

**For discussion
on 25 February 2021**

**Legislative Council Panel on Housing
Subcommittee on Issues Relating to Transitional Housing
and Subdivided Units**

**Work Progress of the Task Force for the Study on Tenancy Control of
Subdivided Units**

Purpose

This paper briefs Members on the latest progress of the study on tenancy control of subdivided units (SDUs).

Background

2. The Government published the Long Term Housing Strategy Annual Progress Report 2020 in December 2020. Based on the trend data from the results of the 2016 By-Census and past thematic household surveys on SDUs, as well as relevant information on the construction and demolition of buildings, the number of households living in SDUs is estimated to be 99 400. Most who live in SDUs are low-income individuals or families. They have to pay heavy rents, and the living conditions of quite a number of SDUs are less than desirable.
3. We fully understand that the fundamental way to solve the issue of housing is to increase continuously the supply of land and housing. On the one hand, the Government will continue to work closely with various sectors in the society to vigorously increase the land supply and expedite the construction of public housing to address the housing needs of low-income families. On the other hand, we are concerned about the situation of SDU tenants. There are views in the society that the Government should implement tenancy control on SDUs so as to better protect the interests of SDU tenants. However, tenancy control is a very controversial subject which requires careful and thorough study before reaching a decision. In this regard, the Transport and Housing Bureau (THB) set up the Task Force for the Study on Tenancy Control of Subdivided Units (the Task Force) on 16 April 2020 to study and report to the Government the situation of SDUs in Hong Kong and advise the Government on whether tenancy control of SDUs should be implemented and/or other possible alternatives.

4. THB previously briefed the Legislative Council Panel on Housing on 1 June 2020¹ about the major scope of work, work plan, and the items discussed at the first two meetings of the Task Force. The paper also informed Members that the Task Force had drawn up three study directions, i.e. to examine the issues relating to tenancy control of SDUs in Hong Kong from the social, economic and legal perspectives and to conduct a relevant survey. The major terms of reference of the Task Force are as follows –

- (a) to examine the current situation of SDUs in Hong Kong;
- (b) to enhance the understanding of tenancy control of SDUs and related issues;
- (c) to review measures relating to tenancy control of SDUs and take into account relevant experiences both in and outside Hong Kong in reviewing and evaluating such measures;
- (d) to study the feasibility of and options relating to the introduction of tenancy control on SDUs, as well as other relevant issues;
- (e) to engage the public in informed discussions on issues relating to tenancy control on SDUs; and
- (f) to gauge the views of different groups of stakeholders.

Work Progress

5. Since its establishment in April 2020, the Task Force has held six meetings. The Task Force has invited representatives of relevant government departments to brief the Task Force on their work relating to SDUs. For example, the Water Supplies Department introduced to members their policies and challenges relating to the installation of separate water meters for SDUs, and how they handled complaints about “over-charging” of water charges. The Buildings Department (BD) briefed members on their procedures in handling unauthorised works found in SDUs and the challenges they faced in taking enforcement action. The Fire Services Department, together with BD, also briefed members on the regulatory requirements on building structure and fire safety as well as their enforcement actions. In addition, the Task Force has invited representatives of the two power companies to talk about their respective measures to support the installation of individual electricity meters in SDUs, and the various challenges they faced in carrying out rewiring works, such as lack of public space, technical constraints, and objections from owners’ corporations or building management offices. Apart from the above, an international organisation has been invited to share the experience and options of implementing tenancy control on grass-root housing in overseas jurisdictions. The meeting summaries of the first five

¹ LC Paper No. CB(1)678/19-20(03)

meetings of the Task Force have been uploaded onto the following website² (https://www.thb.gov.hk/eng/contact/housing/matter_tc.htm) for public information, and set out at Annex 1.

6. In the past few months, despite the COVID-19 pandemic, the Task Force has been pressing ahead with its work to appraise the actual situation of SDUs through various means. Between June and November 2020, the Task Force paid visits to tenants of different types of SDUs in various districts, including Kwun Tong, Kwai Chung, Tsuen Wan, Jordan, Tuen Mun, Sham Shui Po, Cheung Sha Wan, Mong Kok and Prince Edward, and had exchanges with the tenants to learn more about their difficulties. In August 2020, the Task Force held a number of online meetings with a total of over 30 concern groups to gather their views on issues relating to SDUs. Furthermore, on 3 October and 1 November 2020, the Task Force organised an online public form and a physical public forum respectively. Around 120 persons, including SDU landlords and tenants, concern group representatives, Legislative Council and District Council members, etc., participated in the two forums, which were live-streamed at THBHK, the Facebook page of THB. The summaries of views collected at the online meetings with the concern groups and the two public forums have been uploaded onto the same website mentioned above³, and set out at Annex 2 and Annex 3 respectively. Overall speaking, the views collected so far generally considered that the Government should implement tenancy control on SDUs. Amongst them, quite a number suggested that the coverage of tenancy control of SDUs should be relatively broad; the Government should devise and mandatorily require the landlord and the tenant to sign a standard tenancy agreement, which should set out a reasonable notice period for moving out, provide a right for the tenant to renew the tenancy, and stipulate the responsibility of repair/maintenance of the SDU; the Government should restrict the rate of rent increase, enhance regulation of the issue of “over-charging” of water and electricity bills, and establish an SDU rental information platform to make market information more accessible to the general public. Many participants were also concerned about the living conditions and structural safety of SDUs.

7. At the same time, the three dedicated Working Groups set up by the Task Force in July 2020 according to the three study directions set out in paragraph 4 above have held in-depth discussions on the social, economic and legal issues relating to tenancy control of SDUs. The Working Groups have held a total of 14 meetings. Each of them has also appointed an independent scholar or institution to conduct a thematic research on the related field, namely Policy 21 to carry out a survey on the situation of SDUs and the socio-economic characteristics of SDU tenants, and to study the tenancy control of SDUs from the social angle; Professor Terence Chong from the Department of Economics of the

² The meeting summary of the 6th Task Force meeting held on 25 January 2021 would be uploaded shortly.

³ https://www.thb.gov.hk/eng/contact/housing/matter_tc.htm

Chinese University of Hong Kong to study the relevant issues from the economic perspective; and a team from the Faculty of Law of the University of Hong Kong (HKU), comprising Professor Malcolm Merry, Mr Alwin Chan and Professor Adrian But, to study the legal issues involved. The thematic researches on the legal and economic aspects have been largely completed, which have reviewed the background and past measures of tenancy control in Hong Kong, evaluated the experience of enforcing tenancy controls in overseas jurisdictions including the United Kingdom, the United States, Australia and Europe, highlighted issues that have to be considered if tenancy control of SDUs is to be introduced in Hong Kong now, analysed the feasibility and possible consequences of different policy options, and put forward recommendations for consideration by the Task Force. Meanwhile, the social research and the associated survey have been slightly delayed by the pandemic and we estimate that they can be completed within this month.

Observations of the Task Force

8. Following the work in the past months, the Task Force has obtained a deeper understanding of the current situation and problems being faced by SDU tenants, as well as the views of different stakeholders and members of the public on introducing tenancy control of SDUs in Hong Kong. The Task Force agrees that the following key guiding principles should be taken into account when looking into whether tenancy control of SDUs should be implemented in Hong Kong and considering the possible options –

- (a) As advised by the team of the Faculty of Law of HKU commissioned by the Task Force to undertake the legal study, whilst Hong Kong has had relatively strict forms of tenancy control in the past, the Hong Kong Bill of Rights Ordinance (Cap. 383) came into force in Hong Kong on 8 June 1991. Since 1 July 1997, the Basic Law has also offered clear protection of private property rights. New tenancy restrictions imposed after acquisition by an owner might be found to be an infringement of or a derogation from an owner's property rights and be held by the court as contravention of the Basic Law, unless such measures would not disproportionately infringe on the private property rights of landowners whilst protecting the interests of SDU tenants.
- (b) Despite the fact that the living conditions of quite a number of SDUs are less than desirable, SDUs do provide basic accommodation for some low-income individuals and families pending the availability of sufficient public and transitional

housing to meet their housing needs. The objective of the Task Force is to study whether tenancy control of SDUs should be implemented in Hong Kong, not to displace SDUs. Having said that, SDUs should continue to be subject to regulation under various legislation governing their building and fire safety as well as sanitation, etc.

- (c) As highlighted in the 2014 Long Term Housing Strategy, tenancy control measures might lead to an array of unintended consequences, some of which might be unfavourable to the tenants originally intended for protection. For example, any measure seeking to artificially suppress the rentals of SDUs to levels which are substantially below their market rents, apart from being susceptible to legal challenge as mentioned above, would likely reduce the incentive and willingness of landlords to lease out their premises, possibly resulting in a drastic reduction in the supply of SDUs which would in turn drive up rentals and displace the most vulnerable SDU tenants to even poorer living conditions.

In particular, it is worth special attention that SDU landlords would very likely take “pre-emptive” actions, such as immediate rent increase and eviction of tenants, before the formal implementation of tenancy control measures. Unfortunately, it appears that there is no available legal tool to forestall such pitfalls, such as imposition of a temporary rent freeze before the enactment of the relevant legislation. And even if the legal issues could be resolved, practically given that quite a number of SDU tenancies are oral tenancies, the SDU rentals may include miscellaneous fees and charges which make it difficult to determine the actual rent level, and the landlords can terminate the tenancies within a short period of time, implementation of a temporary rent freeze is hardly feasible.

- (d) Currently, sub-letting in the SDU market is prevalent. The head landlord may sub-let SDUs through a head lessee under his control, and destroy all leasehold interests created under a sub-lease by terminating the head lease, thereby creating difficulties in enforcing tenancy control, particularly security of tenure.
- (e) If tenancy control of SDUs is to be enforced, the Government should consider adopting measures which are more legally sound and relatively easier to administer, can be implemented speedily, whilst bringing real protection for SDU tenants. In addition,

with the Government making its best endeavours to increase the supply of public and transitional housing, including striving to achieve the target of providing 15 000 transitional housing units in three years' time (2020 to 2023), the issue of SDUs should be gradually ameliorated in the future. Therefore, a sunset clause might be considered for any tenancy control measure.

9. Overall, in light of the discussions in the past few months and having made reference to the draft reports of the three thematic researches, the Task Force considers in principle that the Government should implement suitable tenancy control on SDUs to safeguard the interests of grass-root tenants of SDUs, whilst carefully balancing the interests between landlords and tenants. Based on the discussions so far, the Task Force has a relatively clear consensus that a standard tenancy agreement for SDUs should be devised, which should, *inter alia*, set out the rights and obligations of both the landlord and the tenant, the term and period of tenancy, rent, notice period for early termination of tenancy, the arrangements concerning electricity and water charges and other miscellaneous charges. As regards the tenants' right to renew the tenancy, the Task Force has to further discuss and deliberate on whether a certain degree of security of tenure should be offered to SDU tenants and whether some form of regulation should be enforced on the rate of rent increase upon tenancy renewal, etc, as well as the possible options. Furthermore, the Task Force is of the view that some SDU tenants may fall easy prey to "exploitation" due to inadequate rental market information. The Task Force will continue to explore ways to enhance the availability of information relating to rental of SDUs, so as to help grass-root tenants acquire a better knowledge of the respective rights and obligations of the landlord and the tenant, and secure a more reasonable rent level.

Views of Panel Members

10. The Transport and Housing Bureau, in conjunction with Dr William Leung, Chairman of the Task Force, reported the progress of the work of the Task Force and listened to Members' views and proposals on tenancy control of SDUs at the meeting of the Legislative Council Panel on Housing on 1 February 2021⁴. In general, Members supported the introduction of tenancy controls on SDUs in Hong Kong as early as possible in order to protect the interests of grass-root tenants living in SDUs, whilst recognising the need for the Government to carefully balance the interests of SDU landlords and tenants in the process. In this regard, Members considered that it is necessary to mandate a standard tenancy agreement for SDU tenancies, which should, amongst others, prohibit overcharging of utility bills, and set out when the deposit would be returned by the landlord to the tenant upon the latter's vacation of the premises. In addition,

⁴ LC Paper No. CB(1)504/20-21(06)

the Government should provide SDU tenants with security of tenure whilst allowing flexibility for SDU tenants to quit a tenancy if needed, and regulate the level of rent increase in between tenancies. A Member further requested the Government to take into account the prevalence of SDUs being subletted when designing the tenancy control measures so that they would be effective in providing the intended protection to SDU tenants.

11. On the scope of regulation, a Member suggested that it should be wide enough to cover SDUs in industrial buildings so that the tenants living therein, who may be even more vulnerable than those living in SDUs in normal domestic buildings, may be offered the necessary protection. A Member requested that cage homes be included, whilst another Member proposed that SDUs above a certain rateable value might be excluded.

12. Some Members asked whether the safety and sanitation problems pertaining to SDUs would be addressed in the current exercise so as to improve the living conditions of SDU tenants. A Member further suggested that an inter-departmental task force be set up to deal with the water seepage problem of SDUs. In response, the Government indicated that the current study focuses on regulating the tenancy arrangements between SDU landlords and tenants, while the relevant Government departments would continue to enforce existing regulations governing various aspects of SDUs, including their fire and building safety as well as sanitation, etc., as appropriate.

13. Members urged the Government to start the relevant legislative drafting work pending the completion of the study of the Task Force so that the bill could be introduced into the Legislative Council for scrutiny as early as possible within the current legislative session. On the future enforcement of the new legislation, a Member suggested that resources for the Lands Tribunal and the Rating and Valuation Department should be increased. As regards the suggestion to enhance the rental market information to SDU tenants, a Member considered that the Home Affairs Department, with its strong district network, should be responsible for setting up and running the relevant platform.

Next Steps

14. Tenancy control of SDUs is a very complicated and an extremely controversial subject, which requires careful and thorough study. We must also consider the practical operational issues, and be mindful of the possible unintended consequences, notably, SDU landlords would very likely take “pre-emptive” actions, such as immediate rent increase or eviction of tenants, before the formal implementation of tenancy control measures.

15. The Task Force originally aimed to complete the study by the first half of 2021. It is now working in full steam and aims to advance the completion of the study and submit the report to the Government by end March 2021. Upon receipt of the report, the Government will actively consider its recommendations and the views of Members with a view to introducing the bill into the Legislative Council for scrutiny as early as possible within the current legislative session.

Advice Sought

16. Members are invited to provide views on the content of this paper.

**Transport and Housing Bureau
February 2021**

Task Force for the Study on Tenancy Control of Subdivided Units

1st Meeting Summary

1. The first meeting of the Task Force for the Study on Tenancy Control of Subdivided Units (the Task Force) has been held on 29 April 2020 at the Central Government Offices.
2. The Task Force agreed the scope of work as follows –
 - (a) to review the Government's previous study on subdivided units in 2013 under the work of the Long Term Housing Strategy;
 - (b)
 - (i) to examine the current situation of subdivided units in Hong Kong;
 - (ii) to enhance understanding of tenancy control of subdivided units and related issues;
 - (iii) to review measures relating to tenancy control of subdivided units and take into account experiences both in and outside Hong Kong in reviewing and evaluating such measures;
 - (iv) to study the feasibility of and options relating to the introduction of tenancy control on subdivided units, as well as other relevant issues;
 - (v) to engage the public in informed discussion on relevant issues relating to tenancy control on subdivided units; and
 - (vi) to gauge views of different groups of stakeholders; and
 - (c) to report to the Government and advise on the situations of subdivided units in Hong Kong, including whether tenancy control of subdivided units and/or any other alternatives should be considered.
3. The Task Force discussed and outlined the work plan. The Task Force planned to convene at least eleven meetings and the work plan comprises roughly three stages. In the first stage, the Task Force will seek to comprehensively appraise the actual situation of subdivided units through on-site visits and meetings with concerned parties. In the second stage, public forums will be organised to gauge views of the community. If feasible, the Task Force may also conduct interviews and pay visits outside Hong Kong. In the third stage, analysis, synthesis and conclusion of the feasibility of and options relating to the introduction of tenancy control on subdivided units will be undertaken so as to prepare a final report for reporting to the Government.

4. At the meeting the Task Force agreed on the appointment of consultant to assist the work of the Task Force and initially proposed the commissioning of three studies in the following areas relating to tenancy control –
 - (a) fact finding and social aspects;
 - (b) economic aspects; and
 - (c) legal aspects.

Task Force for the Study on Tenancy Control of Subdivided Units

2nd Meeting Summary

1. The second meeting of the Task Force for the Study on Tenancy Control of Subdivided Units (the Task Force) was held on 28 May 2020.
2. The Task Force has appointed an administrative consultant to support and assist the Secretariat in its administrative work and to execute project management for the Task Force.
3. The Task Force reviewed the Government's past studies and surveys on subdivided units (SDU), i.e. the study on SDU conducted in 2013 under the work of the Long Term Housing Strategy, the *Thematic Household Surveys on Housing Conditions of Subdivided Units in Hong Kong* carried out by the Census and Statistics Department in 2015 and 2016, and the *Thematic Report on Persons Living in Subdivided Units* compiled under the 2016 Population By-census.
4. The Task Force expressed particular concerns in the following areas, and believed that the proposed research should cover issues in this connection:
 - (a) the background of tenants in SDU and whether they are Comprehensive Social Security Assistance (CSSA) recipients;
 - (b) the ratio of the SDU rental to the tenants' aggregate household income;
 - (c) any tenancy agreements signed with the SDU tenants and whether they are stamped;
 - (d) water and electricity charges for SDU and the issue of overcharged water and electricity;
 - (e) the mobility of SDU tenants;
 - (f) the living conditions and environment of SDU in industrial buildings; and
 - (g) the developmental / production processes of SDU.

5. To the extent permitted by time and available resources, the Task Force wished to expand its study scopes as widely as possible to involve different types of inadequate housing. Decision about which type of SDU to be dealt with could be subject to separate discussion. The Task Force understood that studying SDU in industrial buildings faced considerable difficulties, and hoped that the research agent could tackle the issues and suggest on effective sampling in this regard.

6. In June, the Task Force would conduct field studies and visit SDU tenants in various districts. In July, the Task Force would arrange to meet concerned groups in order to listen to different stakeholders' views.

Task Force for the Study on Tenancy Control of Subdivided Units

3rd Meeting Summary

1. The third meeting of the Task Force for the Study on Tenancy Control of Subdivided Units (the Task Force) was held on 13 July 2020.
2. The representatives of the Fire Services Department and the Buildings Department briefed the members on subdivided units (SDUs) related issues, including the fire safety standards, the relevant measures to ensure the safety of the residents and the enforcement actions against unauthorized building works of SDUs.
3. The representatives of the Water Supplies Department (WSD) briefed the members on the policies, measures and challenges related to the installation of separate water meters for SDUs. The WSD launched the smart water meters programme. The advantage of smart water meter is that it does not require to identify a space in communal area for installation and can minimize the need to alter the internal water supply system. However, due to various reasons, there has been no successful case of the installation of separate smart water meter for SDU.
4. The representatives of the CLP Power Hong Kong Limited (CLP) briefed the members on the installation of separate electricity meters and equipment enhancement measures for SDUs to alleviate tenants' electricity expenses burden. CLP faced challenges on rewiring works, including technical constraints and objections from the owners' corporations and/or building management offices.
5. The representative of the Rating and Valuation Department briefed the members on the rates system of Hong Kong, especially issues related to SDUs.
6. The administrative consultant reported the site visits to SDUs conducted by the Task Force in June and the relevant observations. The Task Force had face-to-face dialogues with tenants' families of various types of SDUs in five districts in June.

7. Based on the observation from the site visits, the Task Force noted three types of issues: (1) at the legal level, tenants face the issues of tenancy agreements, tenants' rights and tenancy renewal; (2) at the living condition level, tenants face the issues of rodent infestation, hygiene, small living space and security; and (3) at the economic level, tenants face the issues of rent level, rent increases, water and electricity rates and other miscellaneous charges (e.g. agency fees, deposits). The Task Force will continue to conduct site visits to various types of SDUs and SDUs in other districts, and will conduct meetings with concerned groups in July in order to listen to the views of different stakeholders.
8. The Task Force has set up three working groups, namely the Working Group on Living Conditions, the Working Group on Economic Aspects and the Working Group on Legal Aspects. It would elevate the efficiency of the discussions and expedite the overall progress of the Task Force, and facilitate in-depth study of relevant issues related to the tenancy control of SDUs through appointment of research institutes.
9. The Task Force agreed to cancel the overseas visit to study SDUs outside Hong Kong due to the development of COVID-19.

Task Force for the Study on Tenancy Control of Subdivided Units

4th Meeting Summary

1. The fourth meeting of the Task Force for the Study on Tenancy Control of Subdivided Units (the Task Force) was held on 4 September 2020.
2. As reported by the administrative consultant, the Task Force engaged 37 concern groups via 14 online meetings held in August and had a better understanding about their areas of concerns on tenancy control of subdivided units (SDU).
3. The representative of the Buildings Department briefed members about the department's procedures in handling unauthorized works commonly found in SDU under the Buildings Ordinance, including inspections, issuance of removal orders, prosecution, enforcement of closure orders, and liaising with relevant departments to provide assistance to the affected households. The representative also shared about the challenges when conducting the department's law enforcement operations.
4. The representatives from the Water Supplies Department briefed members on the investigation procedures in handling complaints about overcharging of water rates. Due to the limits of the statutory power and the ability to investigate and search evidence, the department encountered certain difficulties in prosecution. The representatives indicated that they would consider amending the ordinance, with a view to increasing the chances of successful prosecution and achieving the resultant deterrent effect.
5. The representatives of The Hongkong Electric Company Limited briefed members about the details and effectiveness of the three subsidized programmes for SDU tenants under its "Smart Power Care Fund", namely "SDU Rewiring Subsidy Programme", "SDU Electricity Charges Relief Programme" and "Energy-efficient Appliances Subsidy Programme". The representatives further explained that SDU households would be provided with individual tariff meters free of

charge under the "SDU Rewiring Subsidy Programme". However, they were facing many difficulties in taking forward the programme, for example, the rewiring work involved public areas, the worries of owners' corporations and the landlords' willingness to disclose their identities or not, etc. Therefore, the number of participants under the programme was less than expected.

6. The administrative consultant reported the progress of the three thematic researches. The Task Force had separately appointed three independent institutions to conduct researches of SDU related issues, including Policy 21 on fact finding and social aspects; Professor CHONG Tai Leung, Department of Economics of the Chinese University of Hong Kong, on economic aspects; and the team from the Faculty of Law of the University of Hong Kong (led by Professor Malcolm Merry, Mr. Alwin Chan, and Professor Adrian But) on legal aspects. All the three studies have been launched as scheduled. The sampling method and questionnaire content for the SDU survey submitted by Policy 21 were broadly agreed by the Working Group on Living Conditions (WGLC) after detailed discussion, with a wider coverage of SDU in this study, including rooftop structures, "capsule-like" apartments, bedspace apartments and cubicle apartments. The current epidemic situation might affect the programme of the survey and the WGLC would closely monitor the progress.
7. The Secretariat reported the progress of public forum preparation works and some special arrangements as a result of the current epidemic situation. The Secretariat also informed members about the impending visit to some non-ethnic Chinese SDU households in Sham Shui Po district and the arrangement of the next visit to SDU households living in industrial buildings.

Task Force for the Study on Tenancy Control of Subdivided Units

5th Meeting Summary

1. The fifth meeting of the Task Force for the Study on Tenancy Control of Subdivided Units (the Task Force) was held on 17 November 2020.
2. The representatives of Habitat for Humanity Hong Kong briefed members about the tenancy control options and respective principles of different countries (including Belgium, Poland, India, Chile, the Philippines, the United States of America (USA) and South Africa). The representatives reiterated that each option had its own challenges due to individual local situations, and reflected that there were different successful tenancy control models in individual jurisdictions, and the shared cases might not be applicable directly to the subdivided units (SDUs) in Hong Kong.
3. The Task Force held two public forums on 3 October (Saturday) and 1 November 2020 (Sunday) to listen to the public concerns and opinions on the tenancy control of SDUs. The administrative consultant presented a summary report about the forums. After conducting the two public forums, the Task Force had a better understanding about the topics and key areas of public concerns.
4. The administrative consultant reported the progress of the three thematic researches. For the research on fact finding and social aspects, Policy 21 submitted the pilot report and the interim report on 25 September and 22 October 2020 respectively. It was scheduled to submit the preliminary report in December 2020 and the draft final report by late January 2021. For the research on economic aspects, Professor CHONG Tai Leung of the Department of Economics of the Chinese University of Hong Kong submitted the interim report on 5 October and would submit the draft final report in late November 2020. The team from the Faculty of Law of the University of Hong Kong submitted the interim report of the legal aspects research on 16 October 2020 and planned to submit the draft final report in December 2020.

5. The economic aspects research provided analysis from an academic perspective, comparing the tenancy control experience of different countries and taking into consideration the unique background and characteristics of Hong Kong. It provided some objective recommendations for the Task Force's consideration. The legal aspects research has been very thorough. Apart from comparing the experiences of different countries such as the United Kingdom, the USA, Australia, and Europe, it also reviewed the historical tenancy control measures of different eras in Hong Kong. The research also provided a list of short, medium and long-term recommendations. The fact finding and social aspects research was currently at the stage of conducting questionnaire surveys and interviews, and the research progress went fairly smooth. Having said that, the research also faced some challenges, such as the feasibility to gain access into the units for interviews during the pandemic. The surveys of commercial buildings and industrial buildings would also be carried out very soon.
6. The Task Force would further deliberate and analyse the findings and recommendations of the research reports, with an aim to complete its report as soon as possible and submit the recommendations to the Government for consideration.
7. The Secretariat presented a report about the motions relating to tenancy control issues passed by the concerned district councils and views of tenancy control received from the general public and non-governmental organisations through various channels for members' reference.

Task Force for the Study on Tenancy Control of Subdivided Units

Summary of Meetings with Concerned Groups

1. The Task Force for the Study on Tenancy Control of Subdivided Units (Task Force) held 14 meetings with 37 concerned groups (CG) in August 2020. The meetings were held online in view of the social distancing requirement arising from the pandemic.
2. Through the meetings, the Task Force gained an understanding of the current subdivided units (SDU) situation in Hong Kong, and collected views from the CG which are highlighted as follows:
 - (i) **Scope of SDU tenancy control:** The CG pointed out that there are numerous and a wide variety of SDU in Hong Kong. Tenants face the issues of unfair terms or absence of tenancy agreement, ambiguity of rights and responsibilities in regard to maintenance, overcharge of water and electricity fees, unreasonable eviction, etc. CG said that the scope of the tenancy control in regard to SDU type should be as broad as possible and recommended that the Government should take reference from the Community Care Fund and cover all SDU types, including suites, bed spaces, cubicle apartments and temporary structures (e.g. huts, squatters, and rooftop structures), as well as those in non-residential buildings (e.g. industrial buildings and commercial buildings). This would protect grassroots living in rooftop structures and industrial buildings.
 - (ii) **Standardized tenancy agreement:** CG flagged up that the rights of the tenants are not currently safeguarded as the provisions of the tenancy agreement, if any, is not clear enough and many landlords refuse to sign tenancy agreement with tenants. To balance the interest between the tenant and the landlord, the CG recommended the Government to formulate a legally binding tenancy agreement with standardized, clearly spelt out terms including an evacuation notice of at least three months, an option to renew the existing tenancy for incumbent tenants, a stamp duty waiver for SDU tenancy agreements, etc.

- (iii) **Rental control:** CG believe that the absence of tenancy control leads to a relatively lower bargaining power of SDU tenants vis-à-vis the landlord, thus their rights to adequate housing cannot be safeguarded. SDU rentals have increased significantly over the years, at rates with which the pay rises could not keep up. It is therefore necessary to implement tenancy control to regulate the frequency and rate of increase for SDU rental. It was recommended that the Government set a ceiling for the start-up rental to avoid any significant surge in rental as and when tenancy control is implemented. Some CG proposed a rental adjustment mechanism in which rentals can go up or down.

- (iv) **Overcharge of water and electricity fees:** CG said that SDU tenants are often overcharged by their landlords or agents for the use of water and electricity, and tenants would not report to the authority in fear of eviction. They recommended that, apart from providing SDU tenants with water and electricity subsidies, the Government should stipulate that landlords have to install separate official water and electricity meters for each SDU to allow the tenants to pay the Water Supplies Department and electricity companies directly. Moreover, the Government should step up enforcement actions to root out the problem.

- (v) **Rights and responsibilities on maintenance:** It is the CG's view that many tenants face structural safety issues even with proper rental payment to their landlords because of the ambiguous provisions of the law in regard to the repair and maintenance of the properties. They suggested the Government to consider mandating maintenance responsibilities for SDU, and only allow landlords to rent out safe units.

- (vi) **Public health:** CG found tenants generally suffering from environmental hygiene problems within and outside their units and called on the Government to resolve them.

- (vii) **The structure and safety of SDU:** CG opined that many SDU tenants are living in buildings with water leakage or seepage, spatter dash and loose and aging concrete. They urged the Government to pay attention to the aging problem of the buildings and the structural problems of SDU.

- (viii) **Removal and rehousing arrangement:** CG said that some landlords would harass tenants with illegal tactics to repossess the units after receiving removal orders. They proposed that the Government should strengthen regulatory actions and urge landlords to strictly comply with the relevant legal requirements/procedures when getting back the properties and to notify the tenants as early as possible. CG also recommended that the Government should enact new laws and policy to safeguard the rights of tenants and rehouse those affected.

- (ix) **Regulatory mechanism:** CG called on the Government to establish an independent arbitration mechanism to resolve rental disputes and balance the rights of SDU tenants and landlords as the current regulatory mechanism proves insufficient and ineffective. The independent mechanism/platform also allows gathering and updating of SDU related information so that the general public can access easily to the market information of rental SDU.

- (x) **Other matters:** CG called on the Task Force to look into the special needs of non-ethnic Chinese living in SDU. They hoped that the Task Force would meet CG and SDU families again before the study report is published. They also recommended the Government to improve the living conditions of SDU through providing low-interest loan or subsidy to landlords for improvement works, or through non-governmental organizations to improve the SDU up to the standard of transitional housing.

Task Force for the Study on Tenancy Control of Subdivided Units

Public Forum Report Summary

1. The Task Force for the Study on Tenancy Control of Subdivided Units (the Task Force) held an online and a physical public forum on 3 October and 1 November 2020 respectively.
2. Due to the pandemic, the public forum on 3 October 2020 was held at online basis. During the three-hour forum, the Task Force received a total of 24 incoming calls.
3. On 1 November 2020, the physical public forum was held at the Mong Kok Community Hall. A total of 135 persons have registered for attending the forum, however, due to anti-epidemic measures with restricted seating capacity, only 110 registrations were accepted and 92 persons attended the forum on the day. There were 65 question cards received from the participants at the forum, of which 42 cards were drawn and presented by the participants in person during the forum. The views as set out in the remaining undrawn cards had been consolidated for reference of the Task Force. In addition, the Task Force received six petitions from 13 concerned groups (including joint petitions).
4. Both public forums were live-streamed at THBHK, the Facebook page of Transport and Housing Bureau. There were 133 and 67 comments received during the Facebook Live, and the number of views were over 2,700 and 2,400 times respectively (as at 16 November 2020).
5. Members of the public may also share their views with the Task Force through hotline, Whatsapp, WeChat, text messages or email. So far, a total of 19 messages were received up to 16 November 2020.
6. The views collected from the two public forums were summarized below :
 - i) **Scope of tenancy control for subdivided units** : There were views that the tenancy control for subdivided units (SDU) should include all types of inadequate housing, such as rooftop structures, cubicle apartments and SDU in industrial buildings.

- ii) **Standardized tenancy agreement** : There were views that the Government should formulate a standard tenancy agreement, regulating the landlord and tenant to sign the agreement and pay for the relevant stamp duty. The tenancy agreement should set out the landlord's repair/maintenance responsibilities, the charging basis for electricity and water fees, a reasonable removal/eviction notification period and the provision of security of tenure for tenants.
- iii) **Rental control** : There were views that as the relationship between landlord and tenant was unequal, the bargaining power of tenants was low. The Government was suggested to restrict the initial rent and the rate of rent increase. It was also suggested to provide rental subsidy for SDU tenants and establish a transparent rental platform for information sharing.
- iv) **Overcharge of water and electricity fees** : There were views that the Government should enhance the regulatory work on the overcharging problem of water and electricity bills.
- v) **Rights and responsibilities on repair/maintenance** : There were views that the landlords should be responsible for the repair/maintenance and the removal of any unauthorized building works of the units.
- vi) **Public health** : There were views that the living conditions of SDU were very poor, where the sound insulation was low, and with no provision of separate toilets and kitchens. There were frequent hygienic issues like rodent infestation and water seepage, which were affecting tenants' physical and mental health.
- vii) **The structure and safety of SDU** : There were views that the Government should arrange professional to inspect the units to ensure the living quality and safety of the tenants, as well as to minimize the risk of electrical leakage and fire.
- viii) **Removal and rehousing arrangement** : There were views that tenants who are required to move out due to redevelopment or property acquisition should be compensated and rehoused.

- ix) **Regulatory mechanism** : There were views that the Government should establish a statutory body or a high transparency regulatory organization to regulate the rent level in the market and handle any violations. It should also impose the property vacancy tax and increase the stamp duty to offset the impact of tenancy control to the market.

- x) **Other matters** : There were views that the lack of tenants' representative in the Task Force was unfair and members with potential conflict of interest should abstain at voting stage. For those SDU tenants living in the industrial buildings, many of them were unable to provide address proof and hence they could not secure any social assistance. It was recommended that the Task Force should attend District Councils' meetings and hold additional public forums for exchange of views. In addition, it was suggested that landlords' interest should be put into consideration at the same time.