendment Ordinance came into effect, landlords and tenants would be at liberty to negotiate termination arrangements agreeable by both parties.

### **Redevelopment Compensation**

4. The Amendment Ordinance also removed provisions which enabled tenants affected by repossession of premises for redevelopment to receive statutory compensation. The mechanism of statutory redevelopment compensation was founded on the principle that the law accorded protection to tenants in the form of security of tenure. Once security of tenure was removed, the statutory basis for redevelopment compensation would no longer exist and therefore the compensation had to be removed correspondingly.

5. Despite the fact that provisions regarding statutory redevelopment compensation have been removed, during the passage of the Amendment Ordinance, some Legislative Council Members considered that eligible domestic tenants in the remaining former Land Development Corporation (LDC) projects should be offered some compensation. In response to these Members' request, the Urban Renewal Authority agreed to provide, through administrative measures, appropriate ex-gratia allowance for domestic tenants affected by its redevelopment projects (including non-former LDC projects) in line with its "people-oriented" approach. Eligible tenants could also opt for rehousing. Members of the Bills Committee, the Panel on Housing as well as the Panel on Planning, Lands and Works have been briefed on the details either in writing or at relevant meetings. As a matter of fact, private developers could, having regard to individual circumstances, have dialogues with tenants and formulate compensation arrangements acceptable to both parties.

#### **Assistance to tenants with genuine housing needs**

6. A safety net is still in place to help tenants in need after removal of security of tenure. For instance, the Housing Authority, the Social Welfare Department (SWD) and some non-government organizations would provide assistance to tenants who have genuine difficulties in finding new accommodation, so as to ensure that these tenants will not become homeless if their tenancy agreements are not renewed. Affected tenants who meet the eligibility criteria for public rental housing (PRH) may apply for public housing flats. They may also apply for accommodation in transit centres located in the New Territories, where they can stay for up to three months. During this period, if they are genuinely unsuccessful in finding alternative accommodation and if they meet the eligibility criteria for PRH, they could be rehoused to interim housing flats, pending the allocation of public housing flats. For affected tenants already on the general waiting list, the Housing Department (HD) would help them as far as possible in the flat allocation process. Families with special needs may apply for compassionate rehousing or other forms of assistance from the SWD and relevant non-government organizations.

### **Situation after removal of security of tenure**

7. There has been steady growth in rental levels since the Amendment Ordinance came into effect. According to the Rating and Valuation Department (RVD)'s statistics, the overall residential rental index has risen 16% since the Amendment Ordinance came into effect one and a half year ago. In particular, the rental index for small residential units (with Saleable Area below 430 sq. ft.) saw a rise of 14% in the same period. The rise in rental levels was the result of different factors, including recovery of the private residential property market (overall residential price index rose 18% in the period, with the residential price index for small flats going up 17%), and was not affected solely by removal of security of tenure.

8. With an ample supply of private residential units and in the absence of security of tenure, landlords have the right to terminate a tenancy upon expiry and may therefore be more willing to put up their properties for letting, thus increasing the supply of flats available for tenants to choose from. The increase in the supply of rental units may have prevented rentals from skyrocketing.

9. Removal of security of tenure has been well received by the public. RVD's statistics shows that the number of tenancy disputes brought to RVD's attention during the year after the Amendment Ordinance came into effect was 42% less than that received during the year before. Also, about 60% of the tenants making enquiries to RVD said they were satisfied with the Amendment Ordinance. RVD would continue to offer assistance to landlords and tenants, including providing tenancy advisory service regarding the Landlord and Tenant (Consolidation) Ordinance.

10. As mentioned above, a safety net is in place to help tenants in need. Since the Amendment Ordinance came into effect, HD has received 13 such applications for PRH units. PRH units have been offered in seven cases, while the other six cases are being handled. As regards referral of cases for accommodation in interim housing or transit centres, HD did not receive any referral during this period involving

tenants affected by termination of tenancy agreements.

11. The Administration would continue to offer assistance to tenants who have genuine difficulties in finding new accommodation. The Housing, Planning and Lands Bureau would continue to closely monitor the development of the private residential rental market and keep the matter under review.

Housing, Planning and Lands Bureau  
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