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Panel on Housing and Panel on Welfare Services

Joint meeting on 4 June 2018

**Background brief prepared by the Legislative Council Secretariat on
Tenancy Control**

Purpose

This paper provides background information on tenancy control, and a summary of the views and concerns expressed by Members on the subject.

Background

2. High flat rentals have been an area of concern in recent years. There are suggestions from members of the public for the Administration to re-introduce tenancy control, such as control measures on rents and tenure of sub-divided units ("SDUs"), with a view to safeguarding the interest of grassroots tenants.¹ In 2014, the Administration conducted a study in Hong Kong's past experience and overseas experience in implementing tenancy control and briefed the Panel on Housing ("HG Panel") on the research findings and observations.² The Administration elaborated its views on tenancy control in the Long Term Housing Strategy ("LTHS") promulgated in end-2014.³

¹ As mentioned in LC Paper No. [IN16/16-17](#), tenancy control in Hong Kong started with the enactment of the Rents Ordinance in 1921 to protect the tenants from unreasonable rent increases and arbitrary evictions. Since then, the two forms of tenancy control – rent control and security of tenure – had been implemented through the amendment and/or enactment of various relevant ordinances. In December 1998, rent control was abolished, and in July 2004, the security of tenure was removed.

² HG Panel discussed the Administration's research findings and observations on the issue of tenancy control at the meeting on [7 July 2014](#) and received public views on the subject at the meeting on [24 July 2014](#).

Long Term Housing Strategy

3. According to LTHS, public views on the subject of tenancy control were diverse. While there was considerable support of the revival of tenancy control among inadequately housed households ("IHHs") and concern groups championing grassroots rights, others cast doubts on the effectiveness of the measure in offering the desired protection to grassroots tenants. Weighing the pros and cons, the Administration was of the view that it would not be in the interest of IHHs and of the general public to introduce any tenancy control measures in Hong Kong.⁴

Members' views and concerns

4. Members have expressed views on matters relating to tenancy control at meetings of the Legislative Council and its committees. The major views and concerns are summarized in the ensuing paragraphs.

Rent control measures

5. Members expressed grave concern about the impact of high flat rentals on low-income tenants, and enquired whether the Administration would consider afresh implementing rent control or work out new measures to effectively help members of the public to rent private housing at reasonable rents.

6. The Administration advised that empirical findings, both local and overseas, suggested that tenancy control measures often led to an array of unintended consequences, including those detrimental to the tenants whom the measures sought to assist. These unintended consequences included 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, etc.); and discouraging proper maintenance of rented accommodation by landlords. The Administration considered that to address the supply-demand imbalance and to curb rent increases, the fundamental solution lied with a continued increase in housing supply.

³ LC Paper No. CB(1)352/14-15(01) (paragraphs 6.15 to 6.18)

⁴ LC Paper No. CB(1)352/14-15(01)

Rent subsidy and vacancy tax

7. Members suggested that the Administration should provide assistance, such as rent subsidy, to IHHs and the Waiting List households which had been waiting for public rental housing for three years or above and had not been provided with the first flat offer, in order to help them cope with the high flat rentals. Some Members enquired whether the Administration would introduce vacancy tax to discourage landlords from withholding their premises for leasing.

8. The Administration advised that in the midst of the present tight housing supply, any form of rent subsidy provided by the Administration to tenants would only lead to rent increase, thereby turning the rent subsidy into additional rent, leaving the tenants with no effective assistance. Providing recurrent rent subsidy to a selected group of tenants might also increase the burden of those households that were not able to receive the subsidy for various reasons and yet were affected by the upward pressure on rental levels.⁵ The Administration further advised that the vacancy rate of private residential flats in Hong Kong (i.e. 3.8% as at end-2016) was low,⁶ and the idling of private residential flats was not significant. The Administration would continue to monitor the property market.

Oral tenancies

9. Members opined that households renting private accommodation especially grassroots households living in SDUs were indeed under a heavy burden in the midst of the current supply-demand imbalance in housing, and there were cases in which the landlord had not signed a tenancy agreement with the SDU tenant, and hence did not need to give a notice period for terminating tenancy. At the meeting on 9 January 2017, HG Panel passed a motion requesting the Administration to immediately formulate and implement a "tenancy stabilization mechanism", which should include the introduction of legislation to require the signing of tenancy agreements to protect the rights and interests of both the landlords and the tenants and the requirement that a tenancy agreement should set out a fixed tenancy term and a notice period for termination of tenancy.

⁵ LC Papers No. CB(1)696/17-18(01)

⁶ According to the Administration (LC Paper No. CB(1)1466/16-17(01)), the vacancy rate of private residential flats dropped from 4.3% as at end-2012 to 3.8% as at end-2016, which was substantially lower than the long term average vacancy rate of 5% from 1996 to 2015.

10. The Administration advised that it had been a long-established practice in Hong Kong for landlords and tenants to enter into oral tenancies. If the Administration required 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. In the midst of a shortage in housing supply, landlords might make various demands to their advantage during the creation of written tenancy agreements. With regard to the tenure of tenancies and the notice periods for termination, tenancies at present might be terminated in ways agreed between landlords and tenants according to their practical needs. If the tenancy agreement had not set out the relevant requirements, or if the landlord and the tenant had not agreed upon other ways to terminate the tenancy, according to common law, a fixed term tenancy would end upon expiry of the term, and a periodic tenancy might be terminated by a notice to quit, with the notice period at a length similar to that of the periodic tenancy. Such arrangement could provide flexibility for landlords and tenants to agree on a termination arrangement that fitted both parties' needs.⁷

Tenancy control on residential properties below a certain rateable value

11. In response to a suggestion that the Administration should consider implementing tenancy control on flats with an annual rateable value of less than \$60,000, the Administration advised that as seen from the tenancy control experience of some overseas economies, if tenancy control was imposed only on a particular market sector (often on lower-end residential properties), there might be inadvertent spillover effects on the uncontrolled sector. For example, as some tenants would not be able to rent flats in the controlled sector, they might be forced to seek accommodation in the uncontrolled sector, hence pushing up the rental level of the latter.⁸

Review of the Landlord and Tenant (Consolidation) Ordinance

12. There were views that the Landlord and Tenant (Consolidation) Ordinance (Cap. 7) ("LTO") did not provide protection to tenants against frequent rent increases. At the meeting on 3 July 2017, HG Panel passed a motion that the Administration should comprehensively review LTO and conduct a public consultation exercise on the outcome of the review.

⁷ LC Paper No. CB(1)1170/16-17(01)

⁸ LC Paper No. CB(1)1466/16-17(01)

13. The Administration advised that regarding tenancy arrangements, LTO dealt with matters relating to rights and obligations of landlords and tenants. The Ordinance did not regulate the level of charges agreed between landlords and tenants. Before entering into a tenancy agreement, landlords and tenants should agree on the terms and conditions, including the level and basis for calculating rents and other charges (e.g. water and electricity charges). Once the tenancy agreement was entered into, both parties were required to abide by the relevant terms and conditions.⁹

Latest development

14. At the HG Panel's meeting on 6 November 2017, members agreed to the suggestion of Hon KWOK Wai-keung, Hon LUK Chung-hung and Hon HO Kai-ming in their joint letter¹⁰ that the Panel should discuss with the Administration measures on tenancy management and hold a public hearing to receive views on the subject matter. At the meeting on 11 December 2017, in light of Hon Michael TIEN Puk-sun's request in his letter¹¹, the Panel on Welfare Services ("WS Panel") suggested that WS Panel should hold a joint meeting with HG Panel to discuss and receive public views on tenancy control. The joint meeting will be held on 4 June 2018.

Relevant papers

15. A list of relevant papers is set out in the **Appendix**.

Council Business Division 1
Legislative Council Secretariat
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⁹ LC Paper No. CB(1)1466/16-17(01)

¹⁰ LC Paper No. [CB\(1\)173/17-18\(01\)](#)

¹¹ LC Paper No. [CB\(2\)375/17-18\(01\)](#)

Appendix

Tenancy Control

List of relevant papers

Council/ Committee	Date of meeting	Papers
Panel on Housing	7 July 2014 & 24 July 2014	Administration's paper on tenancy control (LC Paper No. CB(1)1709/13-14(01)) Minutes of meetings on 7 July 2014 (LC Paper No. CB(1)43/14-15) and 24 July 2014 (LC Paper No. CB(1)286/14-15)
Panel on Housing	5 January 2015	Administration's paper on Long Term Housing Strategy and Long Term Housing Strategy Implementation Milestones as at December 2014 (LC Paper No. CB(1)352/14-15(01))
Council	21 January 2015	Council question on regulation of tenancy agreements in respect of private residential units under the Stamp Duty Ordinance
Council	3 June 2015	Council question on measures to assist low-income households in home purchases and flat renting
Panel on Housing	9 January 2017	Minutes of meeting (LC Paper No. CB(1)628/16-17) Follow-up paper (LC Paper No. CB(1)1170/16-17(01))
Council	17 May 2017	Council question on measures to meet public demand for housing
Panel on Housing	3 July 2017	Minutes of meeting (LC Paper No. CB(1)71/17-18) Follow-up paper (LC Paper No. CB(1)1466/16-17(01))
Panel on Housing	9 January 2018	Minutes of meeting (LC Paper No. CB(1)892/17-18) Follow-up paper (LC Paper No. CB(1)696/17-18(01))