

# Research on the Legal Value and Improvement Path of the Policy of “Equal Right for House Tenants and Owners”

Based on the Perspective of Civic Educational Rights and Interests\*

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**Abstract**—Against the backdrop of the country's promotion of supply-side structural reform of real estate, Guangzhou City takes the lead in introducing housing leasing policy to guarantee “equal right for tenants and owners” and stabilize the healthy development of the real estate market, which has a milestone realistic significance in the history of housing leasing in China. This research analyzes the rationality of civic educational rights and interests in the policy of “equal right for tenants and owners” from the perspective of legal value such as equal value, just value and order value and tries to explore the construction of the improvement path of housing system featuring “multi-agent supply, multi-channel guarantee, simultaneous hire and purchase” in order to achieve equalization of educational resources and practically protect civic educational rights and interests.

**Keywords**—equal right for tenants and owners; civic educational rights and interests; legal value; policies and regulations

## I. INTRODUCTION

Since the reform and opening up, China's urbanization process has been accelerating with the sustained and rapid economic development and an increasing number of migrant floating populations are pouring into large cities. Guangzhou city is one of the densely populated areas of the country. As floating population can't temporarily afford a house or don't want to buy a house, it is of great importance to provide housing leasing for a city with a population inflows. Residents living in cities need public service support, however, most of

\*Fund Project: The 2018 Guangdong College Students Science and Technology Innovation Cultivation Special Fund Project “The Impact of the “Equal Right for Tenants and Owners” Policy on the Public Educational Rights and Interests of Citizens' Children — Taking Guangzhou City as an Example” (Project No.: pdjhb0576)..

the city's public services are bound with their own homes. The most prominent is the “school district housing” phenomenon, which leads to a strong demand for home purchases in large cities and high housing prices. In order to alleviate this dilemma, Guangzhou City takes the lead in proposing the policy of “equal right for tenants and owners”, which has a milestone realistic significance in the history of housing leasing in China.

## II. TIMES CONNOTATION AND PRACTICAL SIGNIFICANCE OF THE POLICY OF “EQUAL RIGHT FOR TENANTS AND OWNERS”

The concept of “equal right for tenants and owners” was first put forward by the Guangzhou Municipal People's Government on June 30, 2017 to issue and implement the “Notice on Printing and Distributing the Work Plan for Accelerating the Development of the Housing Leasing Market in Guangzhou” (hereinafter referred to as “Notice”). That is, “the children of eligible tenants are entitled to the rights and interests in public services such as the nearby school enrollment, and to protect the equal right for tenants and owners.” The content of “right” in the “equal right for tenants and owners” is characterized as “public service rights and interests” in the document, which means that tenants and home buyers enjoy the same public service rights. According to the “13th Five-year Plan for Promoting the Equalization of Basic Public Services” promulgated and implemented by the State Council, the basic public services for urban residents in China include eighty-one projects in eight fields such as “public education, labor employment, social insurance, medical treatment and health care, social services, housing security, public cultural sports and disabled services etc.” Among them, the state put “public education” at the top of the basic public service rights and interests of urban residents. China's

"Compulsory Education Law" stipulates that every school-age child and adolescent should enjoy the right to education in the nearby school enrollment in their compulsory education stage. However, due to various reasons, many children of floating population cannot enjoy the compulsory education resources of their cities, and the primary rights and interests of the "equal right for tenants and owners" policy is to guarantee the children of such citizens enjoying the public services of the nearby school enrollment in compulsory education stage to safeguard the fairness of education.

The ancients have said: "it takes 10 years for a sapling to grow into a big tree and takes 100 years for an infant to grow into a pillar of society." Education is a hundred-year plan that affects the vital interests of everyone. In the context of building a well-off society in an all-round manner, the National 13th Five-year Plan for Education Development emphasizes: "the proportion of counties (cities, districts) in which compulsory education must achieve a basic balance is 95%, the gap between urban and rural areas, regions, and schools is further reducing, and strive to further build a more balanced basic public education service system that covers both urban and rural areas." [3] The report of the 19th National Congress of the Communist Party of China also proposed to promote the integrative development of urban and rural compulsory education, attach great importance to rural compulsory education, and strive to make every child enjoy a fair and quality education. The enjoyment of equal access to education is the basic human right of citizens in modern society, and the policy of "equal right for tenants and owners" emphasizes that the admission qualifications of citizens' children in the compulsory education stage do not need to have additional conditions, whose essence is to unhook the distribution of educational resources with housing property rights and seek equalization of public education resources, so that the children of tenants and home buyers have the same right to education. The leasing behavior is more reasonable and scientific at the residential level by protecting the tenant's public service rights and interests. That is, "equal right for tenants and owners" is a breakthrough and exploration of the issue of civic educational rights and interests being restricted by the household registration system.

### III. ANALYSIS OF LEGAL VALUE OF "EQUAL RIGHT FOR TENANTS AND OWNERS" POLICY BASED ON CIVIC EDUCATIONAL RIGHTS AND INTERESTS

With the popularization of the concept of rights and the increasing deepening of the concept of the right to education, the right to education is generally protected by the constitutions of all countries in the world, which "has become the basic starting point that every country has to consider when making educational legislation and the common principle of modern social education law." [4] As a basic human right and a necessary right for people's survival and development, education is to meet people's political, economic, ideological and developmental needs.

#### A. *Equal Value: Solving the Problem of "School Selection Upsurge" in Compulsory Educational Admission*

Equality of educational opportunities is a necessary prerequisite and condition for the development of equality. Although it is not a necessary and sufficient condition, the necessary and sufficient condition for the development of equality is the equality of educational opportunities. [5] In the early stage of reform and opening up, because the modernization construction needs to train a large number of talents, in 1978 the Ministry of Education promulgated the "Trial Program for Running a Number of Key Primary and Secondary Schools". It has been tilted to key primary and secondary schools in terms of fund investment, school conditions, teaching faculties, student sources and others and has trained a large number of young "elites". At the same time, the implementation of this policy has caused a national "school selection upsurge" social problem and lost the fair and equal value of education. There is an English proverb: "Fairness must not only be realized, but also be realized in a visible way." Educational equity is the value goal pursued by the public. To this end, the state has solved the social problems of "school selection upsurge" through legislative means. In 1986, the National People's Congress passed the Article 9 provisions of the Compulsory Educational Law of the People's Republic of China: "Local people's governments at all levels should reasonably set up primary schools and junior secondary schools to make children and teenagers can enjoy nearby school enrollment", which is what we are familiar with "nearby school enrollment" policy in the compulsory education that runs through the whole process of nine-year compulsory education, and to a certain extent, it has cooled down the "school selection upsurge." The Compulsory Educational Law of the People's Republic of China that was revised and implemented in 2006, further emphasizes the protection of school-age children and adolescents' nearby school enrollment where they have household register location, and provides equal access to compulsory education. Due to the imbalance of educational resources, the "school districts housing" that can make children enrolled in high-quality primary and secondary schools have become the sweet steamed buns of the public to rush to buy, which is an important reason to promote the crazy rise of housing prices. Under the background of the new era, Guangzhou's housing leasing policy "gives eligible tenants' children the right to enjoy public services such as nearby school enrollment and guarantee equal right for tenants and owners", which has a historic reality in solving the right of citizens to equally receive education. The evolution of the compulsory educational enrollment policy is shown in "Table I".

**TABLE I. EVOLUTION OF COMPULSORY EDUCATIONAL ADMISSION POLICY**

Law Time	Title of Policy and Regulation	Relevant Major Contents
1986	The old Compulsory Education Law	Local people's governments at all levels should reasonably set up primary schools and junior secondary schools to make children and teenagers can enjoy nearby school enrollment".
2006	The new Compulsory Education Law	School-age children and teenagers are exempted from entrance examination. Local people's governments at all levels should protect school-age children and adolescents' nearby school enrollment where they have household register location. Any children and teenagers accept compulsory education in the place where his/her parents or other legal guardians work or live, the local people's government shall provide him/her with equal conditions for accepting a compulsory education.
2017	Guangzhou city Notice on Printing and Distributing the Work Plan for Accelerating the Development of the Housing Leasing Market in Guangzhou"	The children of eligible tenants are entitled to the rights and interests in public services such as the nearby school enrollment, and to protect the equal right for tenants and owners

From the perspective of policy content, the new and old Compulsory Education Law clearly stipulates the right of school-age children and adolescents to enroll the nearby school. Compared with the old Compulsory Education Law, the new law has made certain adjustments to the "nearby school enrollment" policy and increased the restrictions of the household registration system, thus school-age children and adolescents must enroll in the vicinity of the household registration. Article 12 of the new Compulsory Education Law stipulates that the local people's government shall provide them with the conditions for accepting equal compulsory education. However, due to the limited resources for compulsory education in population inflows, the public degree in many places must provide the guarantee right to education for the children who come from migrant family on the premise of meeting the household registration. It is difficult for the children of the floating population to fair enjoy the education. The Notice of Guangzhou City lists the children of tenants in the scope of "nearby-school enrollment", so that eligible children of tenants also enjoy the right and opportunity of "nearby school enrollment". "Notice" stipulates that Guangzhou will take policy-based care for borrowed students such as "children and adolescents of suitable age with the city's household registration", "the children of green card holders of talents" and "children of immigrants who meet the requirements of the city and the region for integral admission arrangements for degree relocation". Compared with the previous "nearby school" policy, it has greatly improved the equity of education. To a certain extent, it has solved the problem of "school selection upsurge" and is the legal reflection of the equal value of education.

### *B. Just Value: Adjustment of Unbalanced Allocation of Compulsory Educational Resources*

The word "justice" comes from Latin *justitia* and has many meanings such as fairness, justice, integrity, law and rights. In the Theory of Justice, Rawls believes that justice is the primary value of social institutions. Rawls' principle of justice has rich enlightening significance for the choice of value of education policy. The principle of justice for educational policy that regulates the allocation of educational resources is to pursue the maximum public interest of education. [6] The imbalance of compulsory educational resources is the primary cause of the emergence of "school district housing" phenomenon. A large number of children of floating population will inevitably bring severe challenges to compulsory educational resources. According to the Guangzhou Statistical Yearbook, the number of floating children in the compulsory education stage in Guangzhou has reached 595,700 in 2016, accounting for 46% of the students of the registered population. The ratio of non-registered students to Guangzhou household registers students is close to 1:1. [7] In addition, the lack of funds for compulsory education is the most direct cause, the central and provincial financial education funds are under-invested. According to the 2016 National Education Funds Implementation Statistics Bulletin jointly released by the Ministry of Education, the Ministry of Finance, and the National Bureau of Statistics, it shows that in 2016, the central government's financial education expenditure was 443.968 billion yuan, accounting for only 16% of the national public finance education expenditure of 277.063 billion yuan. The education funds were mainly invested by the municipal and district (county) governments. [8] Judging from the changes in the allocation of compulsory educational resources, the applicable objects of the "equal right for tenants and owners" policy are changing from the household registration population to the non-resident population who are included in the scope of coverage, and then the children of the tenants can also enjoy the "nearby enrolment". The scope of benefits has gradually expanded, and the pursuit of fairness and justice has gradually approached, thus reflecting the inclusiveness of compulsory education."

Due to the differences in economic development levels and the government's unbalanced development policies in all areas, investment in education has tilted to some schools, which has intensified the inequality in the allocation of educational resources and widened the gap in education. It is understood that some key primary and secondary schools embrace "luxury" facilities that have exceeded the average level, while the infrastructure and qualified teacher conditions of ordinary primary and secondary schools in remote areas are not perfect. Due to the imbalance of educational resources allocation, high-quality educational resources are too concentrated and a large number of people are pouring into central cities. The limited educational resources and the continuous inflow of population have led to an increase in the imbalances between education supply and demand. The proposal of "equal right for tenants and owners" policy promotes the effective mechanism of coverage of quality education resources to a certain extent, gradually narrows regional, urban-rural and inter-school gaps, and regulates the unbalanced allocation of compulsory

education resources in order to pursue universal education fairness and justice.

### *C. Order Value: Regulation and Control of the Normative Development of Leasing Market*

According to the interpretation of "Ci Hai", "Order, it is also often; law and order, it is also often that refers to the position of people or things, including the meaning of neat and obeying rules." From the perspective of jurisprudence, the American jurist Edgar Bodenheimer thinks that order means the existence of a certain process of consistency, continuity and certainty in both natural processes and social processes. [9] Orders and procedures have certain universal characteristics in a certain legal sense. The essence of them is "the dehumanization of management and decision-making and all its arrangements are to limit arbitrariness, presumption and discretion." [10] "Equal right for tenants and owners" policy is the emphasis and setting of the standardized management order of the leasing market, and also a necessary constraint on the possible wantonly "bad conduct" of the market subject. China's urban housing leasing market has outstanding problems of lacking market transparent information guidelines and behavioral norms constraints in development. The second measure of the Guangzhou Notice is to build a government housing rental transaction service platform and play the main functions of "providing services, safeguarding rights, strengthening supervision and monitoring the market". The guarantee of openness and transparency of the rental market is very meaningful for ensuring the "equal right for tenants and owners". The policy is open and transparent, fair and equal, and all citizens can see the housing resources, price, lease conditions, supporting resources, etc. And at the same time citizens can apply for public rental housing and check the progress, which highlights the authority and fairness of the policy, thus avoiding the black-box operation to a large extent. Meanwhile, it is conducive to the rational return of rental housing prices, the equal right for tenants and owners form a complete chain of rules, and the government can be more effective participation in any link.

The main function of order value is to ensure that educational policy activities are carried out in accordance with a defined procedure or order, which is the guarantee that the substantive value of the education policy must be selected and realized. [11] The formulation and implementation of the "equal right for tenants and owners" policy complies with and passes legal procedures. The main consideration of policy formulation is to further balance the regional differences in housing resource supply with local legal effects, which is reflected in the following aspects: Starting from first the essence of balancing regional resource differences, we will focus on housing supply and demand, implement different standards in different regions of a city, and provide more public rental housing and low-rent housing in areas with dense population mobility to ensure the rational distribution of rights and interests and resources. The second is to increase the supply of public resources. From the beginning of land approval, the approval process should fully consider the existing supporting resource capacity of the surrounding areas, and consider the planning and construction of the post

distribution resources. Finally, it is to gradually relax the threshold for renting, which not only consider the school-age children and adolescents who are registered in this city, policy-based care borrowers (such as children of talent green card holders), and children who are eligible for entry into the school, but also fully considers the issue of public education rights of the children of the tenants not conform to the above conditions.

## **IV. RESEARCH ON THE IMPROVEMENT PATH OF THE POLICY OF "EQUAL RIGHT FOR HOUSE TENANTS AND OWNERS"**

### *A. Ensuring the Right of the Tenants' Children to Accept Education and Enjoy Education Resources Equally*

At present, the relevant policies on "equal right for tenants and owners" belong to local regulations, lack legal authority, and encounter many difficulties in the process of concrete implementation. In reality, the rights of the tenant's children to education are faced with many difficulties. The tenant and the owner of the house have a priority distinction in the education of their children, and then the problem of unbalanced educational allocation in the housing location is finally limited by the qualifications of the tenant. If there is no explanation of the legal provisions, it is difficult to achieve real equal rights in the hire and purchase: at least there will be numerous difficulties in accepting education for children of tenants. Only by clearly defining the rights of the tenant can we clear the policy obstacles in the implementation of the "equal right for tenants and owners" policy and truly guarantee the public rights of the children of the tenants. At the same time, the rights and obligations of the tenant parties are defined through legislation to protect the legitimate rights and interests of the parties, to establish a stable tenancy term and rent system, which gradually make the rented citizens enjoy the same treatment in basic public services as the citizens who buy the houses. In the process of implementing the "equal right for tenants and owners" policy and legislation, it is necessary to stipulate in the form of law the rights and interests of the tenants because of renting a house, and truly realize equal right for tenants and owners. The corresponding rights enjoyed by the tenants should first emphasize in the legislative process, and then carry out a detailed explanation of this right, such as how to define the priority of rights, the definition of the tenant threshold, the definition of admission criteria, the definition of the allocation of educational resources, etc. Only when the rights and interests are clear and there are rules to follow, can educational resources be equalized.

### *B. Making Macro-control of Rental and Purchase Market to Establish a Housing System of "Equal Right for Tenants and Owners"*

The report of the 19th National Congress of the Communist Party of China proposed to speed up the establishment of a multi-subject supply, multi-channel security, and equal right for tenants and owners system, so that all people can live and rent, and equal right for tenants and owners. Emphasizing the improvement of the rental market is not to suppress people's normal housing demand, but to eliminate institutional discrimination against housing rental consumption, which provides people with a market



environment where they can choose whether to rent or buy a house. Multi-subject supply requires local governments to provide sufficient public rental, low-rent, and security rental methods from the actual situation. The government can gradually increase the number according to urban population growth and population mobility, and gradually expand the scope of use to allow more people enjoy the national preferential housing policy. The multi-channel guarantee should still start from the land supply: the government plans the special use of the land in advance and adopts a more flexible way to optimize resource allocation. At the end of the purchase of the property, the government carries out a series of macro-controls, including restrictions on household registration, tax restrictions, increasing the proportion of down payment for home purchases, raising bank interest rates, and increasing property taxes. The housing market is cooling down, reducing fever, and the real estate market reduces the hype that makes it gradually returns to the value of living. At the end of the rental housing, the policy is good and continuously released, including measures such as renting low-rent housing, public rental housing, youth apartments, and college apartments. The rental market is welcoming new opportunities to return housing to the original meaning of life and let the real estate market form a long-term mechanism for stable and healthy development.

### *C. Improving the Detailed Supporting Rules and Regulations of Hire Purchase Policy and Regulating the Behavior of Real Estate Market*

The policy of "equal right for tenants and owners" is still in the initial stage of exploration. There are also many practical problems encountered during the implementation process, such as limited rentable housing, inadequate supporting public service measures for housing, excessive rental prices, and high rent thresholds. In the final analysis, the relevant policy rules are not clear enough. It is necessary to further increase the supply of land on the supply side, and provide sufficient public rental housing land according to the urban development plan to ensure the sufficiency of public housing. Do a good job in the early stage of approval and supervision and verification in the middle and late stages to ensure the usage of the special land and the quality of the house. Public rental housing must be equipped with comprehensive supporting measures, and it is required to match the housing with education, medical care, old-age care, transportation and other resources in the development process. At the same time, the control of renting houses and buying houses is carried out, and the government's macro-control is carried out on the basis of market economic rules, and the price is controlled within a reasonable range to ensure the stable and standardized operation of the real estate market.

## V. CONCLUSION

Education is a hundred-year plan. In the report of the 19th National Congress of the Communist Party of China, it was pointed out that the state should promote the integrated development of urban and rural compulsory education, attach great importance to rural compulsory education, and strive to make every child enjoy a fair and quality education.

Guangzhou took the lead in promulgating and implementing the policy of "equal right for tenants and owners", which initiated the housing rental system in China. This system has practical significance in order to ensure the equal enjoyment of educational rights and educational resources by the children of the tenants, regulate the hire and purchase market in a macro-control manner, standardize the behavior of the real estate market. Meanwhile it also completes the supporting rules of the hire and purchase policy, and establishes the housing system of "renting and purchasing simultaneously".

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