

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

Response on Inadequate Housing

In response to the views and concerns on inadequate housing raised by deputations and individuals, we set out below a consolidated reply on various major issues.

Transitional Housing

Best use of vacant lands and premises, and hotels and guesthouses with relatively low occupancy rates

2. Since it takes time to identify land for housing construction, the Government will facilitate the implementation of various short-term initiatives to increase the supply of transitional housing as a means to alleviate the hardship faced by families awaiting public rental housing for a long time and the inadequately housed. The Task Force on Transitional Housing (Task Force) has been looking for different means in providing transitional housing, including construction on vacant lands, or converting vacant premises to transitional housing.

3. To make the best use of land resources, the Lands Department publishes on its "GeoInfo Map" website the information on vacant government sites which are available for application by non-governmental organisations (NGOs) for use by short-term tenancy. The Government Property Agency has also provided on its website a list of surplus government properties managed by different departments for reference by the public. The Transport and Housing Bureau also publishes on its website the information on vacant government sites or premises that can be used for transitional housing for application by NGOs.

4. In addition, the Government will implement a pilot scheme to subsidise the provision of transitional housing through NGOs using suitable rooms in hotels and guesthouses with relatively low occupancy rates.

Compliance with relevant legislations, regulations and temporary use period, and more incentives for leasing out vacant premises

5. In general, all transitional housing projects, including school conversion projects, shall comply with the relevant legislations and regulations. As stipulated in the Notes of the Outline Zoning Plans (OZPs) in the urban and new town areas, temporary uses of any land or building for five years or less are always permitted as long as they comply with other relevant legislations, the conditions of the lease and any other government requirements. The Town Planning Board's (TPB) permission is still required for transitional housing for not more than three years in the rural areas unless the use is permitted in the Notes of the relevant zone, following the provisions as set out in the Notes of the OZPs for the rural areas. Besides, the TPB announced on 26 Nov 2018 that it had agreed for transitional housing co-ordinated by the Task Force in permanent buildings in the urban and new town areas, it can be regarded as for temporary use which is always permitted under the OZP if it is for a period of five years or less. Therefore, the transitional housing projects are normally expected to be in operation for not less than three years. Obtaining TPB's permission is a statutory procedure. The Task Force will proactively assist the NGOs subject to compliance with the relevant legislations and regulations.

6. Should the proposed tenancy period of a transitional housing project exceed five years, application to TPB would be required if the transitional housing use is not always permitted or the proposed development parameters exceed the limits under the relevant OZP. Such application may affect the implementation programme and will be considered on individual project basis. For tenancy agreement with duration exceeds three years, a lease is required in accordance with Section 4(1) of the Conveyancing and Property Ordinance (Cap. 219). This has to be created by deed and must follow the formal procedure for a deed's execution. According to Section 3 of the Land Registration Ordinance (Cap. 128), all tenancy agreements shall be registered at the Land Registry. As transitional housing is temporary in nature, each term of the tenancy period will be not more than three years. Extension of the tenancy could be considered if necessary.

7. Regarding the suggestion that the Government should provide incentives to the owners of vacant premises such as concession on Government rent, rates and profits tax, etc., we will continue to study any viable incentives subject to compliance with the relevant legislations and regulations so as to encourage owners to convert their vacant premises to transitional housing.

8. The Task Force will provide advice and proactive assistance to the project proponents, i.e. the eligible NGOs, on administrative or statutory procedures as appropriate to facilitate early completion of the proposed transitional housing projects.

Provision of ancillary facilities and social services

9. The Task Force will seek advice from the relevant Government departments at project feasibility study stage, taking into account any impact of the projects on the surrounding environment, transport, infrastructure and community facilities. Interdepartmental meeting will normally be held to consider the ancillary and associated facilities required for the projects. Such consideration (for example, the traffic impact assessment) also forms part of the procedure in application for TPB's permission mentioned in paragraph 5. The project proponents will conduct local consultation to obtain views from stakeholders. For those relatively large-scale projects which lack supporting communal facilities in the vicinity, the project proponents may consider the provision of ancillary buildings and facilities to support the tenants' daily lives.

10. "Cross-sector collaboration" is one of the features of transitional housing. From project inception to implementation, such initiatives are rolled out under the active facilitation of the Government and close collaboration between the NGOs and the Government. Apart from exercising flexibility in utilising social resources for the provision of various types of transitional housing for the community, participating NGOs can provide appropriate support for residents according to their needs. In addition to the active participation of the Government, we will continue our communication with the NGOs and make use of the potential and resources in the community outside the Government to offer flexible and multiple social services.

Assessment of funding applications and continuous efforts to achieve the target

11. The Funding Scheme to Support Transitional Housing Projects by Non-government Organisations (Funding Scheme) has approved projects involving over \$2.6 billion since its establishment in June 2020. The Assessment Committee of the Funding Scheme will assist in vetting applications and overseeing the implementation of the transitional housing projects. The Assessment Committee is expected to look into the experience and capability of the applicants in addition to the technical, financial and social aspects of the proposed projects.

12. As at February 2021, the Government has already identified lands for the provision of about 14 000 transitional housing units by 2022-23. The Task Force has facilitated a number of transitional housing projects proposed and operated by the NGOs and will make continuous efforts to achieve the target of providing a total of 15 000 units within three years through optimal use of short-term idle lands and premises.

Tenancy Control on Subdivided Units (SDUs)

13. The Transport and Housing Bureau (THB) set up the Task Force for the Study on Tenancy Control of Subdivided Units (the Task Force) in April 2020 to study and report to the Government the situation of SDUs in Hong Kong and advise the Government on whether tenancy control on SDUs should be implemented and the possible options. In light of the discussions in the past few months and having made reference to the thematic researches conducted by independent persons/institution appointed by the Task Force, 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. 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.

Regulating “over-charging” of water and electricity bills by SDU landlords

14. Regarding the “over-charging” of water and electricity bills by SDU landlords, it would be most ideal if individual water and electricity meters could be installed in the SDUs. The Water Supplies Department (WSD) and the power companies have all along been providing relevant assistance. However, in practice, it may not be feasible due to technical constraints or failure to obtain the consent of the relevant owners’ corporation or building management office. Nevertheless, the Task Force recommends to deal with the “over-charging” of water and electricity bills by the landlord through inserting a term in the standard tenancy agreement. Some possible options might include mandating the landlord to provide the tenant with a copy of the water or electricity bill and a breakdown of the apportioned sums for all SDU tenants in the unit when requesting reimbursement of water and electricity charges from the tenant. The total of the apportioned sums shall not exceed the amount charged in the utility bill concerned.

As regards how to apportion water and electricity charges in a fair manner, the Task Force will take into account the views of the public and the actual situation and make recommendation to the Government. Furthermore, the WSD has earlier conducted public consultation on the review of the Waterworks Ordinance, including consulting the public on whether they agree that the registered consumer should only be allowed to recover from the occupier of the premises the water charge paid to the WSD for water consumption but not any other costs. Hon Alice Mak has also proposed to introduce a private Member's Bill on a similar proposal. The suggestion is consistent with the Task Force's study on the way to regulate how the SDU landlord may request reimbursement of water charges from the tenant.

15. Regarding the suggestion to provide subsidies for SDU tenants on water and electricity charges, we understand that the two power companies have been providing electricity subsidies to eligible households living in SDUs. Each household is entitled to \$600 per year.

Rent control and security of tenure for tenants

16. On rent control, there is suggestion to devise a standard method for calculating the "initial rental" with a view to restricting the level of rent the SDU landlord may charge on new tenancies. It is extremely difficult to formulate an objective and reasonable calculation method which is relatively easy to administer and acceptable to both the landlord and tenant. In fact, even within the same unit, the rental of each SDU is affected by various factors, such as its size, orientation, lighting/ventilation, noise level, whether there is any independent kitchen or toilet, the facilities provided by the landlord in the SDU, the sanitary and repair conditions of the SDU, etc. Therefore, it is not quite feasible to formulate a standard method for individually determining the "initial rent" for each of the over 100 000 SDUs in Hong Kong through legal or administrative means. It is envisaged that this will create a lot of disputes between the landlord and tenant.

17. There are views suggesting that the rate of rent increase of SDUs should be based on Consumer Price Index (A) and SDU landlord may only adjust the rental in accordance with inflation once every three years. The Task Force is still looking into this issue. The guiding principle is that the relevant measure would not disproportionately infringe on the private property rights of SDU landlords and we must be mindful of the possible unintended consequences which may 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 levels or making SDU landlords unable to obtain a reasonable return would likely reduce the incentive and willingness of

landlords to lease out their premises, possibly resulting in a 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.

18. Many views received suggest that SDU tenants should be provided with security of tenure. If the landlord would like to repossess the premises, they have to prove that it is for self-occupation/self-use. Also, only the tenant would have the right to terminate the tenancy during the tenancy period. The Task Force understands that many SDU tenancies are now in the form of periodic tenancies or oral leases. The landlord can evict the tenant within a short period of time, which is undesirable. The relocation costs involved as well as the payment of rental deposit to the new landlord will also add burden to the tenant. That said, the security of tenure is a very complex issue which requires careful balancing of the interests of the landlord and tenant. The Task Force still needs to further deliberate on this and the possible options.

Scope of regulation

19. On the scope of regulation, apart from SDUs located in domestic premises, there is suggestion that it should also cover SDUs in industrial/commercial buildings and warehouses, etc. These SDUs, however, may involve illegal land use and/or unauthorised building works. Enforcing tenancy control on these SDUs may send a misleading message to the public that the Government is “legalising” these SDUs. That said, we recognise that tenants living in these SDUs may be even more vulnerable than those living in SDUs in normal domestic buildings and also require tenancy protection. The Task Force will carefully consider the views of the public on the scope of regulation of tenancy control on SDUs and make suitable recommendations.

Setting up a registration and licensing system for SDUs

20. There are views that the Government should set up a registration and licensing system for SDUs, tackle unauthorised alterations, regulate the sanitary conditions of SDUs, devise basic living standards for SDUs (such as the minimum floor area and basic living facilities), and formulate a timetable to gradually displace SDUs which do not meet the regulatory requirements and are poor in living conditions. Moreover, a concern group suggested that the Government should step up enforcement actions to eliminate fire hazards, provide subsidies to buildings to equip themselves with basic fire safety installations, and raise the awareness of the public on fire safety.

21. The Task Force understands that the living conditions of quite a number of SDUs are less than desirable. That said, 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 on SDUs should be implemented in Hong Kong, not to displace SDUs. Moreover, the study of the Task Force focuses on how to regulate the tenancy arrangements between SDU landlords and tenants. As regards the fire and building safety as well as sanitation problems of SDUs, the relevant Government departments should continue to take suitable enforcement actions in accordance with the existing legislation.

22. Also, we note that the Financial Secretary has just announced in the 2021-22 Budget that the Government will earmark \$1 billion to partner with the Urban Renewal Authority to launch a Building Drainage System Repair Subsidy Scheme to provide subsidies for owners of old buildings with relatively low rateable values to carry out drainage inspection, repair or enhancement works. The Chief Executive has also indicated earlier that the Government is considering to make legislative amendments to empower the Fire Services Department and Buildings Department to carry out fire safety improvement works for old buildings on a fee-charging basis. Public consultation is expected to be launched in the second half of this year. We believe that the measures above could help improve the sanitation and fire safety issues of SDUs.

Establishing a district information platform for SDUs

23. 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 the 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. As regards the view that the said information platform should be operated by District Offices, our initial view is that although the Home Affairs Department has an extensive district network, the staff of District Offices may not be familiar with the relevant legislation and have to undertake other district work. It may therefore be more appropriate to engage a NGO to provide the relevant assistance.

24. Although the majority of the views received support the Government to implement suitable tenancy control on SDUs, we note that there are views that the Government should not introduce such tenancy control as this will reduce the willingness of the landlord to properly maintain or lease out their SDUs, thus leading to even poorer living conditions of SDUs. Provision of the security of tenure may also cause inefficient use of resources and those who are genuinely in need may not be able to benefit from the measures.

25. Overall speaking, the Task Force's study on tenancy control on SDUs has entered the final stage. The Task Force is now working in full steam and aims to complete the study and submit the report to the Government by end of this month. 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.

Transport and Housing Bureau
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