

**THE EFFECT OF THE CONTROL OF RENT (REPEAL)
ACT 1997 ON THE RENTAL LEVEL OF COMMERCIAL
PROPERTIES IN GEORGETOWN**

BY

NORAINI JOHARI

**SCHOOL OF HOUSING, BUILDING AND PLANNING,
UNIVERSITI SAINS MALAYSIA
PULAU PINANG**

2002/2003 SESSION

**THE EFFECT OF THE CONTROL OF RENT (REPEAL) ACT 1997
ON THE RENTAL LEVEL OF COMMERCIAL PROPERTIES IN
GEORGETOWN**

BY

NORAINI JOHARI

(Adv. Dip. in Estate Mgmt)

**Thesis submitted to fulfill part of the requirements for the award of Masters
in Science (Project Management) Universiti Sains Malaysia**

2002/2003 SESSION

DECLARATION

The thesis delivered in this scientific study is to fulfill the requirements for the award of Masters in Science (Project Management), Universiti Sains Malaysia, and is a product of my own research, unless where stated.

This thesis has never been submitted whether wholly or partially to obtain any other degree and at the time it is submitted, it was not submitted for any other degree.

.....
NORAINI JOHARI

Matric No.: P-RM039/02

Endorsed by:

.....
ABDUL AZIZ HUSSIN

Thesis Supervisor

School of Housing, Building and Planning

Universiti Sains Malaysia

2002/2003 Session

ABSTRACT

Rent control has always been associated with hardships on the part of tenants and patronage by the Government. Tenants were always portrayed as being a suffering lot who are subject to the whims of the landlords. Landlords, on the other hand, were portrayed as being property owners who has no regard for the welfare of others except his.

In Malaysia, the Control of Rent (Repeal) Act 1997 has been in full force since 1st January 2000 after the transitional period expired on 31st December 1999 after being in operation for 27 months prior to the expiry. The repeal has been touted as the much-awaited policy that will return to the owners, rights deprived from him for decades.

It is interesting to study what effects the repeal has brought to the tenants, the owners, the authorities, the general business in the inner city, the tenant mix in a particular business precinct, and various other social and economic impacts that the repeal has given rise to.

Certain pertinent questions that beg to be answered in the wake of this social change are: Has the repeal achieved its objectives of returning the rental of the pre war shop houses to their market levels? Are the owners satisfied with the way things have turned out? Are the tenants the worst hit party in this melee?

This study hopes to answer those questions. In doing so, a series of structured interviews via questionnaire with tenants and owners were devised. A few unstructured interviews with property professionals and officials were also done to support the findings of the questionnaire.

Findings of the study revealed a complicated network of factors interacting with each other to produce market conditions as seen today. It was found that rental levels have generally increased by about 400% post repeal but this increase was largely obscured by the relatively low levels of the initial rental levels prior to the repeal. Findings also indicate that previously rent controlled premises were unable to achieve market rent due to their dilapidated physical conditions. A way out of this predicament for owners is to rehabilitate or refurbish their premises to compete with modern buildings in tenant procurement. It was also found out that owners paralleled tenants in perceiving that the repeal has no discernible effect on them or their business.

All these contradictions in the research findings have prompted the writer to recommend further research to be done on certain aspects of the topic in order to further increase understanding of the anomalies present in the subject matter.

ABSTRAK

Kawalan sewa sentiasa dikaitkan dengan kesulitan di pihak penyewa dan perlindungan oleh pihak Kerajaan. Penyewa sering digambarkan sebagai pihak yang menderita dan tertakluk kepada kehendak tuan-tuan tanah yang sering pula digambarkan sebagai pemilik-pemilik harta yang tidak prihatin terhadap kebajikan pihak lain kecuali diri sendiri.

Di Malaysia, Akta Kawalan Sewa (Pemansuhan) 1997 telah berkuat-kuasa sepenuhnya mulai 1hb Januari 2000 selepas tamatnya tempoh peralihan pada 31hb Disember 1999 setelah beroperasi selama 27 bulan. Pemansuhan tersebut telah diwar-warkan sebagai dasar yang amat dinanti-nantikan, yang akan mengembalikan hak kepada pemilik di mana hak tersebut telah dinafikan selama berdekad lamanya.

Adalah amat menarik untuk mengkaji apakah kesan yang dibawa oleh pemansuhan Akta tersebut kepada penyewa, pemilik, pihak berkuasa, tahap perniagaan di bandar secara am, campuran penyewa dalam sesuatu kawasan perniagaan tertentu dan berbagai lagi impak sosial dan ekonomi yang dijana oleh pemansuhan tersebut.

Satu persoalan yang wajar dijawab di dalam perubahan sosial ini ialah: Apakah pemansuhan Akta 363 ini telah berjaya mencapai objektifnya untuk mengembalikan sewaan kepada tahap pasarannya? Adakah para pemilik berpuas-hati dengan perubahan-perubahan yang terjadi? Adakah hanya penyewa yang paling terjejas dengan pemansuhan itu?

Kajian ini berharap agar dapat mencari jawapan kepada persoalan-persoalan itu. Untuk itu, satu siri temuduga berstruktur berdasarkan soal-selidik telah dijalankan. Beberapa temuduga tidak berstruktur juga diadakan dengan profesional dan pegawai hartanah serta orang perseorangan.

Penemuan kajian telah menyerlahkan satu jaringan faktor-faktor yang kompleks yang berinteraksi antara satu sama lain bagi menghasilkan keadaan pasaran masakini. Penemuan hasil kajian menunjukkan bahawa tahap sewa secara amnya telah meningkat pada kadar 400% pasca pemansuhan tetapi peningkatan ini telah diselindungi oleh tahap sewa asal yang rendah pra pemansuhan. Penemuan hasil kajian juga menunjukkan bahawa bangunan-bangunan yang dahulunya dikawal sewa tidak berupaya mencapai sewa pasaran akibat keadaan fizikalnya yang buruk. Jalan keluar bagi pemilik ialah dengan pemulihan dan penyesuaian semula bangunan-bangunan mereka agar dapat bersaing dengan bangunan-bangunan moden dalam usaha mendapatkan penyewa.

Kesemua penemuan-penemuan hasil kajian yang berlawanan antara satu sama lain ini juga telah mendorong penulis untuk mencadangkan agar kajian lanjut dijalankan ke atas beberapa aspek topik ini bagi meningkatkan lagi pemahamannya.

TABLE OF CONTENTS

	<i>Page</i>
Abstract	iii
Abstrak	iv
Table of Contents	vi
List of Figures	xii
List of Tables	xiv
Acknowledgements	xv

CHAPTER 1.0 INTRODUCTION

1.1 Preamble	1
1.2 Problem Statement	2
1.3 Aim of Study	3
1.4 Objectives of Study	3
1.5 Scope of Study	4
1.6 Methodology of Study	6
1.7 Proposed Organisation of Study	9
1.8 Parameters of the Study	12

CHAPTER 2.0 THE CONCEPT OF RENT

2.1 Introduction	15
------------------	----

2.2 What is Rent?	16
2.3 Anomalies of Rent	26
2.4 The Concept of Rent as a Surplus	30
2.5 The Price Mechanisms of Rent	35
2.6 The Rent Factor in Rent Control	40
2.6.1 The rent factor	42
2.6.2 The vacancy factor	46
2.7 Conclusion	46

CHAPTER 3.0 RENT CONTROL IN MALAYSIA

3.1 Introduction	51
3.2 History of Rent Control	51
3.3 The Control of Rent Ordinance 1956 (No. 2 of 1956)	55
3.3.1 Interpretation of the Ordinance	55
3.3.2 Implications of the Ordinance	58
3.3.3 Commentary on the Control of Rent Ordinance 1956	64
3.4 Control of Rent Act 1966 (Act 363)	65
3.4.1 Changes as Compared to the Control of Rent Ordinance 1956	66
3.4.1.1 Short titles and application	66
3.4.1.2 Time frame	66

3.4.1.3 Supervising authority	67
3.4.1.4 Definition of rents other than "rent"	
done away with	68
3.4.1.5 Definition of "statutory tenant"	
done away with	69
3.4.1.6 Appointment of Rent Officers	69
3.4.1.7 Deletion, addition and consolidation	
of items regarding recovery of possession	
of controlled premises	70
3.4.2 Conclusion	72

CHAPTER 4.0 CONTROL OF RENT (REPEAL) ACT 1997

4.1 Introduction	74
4.2 Background	74
4.3 Major Issues Necessitating the Repeal	75
4.4 Factors Necessitating the Repeal	78
4.4.1 Rent control discourages the	
construction of rental units	79
4.4.2 Rent control causes maintenance of rental	
units to be reduced	80
4.4.3 Rent control erodes the tax base and shifts	
the tax burden to the owners	83

4.4.4 Rent control reduces mobility	87
4.4.5 Rent control increases the cost of supplying capital for investment	89
4.4.6 Rent control blocks property development	90
4.4.7 Rent control is an unsatisfactory way of redistributing income	92
4.5 Issues Relating to the Repeal of the Act	94
4.5.1 Date of enactment	94
4.5.2 Effect on existing litigation procedures	94
4.5.3 Transitional period	95
4.5.4 Renewal of tenancy agreement during the transitional period	95
4.5.5 Rights of tenants during the transitional period	96
4.5.6 Formation of Decontrol Tribunal	97
4.5.7 Guarantee buildings will not be mass-destructed	97
4.5.8 Social effects of repeal on tenants	98
4.5.9 Recovery of possession of premises for redevelopment purposes	99
4.5.10 Compensation for "goodwill money"	101
4.5.11 Conservation of pre war buildings	102
4.6 Conclusion	104

CHAPTER 5.0 ANALYSIS OF THE STUDY

5.1 Introduction	108
5.2 Questionnaire-based Structured Interviews	
5.2.1 Analysis of Questionnaire Responses - Tenants	109
5.2.1.1 Section A of the Questionnaire	111
5.2.1.2 Section B of the Questionnaire	111
5.2.1.3 Commentary on Respondents' Opinion – Tenants	116
5.2.2 Analysis of Questionnaire Responses – Owners	
5.2.2.1 Section A of the Questionnaire	117
5.2.2.2 Section B of the Questionnaire	118
5.2.2.3 Commentary on Respondents' Opinion – Owners	121
5.3 Findings of the Questionnaire Responses	122
5.3.1 Findings of the Questionnaire Interviews – Tenants	123
5.3.2 Findings of the Questionnaire Interviews – Owners	124
5.4 Unstructured Interviews	126
5.5 Summary	131

CHAPTER 6.0 CONCLUSION AND RECOMMENDATIONS

6.1 Introduction	134
6.2 Implications of the repeal	135

6.2.1 Rent Changes	135
6.2.2 Change in Business and Tenant Mix	138
6.2.3 Conservation and Heritage	141
6.3 Recommendations	145
6.3.1 Incentives offered by the MPPP	145
6. 3.2 Recommendations for further studies.	146
6.4 Conclusion	147

BIBLIOGRAPHY

APPENDICES

LIST OF FIGURES

	<i>Page</i>
Figure 1 – 1 Plan of Georgetown showing the study area in the inner city in yellow	5
Figure 1 – 2 Research Methodology	8
Figure 1 -3 Proposed Organisation of Study	11
Figure 4 – 1 A view of a row of shop houses along Lebu Campbell showing a poor state of repair of the pre war shop houses. This may be due to the recalcitrant attitude of both tenant and landlord to maintain the shop house	78
Figure 4 – 2 A general view of pre war shop houses along Lebu Noordin and Jalan Magazine. Such a haphazard development and condition of the shop houses contribute towards a blighted cityscape	92
Figure 6 – 1 An example of building conservation and beautification along Lorong Kerian, off Jalan Macalister where eight units of shop houses were consolidated to form one big eatery	139

Figure 6 – 2 General view of the City of Georgetown city
centre where KOMTAR is located.

141

LIST OF TABLES

	<i>Page</i>
Table 2 – 1 Factors in Production and Their Compensations	20
Table 3 – 1 First Schedule of the Control of Rent Ordinance 1956	60
Table 5 – 1 Cross-Tabulation Between Rental Paid and Rental Before	113
Table 5 – 2 Cross-Tabulation between Percentage of Income Spent and Rental Paid	114
Table 5 – 3 Cross-Tabulation between Source of Income and Percentage Spent on Rental	115
Table 5 – 4 Cross-Tabulation between Rent Starts And Reasons Tenants Left	120

Acknowledgement

In undertaking this study and writing this dissertation, there have been numerous assistance from various sources, some of which have been spontaneous and unexpected. I have since counted my blessings that despite the odds, I can still manage to complete this dissertation on time.

Due thanks and reverence must go to Allah Subhanahu Wa Ta'ala for the inspiration, perseverance and resourcefulness that He has had the grace to confer upon me. Alhamdulillah, without His benevolence and love, this dissertation would not have come to fruition. Special thanks to my mother, Hajjah Norma, for her doa, trust and belief in me; also thank you Kak Cheah, Abang Kri and all my other siblings for understanding and giving me support.

I also wish to thank my inspirational and long-suffering supervisor, En Abd Aziz Hussin, AMN, for his tireless assistance and direction. Thank you for putting up with my shortcomings. My other lecturers have also contributed towards the realization of this dissertation whether directly or otherwise, thank you.

To all my friends and colleagues, the names of whom are too numerous to mention in this limited space; thank you for the assistance rendered and the inspiration you have given me in my endeavour to complete this work. Special thanks go to Wan, Mila, Betty, Aca, Nonie and Hafiz. My sincere gratitude also goes to Puan Fa'aizah and Puan Che Piah of JPPH Penang, Puan Siti Aminah of DBKL, Mr David Khoo of WTW Penang and Mr Cheong of MPPP for their kind assistance.

Last but not least, I fervently thank my dearest husband, Jasmin, who have given me total support morally, psychologically and logistically throughout our life together and especially during the preparation of this dissertation. Thank you for loving me and having faith in me. To my children Zara, Jehan, Jufri, Zarif and Jannah; thank you for understanding Mak's constraints. And thank you also to my trusted maid, Effrida, for managing my children during my frequent absences from home.

May Allah bless you all, Amin!

INTRODUCTION

CHAPTER ONE

1.0 INTRODUCTION

1.1 Preamble

The control of rent was introduced in the United States of America and Great Britain during World War 1, circa 1915, as a mechanism to combat gross profiteering on rent by landlords and to prevent displacement of families of soldiers serving in the war. It was also extended to workers in war-related production plants and their families.

Initially, rent control was exercised on the housing sector only due to the shortage of housing during the war. However, during the post war period, as commerce progressed, rent control was extended to commercial properties as well.

The concept of rent control, whether on commercial or housing sectors, was then exported by the British colonials to their colonies, including Malaysia. In Malaysia, rent control was governed by the Control of Rent Ordinance 1948, followed by the Control of Rent Ordinance 1956 which was later repealed and replaced by the Control of Rent Act 1966. The Control of Rent Act 1966 was subsequently reviewed in 1988 before being repealed in 1997 through the Control of Rent (Repeal) Act 1997.

The Control of Rent Act 1966 was enacted to regulate and control the rental of privately owned buildings located within the local authority areas and built before 31st January 1948. Control was deemed necessary due to the shortage of housing during the post World War II period. The Act was found to serve its purpose well then but as time passed, it has outlived its usefulness, hence, the repeal.

With the repeal, come major changes to the social fabric and rental make-up of premises located within the local authority areas. These changes are inevitable as the Act was enacted on the very heart of the premises, its rental value. The rental value of a property is its income, thus, is the most important factor in determining how valuable the property is.

This thesis aims to look at the changes that took place in terms of the rental levels of commercial properties located within the jurisdiction of the local authority, the Penang Municipal Council.

1.2 Problem Statement

The Control of Rent (Repeal) Act 1997 has resulted in a change in demography within the municipal limits due to the change in rental values of de-controlled premises. A chain reaction has occurred resulting not only in demographic change, but also change in actual use of the de-controlled premises (from

residential to commercial) arising from the inability of previously rent-controlled tenants to compete in the open market.

The structure of the rental market has also markedly changed due to these changes in demography and use.

There are two (2) possibilities, either:

1.2.1. Rent levels will drop due to a surplus in supply of commercial properties; or

1.2.2. Rent levels will rise due to the de-control state of the premises which, theoretically, would revert to its market situation post repeal.

Five years down the road from the repeal, what has happened to the level of rent of the de-controlled premises? How has demography been affected by the repeal and what about the general business in the previously bustling area?

1.3 Aim of Study

This study aims to research the effect of the Control of Rent (Repeal) Act 1997 on the rental level of commercial properties within the jurisdiction of the Penang Municipal Council, specifically, within Georgetown inner city.

1.4 Objectives of Study

In achieving the aim stated above, the following objectives were drawn up:

- 1.4.1 To collect and analyse data on the rental values of commercial properties located within the study area;
- 1.4.2 To study the occupancy rates of de-controlled premises and identify whether there are any changes in ownership, tenancy and use, and the underlying reasons;
- 1.4.3 To identify whether change in rental values (if any) is caused by the repeal of the Act. If otherwise, what the causes are, for example, due to refurbishment of the building;
- 1.4.4 To identify the roles played by the Penang Municipal Council and other authorities to mitigate the declining rental (if that was the case).

1.5 Scope of Study

The study will encompass those previously controlled buildings located within the Georgetown City limits. In this respect, the study has scoped down on commercial properties comprising mainly shop houses located within the Georgetown inner city. This area is as shown in yellow in Figure 1 – 1 below.

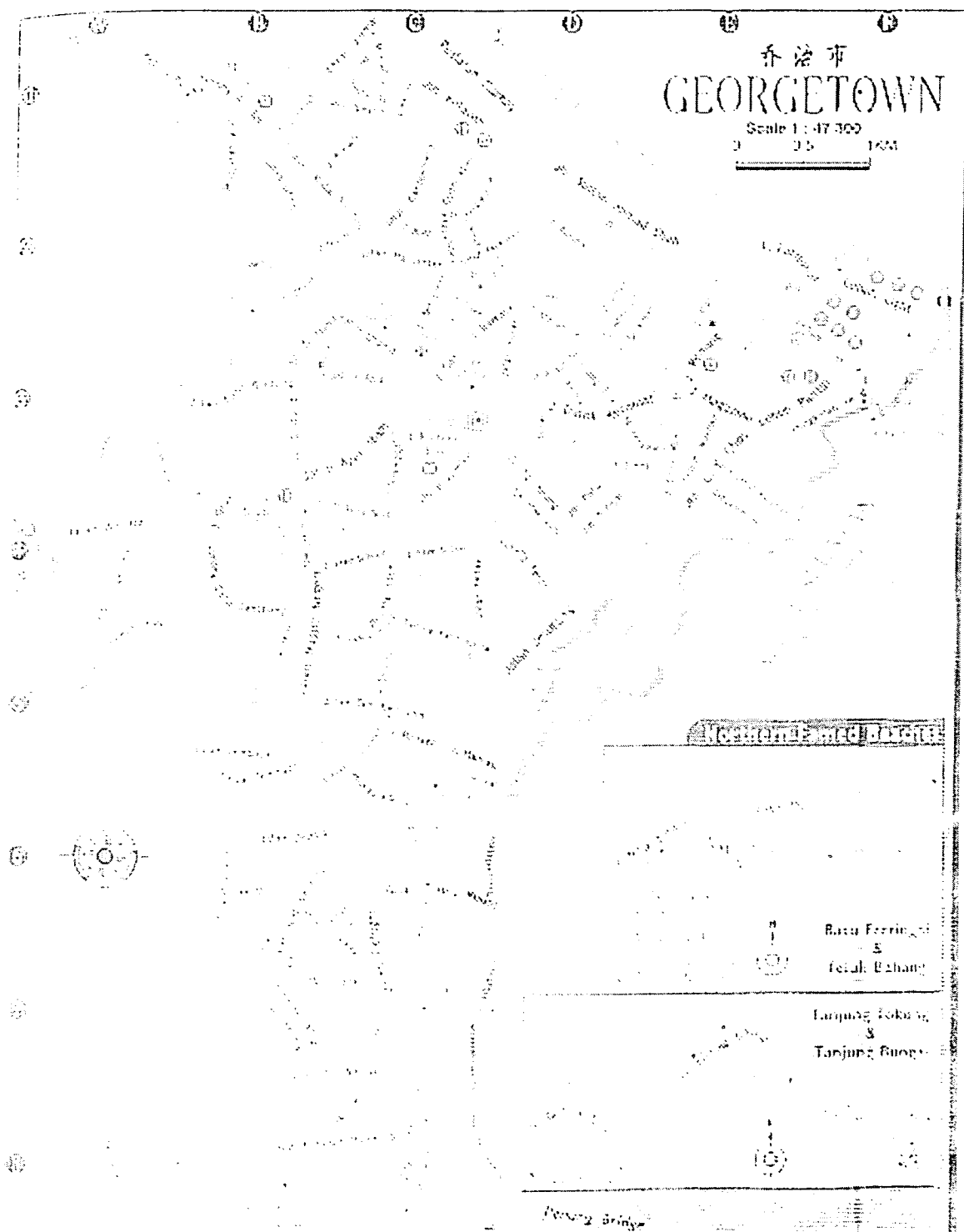


FIGURE 1 – 1: Plan of Georgetown showing the study area in the inner city in yellow

The study will also study the cross-section of new tenants in the de-controlled buildings and compare with the controlled premises' tenant mix.

The general aspects of the study are as follows:

- 1.5.1 Brief preview of the Control of Rent Act 1966;
- 1.5.2 An in-depth study of the rationale behind the repeal of the Act. This involves a close scrutiny of the Parliamentary Debate (Hansard) and the tabling of the Bill for the repeal;
- 1.5.3 A literature review of the background to rent, rent control and decontrol.
- 1.5.4 A field study of the pre war buildings comprising structured questionnaires filled by tenants and owners, and unstructured interviews with property professionals, government officials, municipal officials and laypersons.
- 1.5.5 Recommendations on how to manage the de-controlled premises and areas where there is a concentration of pre war buildings; to identify ways to revive business in the area.

1.6 Methodology of Study

The basic research methods employed in this study are primary data collection comprising structured and unstructured interviews of selected respondents and

officials; and secondary data collection from library research. Through these methods, problems will be identified and solutions offered. .

Essentially, two (2) types of analyses will be used, namely:

- a) A close scrutiny on, and analysis of, the Control of Rent Act 1966, Control of Rent (Repeal) Act 1997 and the Parliamentary Debate and tabling of the Bill prior to the repeal of the Act. These materials will provide insight into the root of the problem and will help identify how they affect the rental levels of the subject. Besides these, the library research will yield other analysable factors and data contributing to the general background of the subject matter of the study, such as rent and price theories.
- b) Analysis on the actual data collected on de-controlled buildings located within the study area to identify the market trends on rental levels, changes in demography and use (if any). Apart from existing data available from library research on this, new data will also be collected via interviews with tenants and/or owners of de-controlled buildings located in the Penang Municipality.

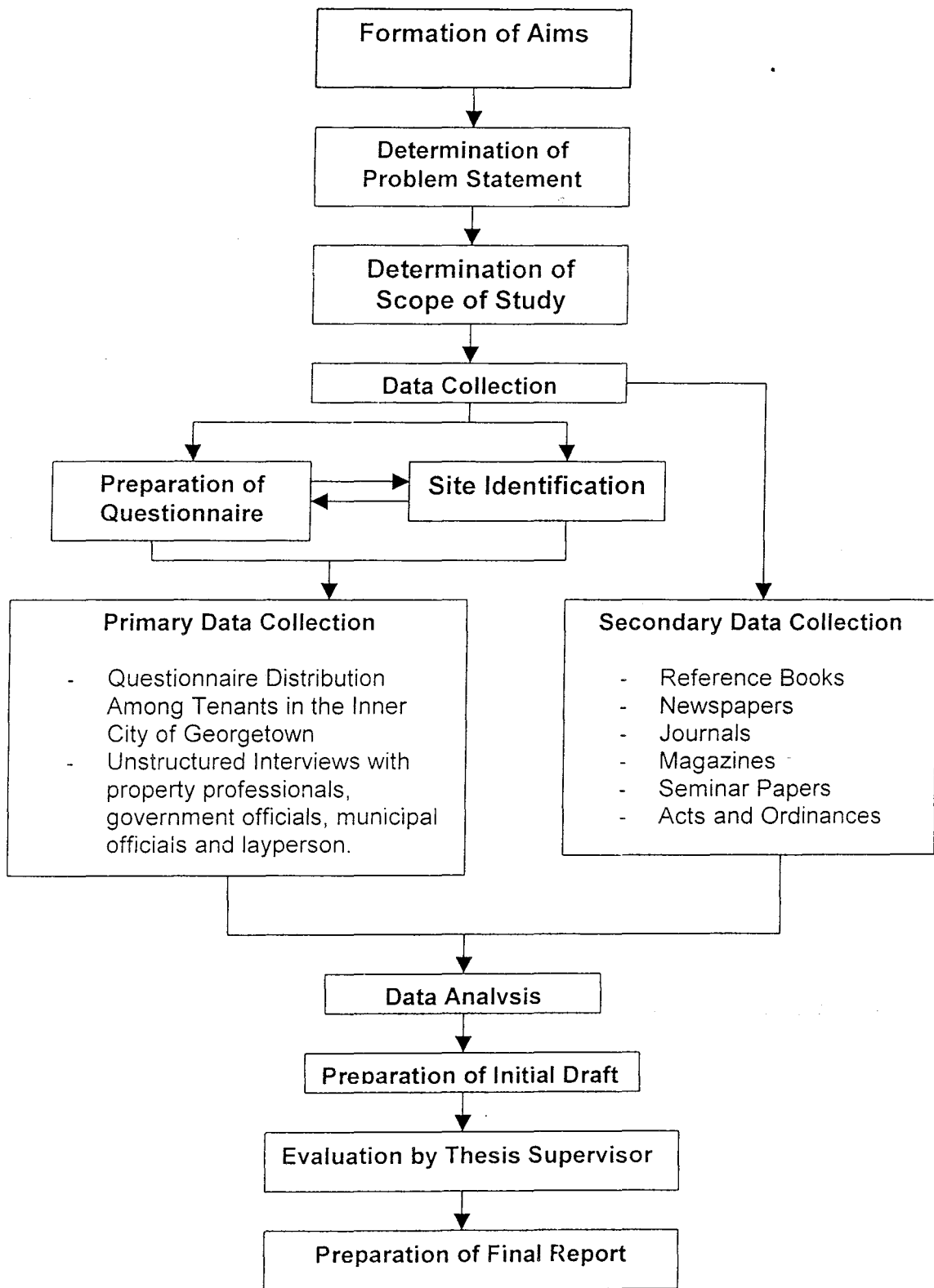


FIGURE 1 - 2: Research Methodology

1.7 Proposed Organisation of Study

Chapter 1.0 will be the introduction to the study and will give readers an insight into the purpose of the study, its objectives and what the study hopes to achieve. A problem statement will also be made. This chapter will explain how the study is conducted and its various methodologies.

Chapter 2.0 covers a detailed study of the theoretical background to rental and the rental market. This chapter will delve into the meaning of rent, the needs for rent, the many anomalies of rent and the factors affecting rent. This will explain the effect of the forces of supply and demand on the rental level. This chapter will be mainly covered through library research on books, journals and newspaper cuttings on the topic.

Chapter 3.0 details the background to rent control legislature, its origin, the reasons behind the enactment, to what extent was it implemented; and what were its implications on rental levels of commercial properties in the study area. In this chapter, an in-depth look at the Control of Rent Ordinance 1956 and Control of Rent Act 1966 will be taken to ascertain the above.

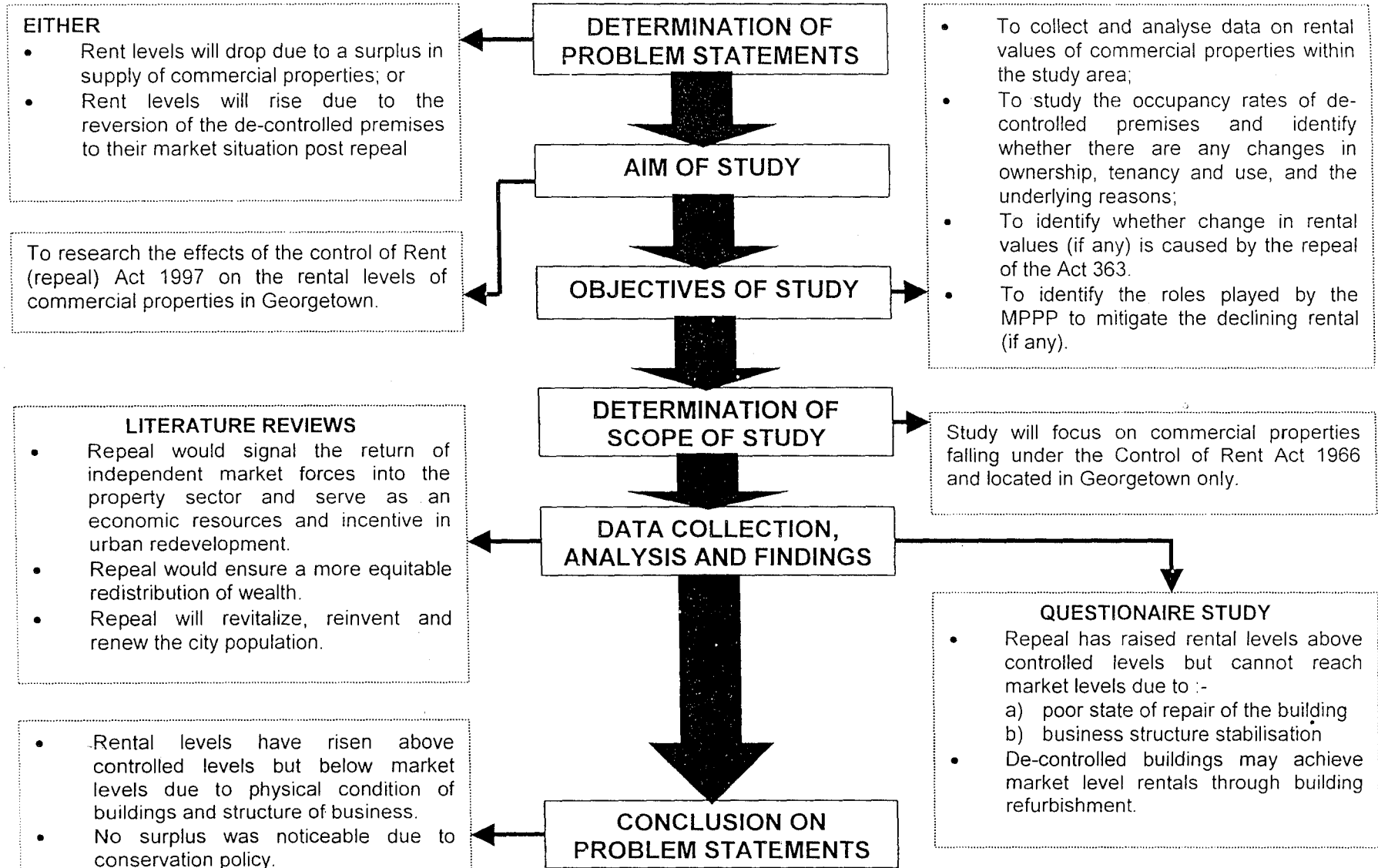
Chapter 4.0 will look at the repeal of the Act, when was it initiated, what were the underlying factors necessitating the repeal, what were the issues involved in the repeal etc. To this end, a detailed study of the Parliamentary Debate and the

tabling of the Bill prior to the repeal of the Act will reveal a deeper understanding of the subject matter.

Chapter 5.0 is the pen-ultimate chapter, which will reveal the findings of the structured interview and try to analyse the data collected. The chapter incorporates the analysis of the structured interviews via questionnaire. This chapter will offer segmented analyses of the questionnaire and the responses received. These analyses will reveal the findings of the study and later form the conclusion and recommendations of the study in Chapter 6.

Chapter 6.0 will conclude with a report on the effects of the repeal of the Control of Rent Act 1966 as determined by the analyses of the field study and augmented by the literature reviews. The method of conclusion done is a comparative commentary of the findings of the field study and the literature reviews on a topic-by-topic basis (ie: actual on-the-ground effect compared to effect as projected by literature reviews on the same issue). This chapter will also offer recommendations on ways to revive the waning business in the previously bustling inner city areas. A recommendation on further research to be done related to this study will be attempted as well.

FIGURE 1 – 3: Proposed Organisation of Study



1.8 Parameters of the study

In the course of undertaking this study, an anomaly pertinent to the topic has emerged. Most literature reviewed on rent control has focused on housing with just a small mention of commercial properties.

In view of this, the writer is of the opinion that this could be due to the popular notion that any property legislation would cause more hardship amongst house dwellers rather than business owners. This ties in closely with the concept of the home being the centre of familial activities.

However, the evidence gathered throughout the duration of doing the study has indicated that businesses suffer no less than house dwellers. This is due to the peculiar nature of rent controlled premises whereby the cross-section of tenants were low profile entrepreneurs, some of whom have been carrying out the business for generations.

From observation, it can be said that these tenants normally occupy the ground floor of the shop house for business purposes, and the upper floor as their living quarters.

Whatever the circumstance of the tenants' occupational arrangements, the use of premises is governed by its land use zoning and other planning requirements.

The valuation of a property is done based on its highest and best use, which may be defined as:

“The reasonable and probable use that will support the highest present value, as defined, as of the effective date of the appraisal. Alternatively, that use, from among reasonable, probable, and legal alternative uses, found to be physically possible, appropriately supported, and financially feasible, and which results in highest land value” (Friedman & Ordway, 1989).

The principle of highest and best use offers a conceptual model for analysing the various factors that influence the value of property. It considers important factors in the physical, legal, social, and economic areas that influence property values, rental values included.

It is with the above in mind that the framework of this study is constructed. Rental values are analysed on the same basis, regardless of the actual use of the premises as it has been decided that all properties located within commercial zoning (ie: within the city limits), must be valued thus.

Another constraint identified during the course of undertaking this study is the attitude of respondents who were reserved about revealing the real situation. When asked as to the effect of the repeal on them or their business, the majority

answered in the negative. However, other answers in the questionnaire indicated otherwise.

This reservation could be attributed to a distrust of strangers, traditional reservation, or a cynical attitude borne out of a previous lack of solution to the problem. This cynicism arose out of the tenants being exposed to numerous polls, surveys and such studies carried out on rent controlled tenants but no worthwhile solution to their plight.

Time was also a deterrent factor to the writer. Not being based in Penang where the study was, posed some organisational problems, hence only 30 respondents. Had the number of respondents been higher, the results could have been different.

THE CONCEPT OF RENT

CHAPTER TWO

2.0 THE CONCEPT OF "RENT"

2.1 Introduction

This chapter is concerned with the concept of "rent" in its various connotations. "Rent" has many facets attributed to it; whatever is adopted as "rent", will very much depend on the contributing factors towards the decision-making process.

Economically, for example, "rent" is the compensation accorded to land, which is a factor of production; much in the same way that wages and salaries are the compensations for the factor of production: labour.

To enable a better understanding of the subject matter of this dissertation, it is vital that a firm knowledge base on the theoretical background to "rent" be established.

This chapter will delve into the meaning of rent, the needs for rent, the anomalies of rent and the factors affecting rent. This will explain the effect of the forces of demand and supply of property on the price levels of the commodity: rental property.

Rent has always been closely associated with the social fabric of a community by virtue of its effect to the real income of the members of society. According to

Walker (1981), rent is a form of economic price and has been recognised as a consumer product or an economic factor.

Therefore, any policy concerning rent would inadvertently affect people's economic behaviour. A unique characteristic of property, which sets it apart from other types of economic goods, is its durability. Once erected, a property will stand till the day when it is either not required anymore, or when it becomes unsuitable for human habitation.

This durability aspect of property will feature a lot in the discussion on the topic of rent control because it has a lot to do with rent-controlled buildings.

2.2 What is Rent?

Friedman & Ordway (1989) has defined rent as "the payment made for the use of real estate". Rent is the agreed price paid for the use or occupation of property belonging to a freeholder for a specific period. The freeholder may grant a lease for any number of years unless security of tenure is provided by statute to an occupying tenant such as that accorded rent controlled tenants.

According to the College of Estate Management, United Kingdom (1984), rent may be defined as a payment made periodically by one party known as the tenant, to another party known as the landlord, as compensation or profit, to the

landlord for the grant to the tenant of certain benefits, usually exclusive occupation of the property.

The Appraisal and Valuation Manual produced by the Royal Institute of Chartered Surveyors (RICS, 1996) defines the Open Market Rental Value being:

"An opinion of the best rent at which a new letting of an interest in property would have been completed at the date of valuation assuming:

- a) a willing landlord;
- b) that, prior to the date of valuation, there had been a reasonable period (Having regard to the nature of the property and the state of the market) for the proper marketing of the interest, for the agreement of the rent and other letting terms and for the completion of the letting;
- c) that the state of the market, levels of values and other circumstances were, on any earlier assumed date of entering into an agreement for lease, the same as on the date of valuation;
- d) that no account is taken of any additional bid by a prospective tenant with a special interest;
- e) a stated length of term and stated principal conditions applying or assumed to apply to the letting and that the other terms are not exceptionally onerous or beneficial for a letting of the type and class of the subject property;

- f) that no premium passed and that any rent free period is in respect only of the time which would have been needed by the incoming tenant to make the subject property fit for occupation; and
- g) that both parties to the transaction had acted knowledgeably, prudently and without compulsion.

In *Colonial Mutual Life vs HW Tasal Services Pty Ltd* in Australia (Holland, M., 1996), His Honourable Dowsett J stated in his conclusion that ".....the current annual market rent..... It is the rent which could be obtained in the marketplace for the premises upon terms similar to those of those leases, assuming a willing, but not overly anxious potential landlord and tenant, and assuming that such parties will reach eventual agreement. In determining this value, it is obviously necessarily (*sic*) to look at other premises of similar quality and in similar locations and the terms upon which they are available in the marketplace. This inevitably involves a consideration of any incentives, with appropriate adjustments".

His Honourable went on to propose "That the current annual market rental value of the demised premises for the relevant period referred to in the said leases means the market rental able to be obtained for such premises in the marketplace, on terms substantially similar to those of the leases in question, the market including (but not exclusively) the market for premises not currently occupied".

The Australian Institute of Valuers & Land Economists (AIVLE) has adopted the following definition of Market Rent (Holland, M., 1996):

"MARKET RENTAL VALUE (or Market Rent) is the estimated amount for which premises should rent, as at the relevant date, between a willing lessor and a willing lessee in an arm's length transaction, wherein the parties had each acted knowledgeably, prudently and without compulsion, and having regard to the usual market terms and conditions for leases of similar premises".

The Board of Valuers, Appraisers and Estate Agents, Malaysia; in its code of ethics entitled the Manual of Valuation Standards, have defined "Market Value" as follows:

"Market Value is the estimated amount for which an asset should exchange on the date of valuation between a willing buyer and a willing seller in an arm's-length transaction after proper marketing wherein the parties had each acted knowledgeably, prudently and without compulsion".

No definition for "market rental value" was given in the Manual of Valuation Standards although the above definition of market value is quite all encompassing and can be adapted to suit the requirements of a rental definition.

In defining rent from the economics point of view, every economic activity requires four factors in production where each factor is paid from the earnings created by the activity. The following table illustrates the relationship between the factors of production and their respective compensations:

TABLE 2 – 1
Factors in Production and Their Compensation(s)

Factors	Compensation(s)
Labour	Wages, Salaries, Fees, Commissions
Capital (money or what money buys)	Interests, Dividends
Entrepreneurship (coordination)	Profits, Management Fees
Land	Rent

(Adapted from: Friedman, J.P. & Ordway, N., **Income Property Appraisal and Analysis**, Prentice Hall, U.S.A, 1989)

Friedman and Ordway (1989) theorised that because land is physically immobile; it has to attract the other factors of production to it. This means that all those factors must be compensated first. If there is any money left over, this residual amount is paid as rent to the owner.

In economic theory, land is said to have "residual value" and is worth something only if there is a surplus after all the other factors of production have been paid. This surplus productivity aspect of land is defined as.

"the net income attributed to land after the costs of labour, capital, and entrepreneurship have been paid".

Walker (1981), on the other hand is of the opinion that a rent is the result of multiplying a given set of property characteristics by the price of each of these characteristics. Hence, it follows that a change in rents can reflect either a change in the price of some of the characteristics or a change in the composition of the set.

The rent of houses, however, is not as easily analysable as the price of other commodities such as a piece of furniture, which is easily observable. This is due to the fact that houses are expensive and durable and their rents comprise various contributory characteristics.

It has always been said that every piece of property is unique. The above-said characteristics are what make a property so. Therefore, it would not be appropriate to compare the rents of two pieces of apparently similar properties without somehow adjusting for the differences in their characteristics.

A change in rent on a given property implies a change in the supply-demand conditions for the characteristics of that property unit. A rent represents some flow of services (or list of characteristics) multiplied by the price of each characteristic.

The following characteristics have been identified as having a strong influence on rent:

- a) Location, as it influences the proximity to, and traveling time to and from their place of work.
- b) Proximity to public means of transport.
- c) Number of bedrooms offered by the property, or size.
- d) Height of apartment and orientation (both factors affect view).
- e) Location of property in terms of public amenities, such as local commercial centre, mosque, playground, etc.
- f) Interior decoration of the property.

In any discourse on rent control, the reader needs to be made clear on the differences between 'market rent' and 'fair rent'. The various definitions of market rent are as given above; the determination of which, is through forces of demand and supply in a free market.

Fair rent, on the other hand, has been defined by the College of Estate Management (1984), as ".....now usually refers to rents payable on dwelling houses where the Rent Acts provide for settlement by a rent officer of a fair rent, a rent which is supposed to exclude any value due to the inadequate number of dwellings available to rent".

From the legal perspective, "fair rent" per se was not defined in the Control of Rent Act 1966 but in the context of rent control practice as prescribed in the Act, sections 5 and 7 elaborate at length as to how "fair rent" is determined. According to these two sections, "Fair rent" shall be determined in the following ways:

- (a) by an agreement in writing between the landlord and the tenant of such premises; or
- (b) in the absence of such agreement, by a decision of a Rent Officer for the area in which such premises is situated provided that such decision is accepted by both parties; or
- (c) if such decision is not accepted by either party, by an order of the Tribunal.

Section 5 of the Act further provided that the amount of "fair rent" should not exceed:

- (a) one-twelfth of the annual value of the controlled premises; or

(b) the amount of the rent per month of the controlled premises immediately before the commencement of this Act together with an increase of 100 per centum thereof;

whichever is the lesser.

"Annual value" as defined in the Local Government Act 1976 (Act 171) is:

"The estimated gross annual rent at which the holding might reasonably be expected to let from year to year the landlord paying the expenses of repair, insurance, maintenance or upkeep and all public rates and taxes:

Provided that –

- a) in estimating the annual value, no account shall be taken of any restrictions or control on rent in so far as it limits the rent which may be required by a landlord or recovered from a tenant of a holding;
- b) in estimating the annual value of any holding in or upon which there is any machinery used for any or all of the following purposes –
 - i. the making of any article or part of an article;
 - ii. the altering, repairing, ornamenting or finishing of any article;
 - iii. the adapting for sale of any article,

the enhanced value given to the holding from the presence of such machinery shall not be taken into consideration, and for the