

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

政府總部  
運輸及房屋局

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1 September 2021

Hon KWOK Wai-keung, JP  
Legislative Council Member  
Rooms 1010-1014, Legislative Council Complex  
1 Legislative Council Road  
Central  
Hong Kong

Dear Hon Kwok,

**Landlord and Tenant (Consolidation) (Amendment) Bill 2021  
Proposed Amendment to the Bill**

We refer to your letter dated 27 August 2021 to the Bills Committee of the Landlord and Tenant (Consolidation) (Amendment) Bill 2021 (the Bill). Our response to your letter is set out in the ensuing paragraphs.

2. Your proposed Committee Stage Amendment (CSA) seeks to amend section 120AAZE(2)(b) of Clause 4 of the Bill by substituting “15%” with “10%” as the maximum rate of increase in the renewed rent of the second term tenancy in a regulated cycle of tenancies.

3. Section 120AAZE proposes to cap the rate of rent increase upon tenancy renewal at 15%. In a regulated cycle of tenancies, the rate of rent increase between the first term and second term tenancies must not exceed the percentage change of the territory-wide rental index for all classes of private domestic properties compiled and published by the Rating and Valuation Department (RVD) during the relevant period. If the aforesaid percentage change exceeds 15%, the landlord can only increase the rent by no more than 15% on tenancy renewal.

4. As we have pointed out on various occasions, including at the meetings of the Bills Committee and in our correspondences issued to the Bills Committee (including the Legislative Council (LegCo) Brief on the Bill issued on 6 July 2021, our reply dated 13 August 2021 to the letter of 28 July 2021 from the Assistant Legal Adviser of LegCo and our consolidated response on 23 August 2021 to the written submissions received), in setting the rent increase cap, our policy objective is to provide reasonable protection to the tenants of subdivided units (SDUs) with due consideration to the protection of property rights as guaranteed under the Basic Law. We have reviewed the movement of the territory-wide rental index for all classes of private domestic properties compiled and published by RVD during the past some 20 years. It is observed that while the biennial change in the index has fluctuated over time, the rate of increase was particularly high on several occasions, e.g. 26.3% in 2008, 33.5% in 2011 and 19.1% in 2012. Out of 23 years since 1998, the biennial change in the index exceeded 15% on seven occasions, ranging from 15.3% in 2013 to 33.5% in 2011. We therefore consider that setting an absolute rent increase cap at 15% would provide an additional and effective safeguard to protect SDU tenants against any unduly high level of rent increase as a result of huge rental fluctuation in the private residential market, in addition to restricting the rate of rent increase upon tenancy renewal to the movement of the relevant rental index of RVD. In fact, under the buoyant market conditions as in the cases of 2008 (26.3%) and 2011 (33.5%), imposing a rent increase cap of 15% would already provide protection to SDU tenants.

5. As regards Members' suggestion to lower the cap on rent increase of the second term tenancy from 15% to 10%, it is observed that the biennial change in the rental index for all classes of private domestic properties of RVD exceeded 10% on ten occasions during the past 23 years. If we adopt 10% as the cap on rent increase upon tenancy renewal, apart from the possibility of increasing the risk of legal challenge due to disproportionate infringement of the SDU landlords' property rights, it may also lower the incentive of landlords to rent out their premises, thereby leading to a reduction in the supply of SDUs, jettisoning the rentals and putting the vulnerable tenants in an even worse situation.

6. At the meeting of the Bills Committee held on 29 July 2021, Members expressed the view that even if the cap on rent increase upon tenancy renewal is to be adjusted from 15% to 10%, since SDU landlords have already invested a considerable sum in altering the units into SDUs and are earning a very high rental return on their SDUs, it is believed that most of the SDU landlords would not give up their SDU business as a result.

However, we must point out that according to the findings of the survey commissioned by the Task Force for the Study on Tenancy Control of Subdivided Units, it is estimated that there are more than 110 000 SDUs in Hong Kong. Assuming that 1% of SDU landlords choose to quit the SDU market due to a lower rent increase cap, more than 1 000 SDU households would lose their homes. As the current supply of public housing is still tight, we must consider prudently the possible consequence and in the event that it happens, whether we can properly handle the situation.

7. In conclusion, we consider that the proposal to further tighten the rent increase cap may be considered to be a more stringent restriction of SDU landlords' property rights. Apart from increasing the risk of legal challenge, some SDU landlords may also choose to leave the SDU market, which would result in a reduction of the supply of SDUs, and some SDU tenants would also be affected as a result.



( Miss Kathy CHAN )  
for Secretary for Transport and Housing

cc

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