

(Translation)

香港特別行政區政府
The Government of the Hong Kong Special Administrative Region

運輸及房屋局

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19 June 2017

Mr Derek Lo
Clerk to Legislative Council Panel on Housing
Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road, Central
Hong Kong

Dear Mr Lo,

**Legislative Council Panel on Housing
Meetings on 9 January and 6 February 2017**

Regarding the motions passed and the supplementary information requested by Members at the meetings on 9 January and 6 February 2017, I enclose the relevant information at **Annex** for Members' reference.

Yours sincerely,

(Original Signed)

(Jerry Cheung)

for Secretary for Transport and Housing

**Legislative Council Panel on Housing
Meetings on 9 January and 6 February 2017**

Supplementary Information

Purpose

At the Panel on Housing (Panel) meeting on 9 January 2017, Members passed two motions relating to tenancy stabilisation mechanism, interim housing and transitional housing etc. (LC Paper No. CB(1)420/16-17(02) and CB(1)420/16-17(04) refer). Members also requested the Government to provide supplementary information on the New Residential Stamp Duty; assistance for residents of sub-divided units; construction of subsidised sale flats (SSFs) by the Urban Redevelopment Authority (URA) and logistics development in Hong Kong at the Panel meetings on 9 January and 6 February 2017. This paper provides the relevant information.

Tenancy stabilisation mechanism

2. At the Panel meeting on 9 January 2017, Members passed a motion requesting the Government to immediately formulate and implement a ‘tenancy stabilisation mechanism’, which includes the introduction of legislation that requires tenancy agreements to list rents and miscellaneous fees separately, and to set out a fixed tenancy term and a notice period for termination of tenancy.

3. The Government understands that in the midst of the current demand-supply imbalance in housing, households renting private accommodation (especially grassroots households) are under a heavy burden. There are views in the society suggesting the introduction of a ‘tenancy stabilisation mechanism’, with a view to imposing control over the creation, content and tenure (including the notice period required for terminating a tenancy) of tenancy, so as to provide further protection to tenants.

4. The Government has conducted a detailed study on the issue of tenancy control (including rent control and security of tenure) by looking into Hong Kong's past experience and overseas experience in implementing tenancy control measures. We have subsequently issued a paper elaborating the Government's findings and observations to the Panel (LC Paper No. CB(1)1709/13-14(01) refers). The paper was discussed in detail at the Panel meeting in July 2014. In sum, empirical findings, both local and overseas, suggest that tenancy control measures often lead to an array of unintended consequences, including those to the detriment of some of the tenants whom the measures seek to assist. These unintended consequences include reducing supply of rented accommodation; encouraging landlords to be more selective about their tenants, thereby limiting access to adequate housing by those with unstable financial means (e.g. daily-waged workers), ethnic minorities, persons with disabilities, and other socially disadvantaged groups; encouraging certain behaviour from landlords to offset the impact of the tenancy control measures (including increasing initial rent and requiring the tenants to pay excessive miscellaneous charges); and discouraging proper maintenance of rented accommodation by landlords. It is considered that implementing tenancy control measures in the midst of tight housing supply might be counterproductive, making the grassroots tenants suffer before the benefits could be realised.

5. Specifically, in respect of creating tenancies, it has been a long-established practice in Hong Kong for landlords and tenants to enter into oral tenancies. Legislative amendment would be required to alter such arrangement. If the Government requires written tenancy agreements for all tenancies by legislation, it would pose an immediate effect on sitting tenants of oral tenancies, and prompt the relevant landlords to enter into new tenancy agreements with the tenants. We are concerned that this could induce some landlords to increase rent, thereby imposing further burden on grassroots tenants. Conceptually, legislation seems to provide the tenants with more protection. Yet, realistically, in the midst of a shortage in supply, we cannot rule out the possibility of landlords making various demands to their advantage during the creation of written tenancy agreements. We should therefore avoid making any decision in haste.

6. Regarding the content of tenancies, during the creation of tenancy agreements, landlords and tenants should agree among themselves the terms and conditions of the tenancy, including the level and calculation method of rents and miscellaneous charges. The agreed terms and conditions are binding on both parties. As for matters in relation to charges beyond the scope of the written tenancy agreements, landlords and tenants should negotiate among themselves based on agreements (including oral agreements) previously entered into. We consider that allowing landlords and tenants to flexibly negotiate the terms and conditions of a tenancy agreement would help make such agreement suit their actual needs better.

7. With regard to the tenure of tenancies and the notice periods for termination, at present, tenancies may be terminated in ways agreed between landlords and tenants according to their practical needs. If the tenancy agreement has not set out the relevant requirements, or if landlord and tenant have not agreed upon other ways to terminate the tenancy, according to common law, a fixed term tenancy will end upon expiry of the term, and a periodic tenancy may be terminated by a notice to quit, with the notice period at a length similar to that of the periodic tenancy. We consider that such arrangement could provide flexibility for landlords and tenants to agree on a termination arrangement that fits both parties' needs. Furthermore, even if a tenant does not move out after the expiry of the tenancy, a landlord is still required to apply for an order from the Lands Tribunal in order to repossess the unit.

8. On balance, the Government considers that introducing tenancy control measures under the current tight supply situation will not be in the interest of grassroots tenants and the general public. To address the issue of high rent attributed to the demand-supply imbalance, the fundamental solution remains to be a continued increase in housing supply. The Government will endeavour to expedite the building of more public housing units according to the supply target set under the Long Term Housing Strategy, and ensure adequate and stable supply of land for private housing, so as to stabilise the private rental level. Meanwhile, to assist landlords and tenants to deal with tenancy issues, the Rating and Valuation Department (RVD) will continue to provide free services to them regarding tenancy matters, such as advisory and mediation services in RVD, District Offices and the Lands Tribunal. The Government will also continue to work with other relevant organisations to enhance public education efforts and promote good tenancy practices.

Interim housing and transitional housing

9. At the Panel meeting on 9 January 2017, Members also passed a motion requesting the Government to further provide interim housing or transitional housing in the urban district for rehousing residents who are rendered homeless by the Government's law enforcement actions or due to other reasons, as well as those households living in inadequate housing; and to suggest developers to donate land for building interim housing and transitional housing.

10. It is Government's policy that no one will be rendered homeless as a result of natural disasters or Government's clearance action. Any persons who are rendered homeless as a result of Government actions (such as clearance of unauthorised structures), natural disasters or emergencies, they can, through the referral of relevant departments, apply to the Housing Department (HD) for temporary accommodation in transit centres (TC). If the relevant households have stayed in TC for three months and passed the "homeless test" which proves that they do not have other accommodation; and fulfilled the eligibility criteria for public rental housing (PRH) (including income limit, asset limit and "no domestic property" rule), HD will arrange for their admission to the Po Tin Interim Housing (IH) while awaiting PRH allocation through PRH application.

11. PRH and IH are both scarce housing resources. Their allocation has to be done in a fair and appropriate manner. Allowing inadequately housed households (IHHs) to be admitted to IH directly without passing the eligibility vetting conducted by HD is unfair to the many other PRH applicants who have been waiting for a long time, and those who are currently staying in TC and undergoing the "homeless test". It will also convey a wrong message to the society that living in inadequate housing is a shortcut for admission to IH and even PRH, which might induce more households to live in inadequate housing, thus worsening the problem. HA will review the demand and supply of IH from time to time to ensure that TC and IH have sufficient capacity to cope with emergency situations. HA has no plan to build new IH at the moment.

12. Regarding transitional housing, when formulating the Long Term Housing Strategy in 2014, the Government had also looked into the suggestion to provide transitional housing on sites which do not have other immediate uses to accommodate IHHs, but concluded in the end that these suggestions were not practicable in reality. Firstly, PRH is the ultimate solution to address the housing needs of low-income families who cannot afford private rental accommodation. Suitable sites for housing should be reserved for PRH units as far as possible, which will ultimately benefit those IHHs who are PRH applicants. Furthermore, even if some sites which do not have other immediate uses can be identified for building transitional housing, they will still require additional infrastructural works, which takes time to complete, before housing construction can take place. In any case, the size and number of such temporary sites are bound to be very limited. They may not be able to provide short term relief for a large number of IHHs. Moreover, it would be necessary to resolve issues, such as the establishment of eligibility criteria and allocation arrangement involved. The Government's stance remains that the society should not ignore the fundamental issue of the shortage in the supply of public housing sites as compared to demand, and should be ready to accept trade-offs in view of the overall situation. The Panel has also discussed issues relating to the provision of transitional housing in detail at the Panel meeting in July 2015, during which the Government has also elaborated its view.

13. Currently, the Government has no plan to suggest developers to donate land for the construction of interim housing and transitional housing.

The New Residential Stamp Duty

14. To address the overheated residential property market, the Government announced the introduction of a new round of demand-side management measure on 4 November 2016 to increase the ad valorem stamp duty chargeable on residential property transactions to a new flat rate of 15 per cent (i.e. the New Residential Stamp Duty). The new measure came into effect on 5 November 2016. The number of private residential property transactions (including primary and secondary transactions) before and after the implementation of the New Residential Stamp Duty is set out at *Appendix*.

Assistance for residents of sub-divided units

15. The Government issued a supplementary information paper (LC Paper No. CB(1)715/16-17(01) refers) in relation to this issue in March 2017. The Panel will also discuss the issue at the meeting on 3 July 2017.

Construction of SSFs by the URA

16. The SSF Scheme at URA's Kai Tak Development (「煥然壹居」) was a one-off initiative. URA has no plan to launch other development schemes for SSF purpose.

Development of the logistics industry

17. THB will identify suitable sites and examine their feasibility for modern logistics development in collaboration with relevant departments.

Transportation and Housing Bureau June 2017

**Number of private residential property transactions
before and after the implementation of the New Residential Stamp Duty (NRSD)**

(cases)	Before the implementation of NRSD			After the implementation of NRSD					
	Sep 2016	Oct 2016	Nov 2016	Dec 2016	Jan 2017	Feb 2017	Mar 2017	Apr 2017	May 2017
Primary transactions	3 474	2 251	2 212	453	664	1 474	1 435	2 650	1 275
Secondary transactions	4 352	4 350	4 527	3 097	2 622	2 605	4 421	4 410	4 457
Total	7 826	6 601	6 739	3 550	3 286	4 079	5 856	7 060	5 732

Source: Number of private residential Agreements for Sale and Purchase lodged with the Land Registry

Note: Given the time lag in compiling statistics, the statistics of any particular month mainly reflects the market situation of the previous month.