Analyzing the Implementation of “Rental with Right” And Relevant Legislation and Institutionalization

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Abstract. The new deal of “rental with right” not only has practical significance for the cultivation and development of China's housing leasing market, but also has far-reaching significance for the healthy development of the real estate market. The implementation of “rental with right” and relevant institutionalization will be conducive to the standardization and development of the housing rental market. Based on the current situation of real estate in China, only by making a variety of measures in parallel and jointing reform efforts can ensure the implementation of the concession. Only by speeding up the legislation safeguard of “rental with right”, making relevant laws and regulations institutionalized, can clear the rights and obligations of the lessee to ensure the legitimate rights and interests of the lessee, and achieve the real "right".

1. The promulgation of “rental with right”

In June 2016, the general office of the state council issued “a number of views on accelerating the cultivation and development of housing rental market” clearly stating that it's equally important to rent and sell and it’s important to deepen reform of the housing system and further promote the development of the housing rental market. Guangzhou municipal government issued the “notice of printing and sending work programme of Guangzhou municipal people's government office on the development of the housing leasing market in Guangzhou” (notice below), Its core content can be summarized by “rental with right”.

At the same time, Ministry of Housing and Urban-rural Development and other eight ministries jointly issued the notice on accelerating the development of housing rental market in large and medium-sized cities with net population inflow. They selected 12 cities including Guangzhou, Shenzhen, Nanjing, Hangzhou, Xiamen, Wuhan, Chengdu, Shenyang, Hefei, Zhengzhou, Foshan and Zhaoqing as the first batch of pilot housing leasing.

The so-called “rental with right” is to guarantee the rights and interests of both parties and to support the lease of living, giving the children of the lessee who are qualified the benefits of public services such as nearby admission. [9] It means that the children of the lessee and the children of the person who buy the house shall enjoy the same rights and interests as the same as the public service.

“Rental with right” not only give the children of the lessee who are qualified the benefits of public services such as nearby admission, but also give them the rights and interests of all other public services. So the new deal gives the tenants more equity, which is different from the housing rental policy of the past years. The new deal puts a certain amount of pressure on housing prices in the district, reduces the rigid demand caused by the education problem and alleviates the education problem of the children of the non-homeowners. At the same time, it can promote the development of
the housing rental market and stabilize the housing rental market and the housing sell market. It can create a certain guiding role and significance to establish long-term mechanism of real estate market.

2. Legislation to protect “rental with right”

2.1. Accelerating legislation of “rental with right”

In recent years, China’s economy has been developing rapidly and steadily. The population is constantly moving towards the core urban agglomeration and nearly seven million new college graduates are added each year. The demand for housing is increasing and becoming more and more diversified. Since the 12th five-year plan period, with the acceleration of the urbanization process, the sales volume of commercial residential buildings in the area around Beijing has continued to increase. With the promulgation of the new deal “rental with right”, China has gradually entered the era of "renting". However, the development of housing rental market in China has lagged far behind the housing market. There are a lot of irregularities in the rental market, such as "black intermediary", "secondhand room east", "overlord clause", arbitrary price increase, rent fraud, detention deposit, etc. Even if there is room to rent, people are scared and worried. There are not only very few laws and regulations related to the housing rental market, but there are no institutionalized regulations. With the promulgation of the new deal, the gap between the laws and regulations of the housing rental market is increasing. Therefore, it is very important to accelerate the legislation of "rental with right".

Recently, the legislative affairs office of the state council, the ministry of housing and urban-rural development formed a joint research group to solicit opinions and suggestions on the “Housing lease management ordinance”. Before that, the Chinese academy of social sciences published the “Real estate blue book: China's real estate development report (2017)” pointed out that in 2017 China will accelerate the housing rental market legislation, to develop the housing rental market. “Housing lease management ordinance” will become the first administrative regulation to regulate the rental of housing in China. How the laws and regulations related to “rental with right” are embodied in the legislative regulations is the key to the real implementation of the new deal.

To speed up legislation to protect "rental with right", clear the rights and obligations of the lessee in accordance with the law, protect the legitimate rights and interests of the lessee at the same time, will be conducive to the specific implementation of "rental with right". It is beneficial to ensure that the children of the lessee and the children of the home buyer enjoy the same education rights and public service rights and interests. It will help to curb the various chaos of rental houses, eliminate the inequalities in the housing rental market, and let the tenants have a safe and secure lease. It is more conducive to the construction and development of the institutionalization of the laws and regulations related to housing lease.

2.2. Foreign housing leasing laws and regulations.

China's housing rental market has lagged behind that of developed countries. Some relevant laws and regulations and management system in foreign developed countries are relatively perfect. Germany made “The lease law” at the beginning of this century, and Japan released “The public housing act” in 1951. Table 1 shows the data comparison of home ownership rate between China and foreign developed countries by October 2017.

![Table 1. Housing ownership rate in some countries unit: %](Source: according to the information of Ministry of Housing and Urban-rural Development)
It can be seen from the table that the proportion of residential rental housing in Germany and Japan after legislation is 47.5% and 39.1% respectively, while China is only 10%. Residents are more willing to rent house after the government’s introducing institutionalized laws and regulations which allows the tenants' rights and interests to be protected by laws and regulations. The promulgation of "rental with right" has stimulated the development of China's housing rental market to a certain extent. However, it is necessary to institutionalize the relevant laws and regulations as soon as possible so as to guarantee the legal rights and interests of the lessee. China can learn from the experience of developed countries abroad and accelerate the development of laws and regulations suited to our national conditions to ensure the real implementation of "rental with right".

3. The implementation measures of "rental with right"

Firstly, the government should play its macro-control role in the implementation of "rental with right". With the increasing demand for housing, we need to increase the supply of rental housing, and find a balance of development in the housing rental market and the housing market. Meanwhile, it is also necessary to prevent the occurrence of soaring rents in a particular area caused by the promotion of "rental with right".

Secondly, we should boldly reform and innovate in the process of the implementation of the concession. Because that under the New Deal, land supply could not meet the demand of residents. In the face of the contradiction between the lack of lease land and the surplus of collective industrial land, Guangdong province has boldly reformed and innovated. On August 3, 2017, Guangdong province issued “Guidance on improving the supply system of industrial land to promote supply-side structural reform (trial)”, putting forward that industrial projects shall be provided for land by means of transfer or leasing, in principle not exceeding 20 years. According to incomplete statistics, the average life span of Chinese enterprises is only 3.7 years, among which the average life span of mall and medium-sized enterprises is only 2.5 years, and the average life span of the group enterprise is only 7 to 8 years. This is a bold reform and innovation in the collective industrial land, which both increases the initial cost of land and reduces the efficiency of land use.

Thirdly, we need to speed up legislation to ensure "rental with right". The "right" in the new deal mainly means that the children of the lessee and the children of the person who buy the house shall enjoy the same rights and interests as the same as the public service. Only to accelerate institutionalization of legislation, can we protect the rights of the tenants, prevent the rent rise of school district, prevent the occurrence of all kinds of chaotic scenes in the housing rental market. So that the tenant can rent the rest assured, live at ease.

Fourthly, we need to work together with multiple departments and departments to push forward legislation to ensure the implementation of the "rental with right" and realize the true "right ". The highlight of the new deal is to give eligible lessee children access to public services such as nearby admission. It means that the children of the lessee and the children of the person who buy the house shall enjoy the same rights and interests as the same as the public service. This requires each department to increase the supply of high quality education resources, narrow the gap in education levels, guarantee school-age children have equal opportunity of school, and solve the differences bring by household registration and degree in the process of implementing this policy. All departments need to unite to implement the new deal "rental with right", which can make it operable, so as to truly realize the interests of the masses.

Fifthly, while legislating, we should combine our national conditions to ensure the scientificity, reasonableness and normalization of the legislation. The constitution gives citizens equal rights under the law, and the constitution must be the supreme legislative standard [3].So as to ensure the reasonableness and scientifiity of the implementation of "rental with right".

Sixthly, we need to make overall planning during the implementation of the new deal [4]. It is not necessary to expand the land and expand the government house because of the current demand for housing. Instead, we should consider the long-term development of the city and make overall plans. Of course, the construction and reform of collective construction land is of great importance. Take
Guangzhou for example, on November 16, 2017, Guangzhou housing and urban-rural development committee took the lead in holding the signing ceremony of “the letter of intent for the development of the housing rental market in Guangzhou” with Guangzhou pearl river housing lease development investment co. LTD and Guangzhou Yue Xiu housing lease development investment co. LTD. Guangzhou’s move, which include the establishment of state-owned housing leasing enterprises and the strategic cooperation of government housing rental market development, aims at speeding up the establishment of a multi-agent supply and multi-channel guarantee housing system. This is a pilot project to advance the housing rental pilot work in an orderly manner.

4. Conclusion
The implementation of the new deal "rental with right" not only protects the rights and interests of the tenants, but also promotes the development of the housing rental market and the healthy development of the real estate market. While studying the leasing system of foreign developed countries, it is necessary to make scientific, reasonable and standardized laws and regulations on housing leasing according to China's basic national conditions. In the process of implementation of "rental with right", it is necessary to combine various measures, coordinate with multiple departments, speed up legislation and safeguard the new deal, and make overall plans for collective land use. Finally, I suggest that the laws and regulations related to "rental with right" or the management of the housing lease should be introduced as soon as possible so that the new deal can be guaranteed in the process of implementation.

Acknowledgments
This article is the research result of Guangdong special fund project (Project No. : pdjha0204) for college students' scientific and technological innovation

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