

LCQ20: Tenancy control on subdivided units

Following is a question by Dr Hon Wendy Hong and a written reply by the Secretary for Housing, Ms Winnie Ho, in the Legislative Council today (June 5):

Question:

Part IVA of the Landlord and Tenant (Consolidation) Ordinance (Cap. 7) (the Ordinance), which seeks to implement tenancy control on subdivided units (SDUs), came into force on January 22, 2022. Under the Ordinance, a landlord is required to submit a Notice of Tenancy (i.e. Form AR2) to the Rating and Valuation Department (RVD) within 60 days after the commencement of the tenancy term to account for the contents of the tenancy agreement. However, there are views that while the Ordinance has been in force for more than two years, RVD has only processed about 30 000 Forms AR2 among some 110 000 SDUs across the territory, indicating that a large number of landlords have yet to fulfil their legal obligations. Moreover, since 2023, RVD has also provided Form AR3 and Form AR4 to facilitate the relevant SDU tenants to enquire with RVD about the submission of Forms AR2 by their landlords, and to report their landlords' acts of suspected offences. In this connection, will the Government inform this Council:

- (1) of the respective numbers of Forms AR3 and Forms AR4 received to date;
- (2) given that as at the end of March this year, RVD has processed a total of 29 354 Forms AR2, and among them, of the number of those which were only returned upon RVD's following up on the relevant Forms AR3 and Forms AR4;
- (3) of the number of SDUs reported by Form AR2 to date, together with a breakdown by type (i.e. room, cubicle, rooftop house, podium house, loft, bedspace, space capsule and other type) and their respective percentages;
- (4) as the Bedspace Apartments Ordinance (Cap. 447) applies to flats in which there are 12 or more single bedspaces for rent, whether it applies to flats in which 12 or more SDUs of types referred to in Form AR2, such as cubicles or bedspaces, are provided; how the authorities regulate the building structure, fire safety and environmental hygiene of flats in which less than 12 such cubicles or bedspaces are provided;
- (5) given that as at the end of February this year, RVD has received a total of 635 tenancy complaints about SDUs, following an increase in the number of successful prosecutions instituted by RVD against unlawful landlords over the past two years, whether there has been a corresponding decrease in the number of relevant complaints; if so, of the details; and
- (6) given that while the Government set up the Task Force on Tackling the

Issue of SDUs last year, which was committed to eradicating substandard SDUs, there are views that as SDUs' facilities are upgraded, the rents of such units will go up, thus adding to the burden on tenants, and that grass-roots tenants of bedspaces and cubicles will be the first to bear the brunt of such a rental increase, whether RVD has conducted assessment in this regard; if so, of the details; if not, the reasons for that?

Reply:

President,

The Government of the Hong Kong Special Administrative Region has all along been paying attention to the housing needs of those who are inadequately housed, and proactively taking different measures with a view to improving the living environment of relevant households.

The Government has been striving to identify land for housing development to increase the overall supply of public and private housing. There has been sufficient land identified to meet the public housing demand of 308 000 units in the coming 10 years, thereby catering for the housing needs of the grassroots. Moreover, tenancy control on subdivided units (SDUs) has been implemented since January 2022, providing protection to tenants in various aspects which include four-year security of tenure; restricting the rate of rent increase on tenancy renewal with a cap of 10 percent; prohibiting landlords from overcharging tenants on utilities and services, etc. Besides, the 2023 Policy Address announced the establishment of the Task Force on Tackling the Issue of SDUs for conducting an in-depth study on the comprehensive handling of the SDU issue, and the Task Force will provide detailed recommendations to the Chief Executive in August this year.

Having consulted the Rating and Valuation Department (RVD) and the Home Affairs Department (HAD), the reply to various parts of the question raised by Dr Hon Wendy Hong is as follows:

(1) to (3) and (5) Pursuant to Part IVA of the Landlord and Tenant (Consolidation) Ordinance (Cap. 7) (the Ordinance) which implements SDU tenancy control, the landlord must, within 60 days after the term of the regulated tenancy commences, submit a Notice of Tenancy (Form AR2) to notify RVD of the particulars of the tenancy. To allow more tenants to benefit from tenancy control, the definition of SDU under the Ordinance is relatively broad, i.e. premises that form part of a unit of a building, thereby covering rooms, cubicles, rooftop houses, podium houses, lofts, bedspaces, space capsules, etc. A landlord who refuses or neglects to comply with the above requirement on submission of Form AR2 without reasonable excuse commits an offence and is liable to a maximum fine at level 3 (\$10,000), and in the case of a continuing offence, to a further fine of \$200 for each day during which the offence continues.

As at mid-May 2024, RVD processed a total of 31 764 Forms AR2. After excluding those Forms AR2 with tenancies not meeting the definition of regulated tenancy under the Ordinance and thus not required to be submitted

to the Commissioner of Rating and Valuation, there were 26 964 valid Forms AR2. Among them, 26 350 (i.e. 97.7 percent) were SDUs under the category of "room" and the remaining 614 (i.e. 2.3 percent) were SDUs under other categories (i.e. cubicle, rooftop house, podium house, loft, bedspace, space capsule, etc.).

RVD has further provided two types of forms (i.e. Forms AR3 and AR4) since April and October 2023 respectively to facilitate tenants of regulated tenancies to enquire whether RVD has received the relevant Form AR2 and to report to RVD the landlords' acts of suspected offence(s) (including contravention of the requirement on the submission of Form AR2). As at end-April 2024, the total number of Forms AR3 and AR4 received by RVD was 98. Apart from Forms AR3 and AR4, the tenants concerned may continue to enquire or report to RVD through telephone hotline, email, fax, post, or visiting the office of the Tenancy Services Section of RVD in person. As at end-April 2024, RVD received a total of 678 complaints relating to SDU tenancy control (including complaints made through Forms AR3 and AR4), and there was no obvious trend in the relevant complaint figures.

Since the Ordinance came into force, RVD has been encouraging landlords through publicity and education to abide by the law, and has been taking resolute enforcement actions to combat illegal acts. As at end-April 2024, RVD identified a total of 3 226 cases of landlords suspected of contravening the Ordinance, amongst which 2 991 were proactively identified by RVD through different channels and the remaining 235 were complaint cases. According to the latest prosecution figures as at end-May 2024, RVD successfully prosecuted 269 cases involving a total of 231 SDU landlords, with fines amounting to a total of \$492,010. Apart from the prosecution cases, RVD also issued warning letters to the landlords of 1 435 cases relating to Form AR2 after consulting the Department of Justice. To further step up the efforts in combating illegal acts, apart from the current enforcement and prosecution work that handles an average of around 1 400 suspected offence cases each year, RVD has separately set a key performance indicator on top of the current 1 400 caseloads, targeting to proactively check an extra of no less than 1 000 landlords of SDU households in 2024-25 on whether they have committed offences for regulated tenancies. The aforesaid annual caseload of handling some 1 400 suspected offence cases as well as the proactive checking of an extra of no less than 1 000 landlords of SDU households have demonstrated RVD's determination in combating illegal acts through redoubled enforcement efforts. RVD has already started issuing letters to the landlords of targeted SDU households by batches to require them to provide tenancy-related information to RVD for checking.

RVD will continue to identify cases of suspected contravention of the Ordinance through suitable channels and means, and promote the Ordinance as well as the relevant statutory requirements. Based on more than two years' experience of implementing the Ordinance, the number of Form AR2 received by RVD in 2023 increased by 36 percent as compared with 2022, and the number of Form AR2 received in 2024 has thus far sustained the increasing trend. We expect that the continuously strengthened enforcement and publicity efforts should help sustain the aforesaid increasing trend regarding the number of

Form AR2, which would hopefully result in the total number of Form AR2 received reaching more than 40 000 by end-2024.

(4) The purpose of the Bedspace Apartments Ordinance (Cap. 477) (BAO) is to ascertain that the flats intended to be used as bedspace apartments comply with relevant building and fire safety requirements. Pursuant to BAO, any flats with 12 or more bedspaces intended to be used as sleeping accommodation for individuals under rental agreements must obtain a licence before commencing operation. The Office of the Licensing Authority (OLA) under HAD is responsible for issuing licences and enforcement under BAO. For any flats that are not regulated by BAO, they are subject to the regulations related to building, hygiene and fire safety as stipulated in the Buildings Ordinance (Cap. 123) and the Fire Services Ordinance (Cap. 95). If OLA is aware of or discovers any premises not being regulated under BAO but are suspected of violating other relevant legislation, OLA will refer the cases to relevant departments for follow-up.

(6) Since the establishment of the Task Force on Tackling the Issue of SDUs in October 2023, relevant policy bureaux and departments have conducted multiple rounds of internal discussion on the issues of setting minimum standards of living conditions for SDUs, eradicating substandard SDUs, etc. We have also commissioned a consultant to visit different types of SDU households across Hong Kong to collect the relevant data so as to assist the Task Force in understanding the latest situation of existing SDUs and relevant households. At the same time, the Task Force has been gauging the views of different stakeholders, with a view to formulating a feasible and pragmatic solution that can tackle the SDU issue in an orderly manner.

The issue of SDUs is complicated and involves the wellbeing of tens of thousands of families. Therefore, eradicating substandard SDUs is not a short-term target which can be achieved overnight. When formulating the relevant policies, the Task Force will require that all SDUs being operated/rented out should provide reasonable and safe living environment, and at the same time, there should not be SDU households being rendered homeless as a result of the eradication actions. The Task Force will also carefully balance the impacts of the relevant policies on the SDU rental market (including rental level) as well as the tenants.

It is worth noting that the prevailing SDU tenancy control has implemented certain regulation on the rent of SDU tenancies, i.e. the rate of rent increase on tenancy renewal between the first term tenancy and second term tenancy must not exceed the percentage change of the territory-wide rental index of private domestic properties during the relevant period, and is capped at 10 percent. Besides, RVD has published the SDU rental information collected via Form AR2 on its website on a monthly basis since May 2023, allowing landlords and tenants to make reference to relevant market information when determining the rent. In addition, the Government has identified sufficient land to meet the public housing demand of 308 000 units in the coming 10 years. Coupled with the short-term supply of about 21 000 Transitional Housing units and about 30 000 Light Public Housing units in the next few years, the housing needs of those inadequately housed (including SDU

households) should be better catered for and the demand for SDUs from the grassroots is expected to reduce gradually.