

**Government's response to the issues raised at the meeting of  
the Bills Committee on Rating (Amendment) Bill 2019  
held on 15 June 2020**

This paper provides the information requested by Members at the Bills Committee meeting held on 15 June 2020 as set out in LC Paper No. CB(1)790/19-20(01).

**Information on unsold units**

2. The Government releases statistics on private housing supply in the primary market on the website of the Transport and Housing Bureau (THB) on a quarterly basis, including the number of unsold first-hand private residential units in completed projects. The number of “unsold first-hand private residential units” is obtained by deducting the number of units sold from the total number of first-hand private residential units in completed projects (i.e. projects that have obtained occupation permits (OP)). If a developer has signed an agreement for sale and purchase in respect of a certain unit and the relevant agreement has been delivered to the Land Registry for registration, the Government will regard that unit as sold. It should be noted that the figure of each year only covers units completed in that year or in the previous seven years. For example, the figure of 2020 covers the units completed between 2013 and 2020, while the figure of 2019 covers the units completed between 2012 and 2019 and so on. As at 31 March 2020, there are around 10 000 “unsold first-hand private residential units”<sup>1</sup>. Statistics on these units by saleable area is at **Annex 1**.

3. The number of “unsold first-hand private residential units” on 31 December in each of the past ten years is at **Annex 2**, and the number of agreement for sale and purchase of first-hand private residential units delivered to the Land Registry for registration in each of the past ten years is at **Annex 3**. The number of “unsold first-hand private residential units” is a cumulative figure reflecting the number of unsold first-hand private residential units in projects completed in that year or in the previous seven years as at a specific date. The number of “unsold first-hand private residential units” keeps changing as new first-hand private residential units are completed and sold from time to time. On the other hand, the number of agreement for sale and purchase of first-hand private residential units of each year reflects the number of

---

<sup>1</sup> The figure is rounded to the nearest thousand, which covers the units completed between 1 January 2013 and 31 March 2020.

transactions of first-hand private residential property in a specific year; and the residential units involved may be completed in the past few years or in the prevailing year, or have not yet been completed (i.e. offered for pre-sale). The number of transactions is affected by various factors, including market demand for first-hand units, property prices, interest rates, local and global economic environment, etc. Since the statistical basis and concept of the two sets of data on “unsold first-hand private residential units” and agreement for sale and purchase of first-hand private residential units are different, no meaningful conclusion could be drawn by direct comparison of these two sets of data.

4. On the contrary, we consider it more worthy to note the continuous upward trend of the number of “unsold first-hand private residential units”. As shown in Annex 2, the number of “unsold first-hand private residential units” increased from around 4 000 units at end 2012 to 6 000 units at end 2014, and further increased to 9 000 units at end 2017. The latest figure as at end-March 2020 is around 10 000 units. The continuous upward trend of the number of “unsold first-hand private residential units” is undesirable in the face of the current housing demand-supply imbalance. Therefore, the Government considers that more effective measure has to be taken to encourage developers to expedite the supply of first-hand private residential units in completed projects to the market.

5. “Unsold first-hand private residential units” may include vacant units or units rented out by developers (e.g. as serviced apartments). As developers are currently not required to declare the status of the “unsold first-hand private residential units”, the Government does not have information on how many of them are rented out or are for self-use purpose, and would not know the reason for such units to remain unsold/vacant. These units were issued with OP, which implies in principle that developers have completed the building works of the relevant buildings and units, and the units can be occupied and put into effective use. The time required by developers to refurbish the units depends on the business strategies of individual developers and the circumstances of specific developments and units. There is no generalised scenario that can apply to all. It is worth to note that developers can offer the units for pre-sale, and that the amount of time required for refurbishing a unit and whether the unit is sold are not necessarily related. Statistics on “unsold first-hand private residential units” as at 31 March 2020 by completion year is at Annex 4. As shown in Annex 4, among the 10 000 “unsold first-hand private residential units”, around 3 700 units were completed in 2019 or in the first quarter

of 2020, while the remaining 6 300 units were completed between 2013 and 2018.

6. According to information from the Government Property Agency, as at 31 December 2019, the number of various Government quarters is around 24 000 units, among which only 0.2% of the units (i.e. around 50 units) are temporarily vacant pending allocation.

### **Application of Special Rates**

7. To encourage more timely supply of first-hand private residential units in completed projects by developers to the market, the Rating (Amendment) Bill 2019 (the Bill) proposes that first-hand private residential units with OP issued for 12 months or more that are unsold, and have not been rented out for 183 days or more in aggregate during the past 12 months will be subject to Special Rates.

8. An OP is a document issued by the Building Authority in accordance with section 21(2) of the Buildings Ordinance (Cap. 123). Under the prevailing policy, all buildings authorised to be constructed in accordance with the Buildings Ordinance by the Government would be inspected by the Building Authority upon completion. If the building satisfies relevant requirements under the Buildings Ordinance and is ready for occupation, the Building Authority would issue OP for the building. In other words, if OP has been issued by the Building Authority in respect of a certain unit, it implies in principle that the unit can be occupied and put into effective use. A Certificate of Compliance (CC) is issued by the Lands Department when the developer has complied with all positive obligations imposed under the lease conditions. It is worth to note that although developers cannot transfer ownership of the units before obtaining CC, they can rent out the units after obtaining OP, or apply for pre-sale consent at a maximum of 30 months in advance of project completion in accordance with the Consent Scheme. In addition, not all development projects are required to obtain CC. Some development and redevelopment projects covered by old leases are not subject to the Consent Scheme, and developers do not have to obtain pre-sale consent or CC before selling the units.

9. The time required between obtaining OP and CC depends on the scale of different development projects and whether the developer has completed the obligations under the lease conditions as soon as possible. There is no generalised scenario that can apply to all. In general, it may

take a longer time for large-scale projects that are developed by phases to be issued with CC.

10. The Government considers it appropriate to adopt the issuing date of OP (instead of the issuing date of CC) as the reference point in determining when the developers should start submitting returns on the status of the units. The justifications are as follows –

- (a) In principle, the issue of an OP implies that the relevant unit can be occupied and put into effective use.
- (b) Developers do not have to wait until the issue of CC in order to sell or rent out the units. According to the Consent Scheme, developers may apply to the Lands Department for pre-sale consent at a maximum of 30 months in advance of the completion of a residential property project. Furthermore, starting from 2002, lease conditions in general provide that developers can rent out completed units with OP issued. Developers who are able to fulfill certain requirements (e.g. the tenancy period shall not exceed 10 years) can rent out the units without the need to obtain prior consent from the Director of Lands. In other words, even if CC has not been issued for the development project, the developer may choose to rent out the units after obtaining OP.
- (c) As mentioned above, some development or redevelopment projects covered by old leases are not subject to the Consent Scheme. Developers do not have to apply for pre-sale consent or CC prior to selling these units. Furthermore, even if the development projects are subject to the Consent Scheme, the relevant lease conditions do not specify a time limit for developers to obtain CC. We are concerned that adopting the issuing date of CC as the reference point may induce circumvention, e.g. delay in applying for CC, or even not applying for CC with the Lands Department on the grounds that the relevant units are for rental only.
- (d) On the contrary, in accordance with the “Building Covenant” clause in the land grant or lease conditions, developers are required to complete the construction of the minimum gross floor area specified in the land grant or lease conditions and obtain the OP within the specified period. Adopting the issuing date of

OP as the reference point help guard against possible circumvention.

11. Considering that under the existing mechanism, developers may apply for pre-sale consent at a maximum of 30 months in advance of project completion, or may rent out the unit after OP has been issued for the project (regardless of whether CC has been issued for the project), the Government considers that developers should have enough time to sell or rent out their first-hand private residential units under the proposed Bill.

12. Regarding units for rent, considering that renting out a unit is also an effective way of utilising housing resources, the Bill proposes that developers do not have to pay Special Rates in respect of a specified tenement if such tenement is let to a person (other than a related party of the first-owner) under a stamped tenancy agreement at a rent not less than the market rent and for not less than 183 days in aggregate during the reporting period. The arrangement is proposed with a view to allowing developers to supply the units to the market through renting, while minimising the possibility of circumvention as far as possible. According to the Bill, a reporting period refers to a period of every 12 months. The Government considers it reasonable and appropriate to set the threshold for renting out a unit at 183 days (i.e. around six months or half of a reporting period); a shorter period may reduce the effectiveness of the measure while a longer period may be over stringent.

13. According to the proposed new section 49A under Clause 4 of the Bill, market rent is the rent at which the specified tenement might reasonably be expected to be let in the open market on the terms of the tenancy agreement or agreements, with both the landlord and the tenant to the tenancy acting at arm's length. In evaluating whether the relevant rent is market rent, the Rating and Valuation Department would consider the actual circumstances of individual case and all relevant factors. Since the specific circumstances of different cases varies (e.g. whether the owner provides furniture and electrical appliances, whether rates and management fees are included in the rent, etc.) and that market rent may change from time to time in response to the market situation, it would be difficult for the Government to specify the level of market rent for the relevant unit before the first-owner signs the tenancy agreement.

## **Policy objectives and alternatives**

14. The policy objective of the Bill is to encourage developers to expedite the supply of completed first-hand private residential units to the market. The Government does not set a hard target regarding the number of “unsold first-hand private residential units”.

15. The Government notes some suggest that the Government may specify requirements in the land grant or lease conditions that developers have to sell all first-hand private residential units within a specific timeframe upon completion. Nevertheless, such approach can only cover residential units built on newly leased land, but cannot regulate residential units built on previously leased land, including “unsold first-hand private residential units” currently in the market. This is not in line with the policy intention of the Government to expedite the supply of first-hand units by developers through the measures. Furthermore, to require developers to sell all units within a specific timeframe through land grant or lease would preclude the situation of developers assigning the whole building for rental purpose (e.g. serviced apartments) rather than for sale purpose, which may be over stringent. Balancing the pros and cons, the Government considers it more appropriate to implement the Special Rates measure by way of legislation, and to specify that the relevant measure is applicable to all first-hand private residential units with OP issued.

## **Other issues**

16. Special Rates is a kind of tax. Taxation is governed by Article 108 of the Basic Law (BL 108). BL 108 provides that the Hong Kong Special Administrative Region (HKSAR) shall practise an independent taxation system; and HKSAR shall, taking the low tax policy previously pursued in Hong Kong as reference, enact laws on its own concerning types of taxes, tax rates, tax reductions, allowances and exemptions, and other matters of taxation. Article 6 of the Basic Law (BL 6) has no application to tax legislation. The Government considers that the proposed Special Rates regime is consistent with BL 6.

17. Following the announcement of the proposed introduction of Special Rates on 29 June 2018, the Government immediately began drafting the legislative proposals and legal provisions, and arranged a number of briefing sessions between January to March 2019 to brief relevant stakeholders (including the Real Estate Developers Association of Hong Kong, the Law Society of Hong Kong, the Hong Kong Institute

of Certified Public Accountants, the Hong Kong Institute of Surveyors, the Hong Kong Institutes of Architects, the Hong Kong Institute of Planners and Legislative Council members) on the proposed measures and listen to their views. The Government also briefed the Legislative Council Panel on Housing on the key legislative proposals at its meeting on 1 April 2019. In formulating the Bill, the Government has taken into account the views received during different consultation sessions.

18. The English version of the PowerPoint presentation materials tabled at the Bill Committee meeting on 15 June 2020 has been sent to the Legislative Council Secretariat via email separately.

Transport and Housing Bureau  
June 2020

## Annex 1

### **Number of Unsold First-hand Private Residential Units in Completed Projects by Saleable Area (As at 31 March 2020)**

|                        | Number of Units<br>(as a percentage of total) |                |                |                |                |
|------------------------|---|----------------|----------------|----------------|----------------|
|                        | Class A                                       | Class B        | Class C        | Class D        | Class E        |
| As at 31 March<br>2020 | 3 300<br>(33%)                                | 2 700<br>(27%) | 1 300<br>(13%) | 1 400<br>(14%) | 1 300<br>(13%) |

#### Notes:

1. The figures are rounded to the nearest hundred.
2. “Completed projects” refer to projects with OPs issued by the Buildings Department.
3. The figures do not include private residential buildings completed before 2013.
4. The figures do not include village houses.
5. Class A flats – saleable area less than 40m<sup>2</sup>  
Class B flats – saleable area of 40 to 69.9 m<sup>2</sup>  
Class C flats – saleable area of 70 to 99.9 m<sup>2</sup>  
Class D flats – saleable area of 100 to 159.9 m<sup>2</sup>  
Class E flats – saleable area of 160 m<sup>2</sup> or above



## Annex 2

### **Number of Unsold First-hand Private Residential Units in Completed Projects in the Past Ten Years (As at 31 March 2020)**

| <b>Date</b>            | <b>Number of units</b> |
|------------------------|------------------------|
| As at 31 December 2010 | 7 000                  |
| As at 31 December 2011 | 7 000                  |
| As at 31 December 2012 | 4 000                  |
| As at 31 December 2013 | 5 000                  |
| As at 31 December 2014 | 6 000                  |
| As at 31 December 2015 | 6 000                  |
| As at 31 December 2016 | 6 000                  |
| As at 31 December 2017 | 9 000                  |
| As at 31 December 2018 | 9 000                  |
| As at 31 December 2019 | 10 000                 |
| As at 31 March 2020    | 10 000                 |

#### Notes:

1. The figures are rounded to the nearest thousand.
2. “Completed projects” refer to projects with OPs issued by the Buildings Department.
3. The figure for each year includes only the number of units completed in that year or in the previous seven years. For example, the 2019 figure covers the units completed between 2012 and 2019, while the 2020 figure covers the units completed between 2013 and 2020 and so on.
4. The figures do not include village houses.

**Annex 3**

**Number of Agreement for Sale and Purchase of  
First-Hand Private Residential Units  
Delivered to the Land Registry for Registration in the Past Ten Years  
(As at 31 March 2020)**

| <b>Year</b>                   | <b>Number of Agreement for<br/>Sale and Purchase of<br/>First-Hand Private Residential Units</b> |
|-------------------------------|--|
| 2010                          | 13 646   |
| 2011                          | 10 880   |
| 2012                          | 12 968   |
| 2013                          | 11 046   |
| 2014                          | 16 857   |
| 2015                          | 16 826   |
| 2016                          | 16 793   |
| 2017                          | 18 645   |
| 2018                          | 15 633   |
| 2019                          | 21 108   |
| 2020<br>(As at 31 March 2020) | 2 261  |

**Number of Unsold First-hand Private Residential Units  
in Completed Projects by Completion Year  
(As at 31 March 2020)**

| <b>Year of Completion</b>     | <b>Number of Units</b> |
|-------------------------------|------------------------|
| 2013 – 2017                   | 4 200                  |
| 2018                          | 2 100                  |
| 2019                          | 3 000                  |
| 2020<br>(As at 31 March 2020) | 700                    |
| <b>Total</b>                  | <b>10 000</b>          |

**Notes:**

1. The figures are rounded to the nearest hundred.
2. “Completed projects” refer to projects with OPs issued by the Buildings Department. “Year of Completion” refers to the year in which the relevant project is issued with OP by the Buildings Department.
3. The figures do not include private residential buildings completed before 2013.
4. The figures do not include village houses.