

Habitat for Humanity Hong Kong (Habitat) appreciates the opportunity to provide a submission to the 2022-2023 Policy Address and its public consultation process.

Habitat for Humanity, a global nonprofit housing organization, works towards a vision of a world where everyone has a decent place to live. We believe in the key role housing plays in improving people's health, well-being, and ability to thrive. In his 2022 manifesto, Chief Executive John Lee shared his vision to expedite land and housing development and shorten the waiting time for Public Rental Housing. We support these ideas and appreciate that an increased supply of affordable housing will cascade benefits, including better living environments and economic opportunities, to lower-income families and members of traditionally marginalized groups. We have gathered suggestions around the themes of improving housing accessibility, affordability, and adequacy. We believe these are avenues that could further contribute to the administration's goals of better living environments and social satisfaction, while also progressing on the UN Sustainable Development Goals.

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Further strengthening education and enforcement of the Tenancy Control Ordinance for Subdivided Flats

In May, the Concerning Grassroots Housing Association released a survey report aimed at understanding the impact of the tenancy control ordinance on SDU tenants. Results indicate that while 68% of respondents have a written lease agreement, 42% of respondents noted that their lease isn't stamped while 20% of respondents are unclear about whether their lease is stamped or not.¹

Meanwhile, representatives of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) quoted the Rating and Valuation Department as saying it had received more than 5,000 subdivided flat leases since January.² Understandably, initial outreach plans may have been disrupted by the fifth Covid wave, but there is still a long way to go to ensure that the over 100,000 households living in subdivided flats have written and stamped leases.

- Immediately taking aggressive measures to step-up outreach to landlords and tenants alike about their responsibilities and rights under the Tenancy Control Ordinance can help more tenants access the new protections afforded them under the law.

¹ "The Impact of Tenancy Control on Tenants in Subdivided Housing" Survey Report, Concerning Grassroots Housing Association, (May 2022)

² *Sub-housing rent management / The implementation of more than 5,000 new leases in half a year* Zheng Yongshun urged strict investigation and law enforcement: some owners avoided, HK01 (August 3, 2022)

Representatives of the DAB also quoted the Ratings and Valuation Department as saying it had inspected 400 SDUs since the ordinance came into effect in January.³ This enforcement action is promising. We would echo suggestions from the Kwai Chung Subdivided Housing Residents Alliance regarding inspections:

- Consider taking a flexible approach that widens inspection scheduling options to accommodate SDU tenants' work schedules. This can increase opportunities to listen to tenants in person and minimize time wasted on visits to empty flats.
- Include both tenants and landlords in follow-up communications and/or information about breaches to the ordinance.

Focusing on adequate living conditions for subdivided flats tenants

Landlord obligations under the Tenancy Control Ordinance for SDUs include maintenance and repair for drains, pipes, and electrical wiring, fixtures, and fittings. Results of a survey by the Concerning Grassroots Housing Association in May indicate that only 40% of owners have committed – in writing or verbally – to take responsibility for such maintenance and repair.⁴ This still leaves a majority of tenants with the onus on themselves when it comes to restoring faulty or malfunctioning items or paying the cost to fix maintenance problems.

This represents a significant divergence from the rest of the housing market in Hong Kong, where responsibility rests on the owner to provide a properly maintained environment for tenants. Government policies between standards enforcement and subsidies can be used together to help create an adequate environment for residents.

- Enforce the inclusion of clearly articulated maintenance and repair responsibilities, including specific and reasonable time periods within which to complete the work, in tenancy agreements. The flat should be in good working condition on the move-in day.
- District Service Teams tasked with implementing the Tenancy Control Ordinance should increase landlord awareness of relevant government subsidies available to maintain flats and proactively assist landlords who qualify to apply for existing government subsidies to improve their flats. (Smart Power Care Fund, etc.)
- The *Community Care Fund Assistance Programme to Improve the Living Environment of Low-income SDU Households* provided a one-off subsidy to SDU tenants to carry out minor improvements or purchase furniture or pest control services. Consider renewing this programme, which just came to an end in June 2022, and regularize disbursement of subsidies annually so that tenants may carry out minor repair works, or pest control each year.
- To combat water seepage issues, consider including inspections of pipes and areas of seepage as a part of the inspections currently being carried out jointly by the RVD and other government bureaux. Notice of needed maintenance and repairs should be included in follow-up communication with the landlord.

³ Ibid

⁴ "The Impact of Tenancy Control on Tenants in Subdivided Housing" Survey Report, Concerning Grassroots Housing Association, (May 2022)

Habitat Hong Kong listened to SDU tenants, social workers, and held consultations with over 50 stakeholders to develop a set of recommendations that, if followed, would move subdivided flats toward more adequate housing conditions. Recommendations were co-created with a working group and steering committee of community stakeholders and are aligned with research on living environments and well-being. We would welcome the opportunity to discuss these directly with various bureaux of your Administration.

Addressing affordability for subdivided flats tenants

Use existing rental allowance as model for support to SDU tenants

Expediting construction of public rental housing (PRH) to house more people and shortening the waiting period will surely ameliorate issues of affordability in the long run. The government should also consider mitigating high rent costs for tenants of subdivided flats in the immediate term. Almost a third of surveyed SDU households have reported paying 50% of their income to rent.⁵ While the Tenancy Control Ordinance aims to restrict increases in rent and improve the fair distribution of utilities charges, we echo the many community voices urging measures to mitigate initial rent costs and the heavy rent burden on tenants.

The Housing Authority administers the Rent Allowance for Elderly Scheme (RAES), which provides elderly persons with a rent allowance for private accommodation as an alternative to a public rental housing allocation. The RAES rent allowance is equal to 60% of the monthly rental paid by the recipient or the assessed private rent, whichever is lower. The formula used to calculate the monthly rent allowance references the average space allocated to households of that particular size in PRH in the past three years and monthly unit rent in the private market.⁶

$60\% \times \text{Average space allocated to households of that particular size in PRH in the past three years} \times \text{Monthly unit rent in the private market}$

Examine ways to set up a similar rent allowance for SDU tenants. Several municipalities in Europe implement such allowances. We note that public rental housing tenants and those living in transitional housing become eligible for rent assistance when rent costs exceed 25% of their income. This 25% threshold could be extended to SDU households through such a supplemental rent allowance for SDU tenants based on the RAES approach, which has been in place for over 20 years.

- The rent allowance should be means tested, which can make reference to the public housing eligibility scale while not requiring recipients to be on the waiting list for public housing.
- To ensure the rent allowance is a meaningful support to tenants and does not result in an increase in monthly rent, pair the assistance with restrictions on initial rent costs. Data collected from the Form AR2, which SDU landlords have been submitting since January, can act as a reference to formulate a rent ceiling.

⁵ *Fact Sheet, Survey on the Housing Choice and Service Needs of the "Low-income Households of Subdivided Units*, Hong Kong Council of Social Services, (4 July 2021)

⁶ *Revision of Monthly Rent Allowance Payable under the Rent Allowance for Elderly Scheme for Leases due for Renewal in 2021-22*, Memorandum for the Subsidised Housing Committee of the Hong Kong Housing Authority, Paper No. SHC 25/2021 (2021)

- The rent allowance can be linked to certain minimum standards for adequate housing conditions.

Expand length of tenure options for transitional housing

Transitional housing provides tenants on the waitlist for public housing affordable shelter, but the tenure period of two to three years is short and fails to align with the average wait time for accessing public rental housing. Providing the option of a longer tenancy period in transitional housing would decrease the number of tenants required to move out of transitional housing (and potentially back into SDUs) if they do not receive a PRH offer before the end of their tenure in transitional housing.

- Increase tenant stays in transitional housing to up to six years to align with the current average waiting time. This would minimize disruptions - to schooling, work, and social ties - caused by frequent moving.
- Expand eligibility for transitional housing to include those on the PRH waitlist for less than three years who have extenuating circumstances, such as families with children that have special health or education needs.

Prioritising equitable access to private housing for ethnic minorities

Habitat for Humanity International has identified equitable access to housing as a key barrier to adequate housing, globally. In Hong Kong, ethnic minorities represent an important constituent of the community and contribute to Hong Kong's overall well-being and vibrancy as Asia's World City. One way unequal access to private housing manifests is when ethnic minorities seeking private rental housing experience landlords who refuse to rent to them and property agents who decline to provide services. The Race Discrimination Ordinance (RDO) extends protections to prospective tenants, but according to a survey conducted by Hong Kong Unison, almost 60% of ethnic minorities are unaware of the RDO. Measures to improve communication to members of ethnic minority communities about RDO protections and rental processes, including information about the new Tenancy Control Ordinance for tenants who may be seeking subdivided flats, can help fill this information gap.

Improve communication on rental processes and protections

Hold in-person housing workshops for ethnic minority communities. Work with NGOs – some have expressed interest in collaborating - on workshop content and language interpretation.

- Housing information leaflets translated into ethnic minority languages are published using language that is formal and official. Revise translated leaflets using everyday vocabulary and consider including words from local dialects to make housing information more accessible.
- Create brief videos in ethnic minority languages. Videos have become the medium for many to understand how they can benefit from public services. Videos accessible via QR codes would enable more people to learn about rental processes and tenant protections easily through their mobile phones.
- Build upon the free interpretation services provided by CHEER⁶ and other NGOs by providing resources to train interpreters on issues specific to fair rental housing practices, RDO protections, tenancy agreements, the Tenancy Control Ordinance for SDUs, and other relevant issues.

- Require tenancy agreements be translated into English upon request, in line with Hong Kong's official languages. Having tenancy agreements in English can enable more prospective tenants to make informed decisions about renting and support them to mitigate the imposition of extremely unfavorable tenancy terms.

Strengthen monitoring and enforce compliance with the Race Discrimination Ordinance and Tenancy Control Ordinance for SDUs

Ethnic minorities seeking to report tenancy agreement infringement or violations of the RDO often have their cases being passed through different government departments or bureaux without being resolved. Improved information dissemination must be paired with clear lines of responsibility for dealing with violations and increased enforcement of practitioner compliance with the Regulated Tenancies Ordinance and the RDO to support ethnic minorities' access to effective follow-up and viable remedies.

- Staff public-facing positions at the Estate Agents Authority, Ratings and Valuation Department, Housing Bureau, and other relevant bureaux with more English and ethnic minority language speakers. Workers should be trained on the two ordinances and be positioned to facilitate systematic and effective follow-up to complaints and violation reports.
- The Estate Agents Authority issues circulars and conducts workshops to members on their responsibilities under the RDO and Tenancy Control Ordinance. It is urgent that these robust efforts are supplemented with a clear and systematic monitoring and enforcement of practitioner compliance with the standards outlined in both ordinances.

There are also many members of ethnic minority communities that decline to file complaints or violations because they do not want to be seen as troublemakers or be subject to reprisals. We urge the government to establish a monitoring and enforcement system that takes into account the inherent power imbalance between landlords and tenants and does not rely solely on complainants to come forward.

- Recently the Housing Bureau, the Development Bureau, the Rating and Valuation Department and the Water Supplies Department came together to formulate a plan to combat overcharging for water and electricity in SDUs. The multi-pronged enforcement measures include joint inspections of flats and enhanced efficiency of prosecution.⁷
- A similar joint approach by relevant government departments, and including participation of ethnic minority organisations, aimed at strengthening practitioner compliance with the RDO could kickstart change and enable the government to show its further commitment to strengthening equal access to housing.

Amend policies to change the system

A myriad of systemic factors underly unequal access to private rental housing in any jurisdiction, and Hong Kong's situation is no less complex. Amend policies that contribute to the systemic exclusion of certain groups of people from adequate housing.

⁷ *Government to take inter-departmental and multi-pronged measures to protect tenants of subdivided units from being overcharged for water and electricity*, press release, Ratings and Valuation Department, (2 August 2022)

- Institutionalize the hiring of more ethnic minorities in government bodies related to the provision of housing.
- Prospective ethnic minority tenants are often asked to show their passports and subsequently refused rental flats on the basis of the passport they hold. Close this loophole by introducing protection from discrimination on grounds of nationality and citizenship - such as adopting Recommendation 24 of the EOC's, *Discrimination Law Review*.
- When housing or rental services are not provided due to race, the standards required to prove a violation of the RDO occurred are extremely high. People in this situation are faced with a challenging and time-consuming path of recourse with small chance of success. Shifting the burden of proof can help. We urge a serious reconsideration of Recommendation 21 of the EOC's *Discrimination Law Review*, which would shift sizeable responsibility for standards of proof to the defendant, after the plaintiff has established sufficient facts that discrimination has taken place.

Overall, the words government officials say in public help to shape public opinion toward ethnic minorities. All government officials, not just representatives of the Equal Opportunities Commission, should be proactive about combatting negative stereotypes of ethnic minorities. Continuing to communicate the important, valuable role that ethnic minorities have in Hong Kong will help strengthen cohesion and collaboration within the community.