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On Land-Use Change and the Legal-Regulatory Dilemmas of "Light Public Housing" and Transitional Housing in Hong Kong

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Abstract. Hong Kong has long faced a severe housing shortage. Under an efficiency-driven approach, the existing legal frameworks governing land-use planning, building safety, and tenancy are subject to unprecedented tension. Employing normative analysis and comparative-law methods, and drawing on the representative controversy of the Kai Tak Olympic Avenue Light Public Housing project, this paper systematically examines three regulatory dilemmas: first, the procedural-justice concerns arising from the application of planning-permission mechanisms and the simplification of public-participation procedures in land-use change; second, whether the special approval mechanism for Modular Integrated Construction (MiC) undermines statutory building-safety safeguards and how regulatory responsibility should be allocated across cross-border prefabrication; and third, the rights vacuum experienced by tenants in areas such as early termination, maintenance liability, and utility-fee pricing after short-term leases are excluded from Part IVA of the Landlord and Tenant (Consolidation) Ordinance. The paper proposes unified regulation under existing legislation, the establishment of minimum tenant-protection standards, and the creation of a full-process MiC safety-supervision and inter-departmental joint-regulation mechanism, so as to strike a dynamic balance between "efficiency" and "rule-of-law safeguards."

Keywords: Light public housing, transitional housing, land-use change, modular integrated construction, short-term lease

1. Introduction

Hong Kong is one of the regions facing the most severe challenges in housing affordability. The housing problem has long plagued this international financial center: as of 2024, approximately 110,000 households still reside in subdivided units, with per capita living area being low, ventilation and natural lighting inadequate, and fire-safety hazards prominent. Moreover, the proportion of rent to household income is disproportionately high, creating a structural predicament in which "the poorer one is, the more expensive the housing one gets." Public Rental Housing (hereinafter "PRH") accommodates the housing needs of approximately one-third of the population, yet its supply has chronically lagged behind demand: the average waiting time for general applicants once climbed to a peak of approximately 6.1 years in 2021, and although it has since declined, it remained at a high

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level of approximately 5.5 years by the end of 2024, far exceeding the three-year service-pledge target [1].

In response to the severe housing crisis, the Government proposed the "Light Public Housing" (LPH) initiative in the Chief Executive's 2022 Policy Address, planning to construct approximately 30,000 units within five years, using Modular Integrated Construction (hereinafter "MiC") as the core construction technology to compress the construction cycle to approximately one to two years [2]. Concurrently, the Transitional Housing programme, led by non-governmental organisations, has also accelerated, with over 21,000 units delivered by 2024 [3]. Both types of "temporary" housing projects follow the core logic of "trading time for space": under the constraint that traditional PRH supply cannot be substantially increased in the short term, they provide a large number of affordable units within a relatively short period through "temporary" land-use arrangements and "accelerated" construction technologies. From the perspective of "temporary urbanism" theory, the short-term land-use model can rapidly expand the supply of affordable housing and attract non-governmental organisations (NGOs) to participate in construction; however, the simplification of approval procedures and the exemption of short-term leases from regulatory rules under an efficiency-driven policy approach also give rise to multiple legal conflicts concerning land, building, and tenancy [4].

As novel housing forms, LPH and Transitional Housing have ambiguous legal status under the existing legislation, and issues such as the legal basis for land-use change, the boundaries of building-standard flexibility, and the absence of tenant-rights protection urgently require clarification. How to strike a dynamic balance between "efficiency" and "rule-of-law safeguards" is the core issue in Hong Kong's current housing policy and legal regulation [5]. Accordingly, this paper employs normative analysis and comparative-law methods to systematically examine the legal dilemmas of LPH and Transitional Housing in three aspects—land-use change, building-safety regulation, and tenant-rights protection—and proposes recommendations for improvement, including unified regulation under existing legislation and the establishment of minimum tenant-protection standards, with a view to providing a reference for the legal improvement of Hong Kong's housing policy.

2. Legal attributes and policy positioning of light public housing and transitional housing

2.1. Policy evolution: from civil-society initiative to government leadership

Transitional Housing was first initiated by civil-society organisations. In 2018, the Hong Kong Housing Society took the lead in refurbishing vacant units to provide accommodation; in 2019, the "Nam Cheong 220" project in Sham Shui Po, coordinated by the Hong Kong Council of Social Service, commenced construction as the first transitional housing project built with modular integrated construction, and was completed in 2020, providing two to three years of temporary accommodation for citizens on the PRH waiting list. Subsequently, the Government launched a dedicated funding scheme to provide financial support for civil-society projects and to continuously expand the scale of supply [6].

Given the limited scale of civil-society-led transitional housing, the 2022 Policy Address introduced the government-led LPH programme, coordinated by the Housing Bureau and constructed using MiC technology, with a target of 30,000 units within five years. The two share the common feature of serving the grassroots population on the PRH waiting list by providing temporary affordable accommodation; the difference lies in that LPH is government-coordinated, larger in scale, and subject to higher construction standards and greater resource inputs. The first batch of LPH projects was constructed using Full MiC; projects on sites such as Yuen Long have

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been completed, and this technology can shorten construction time by 50 to 60 per cent while substantially reducing water and electricity consumption and construction waste. The core objective of both types of temporary housing is to alleviate PRH waiting pressure, yet their temporary nature also gives rise to legal concerns [7].

2.2. Legal characterisation: ambiguous positioning under existing law

The positioning of LPH and Transitional Housing under Hong Kong's existing law is unclear, manifesting in three respects. First, the Housing Ordinance (Cap. 283) primarily regulates the permanent subsidised housing provided by the Hong Kong Housing Authority and the Housing Society. The temporary nature of LPH is inconsistent with that of traditional PRH, and whether it falls within the scope of this Ordinance remains unsettled; Transitional Housing, operated by civil-society organisations with diversified funding sources, has even less corresponding positioning under the Ordinance [5].

Second, most of the two types of projects are built on short-term leased idle government land, and their land-use mode differs from that of conventional residential use, giving rise to issues of legal uncertainty in the planning-permission and land-use change review processes under the Town Planning Ordinance.

Third, LPH is planned for only five to seven years of use, with modules that are detachable and reusable; it falls neither within the category of permanent buildings nor within that of simple temporary structures, occupying a regulatory grey area. The incompatibility of building, planning, and land-related approval and safety-supervision regimes is the root cause of the various legal difficulties that arise [2].

3. Land-use change and the challenges of town planning law

3.1. The planning-permission mechanism under the town planning ordinance

Under section 16 of the Town Planning Ordinance, the Town Planning Board (TPB) may grant planning permission upon application and may attach conditions such as a use period, traffic assessment, and environmental impact assessment. For transitional housing projects, the TPB typically grants (temporary) planning permission for a period of several years with operational conditions attached. However, the criteria and procedures for granting permission are not specified in detail in the Ordinance, and the TPB enjoys considerable discretion, resulting in inconsistent approval criteria and conditions across projects and a lack of consistency and predictability [8].

It is noteworthy that LPH differs structurally from Transitional Housing in its planning pathway. Because LPH is government-led and uses government land, it often does not go through the section 16 planning-permission procedure of the TPB but proceeds through the Government's internal development and funding procedures. Although this difference enhances efficiency, it is precisely the focus of community controversy: the Government is both the actual user of the land and the designer and influencer of the planning system—is there a conflict of roles? How can the procedural legitimacy of bypassing or simplifying the regular planning procedures on the ground of "temporary" use be justified [6]?

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3.2. Simplification of public participation and conflicts with community rights

The statutory plan-amendment procedure under the Town Planning Ordinance typically includes an exhibition period, a representation period, a period for comments on representations, and TPB deliberation, during which the public may submit representations within the exhibition period. However, for the two types of housing projects, the Government often invokes "urgency" and "temporary" status to seek the simplification or compression of public participation; the (temporary) planning permission for some transitional housing projects was approved within a relatively short exhibition period, and representations from neighbouring community residents may not have been fully considered. This simplification conflicts significantly with the protection of the legitimate rights and interests of community residents: projects are usually sited on urban or suburban land where stable community networks have already formed, and the introduction of new projects may have a non-negligible impact on traffic flow, parking facilities, community service facilities, and environmental quality. Residents' reasonable concerns about site selection, scale, and mode of operation are difficult to fully express and address due to procedural simplification, thereby giving rise to petitions, appeals, and even proposals for judicial review [7].

3.3. The Kai Tak Olympic Avenue light public housing case

Among the eight LPH sites announced by the Government, the Kai Tak Olympic Avenue site has been the most controversial, with an estimated capacity of over 10,000 units. Following the project's announcement, members of the Kowloon City District Council and the Legislative Council successively expressed opposition, questioning whether the site selection violated the planning intent of the Kai Tak Development Area as the second Central Business District (CBD2), and directly accusing the Government of "selecting the site first and consulting afterwards." Residents of several housing estates in the district held meetings to declare their opposition, questioning whether the district's traffic could cope with the load and whether the land was being used for high-value purposes at a low planning cost. On the grounds of "evading the TPB and violating procedural justice," they collected approximately 5,000 residents' signatures and threatened judicial review and protest marches [8].

In the face of opposition, the Secretary for Housing emphasised that LPH would continue to be built at Kai Tak, arguing that the site was "hard-won," and used the "two-year construction period plus five-year use period" to illustrate its temporary nature, stating that "if a long-term use emerges in five years, the land will be returned," and thus maintaining that the project would not change the long-term planning use of the Kai Tak Development Area. Within a few days, the Legislative Council Public Works Subcommittee passed the funding of over HK$14.9 billion for the first batch of LPH projects (involving four sites, including the controversial Kai Tak project) by 34 votes in favour, none against, and one abstention.

The Kai Tak case epitomises the typical pattern of simplified public-participation procedures under an "efficiency-driven" approach: invoking "temporary" status and "urgency," the Government first determined the site at the site-selection stage and then conducted limited consultation, effectively compressing the space for community residents to express their views and participate in deliberation. From the perspective of procedural justice, even if the final decision is substantively reasonable, the procedural pattern of "decide first, consult later" weakens the legitimacy of the decision and lays the groundwork for subsequent controversy and legal challenge [8].

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4. The legal vacuum of tenant-rights protection under short-term leases

4.1. The nature of the tenancy: short-term leases and the rationale for excluding part IVA

Hong Kong's tenancy legal framework is centred on the Landlord and Tenant (Consolidation) Ordinance (Cap. 7). Part IVA thereof, which came into effect on 22 January 2022, regulates the leasing of subdivided units (commonly known as "subdivided units" or "SDUs"). Its principal provisions include: the regulatory cycle for subdivided units consists of two consecutive regulated tenancies, each with a term of two years, and the first-term tenant is entitled to a second-term tenancy, thereby enjoying a total of four years (2+2) of security of tenure; rent may not be increased during the tenancy, and the increase in the second term may not exceed the relevant change in the Rating and Valuation Department's private domestic rent index and is capped at 10 per cent; it is a criminal offence for a landlord to overcharge miscellaneous fees or to recover charges for utilities and services such as water and electricity; and the landlord must submit a tenancy notice to the Rating and Valuation Department within 60 days after the commencement of the tenancy [9].

LPH and Transitional Housing are based on short-term leases (usually two to three years), and whether their tenancy nature falls within the regulatory scope of Part IVA is a matter of debate. From a textual perspective, Part IVA targets "subdivided unit" tenancies, and although LPH and Transitional Housing functionally provide affordable accommodation for grassroots citizens, their architectural form and mode of operation differ significantly from SDUs and may not fall within the textual scope of "subdivided units." From a policy-logic perspective, the two types of housing are operated by the Government or NGOs, with rent levels and tenancy arrangements uniformly set by operators, and tenants have limited bargaining power; if Part IVA is wholly excluded, tenants will lack statutory protection in respect of security of tenure, rent adjustment, and utility-fee pricing [10].

The principle of proportionality requires equal protection for similar legal relationships, but LPH is government public housing while SDUs are private for-profit tenancies; the legal subjects and policy objectives are fundamentally different, and the same security-of-tenure standard cannot be directly applied. This does not mean, however, that tenants of the two types of housing should be entirely unprotected—even if Part IVA is not directly applicable, minimum protection standards should be set in dedicated legislation or administrative guidelines to avoid a situation of "equal vulnerability but disparate protection" [10].

4.2. Deficiencies in rights: inadequate legal remedies for tenants

Against the backdrop of short-term leases excluding the application of Part IVA, tenants face deficiencies in rights in three respects. First, the notice period and compensation arrangements for early termination lack clear regulation. The short-term leases of the two types of housing typically provide that the operating organisation may terminate the lease upon advance notice; while Hong Kong's general contract law may regulate compensation for early termination of leases, there is no dedicated statutory provision on short-term public housing tenancies that stipulates the landlord's re-housing obligation or the minimum notice period for termination. If the operating organisation terminates the lease early on grounds such as "project expiry" or "land resumption," tenants may face relocation pressure within a short period and lack statutory compensation and re-housing protection [10].

Second, the allocation and enforcement of maintenance responsibilities lack a clear basis. Although maintenance responsibilities for the two types of housing are stipulated in the lease, the terms often favour the operating organisation, and tenants lack effective means of supervision and

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remedy when faced with maintenance needs. If the operating organisation neglects maintenance, whether tenants can resort to self-help measures such as rent withholding or lease termination is not clearly provided for in the existing law, leading to frequent and difficult-to-resolve disputes [5].

Third, there is the issue of the reasonableness of utility-fee pricing. Most transitional housing units are not equipped with independent water and electricity meters, and operators uniformly apportion charges; Part IVA expressly prohibits private SDU landlords from arbitrarily apportioning utility charges, and the gap in protection standards between the two types of tenants is significant. The apportionment method lacks transparency, making it difficult for tenants to verify actual usage and charges, and the apportioned rate may be higher than the rate for direct payment to utilities. The existing law lacks dedicated provisions on the regulation of utility-fee pricing for transitional housing, and tenants lack effective channels for complaint and remedy when faced with unreasonable charges. It is worth noting that Part IVA has expressly prohibited landlords of SDUs from overcharging for utilities; by comparison, the protection gap for tenants of the two types of housing on the same issue is even more pronounced [10].

5. Recommendations for improvement

5.1. Legislative recommendations: unified regulation under existing legislation and minimum tenant protection

First, unified regulation under the existing legislation. It is recommended that LPH and Transitional Housing be expressly brought within the scope of statutory regulation by amending the Housing Ordinance or enacting dedicated subsidiary legislation, defining their legal status, the qualifications of operating entities, financial supervision, and exit mechanisms. With respect to land-use change, the specific pathways and statutory conditions for simplified approval of the two types of housing under the Town Planning Ordinance should be clarified to prevent administrative discretion from replacing statutory procedures. For larger-scale projects or those with significant community impact (such as the Kai Tak Olympic Avenue project), the full exhibition, representation, and deliberation procedures should be retained to ensure that the right to public participation is not improperly deprived [5].

Second, the establishment of minimum tenant-protection standards, including reasonable security of tenure (a minimum term of no less than two years), a notice period for early termination (no less than three months) and compensation arrangements, clear allocation of maintenance responsibilities, transparency requirements for utility-fee pricing, and independent complaint channels; these standards should be no lower than the level of protection afforded to SDU tenants under Part IVA of the Landlord and Tenant (Consolidation) Ordinance (such as no rent increase during the tenancy and prohibition of utility overcharging) [10].

Third, the establishment of a special regulatory regime for MiC building safety, clarifying the regulatory responsibility for each stage of the full process—prefabrication, transportation, assembly, and operation—including the quality-assurance obligations of prefabrication factories, the supervisory responsibilities of authorised persons and registered structural engineers, and the maintenance obligations of operating organisations, and providing for regular safety-inspection systems [2].

Fourth, the establishment of a dedicated affordable transitional housing fund, with full government funding for the construction and operation of LPH and a dedicated subsidy budget for NGO-operated transitional housing; the fund's revenue and expenditure should be reported annually to the Legislative Council Panel on Housing [7].

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5.2. Administrative recommendations: inter-departmental joint regulation, independent complaints, and community participation

In addition to legislative improvement, this paper puts forward three administrative recommendations. First, the establishment of an inter-departmental joint-regulation mechanism. The regulation of the two types of housing involves multiple departments, including the Housing Bureau, the Development Bureau, the Buildings Department, the Lands Department, and the TPB; insufficient coordination can easily lead to regulatory blind spots and buck-passing. It is recommended that a joint-regulation committee, led by the Housing Bureau and involving relevant departments and district representatives, be established to coordinate planning approval, land management, and tenancy management [5].

Second, the establishment of an independent complaints channel. An independent third-party Tenant Ombudsman Office should be established, with exclusive jurisdiction over four categories of tenancy disputes—rent, maintenance, utility apportionment, and early termination—and vested with the statutory investigative power to obtain project files and interview operators; it should be responsible for receiving complaints, mediating disputes, and proposing recommendations for improvement, and should regularly disclose its handling of cases to enhance transparency and accountability [10].

Third, the strengthening of information disclosure and community participation. Community-specific consultation should be conducted three months before the initiation of a site project; the statutory exhibition period for the planning draft should be no less than the statutory 21 days; written representations from residents should be received in full and responded to in writing point by point; and the operational situation should be regularly disclosed, so as to enhance the community acceptance of projects and reduce controversy and legal challenges [8].

6. Conclusion

The land-use change and legal-regulatory dilemmas of Hong Kong's LPH and Transitional Housing are a concentrated manifestation of the tension between "efficiency" and "rule-of-law safeguards." Under the urgent pressure of housing shortage, the Government, with "short-term efficiency" as its objective, has accelerated progress by (in government-led projects) simplifying or bypassing regular planning procedures, flexing building standards, and utilising short-term leases, thereby alleviating the housing plight of grassroots citizens to a considerable extent. The short-term, high-efficiency construction model has rapidly eased the PRH waiting pressure on grassroots citizens, but the efficiency-driven simplification of planning and tenancy rules has given rise to multiple legal risks: the absence of public-participation procedures directly undermines the foundation of administrative procedural justice; the flexing of building standards and blind spots in cross-border regulation may weaken safety safeguards; and the rights vacuum under short-term leases leaves vulnerable groups without effective remedies.

This paper employs normative analysis and comparative-law methods to first provide a basic analysis of the legal characterisation of the two types of housing, then systematically examines the three regulatory dilemmas of land-use change, building-safety regulation, and tenant-rights protection, and proposes recommendations for improvement. Its core proposition is that "efficiency" and "rule-of-law safeguards" are not irreconcilable opposites; the core pathway to balancing efficiency and the rule of law is to draw unified statutory baselines: unified living-safety standards, minimum tenant security of tenure, and minimum procedural requirements for public participation in planning, while preserving flexible space for short-term land-use policy above the baselines. On

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the other hand, it must be ensured that such flexibility does not transgress the rule-of-law baseline and does not prejudice the fundamental rights and safety of tenants. Only in this way can Hong Kong's LPH and Transitional Housing policies truly realise their original intent of "improving the living environment of grassroots citizens" and lay a solid rule-of-law foundation for the fairness and sustainable development of the housing system.

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