

LETTERHEAD OF HONG KONG RETAIL MANAGEMENT ASSOCIATION

立法會 CB(2)1640/00-01(01)號文件
LC Paper No. CB(2)1640/00-01(01)

23 May 2001

Mrs Constance Li
Clerk to Panel
Bills Committee on Public Health and Municipal
Services (Amendment) Bill 2001

By fax: 2509 0775

Dear Mrs Li

**BILLS COMMITTEE ON PUBLIC HEALTH AND MUNICIPAL SERVICES
(AMENDMENT) BILL 2001**

Thank you for your fax dated 17 May 2001 inviting our Association to comment on the captioned subject.

Please find below our comments as follows:

We are very much supportive of the declared aim on the amendments, which is to speed up the closure of unlicensed and unhygienic food establishments. Where these represent a threat to public health, and where the business has no intention or hope of obtaining a license.

However, the amendments allows the FEHD which in wrong circumstances to close down suppliers/retailers who are attempting to operate hygienic establishments within an unreasonable or outdated licensing system. Specifically, it is not always possible to obtain a license within a reasonable time. (These problems therefore prompted the need for a thorough review by the Business Services Promotion Unit. The review of the whole retail licensing system is currently still in progress by the Government with an objective to cut red tape and to speed up its process for applicants and operators.)

Without a workable provisional license period, the most hygienic, modern and state-of-the-art food premises fail to be given a license immediately and will have to operate illegally or go out of business. The amendment, as stated, gives the FEHD the power to close down such businesses without regards to their hygienic status. The only defense offered is via the court and on the basis that an application for a license has been made and ALL prerequisite requirements are met. "ALL", without qualification means that the licensing requirements do not have to be reasonable, practical, significant to hygiene or safety, or in line with modern technology or practice. This means effectively that this

amendment can give the FEHD an opportunity to unreasonably refuse a license to any establishment without any legal defense.

Under paragraph 10 of the amendment bill, the FEHD can make a direct application to the court for a closure order based "on the fact that the premises are operating without a license, permit or permission". Businesses that operate unlicensed premises for a short time while waiting for licensing approvals would be at risk of receiving a closure order even though there were no health issues with the operation of those premises. Accordingly, if the FEHD makes an application to the court for a closure order, it should be based on a sterner test than merely a lack of license - we therefore suggest that an application should only be made where there is a serious health hazard relating to food safety.

Under paragraph 12 of the amendment bill, the director of FEHD has great powers to make closure orders - we suggest that such powers should be used sparingly and appropriate guidelines should be drawn up.

I hope the above comments will be useful in assisting the Government's review on the subject.

In the meantime, should you have any queries, please do not hesitate to contact the undersigned at 2866 8311.

Yours sincerely,

Anita Bagaman (Miss)
Executive Director

c.c. Mr Fred Li Wah-ming, JP, Chairman, Bills Committee.
Mrs Selina Chow, Legislative Councillor, Wholesale & Retail.
Mrs Brenda Yip, Business and Services Promotion Unit.