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Dear Ms. Cheng,

Landlord and Tenant (Consolidation) (Amendment) Bill 2021

Thank you for your letter dated 2 August 2021. Our response to your questions relating to the Landlord and Tenant (Consolidation) (Amendment) Bill 2021 (the Bill) is set out in the ensuing paragraphs.

Definition of subdivided unit (SDU)

2. All along, there is no official or uniform definition of a “subdivided unit” (“SDU”). An “SDU” was defined by the Census & Statistics Department (C&SD), for the purpose of conducting a statistical survey for the “Thematic Report: Persons Living in Subdivided Units” (2016 Thematic Report) under the 2016 Population By-census, to be **‘formed by splitting a unit of quarters into two or more “internally connected” and “externally accessible” units commonly for rental purposes’**. It should, however, be noted that C&SD had adopted a different definition in the earlier thematic household surveys on housing conditions of SDUs conducted in 2014 and 2015¹ where “SDUs” were

¹ “SDU” was defined in the thematic household surveys conducted in 2014 and 2015 as being “formed by the sub-division of individual quarters into two or more units for rental purposes to

divided into two types, namely “SDUs with observable physical partitions” and “SDUs without observable physical partitions”. For instance, cubicles and bedspaces were classified as “SDUs without observable physical partitions” in the thematic household surveys conducted in 2014 and 2015, while they were classified in the 2016 Thematic Report as “multi-households within a unit of quarters” instead of “SDUs”.

3. Tossing aside the potential ambiguity and disputes that may arise in defining “SDUs” in the Bill along the notion of “splitting” a unit of quarters into two or more “internally connected” and “externally accessible” units (which will be addressed in paragraph 4 below), we do not adopt the above definition of “SDU” in the Bill as it would not be able to achieve our policy objective, which is widely supported by the Task Force for the Study on Tenancy Control of Subdivided Units, concern groups and many Legislative Council Members from different major political parties, of including as many SDUs as possible under the proposed tenancy control regime. The definition adopted in the 2016 Thematic Report, if taken on board, would have essentially excluded **“quarters where two or more households share facilities in a common area (e.g. a living room), except toilets and kitchens, such that the common area is not primarily for access purpose”** (which were instead categorised in the 2016 Thematic Report as “multi-households within a unit of quarters”). Such “multi-households within a unit of quarters” are not “SDUs” as defined in the 2016 Thematic Report because the household members have to pass through other households’ living area to gain access to the street, public corridor or landing, thus not meeting the “externally accessible” criterion. These “multi-households within a unit of quarters” would potentially include cubicles, bedspaces, cocklofts and capsules, the tenants of which should also be our target beneficiaries of the proposed tenancy control regime, same as those who live in the so-called “externally accessible” SDUs. Furthermore, by including “externally accessible” SDUs on one hand and excluding “multi-households within a unit of quarters” on the other, it may create loopholes for unscrupulous operators to easily circumvent the regulatory regime.

4. We consider that “splitting” was not clearly defined for the purposes of the definition of “SDU” in the 2016 Thematic Report. For example, it is subject to argument and disputes as to what constitutes “splitting”, e.g. whether “splitting” must involve installation of some physical partitions, whether there are any requirements as to the size and materials used for such partitions, and whether bedspaces or other similar

more than one household”.

sleeping accommodation which do not necessitate such partitions would be considered as involving such “splitting”. “Externally accessible” in respect of a unit within a quarters was not clearly defined in the 2016 Thematic Report either. We therefore consider it not suitable to adopt C&SD’s definition of “SDU” in the 2016 Thematic Report, which was devised for the purpose of conducting a statistical survey, in the Bill which must be able to clearly delineate what premises would be subject to the proposed tenancy control measures on one hand, and to reflect our policy intention on the other.

Exclusion of certain tenancies from the application of the proposed Part IVA


5. All tenancies held from the Government, the Hong Kong Housing Authority, the Hong Kong Housing Society or the Hong Kong Settlers Housing Corporation Limited are currently excluded from the application of Part IV of the Landlord and Tenant (Consolidation) Ordinance (Cap. 7). We consider it appropriate to adopt a consistent approach to exclude domestic tenancies in relation to SDUs held from the Government and the other said bodies from the application of the proposed Part IVA as they have well defined policies governing rent adjustments and other tenancy arrangements. We have also specified tenancies held from the Urban Renewal Authority (URA) or any of its wholly-owned subsidiaries as tenancies to which the proposed Part IVA does not apply as upon the acquisition of properties, URA may, on compassionate grounds, allow existing tenants to stay in their dwellings (which may be SDUs) on new tenancies entered into with URA until site clearance. URA also has rehousing blocks comprising shared units which may fall under the definition of “SDU” in the Bill for rehousing those tenants displaced by redevelopment projects who are for various reasons unable to be allocated public rental housing.

Application of Part IV and the proposed Part IVA of Cap. 7

6. A tenancy will be subject to the regulation of the proposed Part IVA of Cap. 7 if it meets all the five criteria in the proposed section 120AAB(1), i.e. (a) the tenancy commences on or after the material date; (b) the tenancy is a domestic tenancy; (c) the subject premises of the tenancy are an SDU; (d) the tenant is a natural person; and (e) the purpose of the tenancy is for the tenant’s own dwelling, unless it is a tenancy specified in the proposed Schedule 6. A domestic tenancy to which the proposed Part IVA of Cap. 7 applies would be excluded from the application of Part IV of Cap. 7 by virtue of section 116(2)(a) of Cap. 7 as

proposed to be amended by Clause 3 of the Bill.

7. On the other hand, a tenancy which is a domestic tenancy but does not meet any of the four other criteria in the proposed section 120AAB(1) will be subject to Part IV of Cap. 7, unless it is excluded from the application of that Part under section 116(2).



(Miss Kathy CHAN)

for Secretary for Transport and Housing

cc Secretary for Justice
(Attn: Ms. Rayne CHAI)
Commissioner of Rating and Valuation
(Attn: Ms. Sandy JIM)
Clerk to Bills Committee