

**For discussion
on 4 June and 6 July 2018**

Legislative Council Panel on Housing and Panel on Welfare Services

Tenancy Control

Purpose

This paper sets out the observations and views of the Government on the issue of tenancy control.

Background

2. In the face of the current demand-supply imbalance in housing, property prices and rents remain high; the housing burden of the general public continues to be heavy. Some low-income households may have to rent inadequate accommodation. There are suggestions in the community for reintroducing various forms of tenancy control (including control on rents and control on tenure) to keep rental levels affordable and provide security of tenure to sitting tenants. Nevertheless, at the same time, there are contrary views from many other members of the public questioning the effectiveness of such measures in protecting the rights of grassroots tenants.

3. Tenancy control is a highly controversial issue. The Government has studied this subject time and again, but there is yet no consensus in the community over this issue. The Government conducted a detailed study on Hong Kong's past experience and overseas experience in implementing tenancy control in 2014, and briefed the Panel on Housing of the Legislative Council and listened to public views in July 2014¹. When the Long Term Housing Strategy (LTHS) Steering Committee conducted the three-month public consultation in 2013, it also studied if tenancy control should be reintroduced. The LTHS Steering Committee noted the diversity of public views on the subject and public concerns about the implications of implementing tenancy control. The Steering Committee therefore cautioned that the Government needed to secure a clear community consensus before contemplating the introduction of any form of tenancy control. Taking into account the views of the LTHS Steering Committee, the Government promulgated the LTHS in December 2014 and elaborated its views on tenancy control under paragraphs 6.15-6.18.

¹ The relevant paper is LC Paper No. CB(1)1709/13-14(01) entitled 'Tenancy Control'.

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4. As set out in the LTHS, with reference to the history of tenancy control in Hong Kong and overseas experience, the Government considers that **tenancy control measures would often lead to an array of unintended consequences**, including those **to the detriment of those tenants whom the measures seek to assist**. Such unintended consequences include –

- (a) **Reducing supply of rented accommodation:** An artificially suppressed market rent may reduce the incentive and willingness of landlords to lease out their premises. It may even result in fewer housing units being built, leading to further drop in the supply of rented accommodation in the long run. For example, there are views suggesting that strict tenancy control regimes in San Francisco and Sweden have led to a shortage of housing supply. According to the Organisation for Economic Co-operation and Development (OECD), demand for rental housing in Stockholm of Sweden is extremely high but the supply is inadequate, resulting in increasing waiting time². The Swedish had to wait for nine years on average for a rent-controlled flat in 2016, and the waiting time may be as long as 20 years in some popular districts³. In the face of a reducing supply of rental housing and yet an increasing demand due to lowered rent, people looking for rental units will find it even harder to locate units that suit their financial capacities and needs;
- (b) **Limiting access to adequate housing by the socially disadvantaged:** Some landlords may become more selective about their tenants as it will be more difficult to terminate a tenancy under tenancy control. As a result, those with unstable financial means (e.g. daily-waged workers), ethnic minorities, persons with disabilities, and other socially disadvantaged groups may find it even more difficult to find rented accommodation. For instance, some academics consider that in Sweden, landlords have become more selective about their tenants because of the tenancy control. This makes it difficult for the low-income families (especially the new immigrants) to secure rented accommodation. These families have no choice but to pay a rent higher than the stipulated level, which leads to the emergence of a black market⁴;

² OECD Economics Surveys: Sweden 2017. https://read.oecd-ilibrary.org/economics/oecd-economic-surveys-sweden-2017/the-shortage-of-rental-housing-is-acute-in-stockholm_eco_surveys-swe-2017-graph6-en#page1 (Accessed 16:00, 17 May 2018)

³ Maddy Savage (18 May 2016). The city with 20-year waiting lists for rental homes. BBC <http://www.bbc.com/capital/story/20160517-this-is-one-city-where-youll-never-find-a-home>

⁴ Maria Elsinga and Hans Lind (2012). The effect of EU-legislation on rental systems in Sweden and the Netherlands.

- (c) **Encouraging certain behaviour from landlords to offset the impact of the tenancy control measures:** Such behaviour may include charging a higher initial rent; asking for more deposit money, demanding different kinds of side payments; overcharging tenants on certain payments that are directly associated with the lease (e.g. management fees, gas/water charges, electricity fee, etc.); and altering the lease terms to the effect that the premises concerned will not be subject to any form of tenancy control. For instance, after the implementation of a “rent brake” in Germany in 2015, the German Institute for Economic Research, a think-tank, was concerned about how landlords would overcharge their tenants on miscellaneous fees (such as fees for using kitchen equipment) to compensate for the lower rent received⁵; and
- (d) **Discouraging proper maintenance of the rented accommodation:** As landlords will not receive any additional rental income for their investment in repairs and maintenance, tenancy control may induce landlords to leave their premises to deteriorate, causing a drop in the overall housing quality⁶. These situations happen in some cities in Germany and the USA which implement tenancy control.

5. There are views suggesting the Government to implement tenancy control only on units with an annual rateable value below certain level so as to lower the impact on the overall rental market brought by tenancy control. As seen from the tenancy control experience of some overseas economies, if tenancy control is imposed only on a particular market (often on lower-end residential properties), there may be inadvertent spillover effects on the uncontrolled sector. As some tenants may not be able to rent flats in the controlled sector, they may be forced to seek accommodation in the uncontrolled sector, hence pushing up the rent level of the latter. Besides, some overseas experience suggests that tenancy control has failed to address the housing needs of the grassroots, since control measures often target at specific classes of premises instead of particular groups of households. For instance, the Swedish Government admitted in its property market report released in 2012 that with the implementation of rent control, a prospective tenant might only secure a tenancy

⁵ The Economist. (4 April 2015) Braking bad - a coming “rent brake” will sap a strengthening property market. <https://www.economist.com/news/finance-and-economics/21647658-coming-rent-brake-will-sap-strengthening-property-market-braking-bad>

⁶ http://www.multifamilyexecutive.com/property-management/rent-controls-failure_o
(Accessed 16:00, 17 May 2018)

if he has acquired insider information⁷, which will not be easily accessible by the socially disadvantaged.

6. Weighing the pros and cons, the Government is of the view that introducing tenancy control amid the current tight housing supply will not be in the interest of the grassroots and the general public, considering the potential adverse consequences associated with tenancy control which would render such control counterproductive. The Government believes that a continued increase in housing supply should be the fundamental solution to the problem of surging rent caused by insufficient supply. No quick fix is available.

Increase housing supply

7. A steady increase in land and housing supply is the fundamental solution to the problems caused by housing demand-supply imbalance. Increasing supply helps stabilise the housing prices and rentals, which in turn will benefit people from all walks of life who intend to attain home ownership or rental accommodation. According to the “supply-led” and “flexible” principles adopted in the LTHS, the Government updates the long-term housing demand projection annually, and presents a rolling ten-year housing supply target to capture social, economic and market changes over time. To meet the housing needs of the community over the long term, the Government plans ahead on a continuing basis to develop land and housing with a view to achieving the supply target.

8. According to the latest projection, the total housing supply target for the ten-year period from 2018-19 to 2027-28 is 460 000 units, comprising 200 000 public rental housing (PRH) units, 80 000 subsidised sale flats and 180 000 private residential units. Assuming that all sites identified by the Government can be delivered on time for housing construction, these sites can be used for the construction of about 237 000 public housing units. There is still a shortfall against the supply target of 280 000.

9. To increase housing supply, the Government will continue to increase the housing land supply in the short, medium and long term through a multi-pronged approach, which includes increasing the development density of developed areas, rezoning existing land, developing new development areas, etc. Also, the Task Force on Land Supply has launched a five-month public engagement exercise in late April 2018. It aims to facilitate the community to discuss the pros and cons of different land supply options without making any presumptions in advance. The Government hopes that all sectors of society

⁷ Statens Offentliga Utredningar (2012). *Att hyra, från en rätt för allt färre till en möjlighet för allt fler*.

would proactively offer their views so as to facilitate Government's work in developing land in future.

10. Where planning and infrastructure permit and without unduly compromising quality of our environment, the Hong Kong Housing Authority (HA) will continue to optimise the development potential of available public housing sites and increase public housing production. Based on the estimate as at March 2018, the public housing production from HA and the Hong Kong Housing Society in the five-year period from 2017-18 to 2021-22 is about 99 700 units, comprising some 74 700 PRH units and some 25 100 subsidised sale flats. This five-year housing production forecast represents a steady increase as compared with the previous four five-year periods. The Government will continue to expedite the construction of public housing in accordance with the supply target under the LTHS, so as to genuinely benefit the grassroots households.

11. As for housing supply in the private sector, based on the preliminary assessment of private residential developments known to have commenced or to commence on disposed sites at end-2017, the private sector will, on average, develop about 20 800 private residential units each year from 2018 to 2022, 50 per cent higher than the yearly average (13 500 units) from 2013 to 2017.

Other measures to assist grassroots tenants

12. Apart from striving to increase housing supply, the Government has adopted various measures to alleviate the housing problems of grassroots households. For those who have genuine and imminent long-term housing needs but have no other feasible means to solve their housing problems, they can approach the Social Welfare Department (SWD) for relevant welfare services or assistance. SWD will assess each case and recommend eligible cases to the Housing Department for Compassionate Rehousing for early allocation of PRH units. Also, eligible PRH applicants may join the Express Flat Allocation Scheme for early allocation of PRH units.

13. Different government departments have been providing appropriate assistance to grassroots households from different perspectives including housing, social welfare, community support, etc. For instance, the Comprehensive Social Security Assistance (CSSA) Scheme provides a safety net for those who are unable to support themselves financially to meet their basic needs. Under the CSSA Scheme, recipients (including tenants of PRH and private residential units) are entitled to allowance for covering their cost of rental accommodation. Besides, other recurrent cash schemes, such as the

Working Family Allowance Scheme⁸ and the Work Incentive Transport Subsidy Scheme, provide support to low-income households.

14. There are also views in the community that transitional housing should be provided to alleviate the housing problems facing the low-income persons living in inadequate housing. However, increasing PRH supply remains the fundamental solution to the problem. Therefore, the Government will spare no efforts in identifying land for PRH developments and expediting PRH construction. Given the stringent supply of housing land, suitable sites should be reserved for construction of PRH for PRH applicants who are in poor living conditions. Meanwhile, the Chief Executive's 2017 Policy Address suggests that, as time is required to identify land for housing construction, the Government will support and facilitate the implementation of various short-term initiatives put forward and carried out by the community, to make better use of community resources on top of the Government's long-term housing policy and measures, to alleviate the hardship faced by families on the PRH waiting list and the inadequately housed. These initiatives are not part of the Government's long-term housing policies; but may make use of the potential and resources in the community outside the Government, to offer flexible and multiple relief measures for the beneficiaries. The Government will support and facilitate such initiatives if necessary, including offering suggestions and assistance regarding the compliance of administrative and statutory procedures.

Conclusion

15. In sum, the Government considers that introducing tenancy control measures under the current situation of housing demand-supply imbalance may be counterproductive, and is not in the interest of the grassroots tenants and the general public. The continued increase in land and housing supply remains the fundamental solution to the problems of surging housing price and rent and housing difficulties caused by insufficient supply. The Government will continue to work closely with the community, endeavour to expedite the construction of public housing flats in accordance with the supply targets under the LTHS, and increase housing land supply, so as to effectively address the housing needs of the society.

Transport and Housing Bureau
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⁸ Known as 'Low-income Working Family Allowance Scheme' before 1 April 2018.