

HOUSING (AMENDMENT) BILL 2007

Resumption of debate on Second Reading which was moved on 31 January 2007

PRESIDENT (in Cantonese): Mrs Selina CHOW, Chairman of the Bills Committee on the above Bill, will now address the Council on the Report.

MRS SELINA CHOW (in Cantonese): Madam President, in my capacity as Chairman of the Bills Committee on Housing (Amendment) Bill 2007, I would like to report on the deliberations of the Bills Committee.

The objectives of the Housing (Amendment) Bill 2007 (the Bill) are to remove the 10% median rent-to-income ratio (MRIR) cap provided under the existing Housing Ordinance (HO) and the three-year interval restriction on rent adjustment, so as to implement a new rent adjustment framework that provides for both upward and downward rent adjustments (that is, the so-called two-way rent adjustment mechanism) according to changes in public rental housing tenants' household income. The proposed rent review cycle is two years.

The Bills Committee has held a total of 12 meetings since its establishment in February this year, including two meetings with deputations to listen to their views. I will give a brief account on the Bills Committee's deliberations on several major issues.

Since some members of the Bills Committee expressed grave concern about the repeal of the provisions concerning the 10% MRIR cap, the Bills Committee had therefore conducted an in-depth study on the justification of repealing the provisions concerned. The authorities explained that, according to the ruling of the Court of Final Appeal (CFA) handed down in 2005 on the judicial review concerning the decisions of the Housing Authority (HA) to defer rent reviews, the 10% MRIR limitation provided for does not purport to be a statutory definition of the tenants' affordability. The CFA also pointed out that the problems discussed in the judicial review illustrated the desirability of having a long-term and comprehensive review of the whole public housing policy, including the MRIR methodology and its ceiling of 10% which has been criticized by some as arbitrary. The authorities accepted these views and later discovered on completion of a review that, the recent upsurge in the MRIR of

PRH tenants was due to a wide range of extraneous factors, including the growing number of small and elderly households and Comprehensive Social Security Assistance (CSSA) recipients; exit of high-income tenants; major improvement in the HA's space allocation standard, replacement of old estates by new ones, and so on. These factors do not necessarily relate to the changes in the income of households and rent. Due to the continued existence of these factors, the MRIR hence still stands above 10%. And, despite an increase in the income of PRH tenants, there will be no upward but only downward adjustment of rent. This provision is not only unreasonable, but also fails to operate in a sustainable manner. In order to thoroughly rectify such an unsatisfactory and impracticable practice, the only solution is to replace it with a new rent adjustment mechanism.

(THE PRESIDENT'S DEPUTY, MS MIRIAM LAU, took the Chair)

In order to discount the impact of increase in the number of small households on the upsurge of MRIR, the Bills Committee has examined the feasibility of applying the 10% MRIR cap individually to each household size group in guiding rent adjustments. The authorities pointed out that although this proposal would largely discount the effects of changes in household size distribution, the MRIR would still be influenced by the other extraneous factors mentioned above. Furthermore, it might even lead to a situation where two similar PRH units in the same block would attract different rents simply because they were occupied by households from two different household size groups. Rent adjustment would become even more complicated when there were changes in the number of members in households and when the same household size group was living in a wide range of PRH flats of different types and sizes.

Having gained a better understanding and went through thorough discussions, the majority of Bills Committee members supported the implementation of a new mechanism. By putting in place a new mechanism, the compilation by the HA of an income index based on the income data collected from PRH tenants and the tracking of "pure income change" of PRH tenants will then match more closely with tenants' affordability. The findings of the HA's telephone survey conducted in December 2006 indicated that some 77% of the respondents (66% among the respondents living in PRH) supported the proposed new rent adjustment mechanism.

However, some members of the Bills Committee expressed grave concern that the introduction of the new rent adjustment mechanism was to pave the way for rent increases. They worried that excessive rent increases by the HA would be inconsistent with the aim of PRH to provide affordable housing for the grassroots. The authorities explained that there were provisions in the Bill requiring the HA to adjust PRH rent strictly in accordance with the rate of increase or decrease in the income index, which may act as a *de facto* cap on the rate of rent increase in each rent review. In other words, PRH rent will be increased only if there is a general increase in PRH tenants' household income, and the rate of any such increase in PRH rent is related to the rate of increase in PRH tenants' household income. Furthermore, the authorities also emphasized that the HO obliges the HA to direct its policy towards ensuring that the revenue from its estates "shall be sufficient to meet its recurrent expenditure on its estates". As a result, by putting in place the new rent adjustment mechanism, the HA will be in a better position to achieve its mission of providing affordable housing to those in genuine need.

Although the authorities guaranteed that a *de facto* cap is provided under the new rent adjustment mechanism, whereas the HA has also implemented the Rent Assistance Scheme (RAS) to cater for the needs of needy tenants, the majority of Bills Committee members emphasized that following the repeal of the provisions concerning MRIR, there would still be a need to impose a cap on MRIR or rent increase so as to prevent the HA from increasing rent indefinitely, and avoid imposing pressure of rent increases on the tenants, especially the low-income tenants. In this connection, the Bills Committee urged the authorities to consider a number of proposals relating to the provision of a rent-to-income ratio (RIR) cap or a rent increase cap, which include imposing a statutory RIR cap at individual household level; setting a rent level cap with reference to weighted average ratios of rent and income in each household size group; reducing the 20% RIR cap under the RAS to 15% RIR and improving the RAS, as well as introducing a MRIR cap in respect of increase in PRH rents in each rent review. All these are proposals put forward by members.

The authorities reiterated that any form of global RIR, be it mean or median, would be affected by a number of extraneous factors, and was therefore not appropriate. Furthermore, the HA would have to require information on the RIR of each and every PRH household for the purpose of conducting a rent review of some 650 000 PRH households, where the amount of work and administrative costs required were enormous and would also create considerable

disturbance to all PRH tenants. However, after considering the proposed amendments by members and consultation with the HA, the authorities finally agreed to move amendments to the Bill to prescribe that PRH rent shall increase in each two-year rent review cycle by the rate of increase of the income index or 10%, whichever is less. In other words, the rent increase can only be 10% at maximum. The majority of members supported the relevant amendments. To address members' concern about the RAS, the HA agreed to make a number of amendments, which mainly include revising the RIR of the RAS from 20% to 18.5%; relaxing the income threshold from 60% to 70% of the respective Waiting List Income Limits; requiring non-elderly RAS beneficiaries to move to cheaper flats after receiving rent assistance for a continuous period of three years if there are suitable flats available.

On the computation of income index, a member expressed concern that the Bill failed to spell out the details of data collection and computing methodology of the income index. The authorities explained that, given the technical complexity involved, it would be inappropriate to spell out the relevant details in the law.

However, the Bills Committee noted the objection raised by many deputations to the exclusion of CSSA households and "well-off tenants" from the coverage of the income index. In this connection, the authorities explained that the "income" of CSSA households was effectively social security allowance and "well-off tenants" were substantially better off than other PRH households. The inclusion of these tenants in the income index might distort the outcome of computation. In order to further minimize the potential distortion brought about by these tenants, households with "top" 1% of household income in each household size group would also be excluded from the calculation of the income index. To address members' concern about the inclusion of households with "pretty high income" in the calculation of the income index, the authorities agreed to apply more stringent selection rules and exclude these tenants from the coverage of the income index. The authorities would consider the proportion of households with "pretty high income" who had been excluded from the calculation of the income index in each compilation exercise through a statistical process.

The replacement of the triennial rent review cycle by the proposed biennial rent review cycle in the Bill had aroused the concern of some members of the Bills Committee. They considered that the triennial rent review cycle should be

maintained on the grounds that a longer rent review cycle would lower administrative costs and avoid causing disturbances to tenants.

In this connection, the authorities explained that the adoption of a shorter rent review cycle of two years would help achieve a more moderate rent adjustment in every review and allow the HA to react more quickly to changes in socio-economic circumstances. As regards the administrative costs incurred if a shorter rent review cycle was adopted, the authorities pointed out that the additional workload generated from the income index calculation and rent review/adjustment would be absorbed by existing staff. Some members still held that a longer rent review cycle would help stabilize PRH rent and avoid frequent rent increases. Members would move amendments to adopt a three-year rent review cycle.

The Bills Committee noted that the HA agreed to, upon the passage of the Bill, reduce PRH rent by 11.6% across the board. Some members requested the authorities to reduce PRH rent first in order to comply with the 10% MRIR cap. The authorities pointed out that, in accordance with the CFA's ruling handed down in 2005, the HA was not under a statutory duty to review PRH rent and revise it so as to ensure that the 10% MRIR was not exceeded. The authorities advised that the 11.6% rent reduction had been proposed with a view to providing a new rental starting point upon which the new rent adjustment mechanism could operate effectively and fairly.

The Bills Committee was also concerned about how the proposed rent reduction of 11.6% had been worked out. The authorities explained that, in order to ensure the coherence and consistency of the entire rent adjustment framework, the HA had used income index to determine the new rental basis. The reduced rate of 11.6% was determined based on the extent of changes in the income index since 1997 because the rent of the largest proportion of the existing PRH flats and that of newly completed flats were last reviewed in 1997. Members were also informed that after the rent reduction, some 70% of PRH units would have a monthly rent less than \$1,500 and some 90% less than \$2,000. The findings of the HA's telephone survey conducted in December 2006 revealed that some 80% respondents considered the rate of rent reduction appropriate or too much.

Furthermore, other amendments to the Bill as proposed by the authorities include stipulating the commencement date of the Bill to be 1 January 2008;

providing that the HA is not required to vary the rent if the rate of change of the income index is 0.1% or below, and specifying that the HA shall appoint the Census and Statistics Department to compute the income index. The Bills Committee supported the relevant amendments.

Deputy President, I have made the above remarks on behalf of the Bills Committee. I will now speak on behalf of the Liberal Party to state our position in respect of this Bill.

Firstly, I have to revisit an old issue to recall our collective memory. At the midnight on 28 June 1997, the Liberal Party voted against the then proposed rent adjustment mechanism, whereby a 10% MRIR cap is applied and has proved unworkable. I recall that the then Legislative Council had not conducted any thorough discussion or consultation on the mechanism concerned. This unreasonable and unworkable mechanism was hastily endorsed. At that time, four of our Members had spoken on this issue and highlighted our doubts and disagreement with this mechanism. Now, it proves that the Liberal Party's opposition was grounded.

Today, we support this Bill and believe such changes are essential. What is more, the new proposal not only balances the support provided by the community to the low-income households in respect of the provision of housing, but also sets out the responsibilities that they should bear within their affordability. The two-way rent adjustment mechanism designed by the HA has removed other unrelated factors and linked up rent with affordability, which is absolutely fair as rent adjustment will then follow closely with changes in income and PRH households will therefore not find it so difficult to accept. After all, rent assistance is a safety net to cater for households in difficulties. Certainly, we also notice that there are currently some 140 000 households eligible to apply for rent assistance, but only some 14 000 have filed applications. Perhaps it is because the scheme was not implemented in a friendly manner. We consider this a possibility. However, given that the HA has decided to relax the application requirements, whereby some 140 000 households will be eligible for rent assistance, it will be necessary to review and improve the entire implementation method so as to enable the needy who are genuinely eligible to feel the sincerity of the authorities' concerned in implementing such a good initiative and in helping them.

Although the Liberal Party understands and accepts the authorities' explanation that it would be unlikely to effect crazy increases in rent given the close relationship between the new mechanism and the income index, a large number of PRH households earn rather low incomes. So, in order to enable them to live peacefully, we called on the authorities to impose a cap on rent increase. Having reviewed the data of the past decade, if we do the calculation using data of the two years when the economy performed outstandingly (that is, around 1997) under the new mechanism, only a 10% increase in rent is justified for the two-year cycle. We requested the Government to move an amendment — that is, to impose a 10% cap on rent increase after the new mechanism is put in place — which may induce more support, and will not subject the HA to too much restraint or heavy losses. We consider that if this amendment is proposed by the Government, it would be easier for the Legislative Council and the community to forge a consensus. It is hoped that the amendment can be successfully passed today.

Deputy President, the Liberal Party believes the majority of Hong Kong residents, whether or not they are public housing residents, would wish to resolve the problem today, which has plagued the community for some time. Furthermore, public housing residents also expect to have a reduction in rent in August upon the enactment of the Bill. In that event, everyone will be pleased.

Deputy President, the Liberal Party supports the Second Reading of the Bill and all the amendments to be moved by the Government.