

**立法會**  
**Legislative Council**

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(These minutes have been seen  
by the Administration)

Ref : CB1/PS/1/20

**Panel on Housing**

**Subcommittee on Issues Relating to Transitional Housing and  
Subdivided Units**

**Minutes of meeting  
held on Monday, 26 April 2021, at 10:45 am  
in Conference Room 3 of the Legislative Council Complex**

- Members present** : Hon Vincent CHENG Wing-shun, MH, JP (Chairman)  
Hon Wilson OR Chong-shing, MH (Deputy Chairman)  
Hon Mrs Regina IP LAU Suk-ye, GBS, JP  
Hon Alice MAK Mei-kuen, BBS, JP  
Hon SHIU Ka-fai, JP  
Hon LAU Kwok-fan, MH  
Hon Tony TSE Wai-chuen, BBS, JP
- Members attending** : Hon Tommy CHEUNG Yu-yan, GBS, JP  
Hon Michael TIEN Puk-sun, BBS, JP
- Members absent** : Hon Abraham SHEK Lai-him, GBS, JP  
Hon CHAN Han-pan, BBS, JP  
Dr Hon CHENG Chung-tai
- Public Officers attending** : Agenda Item I  
Dr Raymond SO, BBS, JP  
Under Secretary for Transport and Housing

Mr Carlson CHAN, JP  
Director (Special Duties)  
Transport and Housing Bureau

Miss Kathy CHAN  
Head, Secretariat for the Task Force for the Study  
on Tenancy Control of Subdivided Units  
Transport and Housing Bureau

**Clerk in attendance** : Mr Derek LO  
Chief Council Secretary (1)5

**Staff in attendance** : Mr Joey LO  
Senior Council Secretary (1)8

Ms Michelle NIEN  
Legislative Assistant (1)5

Ms Michelle LEE  
Clerical Assistant (1)5

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Action

**I. Tenancy control of subdivided units**

(LC Paper No. CB(1)820/20-21(01) — Administration's paper on tenancy control of subdivided units

LC Paper No. CB(1)820/20-21(02) — Paper on tenancy control of subdivided units prepared by the Legislative Council Secretariat (background brief)

Discussion

The Subcommittee deliberated (index of proceedings in the **Appendix**).

Follow-up actions to be taken by the Administration

2. The Administration was requested to provide information on the following:

- (a) regarding the living conditions of subdivided units, measures taken/to be taken by the Administration to enhance the sanitation and fire safety of these units; and
- (b) regarding the study by the Transport and Housing Bureau to explore the feasibility of redeveloping six factory estates of the Housing Authority for public housing use, (i) timing of the availability of findings of the study; (ii) details of the Administration's plan to redevelop the six sites; (iii) to what extent the relevant redevelopment procedures could be expedited; and (iv) the number of public housing units that the redevelopment could produce.

**II. Any other business**

Date of next meeting

3. The Chairman advised that the next meeting was scheduled for 22 June 2021.

*(Post-meeting note: Members were informed vide LC Paper No. CB(1)969/20-21 on 1 June 2021 that the next meeting would be held on 13 July 2021 at 10:45 am.)*

4. There being no other business, the meeting ended at 12:30 pm.

Council Business Division 1  
Legislative Council Secretariat  
17 September 2021

## Panel on Housing

## Subcommittee on Issues Relating to Transitional Housing and Subdivided Units

**Proceedings of meeting  
on Monday, 26 April 2021, at 10:45 am  
in Conference Room 3 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
000405 – 000628	Chairman	Opening remarks	
<b>Agenda item I — Tenancy control of subdivided units</b>			
000629 – 000913	Chairman Administration	Briefing by the Administration on the report of the Task Force for the Study on Tenancy Control of Subdivided Units ("TF") and the initial response of the Government to the recommendations put forward in the report (LC Paper No. CB(1)820/20-21(01))	
000914 – 002318	Chairman Mr Michael TIEN Administration	<p>Mr Michael TIEN supported the Administration's plan to impose partial tenancy control on SDUs. He made the following enquiries/suggestions –</p> <ul style="list-style-type: none"> <li>(a) definition of the term "SDU" under the enabling legislation to implement SDU tenancy control;</li> <li>(b) determination of initial rent and maximum rate of rent increase upon renewal of tenancy;</li> <li>(c) to provide incentive for SDU owners, the Administration should set SDU maximum initial rent per square foot at a level above the market rent; whereas the maximum total monthly rent of all SDUs combined within a premises should be set at 30% of the annual rateable value of the whole premises from which the SDUs were subdivided, so as to guard against unreasonable rent hikes following the implementation of rent subsidy;</li> <li>(d) instead of TF's recommendation that the tenant of a two-year fixed-term regulated tenancy should have the right to renew the tenancy once and enjoying four years of security of tenure, the tenant should have the right to renew the tenancy twice, thus extending security of tenancy to six years, while the rate of rent increase should be capped at 10% upon the first renewal, and to 15% upon the second; and</li> <li>(e) proactive assistance should be provided to tenants in matters concerning the signing of tenancy which involved technical intricacies.</li> </ul>	

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		<p>The Administration responded that –</p> <ul style="list-style-type: none"> <li>(a) while the term "SDU" was commonly used in the community to refer to those smaller individual units subdivided from a flat for rental purpose, the Administration would come up with an appropriate legal definition of "SDU" in the future legislation, bearing in mind the intention to cover as many SDUs as possible;</li> <li>(b) regarding the setting of initial rent, TF and the Administration considered it infeasible to devise an objective and administratively easy mechanism for the purpose of fairly determining the maximum initial rent the landlord might charge in respect of each of the some 100 000 SDUs estimated to exist in Hong Kong, which should take into account the individual characteristics of each SDU;</li> <li>(c) the rent of an individual SDU was affected by many factors, and even for SDUs in the same unit, their rental levels would vary according to a whole basket of factors. Using administrative means to reset the initial rent of each and every SDU in Hong Kong would inevitably create numerous disputes between the landlord and tenant, which might necessitate the setting up of an adjudication mechanism which would take time to come into fruition and delay the legislative timetable of the Bill;</li> <li>(d) regarding security of tenure, TF recommended four years of security of tenure as many SDU tenants had lived in the current SDU for over two years. Given the current average waiting time of public rental housing of 5.7 years, a four-year security of tenure should be able to offer sufficient protection to most tenants;</li> <li>(e) there was also the need to balance the interests of SDU landlords who were concerned that they would be bound to tolerate "bad tenants" if security of tenure was unduly long;</li> <li>(f) TF's proposed 15% cap on rent increase between the original regulated tenancy and the renewed regulated tenancy was a maximum level rather than a prescribed level which had to be followed regardless of other factors;</li> <li>(g) more importantly, TF's proposal was that the rate of rent increase should not be more than the percentage change</li> </ul>	

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		<p>of the private domestic rental index (all classes) of the Rating and Valuation Department ("RVD") in the relevant period; only if the relevant change was more than 15% would the 15% rent increase cap be triggered. Whilst the index fluctuated over the years, it recorded remarkable biennial increases far exceeding 15% in 2008, 2011 and 2012;</p> <p>(h) under the future legislation, if the relevant change of the above RVD rental index was negative, the rent of the renewed regulated tenancy had to be decreased by at least the same percentage; and</p> <p>(i) the Basic Law protection of private property rights had to be taken into account, in that new tenancy restrictions imposed after the acquisition by an owner might be found to be an infringement of or a derogation from the owner's property rights, and might be held by the court as contravention of the Basic Law unless such restrictions would not disproportionately infringe on the private property rights of the owner.</p>	
002319 – 003434	Chairman Mr Wilson OR Administration	<p>Mr Wilson OR raised the following views/suggestions –</p> <p>(a) the proposed maximum rate of rent increase of 15% exceeded the affordability of SDU tenants, and should be put on par with the rent increase ceiling of 10% for public rental housing ("PRH") units under the management of the Hong Kong Housing Authority ("HA");</p> <p>(b) whether adequate manpower and resources would be provided for implementation of the relevant enabling legislation;</p> <p>(c) to allow sufficient time for tenants to look for alternative accommodation, the head lessor should, when terminating the head lease and regaining possession of the premises, provide the affected SDU tenants a longer notice period of 90 days, instead of TF's suggestion of 60 days;</p> <p>(d) District Building Management Liaison Teams ("DBMLTs") set up in the 18 District Offices under Home Affairs Department should be in a better position than non-government organizations ("NGOs") to provide the necessary support and disseminate rental information to SDU landlords and tenants at the district level; and</p> <p>(e) timing of implementation of the proposed tenancy control regime.</p>	

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		<p>The Administration responded that –</p> <ul style="list-style-type: none"> <li>(a) the Administration noted members' concern about the proposed maximum rate of rent increase of 15%. While HA as a public body had the social responsibility to provide public housing to needy Hong Kong residents at an affordable rent level, SDU owners were operating a business on market principles. Direct comparison between the two was inappropriate;</li> <li>(b) it was envisaged that additional manpower resources would be provided to RVD and Transport and Housing Bureau ("THB") to implement the enabling legislation;</li> <li>(c) regarding the length of notice period, there would be opportunities for discussion when the relevant Bill was introduced into the Legislative Council ("LegCo");</li> <li>(d) in actual practice, it would take five to six months for the court to issue a Writ of Possession, and it was from that date that the notice period of 60 days would commence, thus giving tenants ample time to look for alternative accommodation;</li> <li>(e) while NGOs could perform a complementary role in promoting the new initiative at the district level, RVD would remain ultimately responsible for enforcing the new legislation whilst THB would oversee the policy issues;</li> <li>(f) the Administration would explore members' suggestion of soliciting the assistance of DBMLTs, but they might not be as familiar with the legislation as staff of RVD; and</li> <li>(g) the Administration had been working in full steam with the Department of Justice on the drafting of the enabling legislation, and it was the Administration's aim to introduce the relevant Bill into LegCo within the current legislative session. If the Bill was passed, RVD would require a preparation time of around three months would be, and the relevant legislation could be implemented in the first quarter of 2022 at the earliest.</li> </ul>	
003435 – 004337	Chairman Mrs Regina IP Administration	<p>Mrs Regina IP made the following remarks/suggestions –</p> <ul style="list-style-type: none"> <li>(a) as the initial rent of SDUs were much higher than that of PRH and other housing segments, a maximum rate of rent increase of 10% upon tenancy renewal sufficed;</li> </ul>	

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		<p>(b) as an expedient and transitional arrangement pending the provision of an adequate supply of public housing, SDUs in industrial buildings had to be regulated but not legalized;</p> <p>(c) anti-circumvention and "immediate effect" provisions should be introduced in the enabling legislation to prevent SDU owners from initiating pre-emptive rent increase and eviction of tenants prior to the implementation of tenancy control measures, and charging tenants miscellaneous fees and charges which would make it difficult to determine the actual rent level; and</p> <p>(d) which NGOs had been contacted by the Administration with a view to entrusting them with promotion and provision of support under the proposed regulatory regime; and whether they possessed the requisite expertise.</p> <p>The Administration advised that –</p> <p>(a) in selecting NGOs to provide the necessary support, the Administration would consider their visions and missions, track records, experience, and capability to fulfill the task; and</p> <p>(b) the proposed tenancy control measures could achieve the policy objective of providing a reasonable degree of protection for SDU tenants, particularly in respect of the provision of the much needed security of tenure and prevention of unwarranted rent hike, without unduly compromising the interests of the SDU landlords and their property rights. So far, no massive pre-emptive rent hikes had been noticed in the SDU market.</p>	
004338 – 005154	Chairman Mr SHIU Ka-fai Administration	<p>Mr SHIU Ka-fai agreed with TF's recommendation SDU tenancy control to fulfill the basic housing needs of the tenants. He made the following enquiries –</p> <p>(a) rationale for setting the cap on rent increase upon tenancy renewal at 15% and whether there was room for downward adjustment; and</p> <p>(b) given that only 10% of SDUs did not have independent electricity and water meters, what were the reasons for rampant over-charging of such tariffs and charges.</p>	



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		<p>The Administration advised that –</p> <p>(a) as HA was a statutory body with a public mission to provide affordable public housing, direct comparison of its rental policy with the charging practice of SDU landlords who operated in the private housing market on market principles was inappropriate. The TF's recommendation was that the maximum rate of rent increase upon tenancy renewal must follow the movement of the private domestic rental index (all classes) of RVD, and the 15% cap would only be triggered as an additional safeguard if the relevant change in the rental index exceeded 15%. The index recorded a negative biennial change in 9 out of the past 23 years, meaning that the rent of the renewed regulated tenancy had to be adjusted downwards accordingly if the proposed rent control measures were implemented;</p> <p>(b) some independent water/electricity meters were unofficially installed by SDU landlords rather than by the Water Supplies Department ("WSD")/power companies. While the specifications of such meters remained questionable, many SDU tenants were not charged based on the readings from the meters. In fact, they were frequently charged much higher rates for water and electricity than the official rates; and</p> <p>(c) TF had proposed that there should be a mandatory term in the future tenancy agreement of SDUs that the total of the apportioned sums for all tenants in a unit shall not exceed the amount charged in the subject utility bill.</p>	
005155–005828	Chairman Administration	<p>The Chairman made the following remarks/enquiries –</p> <p>(a) the proposed Standard Tenancy Agreement, a four-year security of tenure and a 15% cap on rent increase upon tenancy renewal were acceptable. That said, there was room for further lowering of the cap to 10%. Meanwhile, the Administration should explain more clearly to the public the rent increase mechanism upon tenancy renewal to allay their concerns;</p> <p>(b) what measures would be taken to prevent pre-emptive initial rent hike before the implementation of the proposed tenancy control measures; and</p> <p>(c) what enforcement measures (e.g. conducting spot checks and encouraging tenants to report irregularities) would</p>	

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		<p>be taken to prevent circumvention upon the implementation of the proposed tenancy control measures.</p> <p>The Administration advised that –</p> <ul style="list-style-type: none"> <li>(a) the Administration noted the suggestions to regulate the initial rent of tenancies in order to avoid SDU landlords massively increasing the rent in a bid to counteract the proposed restriction on the rent increase on tenancy renewal. The Administration considered it infeasible to devise an objective and administratively easy mechanism for the purpose of fairly determining the maximum initial rent the landlord might charge in respect of each of the SDUs in Hong Kong;</li> <li>(b) under the future legislation, the TF recommended that an SDU landlord would have to submit tenancy information to RVD within 30 days after entering into the tenancy agreement. This would allow the Administration to compile an official statistical database on the trend of SDU rental levels, which was necessary for the Administration to review the effectiveness of the proposed tenancy control measures; and</li> <li>(c) the Administration would endeavor to draft the future legislation in a manner as foolproof and watertight as possible to prevent circumvention.</li> </ul>	
005829 – 010830	Chairman Mr Tony TSE Administration	<p>Mr Tony TSE made the following enquiries/remarks in respect of the future legislation –</p> <ul style="list-style-type: none"> <li>(a) the proposed scope of regulation;</li> <li>(b) the proposed basic requirement in respect of sanitation and safety of SDUs; and</li> <li>(c) while SDUs should be regulated in future to ensure that they were up to a certain standard, strict enforcement actions should be taken against those SDUs and inadequate/illegal housing which fell outside the scope of regulation.</li> </ul> <p>The Administration advised that –</p> <ul style="list-style-type: none"> <li>(a) the Administration agreed with TF's recommendation that the scope of regulation should be relatively broad in order to cover as many SDUs as possible, and could not be expanded to regulate all kinds of inadequate housing; and</li> </ul>	

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		<p>(b) while there were existing laws governing building and fire safety standards of SDUs, the Buildings Department had issued guidelines on the subdivision of flats. In the future legislation, the TF recommended that there should be mandatory requirements on SDU landlords to keep in repair the interior part of the SDU and keep in proper working order the installations in the SDU for the supply of water and electricity, etc.</p>	
010831 – 011632	Chairman Ms Alice MAK Administration	<p>Ms Alice MAK enquired and the Administration responded on the prevention of pre-emptive initial rent hikes by SDU landlords and the 15% rent increase cap.</p> <p>Ms MAK suggested the setting up of complaint or assistance hotlines on overcharging of miscellaneous expenses by SDU landlords, similar to the hotline undertaken to be set up by the WSD to handle complaints about overcharging of water charges upon the passage of the Waterworks (Waterworks Regulations) (Amendment) Bill 2021.</p> <p>The Administration advised that under the proposed arrangement governing SDU utility charges, the total of the apportioned sums for all tenants in a unit should not exceed the amount charged in the subject utility bill. RVD now operated a general hotline to handle enquiries, and would consider the setting up of a dedicated hotline to handle SDU-related enquiries and complaints.</p>	
011633 – 012435	Chairman Mr Tommy CHEUNG Administration	<p>Mr Tommy CHEUNG said that while the Liberal Party was against tenancy control across all other types of housing units, it was supportive of tenancy control on SDUs. He urged the Administration to submit the relevant Bill to LegCo to allow sufficient time for deliberation. He made the following enquiries –</p> <p>(a) what measures the Administration would take to protect innocent landlord from legal liabilities if it was the head lessor who, without the knowledge or consent of the landlord, made SDUs out of the original premises and sublet them; and</p> <p>(b) whether SDU tenants would be informed of the landlord's intention to regain possession of the premises.</p> <p>The Administration advised that –</p> <p>(a) under the Landlord and Tenant (Consolidation) Ordinance (Cap. 7) ("LTCO"), where a sub-lease existed,</p>	

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		<p>a principal tenant/head lessor would be regarded as a landlord for the purpose of the Ordinance. Under the proposed tenancy control regime, the legal liabilities would rest with the party who signed the lease with the SDU tenant, and that party would also be held responsible for overcharging of utility charges; and</p> <p>(b) under the current LTCO, the landlord was not obliged to inform SDU tenants of his intention to regain possession of the premises. However, under the proposed tenancy control regime, suitable measures would be introduced to protect the interests of the affected tenants. Such measures would include obliging the landlord, when terminating the head lease with the head lessor and regaining possession of the premises, to serve a notice and provide the affected SDU tenants a sufficiently long notice period of 60 days to enable them to look for alternative accommodation.</p>	
012436 – 013003	Chairman Mr Michael TIEN Administration	Mr Michael TIEN reiterated and the Administration noted his views on security of tenure and initial rent.	
013004 – 013514	Chairman Mr Wilson OR Administration	<p>Mr Wilson OR made the following enquiries/suggestions –</p> <p>(a) as the majority (81.9%) of SDUs were located in buildings that were 50 years old or above; and 46.5% of SDUs were located in buildings with no owners' organization and no property management company, whether the Administration would take the opportunity to tackle the sanitation, building and fire safety problems commonly associated with SDUs; and</p> <p>(b) the Administration should continue to look for suitable land for housing development in order to resolve the housing problem in the long run, including taking forward the study announced in 2019 by the Transport and Housing Bureau to explore the feasibility of redeveloping six factory estates of HA for public housing use.</p> <p>The Administration advised that –</p> <p>(a) the departments concerned would continue to enforce regulations governing SDU safety; and</p> <p>(b) relevant guidelines on subdivision of flats and regulatory requirements relating to building and fire safety would be updated as and when necessary.</p>	<p>The Administration to follow up as per paragraph 2(a) of the minutes.</p> <p>The Administration to follow up as per paragraph 2(b) of the minutes.</p>

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013515 – 014324	Chairman Ms Alice MAK Administration	<p>Ms Alice MAK made the following suggestions –</p> <ul style="list-style-type: none"> <li>(a) to avoid massive rent hikes, the Administration should set the maximum initial rent to be charged by SDU landlords. As letting of SDUs was a profitable business, landlord would not exit from the market simply due to the setting of initial rent cap; and</li> <li>(b) SDU tenants should be provided with security of tenure for six years as the average waiting time for PRH was now 5.7 years.</li> </ul> <p>The Administration advised that –</p> <ul style="list-style-type: none"> <li>(a) tenancy control measures might lead to an array of unintended counter-productive consequences, including reducing supply of SDUs, creation of black market and pre-emptive rent hikes;</li> <li>(b) as such, the proposed tenancy control measures should be effective, legally sound and could be implemented swiftly in order to protect the interests of SDU tenants, having regard to the 'need to avoid disproportionately infringing on the private property rights of landlords which were protected under the Basic Law; and</li> <li>(c) concerns had been raised by many SDU landlords that if security of tenure was too long, they would be bound to tolerate bad tenants, making them more selective about their tenants, thereby limiting access to adequate housing by those with unstable financial means.</li> </ul>	
014325 – 014704	Chairman Administration	<p>The Chairman gave the following views –</p> <ul style="list-style-type: none"> <li>(a) the Administration should step up promotion on the objectives of the Bill, including the protection that it would offer to SDU tenants, when the Bill was submitted to LegCo; and</li> <li>(b) collaboration among different Bureaux/Departments ("B/Ds"), including the Security Bureau, Development Bureau, Water Supplies Department, Home Affairs Department and Social Welfare Department, was needed for tackling the various problems facing SDUs, including fire and building safety, sanitation and management issues.</li> </ul>	

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
		<p>The Administration responded that –</p> <p>(a) it would step up publicity efforts for the implementation of the SDU tenancy control measures; and</p> <p>(b) the Undersecretary for Development attended all meetings of TF, and discussed with TF members and other representatives from different B/Ds on issues in addition to SDU tenancy control (e.g. building and fire safety). Such collaboration among different B/Ds would continue in future.</p>	
<b>Agenda item II — Any other business</b>			
014705 – 014807	Chairman	Meeting arrangement	

Council Business Division 1  
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 17 September 2021