

Chapter 1

Public markets managed by the Food and Environmental Hygiene Department

Audit conducted a review of public markets managed by the Food and Environmental Hygiene Department (FEHD). It identified room for improvement in the following areas:

- vacant market stalls and non-trading market stalls;
- operating deficits incurred at some public markets;
- retrofitting of air-conditioning systems; and
- vacant floor space in two public markets.

Vacant market stalls and non-trading market stalls

2. According to paragraph 1.2 of the Audit Report, public markets were provided primarily for resiting the hawkers who would otherwise be trading on-street in the vicinity of the markets concerned, causing nuisance and congestion to pedestrian and vehicular traffic. Noting that many resited hawkers still traded on-street in the vicinity of the markets concerned, the Committee asked whether there was still the need to provide market stalls for resiting hawkers.

3. **Dr Hon YEOH Eng-kiong, Secretary for Health, Welfare and Food,** responded that:

- there were many problems regarding public markets. The design of these markets was one of these problems. Taking the Yuen Long Market as an example, the stalls on the ground floor of the market were not located in front of the entrance. Customers found such layout of the ground floor inconvenient. The first and second floors of the market attracted even fewer customers. Shops in the vicinity of the market attracted many customers but the market failed to do so;
- as the shopping habits of the public were changing, the Administration had to carefully consider whether or not there was a need to build markets in future. If there was such a need, the Administration had to consider the mode of operation and functions of markets as well as whether they should be managed by the Administration. The Administration was inclined to let private operators operate the markets as it was not suitable for the Administration to carry on commercial activities; and

Public markets managed by the Food and Environmental Hygiene Department

- he would carefully discuss with the Director of Food and Environmental Hygiene the viability of markets to see whether any of them had to be closed down. For markets with viability problem, the Administration would also explore whether there were other modes of operation which could enhance the competitiveness of stall lessees in the markets. Public markets did not have competitive edge over supermarkets as items on sale in public markets were also available in supermarkets and the service quality of supermarkets could also meet the customers' requirements. The Administration would, as recommended in the Audit Report, examine the situation of every public market to identify the best way to address the viability problem.

4. According to paragraphs 2.10 and 2.14 of the Audit Report, no viability studies had been conducted before the Peng Chau Market and the Luen Wo Hui Market, which were planned by the former Regional Services Department (RSD) in the 1990s, were built for the purpose of resiting stall lessees of existing markets and hawkers in the vicinity. Noting the market stall vacancy rates (MSVRs) of the two public markets, particularly the increase of the MSVR of the Luen Wo Hui Market from 9% to 20.4% in six month's time, it appeared to the Committee that the Administration had not taken account of future demand and competition in deciding to build these markets. The Committee asked about the reasons for not doing so and whether the FEHD had reviewed its experience from these markets and set additional criteria for determining whether to construct new public markets.

5. **Mr Gregory LEUNG Wing-lup, Director of Food and Environmental Hygiene**, explained that:

- the public markets managed by the FEHD were provided primarily for resiting all the hawkers who had been trading on-street in the vicinity of the markets concerned. The resiting commitments were used as an indicator in designing markets built in the earlier days. Some markets were therefore provided with a large number of market stalls. Some of these stalls were left vacant after the commissioning of these markets; and
- taking the Luen Wo Hui Market as an example, the market aimed at resiting hawkers who had been trading in vacant space in Fan Ling for many years. However, the business turnover of the stall lessees was not as good as before for the possible reason of the change in types of customers brought about by the relocation of the market place from the central area of the township of Fan Ling to the vicinity of a private housing estate. As a result, some of the stalls became vacant.

Public markets managed by the Food and Environmental Hygiene Department

6. The **Director of Food and Environmental Hygiene** further pointed out that, in deciding whether to build new public markets, the FEHD would determine the optimum number of market stalls to make the markets viable. Taking the new Wan Chai Market as an example, he said that the new market was originally planned for resiting all the hawkers trading in the existing Wan Chai Market, Chun Yuen Street and Tai Yuen Street. However, such resiting would cause some of the stalls which were trading on-street to be relocated to the basement, first and second floors of the new market. As a result, such stalls might no longer be viable. The FEHD was therefore currently considering whether it was possible not to resite all the hawkers to the new market. If the number of stalls in the new Wan Chai Market was smaller than that to be resited, the FEHD would have to discuss with the hawkers concerned a mutually acceptable way of sorting out the allocation of the stalls.

7. The Committee asked about the criteria for allocating market stalls and whether the hawkers to be resited would be consulted on the allocation.

8. The **Director of Food and Environmental Hygiene** responded that there was a consultative committee for every public market, the views of which were sought on important issues relating to the market. The FEHD had drawn up a number of options for the allocation. One of the options was to have a joint bid for a stall by two hawkers to be resited. Another option was to keep some stalls on the streets. Examples of such stalls were those selling dry goods which did not benefit from moving into the market and stalls of this trade therefore had the highest vacancy rate vis-à-vis stalls of other trades. A third option was, instead of resiting the hawkers concerned to the new market or allowing them to continue to trade on-street, to resite them to other public markets and offer them the same concessions in stall bidding.

9. According to paragraph 1.8 of the Audit Report, in its Report No. 29 of February 1998, the Committee urged the then Director of Urban Services to strictly follow the policy of the then Urban Council that public markets should no longer be built to satisfy resiting commitments, but should be justified by establishing a distinct demand and role for them in a District Plan; and to justify every new market by conducting a comprehensive review of the demand for such market facilities. In this connection, the Committee asked:

- whether the Administration had taken account of these views in deciding whether to construct the Peng Chau Market and the Luen Wo Hui Market; and
- whether vacant market stalls in these two markets arose from the absence or cessation of leasing of stalls.

The Committee also asked about the progress of the planning of the Aldrich Bay market.

Public markets managed by the Food and Environmental Hygiene Department

10. **Mr Warner CHEUK Wing-hing, Deputy Director of Food and Environmental Hygiene (Environmental Hygiene)**, responded that:

- construction of the Peng Chau Market began in 1996 and was completed in August 1998. The FEHD had not yet been established at that time. He believed that due to time constraints, a feasibility study could not be conducted before the construction of the market. On the other hand, a study had been conducted before the commencement of the construction of the Luen Wo Hui Market in November 1999. The study was completed before 1999. According to the then practice, the study results provided the basis for the number of stalls to be provided in the market concerned. As such, the two markets had the persistent problem of an excessive number of stalls. Since its establishment in 2000, the FEHD had fully accepted Audit's and the Committee's recommendation that viability studies should be conducted before the construction of public markets; and
- the FEHD considered that vacant market stalls in the Luen Wo Hui Market arose from the cessation of leasing of stalls. Due to the lack of customers when the market was commissioned in July 2002, the FEHD provided the stall lessees with a four-month rent-free period from July to November 2002. Thereafter, cessation of leasing began as stall lessees had to pay the rent for continuation of trading in the market. As such, the MSVR of the market increased from 9% in January 2003 to 20% in June 2003. Nevertheless, the FEHD considered that the vacancy position had become stable as a result of an increase in the number of customers in recent months.

11. The **Deputy Director of Food and Environmental Hygiene (Environmental Hygiene)** further pointed out that the construction of the Aldrich Bay Market, which was the first new public market to be constructed by the FEHD since its establishment, was planned to be completed in 2005. There were also a few markets which the former Municipal Councils had requested to build and the FEHD had found justified. There would be four such new markets, including the Aldrich Bay Market, to be commissioned in the coming three years. The numbers of market stalls in three of these markets were smaller than those to be resited. This showed that the FEHD had evaluated a number of factors, such as the population and the availability of other market facilities in the vicinity, before deciding on the construction of public markets.

Public markets managed by the Food and Environmental Hygiene Department

12. The Committee further asked about:

- the updated MSVRs of the Peng Chau Market and the Luen Wo Hui Market and the number of stalls in the four public markets to be constructed by the FEHD; and
- the existing criteria for determining whether to build public markets.

13. The **Deputy Director of Food and Environmental Hygiene (Environmental Hygiene)** responded that:

- the updated MSVRs of the Peng Chau Market and the Luen Wo Hui Market were similar to those in June 2003. Unlike the Luen Wo Hui Market, which had more than 300 stalls, the number of stalls in most of the coming four markets would be much smaller - 190 stalls in the Wan Chai Market, 130 in the Aldrich Bay Market and more than 120 stalls in the Tai Kok Tsui Market; and
- in considering whether to build public markets, the FEHD would assess factors such as whether there were market facilities in the vicinity and whether there would be a change of population etc. Resiting all affected hawkers to the markets was not one of these factors.

14. According to paragraph 2.3 of the Audit Report, after taking over the responsibility for managing public markets from the former Urban Services Department (USD) and the former RSD in January 2000, the FEHD set an 85% target for the overall market stall occupancy rate of its markets. This indicated that the overall MSVR should not exceed 15%. With effect from 1 January 2001, the FEHD revised the target overall market stall occupancy rate of markets to 84% (i.e. the overall MSVR of markets should not now exceed 16%). The Committee asked about the reasons for setting the occupancy rate at such levels instead of aiming at a 100% occupancy rate.

15. In her letter of 26 January 2004, in *Appendix 10*, **Dr S P Mak, Director of Food and Environmental Hygiene (Acting)**, responded that the FEHD considered it unrealistic to aim at an occupancy rate of 100% for its market stalls because:

- the FEHD had operational needs to set aside a number of stalls in its public markets for reasons such as planned re-development, resiting commitments, and improvement works. Given such needs, it would never be possible to achieve full occupancy;

Public markets managed by the Food and Environmental Hygiene Department

- the occupancy rate of FEHD's markets was determined by a host of factors. Some factors, such as the prevailing economic situation, shopping habits of the public, competition from other retail outlets in the neighbourhood, were beyond the control of the FEHD; and
- the FEHD would continue to make its best efforts to improve its market facilities and their management with a view to boosting their occupancy rate.

16. The Committee noted from Appendix A of the Audit Report that the MSVR of 15 public markets was higher than 40%, and asked whether the FEHD would close down these markets or take actions as set out in paragraph 2.17 of the Audit Report, including the setting of an individual MSVR for each market, in order to reduce the MSVR of its markets.

17. The **Director of Food and Environmental Hygiene** said that:

- the FEHD had to balance the large operating deficits arising from high MSVR of public markets against the interests of the existing stall lessees who would need to be relocated, should market closure take place. As such, the FEHD would set an individual MSVR for each market and take actions to achieve the target MSVR, failing which the FEHD would have to consider the possibility of closing down these markets in view of their high MSVR and operating deficits; and
- from mid-2003, the FEHD had tried out in three markets an upset price-setting mechanism for long-standing vacant market stalls. Under this mechanism, the upset price for these market stalls was set below the open market rent (OMR). The results of the trial scheme for the past few months were not so good. Although there had been bids for market stalls at a price below the OMR, the number of bids was not as expected. As such, the rental of these market stalls was not the only reason for the difficulty in leasing them out. The provision of more market stalls than demand was the main reason. It was necessary for the Administration to draw up measures to resolve the problem, such as giving consideration to closure of those markets which were no longer viable due to changed circumstances, as recommended by Audit.

18. The Committee asked about the respective timing for the end of the trial scheme and for the Committee to be informed of the results of the trial.

Public markets managed by the Food and Environmental Hygiene Department

19. In her letter of 30 December 2003, in *Appendix 11*, Mrs Carrie YAU, **Permanent Secretary for Health, Welfare and Food**, advised that the FEHD introduced the trial scheme in August 2003 in three public markets. As at the end of November 2003, 24 out of the 182 long-standing vacant stalls offered for letting at reduced upset prices had been successfully leased. The FEHD would conduct another round of auction under the trial scheme in January 2004 and the Health, Welfare and Food Bureau (HWFB) would review the results in February/March 2004. The HWFB would keep the Committee informed of the results of its review and the way forward.

20. According to paragraph 2.17(e) and (f) of the Audit Report, the FEHD had earmarked nearly \$640 million over the next few years for carrying out improvement works in its public markets to improve their operating environment and was taking steps to harness entrepreneurship and creativity from the private sector by implementing a Market Manager Pilot Scheme in four markets to improve the management of its markets. In this connection, the Committee asked:

- about the markets which required the improvement works;
- whether the FEHD would recover the cost of the improvement works by raising the stall rental; and
- in which four markets the Pilot Scheme was implemented and the progress so far.

21. The **Secretary for Health, Welfare and Food** and the **Director of Food and Environmental Hygiene** replied that:

- the FEHD had conducted a simple internal assessment of the public markets which required works to improve their operating environment. The FEHD had more than 80 markets. More than 10 of them had viability problem and more than 10 other markets did not. The former markets were subject to review to see whether they merited closure. The latter markets did not need any improvement to their operating environment. The remaining 60 markets or so required works to improve their operating environment;
- the improvement works included the retrofitting of air-conditioning systems or the improvement to ventilation systems, the upgrading of drainage systems, lighting and signages, and the replacement of floor and wall finishes. The estimated costs of the retrofitting works and the other works were about \$300 million and \$340 million respectively. As the stall rental had been frozen for

Public markets managed by the Food and Environmental Hygiene Department

the past six years due to the economic environment, it would be difficult to recover the cost. On the other hand, the retrofitting works would not be carried out if the stall lessees concerned did not agree to pay the recurrent cost; and

- the Pilot Scheme was implemented for a year in the Fa Yuen Street Market, the Hung Hom Market, the North Kwai Chung Market and the Smithfield Market. The FEHD was reviewing the Scheme. Under the Scheme, four teams of personnel from the private sector replaced the Foremen and Workmen, who were civil servants, in servicing the four markets. Each team was originally deployed to service one market. From January 2004, the FEHD redeployed two teams to the Headquarters for organising promotional activities for all markets. The remaining two teams would be redeployed to serve two markets or, if the markets concerned were small, more than two markets in the same district. In doing so, the FEHD hoped that the resources could be better utilised.

22. According to paragraph 2.17(h) of the Audit Report, the FEHD would further explore ways of reducing the MSVR of its markets to below the overall vacancy rate of 10.7% for private commercial premises used for retail business and below any MSVR, should such references be set, for individual markets. The Committee asked whether this meant that the FEHD would reduce both the overall MSVR of 22.6% (paragraph 2.5 referred) and the individual MSVR, which were higher than 40% for some markets, to 10.7%.

23. The **Director of Food and Environmental Hygiene** said that the overall MSVR referred to in paragraph 2.17(h) of the Audit Report was 11.8% which, according to paragraph 2.17(c), was the rate as at 31 July 2003, and was arrived at after deducting the number of purposely frozen market stalls. The overall rate was an average of the rates for individual markets. It was difficult for the FEHD to reduce the individual rates to the level of the overall rate of 10.7%. Apart from setting the individual rates, the FEHD would also explore alternative use of these vacant stalls.

24. The **Secretary for Health, Welfare and Food** added that he and the Director of Food and Environmental Hygiene would examine the viability of each public market with a view to identifying which markets merited improvement of their operating environment to reduce the MSVR and which merited closure.

Public markets managed by the Food and Environmental Hygiene Department

25. The Committee queried whether it was appropriate for the FEHD to deduct the number of purposely frozen market stalls from the calculation of the overall MSVR of its public markets. It therefore asked:

- about the MSVR as at 31 July 2003 without such deduction;
- whether the rate of 10.7% for the private sector was calculated with similar deduction; and
- about the details of the ways to reduce its MSVR, as undertaken by the FEHD in paragraph 2.17(h) of the Audit Report.

26. The **Director of Food and Environmental Hygiene** responded that:

- the MSVR as at 31 July 2003 without the above deduction was about 22%; and
- the high MSVR was due to the excessive number of stalls in some markets, leading to an over-provision of stalls compared to demand. The large number of stalls for some old markets was justified by the demand for such market facilities at the time of constructing these markets. However, the changed circumstances of these markets since their commissioning, such as changed population size in their catchment areas and demolition of nearby housing estates, had led to a reduction in the number of customers. As a result, the MSVRs of these markets increased.

27. In his letter of 20 January 2004 in *Appendix 12*, the **Director of Audit**, informed the Committee that, according to Audit analysis of the FEHD's records, the MSVR for public markets as at 31 July 2003 without deducting the frozen market stalls was 22.7%.

28. It appeared to the Committee that the FEHD had attempted to conceal the true MSVR of its public markets by making the deduction, thereby reducing the MSVR of its markets from 22.7% to 11.8%. As a result, its MSVR compared more favourably with the overall vacancy rate of 10.7% for private commercial premises used for retail business. On the calculation of the MSVR, the **Director of Food and Environmental Hygiene**, in his letter of 19 December 2003 in *Appendix 13*, explained that:

- the vacancy rate of 10.7% for private commercial premises used for retail business was drawn from the Hong Kong Property Review 2003 published by the Rating and Valuation Department. The latter had made no purposeful

Public markets managed by the Food and Environmental Hygiene Department

deductions for frozen space in working out the vacancy rate. Since private landlords had no resiting commitments towards their tenants, and given the landlords' intention to maximise income, it was reasonable to believe that any purposely frozen space in the private commercial market would be kept at a minimum; and

- in explaining the situation to the Director of Audit, the FEHD felt that it would be appropriate to express the vacancy rate of market stalls based on available space, that is, excluding those stalls that had been frozen. He apologised should this approach have caused some misunderstanding. In future, the FEHD would review how best to express the MSVR with a view to presenting a full picture to the readers.

29. The **Director of Food and Environmental Hygiene** further advised, in the same letter, that the measures to reduce the MSVR of the FEHD would include the following:

- enhancing the operating environment of the public markets, including improvement to the lighting, ventilation, drainage, signage, and floor and wall finishes;
- assisting the stall holders to improve their business viability by providing customer service training and organising promotion activities;
- improving and maintaining a high standard of cleanliness in the markets to attract customers and to improve overall viability;
- rationalising the layout inside the markets, where possible, such as by merging adjoining vacant small stalls into larger ones to make them more attractive to potential tenants;
- reducing the upset price for stalls which had been vacant for a considerable period to make them more attractive to potential bidders;
- identifying alternative uses of market stalls by bringing in new types of trade, such as banking machines, tradesmen services, and photo-processing; and
- in case where a market remained unviable with high vacancy rate, considering closing down part of or the entire market and using the space for other purposes.

Public markets managed by the Food and Environmental Hygiene Department

30. In this connection, the Committee asked about:
- the criteria based on which the FEHD determined the closure of public markets; and
 - the ranks and numbers of the FEHD's posts that would be deleted and of its staff that would become redundant if closure of markets, outsourcing of service, or transfer of market operation to private operators (paragraph 4.18 of the Audit Report referred) was implemented.
31. In his letter of 19 December 2003, the **Director of Food and Environmental Hygiene** stated that:
- in determining whether a public market might be closed, the FEHD would largely rely on the following criteria for its decision:
 - (a) the stall vacancy rate in the market and whether there were cost-effective measures which the FEHD could apply to improve this vacancy rate;
 - (b) the size of the Government's deficit in operating the market, and whether there were practical measures to reduce government expenditure;
 - (c) the availability of retail facilities in the vicinity of the market and the ability of the market stall holders to compete successfully with these facilities; and
 - (d) the social considerations that required the retention of a public market in the locality despite heavy deficit, such as in case where there was a general lack of retail facilities in the area;
 - the FEHD fully understood that closing a public market was a controversial issue, which might have a significant impact on the existing stall holders and the community. The FEHD would conduct detailed studies, bearing in mind the criteria set out above, and consider other possible options before proposing to close any markets. The FEHD would consult the views of the District Councils and the stall operators; and
 - given that the cleansing and security services of the markets had been outsourced, the closure of a market would involve mainly the deletion of the supervisory posts. Generally, the closure of a market might involve the deletion of up to one Overseer, three Foreman and three Workman posts.

Public markets managed by the Food and Environmental Hygiene Department

The FEHD did not expect that it needed to make any civil servants redundant because of market closure, outsourcing or transfer of market operation to private operators. Any surplus staff identified would be taken care of through redeployment or natural wastage.

32. According to paragraphs 2.19 and 2.25 of the Audit Report, under the market stall tenancy agreement, a stall lessee must not cease carrying on business at the market stall for more than a specified number of days a year (156 and 84 for markets previously managed by the former USD and the former RSD respectively) without the FEHD's prior consent in writing. The Secretary for Health, Welfare and Food had said that tightening up on the "non-trading" rule in tenancy agreements would inevitably lead to more terminations of tenancies. This might put further pressure on the overall occupancy rate of markets and reduce rental income collectible. In this connection, the Committee asked about the enforcement of the "non-trading" rule.

33. The **Director of Food and Environmental Hygiene** stated that there were enforcement difficulties, such as in defining the minimum period in which a market stall should operate in order to qualify as a trading stall for the purposes of the "non-trading" rule. Some stall lessees might find their existing stalls too small and would therefore lease another stall for storage of goods. Nevertheless, the FEHD would strictly enforce the tenancy conditions concerning non-trading days.

34. The Committee asked about details of the FEHD's actions in monitoring non-trading market stalls in each public market and enforcement against those stall lessees who had breached the condition concerning non-trading days in the past three years.

35. In his letter of 30 December 2003, in *Appendix 14*, the **Director of Food and Environmental Hygiene** said that the Market Foremen were responsible for conducting regular checks on the market stalls to ensure that the operators complied with tenancy terms and conditions, including the provision concerning non-trading. The FEHD would issue verbal/written warnings to market tenants if the latter were found to be in breach of the non-trading rule. Repeated offenders might have their tenancy terminated. In the past three years, a total of 545 verbal warnings and 79 written warnings were issued to market tenants for cessation of stall business in excess of the permitted period. No tenancy agreement, however, had been terminated on this account as the breaches had been subsequently rectified.

Public markets managed by the Food and Environmental Hygiene Department

Operating deficits incurred at some public markets

36. According to paragraph 1.5 and Table 3 of the Audit Report, for all public markets, property maintenance services were provided by the Architectural Services Department (ArchSD) and electrical maintenance services were provided by the Electrical and Mechanical Services Department (EMSD). In 2002-03, the total cost (excluding land cost and depreciation) of operating markets was \$551.7 million, and the operating deficit was \$237.5 million. The total cost included, inter alia, staff costs of \$183.3 million and departmental expenses of \$288.8 million. In this connection, the Committee asked:

- about the operating deficit if the hidden subsidies, which included the land cost, depreciation and accrued pension cost, were also taken into account;
- the effect of the flexible upset price-setting mechanism mentioned in paragraph 2.18(b) of the Audit Report on the above amount of deficit;
- whether public tenders had been invited for the maintenance services provided by the ArchSD and the EMSD; and
- about the details of the departmental expenses and whether these expenses and the staff costs could be reduced.

37. The **Director of Food and Environmental Hygiene** said, at the public hearing and in his letter of 30 December 2003, that:

- the operating cost of \$551.7 million for 2002-2003 had included accrued pension cost but not land cost and depreciation. The FEHD did not have any information on the assessed historical land cost of the 82 public markets. The FEHD was unable to take into account depreciation of the market buildings due to the difficulty in tracking down, for most of the markets, their historical construction costs. It could be, however, safely assumed that the operating deficit per annum would be much higher if the opportunity cost of the land concerned and depreciation of the buildings were to be included;
- the FEHD introduced in August 2003, on a trial basis, in three public markets a more flexible upset price-setting mechanism for long-standing vacant market stalls. Together, these three markets accounted for, in 2002-2003, an operating deficit of \$12.8 million. As at the end of November 2003, 182 long-standing vacant stalls in these three markets were offered for letting at reduced upset price and 24 stalls (or 13%), including six stalls at 80% of the OMR and 18 stalls at 60% of the OMR, were leased, generating an additional

Public markets managed by the Food and Environmental Hygiene Department

rental income of \$258,720 per annum. This would help bring down the annual operating deficit by an equivalent sum;

- public tenders had been invited for individual items of the electrical maintenance services. The EMSD was successful in some of these tenders. Private service providers were successful in recent public tenders. As the maintenance service charges were affected by the number of parts to be changed which could only be known by the end of the contract period, whether the EMSD or the private sector provided a cheaper service could only be known by then; and
- the departmental expenses mainly included four parts, i.e., electricity charges, electrical maintenance charges, and fees for cleansing and security services. These charges and fees constituted about 33% and 20% of the total cost respectively. The departmental expenses, together with the staff costs at about 33% of the total cost, accounted for about 85% thereof. The remaining 15% of the total cost was on water charges and on maintenance fees charged by the ArchSD. The staff costs were those of four to six staff members for servicing each market. They had to work on shift in view of the long opening hours for markets which opened every day. As such, the chance for reducing these staff costs was small. The fees for cleansing and security services might even increase. This was because the number of shifts had to be changed from two in the existing contract for security service to three in the new contract. As a result, the number of security guards was expected to increase. Overall speaking, the room for reducing the total cost was not much.

38. It appeared to the Committee that the FEHD had not given a full and frank account of the operating conditions of public markets, including the real demand for the markets and the total amount of tangible and hidden government subsidies, e.g. the use of government land and buildings. The Committee considered that these were all important factors which decision makers had to take into account in assessing the viability of each of the public markets vis-à-vis the private ones. In this connection, the Committee noted from paragraph 4.19 of the Audit Report that the FEHD had embarked on a study to identify markets that might merit closure. The Committee asked when the study results would be available.

Public markets managed by the Food and Environmental Hygiene Department

39. The **Director of Food and Environmental Hygiene** responded that, as stated in paragraph 4.18 of the Audit Report, the FEHD would take into account the factors mentioned in paragraph 4.17(a) when identifying those public markets that should be closed because of unresolvable viability problems. To determine whether the viability problem of a market with high MSVR was unresolvable, the FEHD would attempt to ascertain the causes of the high MSVR. Once the FEHD had finalised the list of markets that should be closed, it would draw up an action plan. This would take at least six months.

40. The **Secretary for Health, Welfare and Food** added that he and the Director of Food and Environmental Hygiene would consider the scale of public markets and examine which markets merited closure and which merited continuation of operation. They would try to draw up a timetable for assessing the viability of each market. For those markets which merited closure, the FEHD did not consider it necessary to bring down their MSVRs, as additional resources would be required for doing so. A difficulty in improving the viability of markets was that the operating cost could not be offset by the rental, which had been frozen. Nevertheless, the FEHD would examine whether the cost of operating markets could be reduced. It would also consider the feasibility of transferring the operation of markets to private operators.

Retrofitting of air-conditioning systems

41. According to paragraphs 5.6 and 5.16 of the Audit Report, the MSVRs of the three public markets retrofitted with air-conditioning systems had in fact increased after the retrofitting works. Consequently, the FEHD's share of the recurrent cost of air-conditioning in respect of vacant market stalls had also increased. The Committee enquired:

- whether the provision of air-conditioning systems could significantly improve the viability of markets or incur more operating deficits; and
- about the reasons for the increase of the MSVRs of the three markets retrofitted with air-conditioning systems.

42. The **Director of Food and Environmental Hygiene** responded that:

- there was a belief that customers preferred shopping at supermarkets to shopping at public markets because, unlike the latter, the former was provided with air-conditioning. As such, providing air-conditioning systems in markets could improve their viability. However, the experience of the above

Public markets managed by the Food and Environmental Hygiene Department

three markets seemed to disprove the belief. The FEHD would take into account this experience in considering the provision of air-conditioning systems in markets in future; and

- the FEHD was puzzled by the increase of the MSVRs of the three markets as, due to the freeze of rent, the stall lessees were not yet required to bear the recurrent electricity and maintenance costs. Yet some stall lessees ceased their stall business. The reason for such cessation of business might be a change of the surrounding environment of the markets concerned. As a result, the number of customers shopping at these markets dropped.

43. The **Secretary for Health, Welfare and Food** added that the Administration would carefully consider whether to proceed with the retrofitting works for the other public markets. The consent from stall lessees to bear the recurrent cost for air-conditioning was only one of the factors. The Administration would also consider the viability of these markets in deciding whether to proceed with the retrofitting works.

44. According to paragraph 5.9 of the Audit Report, the FEHD decided that the retrofitting of air-conditioning systems in 18 public markets would only proceed if an 85% majority consent from stall lessees was obtained. The Committee asked whether the 85% majority consent was the only pre-condition for the retrofitting of air-conditioning and whether the FEHD had assessed the cost-effectiveness of these markets.

45. The **Director of Food and Environmental Hygiene** responded that the stall lessees had divided views on the retrofitting of air-conditioning. Some stall lessees believed that the retrofitting would improve the business turnover while others were unwilling to bear the recurrent cost for the air-conditioning. It would be worthwhile to proceed with the retrofitting works if the provision of air-conditioning could improve the market viability. After all, the provision of public markets was not entirely commercial in nature but was also a social responsibility. Instead of only considering the cost-effectiveness of these markets, the FEHD had to balance the commercial interest and the social responsibility in operating public markets.

46. According to paragraph 5.11 of the Audit Report, the FEHD obtained funding for retrofitting of air-conditioning at the Yue Wan Market in April 2003, had withdrawn the funding proposal for the retrofitting works at the Fa Yuen Street Market, and had not yet sought funding approval for the retrofitting works at the San Hui Market. The Committee asked whether the FEHD would proceed with the retrofitting of air-conditioning systems in these three markets, as originally planned.

Public markets managed by the Food and Environmental Hygiene Department

47. In his letter of 19 December 2003, the **Director of Food and Environmental Hygiene** responded that:

- to follow up commitments made by the former Municipal Councils, the FEHD had agreed to install air-conditioning systems in 18 public markets, subject to such proposal obtaining an 85% majority consensus from stall lessees. Based on this criterion, the FEHD had obtained funding for providing air-conditioning at the Yue Wan Market and was planning to seek funding for similar works at the San Hui Market and the Fa Yuen Street Market; and
- the FEHD maintained an open mind on the provision of these proposed air-conditioning systems. In view of the concerns expressed on value for money for such works, the FEHD would review the need and cost-effectiveness of these projects and consult the Legislative Council Food Safety and Environmental Hygiene Panel in early 2004 on whether the FEHD should continue to proceed with the project at the Yue Wan Market which had already been tendered, and whether the FEHD should seek funding approvals for the other works. The FEHD would inform the Committee as soon as it had consulted the Panel and made a decision.

Vacant floor space in two public markets

48. The Committee noted that the vacant market floor space on the second floor of the Fa Yuen Street Market and in the basement of the To Kwa Wan Market, had a total gross floor area of 2,310 square metres, had not been put to beneficial permanent use since 1988 and 1994 respectively. The Committee considered that the vacant floor space should have been put to beneficial use, such as for use as office accommodation, by the Government or non-governmental organisations. In this connection, the Committee enquired whether it was possible to put the vacant floor space to such use.

49. The **Director of Food and Environmental Hygiene** responded that its district offices had to be located in the districts concerned in order to be easily accessible by the local residents. If the FEHD had accommodation needs in Kowloon in future, it would explore the feasibility of turning the two floors, which were designed for market purpose, into offices to meet such needs.

Public markets managed by the Food and Environmental Hygiene Department

50. To ascertain whether the FEHD had actively explored the possibility of using the vacant space as office accommodation, the Committee asked about the locations and floor areas of office accommodation provided to the FEHD and the former USD since the commissioning of the Fa Yuen Street Market and the To Kwa Wan Market in 1988 and 1984 respectively.

51. In his letter of 19 December 2003, the **Director of Food and Environmental Hygiene** provided two tables setting out the location and floor areas of office accommodation provided to the former USD and the FEHD respectively since the commissioning of the two markets. He pointed out that Part 6 and Appendix I of the Audit Report had set out the various proposals that had been explored for putting these two vacant market floors to permanent use. The two floors were designed for market purpose. It was not certain whether they were suitable for turning into offices, and if so, what the conversion costs would be. The FEHD would take the lead in exploring the feasibility of this option together with the Government Property Agency (GPA) and the ArchSD, and if this was not a desirable option, identify possible alternative permanent uses.

52. The Committee noted from the above letter that the former USD and the FEHD had acquired 21,578 square metres of office accommodation in government premises since 1988. Regarding the accommodation leased by the FEHD since its establishment in 2000, which was listed in Annex II of the above letter, the Committee asked about the annual rental for the accommodation and the rental expenditure so far.

53. In her letter of 26 January 2004, the **Director of Food and Environmental Hygiene (Acting)** stated that the FEHD had spent \$1,203,526 between January 2000 and December 2003 for leasing the four premises in the New Territories for District Environmental Hygiene Offices. She also provided details of the annual rental and total rental expenditure incurred for the respective leased premises.

54. According to paragraphs 6.13 to 6.16 of the Audit Report, both the Director of Food and Environmental Hygiene and the Secretary for Health, Welfare and Food considered that it was more appropriate to entrust to the GPA the task of putting vacant market floor space to beneficial permanent use. In paragraph 6.17(a), the Government Property Administrator had said that public markets were specialist buildings and the responsibility for their management and use rested with the department concerned. The Committee asked whether, from the policy perspective, the GPA might be entrusted with the task.

Public markets managed by the Food and Environmental Hygiene Department

55. In her letter of 5 December 2003, in *Appendix 15*, the **Secretary for Financial Services and the Treasury**, responded that:

- as the Government Property Administrator pointed out in paragraph 6.17 of the Audit Report, public markets were specialist buildings. In line with established policy, the responsibility for the management and use of such buildings rested with the user department concerned; and
- with particular reference to the vacant premises cited in the Audit Report, it should be noted that these consisted entirely of market stalls. They were specifically designed and built as an integral part of the public markets which would continue to be operated and managed by the FEHD. Any proposals for their alternative use must therefore have due regard to the compatibility of use, effective operation and efficient management of the public markets proper. With these considerations in mind, it would be appropriate for the Director of Food and Environmental Hygiene to continue to identify alternative use for the surplus market stalls and putting the vacant premises to beneficial use. The GPA would be pleased to offer assistance and advice in resolving the problems.

56. The Committee asked whether the Financial Services and the Treasury Bureau would explore the feasibility of converting vacant market floor space into office space and in finding suitable users for the accommodation.

57. **Miss Elizabeth TSE, Deputy Secretary for Financial Services and the Treasury (Treasury) 1**, responded that the Financial Services and the Treasury Bureau noted that the FEHD's ability to put the floor space to beneficial permanent use was constrained by its functional ambit. The GPA would offer assistance and advice in resolving the problem of the vacant market floor space.

58. **Conclusions and recommendations** The Committee:

- acknowledges that the public markets managed by the Food and Environmental Hygiene Department (FEHD) are provided primarily for resiting the hawkers who would otherwise be trading on-street in the vicinity of the markets concerned, causing nuisance and congestion to pedestrian and vehicular traffic;

Public markets managed by the Food and Environmental Hygiene Department

- expresses dismay that the FEHD has not given a full and frank account of the operating conditions of public markets, including the real demand for the markets and the total amount of tangible and hidden government subsidies, e.g. the use of government land and buildings. These are all important factors which decision makers have to take into account in assessing the viability of each of the public markets vis-à-vis the private ones;

Many market stalls were vacant or non-trading

- expresses concern that:
 - (a) the overall market stall vacancy rate (MSVR) of public markets increased from 15.7% as at 31 March 2000 to 22.6% as at 31 March 2003;
 - (b) many market stalls have been vacant for a long period of time. As at 31 March 2003, 61.7% of the vacant market stalls had been vacant for two years or more;
 - (c) some public markets built in recent years have not attracted many customers. Consequently, these markets are unable to achieve the target overall MSVR. As at 30 June 2003, the overall MSVR of the eight markets commissioned after 1998 was 19%. For five markets, the MSVRs ranged from 20% to 53.5%;
 - (d) in 20 public markets randomly selected for audit survey in April and May 2003, 17.6% of the market stalls leased out were not being used for trading; and
 - (e) the planning standard for public markets in the Hong Kong Planning Standards and Guidelines has not been updated since 1989. The current planning standard appears outdated, given the changed circumstances brought about by the abundant supply of superstores, supermarkets and fresh provision shops in recent years;
- expresses serious dismay that the FEHD had attempted to conceal the true MSVR by:
 - (a) changing the target overall market stall occupancy rate of 85%, which was set in January 2000, to 84% in January 2001. As a result, the overall MSVR which should not be exceeded was revised from 15% to 16%;

Public markets managed by the Food and Environmental Hygiene Department

- (b) deducting the number of purposely frozen market stalls from the calculation of the overall MSVR, thereby reducing the MSVR for its markets from 22.7% to 11.8%, which compared more favourably with the overall vacancy rate of 10.7% for private commercial premises used for retail business; and
 - (c) only issuing verbal/written warnings to stall lessees for cessation of stall business in excess of the permitted non-trading period, instead of terminating the tenancy agreement. The existence of many non-trading market stalls has distorted the true vacancy position of market stalls;
- notes that the Director of Food and Environmental Hygiene:
 - (a) has apologised for the misunderstanding caused by the FEHD's approach of expressing the MSVR based on available space, that is, excluding those market stalls that had been frozen; and
 - (b) will review how best to express the MSVR with a view to presenting a full picture;
 - acknowledges that the Director of Food and Environmental Hygiene will implement Audit's recommendations mentioned in paragraph 3.6 of the Audit Report;
 - urges the Director of Food and Environmental Hygiene to expeditiously implement Audit's recommendations mentioned in paragraphs 2.16 and 2.23 of the Audit Report;

Large operating deficits incurred at some public markets

- expresses concern that:
 - (a) in 2002-03, the FEHD incurred an operating deficit at 74 public markets. At the ten markets with the highest operating deficits, the amount ranged from \$6.46 million to \$11.79 million. At the ten markets with the highest operating deficit per leased market stall, the deficit per stall ranged from \$90,000 to \$156,000; and
 - (b) there will still be operating deficit even if all the long-standing vacant market stalls are leased out under the more flexible upset price setting mechanism, which is being implemented by the Health, Welfare and Food Bureau (HWFB) on a trial basis;

Public markets managed by the Food and Environmental Hygiene Department

- acknowledges that the FEHD has embarked on a study to identify public markets that may merit closure. Upon completion of this study, the HWFB will draw up a rationalisation plan, including options for terminating the tenancies of incumbent stall lessees;
- recommends that the FEHD and the HWFB should consult the stakeholders involved, including the Legislative Council, in conducting the study to identify markets that may merit closure and drawing up the rationalisation plan;

Retrofitting of air-conditioning systems to improve the viability of public markets

- expresses concern that Audit's findings do not seem to support the belief that providing air-conditioning systems can significantly improve the viability of public markets because:
 - (a) as at 30 June 2003, the MSVR of some markets which were not provided with air-conditioning systems was very low (as low as 0.5%), while the MSVR of some markets provided with air-conditioning systems was very high (as high as 53.5%); and
 - (b) during the period March 2000 to June 2003, the overall MSVR of the three markets retrofitted with air-conditioning systems increased by 9.2% while the overall MSVR of all markets increased by only 6.9%;
- acknowledges that the Director of Food and Environmental Hygiene has undertaken to review the need and cost-effectiveness of the projects for the provision of air-conditioning systems in the Yue Wan Market, the San Hui Market and the Fa Yuen Street Market. The FEHD will consult the Legislative Council Food Safety and Environmental Hygiene Panel in early 2004 on whether it should continue to proceed with the project at the Yue Wan Market which has already been tendered, and whether it should seek funding approvals for the other works;

Vacant floor space in two public markets not put to beneficial permanent use

- expresses serious dismay that:
 - (a) the FEHD has failed to put to beneficial permanent use since 1988 and 1994 respectively the vacant market floor space on the second floor of the Fa Yuen Street Market and in the basement of the To Kwa Wan

Public markets managed by the Food and Environmental Hygiene Department

Market, which have a total gross floor area of 2,310 square metres. Since 1988, the former Urban Services Department and the FEHD have acquired 21,578 square metres of office accommodation in government premises; and

- (b) in leaving the market floor space vacant for a long time, the FEHD has incurred significant wastage, including the cost of the land concerned, depreciation of the market buildings and the opportunity cost of the vacant market floor space and the government premises concerned;
- acknowledges that the Director of Food and Environmental Hygiene will, in coordination with the Government Property Administrator, implement Audit's recommendations mentioned in paragraph 6.14 of the Audit Report;
- urges the Financial Services and the Treasury Bureau to take the lead to explore ways to put the vacant market floor space to beneficial use by the Government or non-governmental organisations; and

Follow-up actions

- wishes to be kept informed of the results of the:
 - (a) FEHD's comprehensive review on the MSVR of public markets;
 - (b) FEHD's review of the ways to express the MSVR;
 - (c) FEHD's review on the justifications for the maximum number of non-trading days allowed in a year;
 - (d) FEHD's review of the demand for public market facilities;
 - (e) FEHD's study to identify markets that may merit closure and details of the HWFB's rationalisation plan to be drawn up;
 - (f) reassessment of the need to retrofit air-conditioning systems in public markets, including the Yue Wan Market, the San Hui Market and the Fa Yuen Street Market; and
 - (g) identification of beneficial permanent use of the vacant market floor space in the Fa Yuen Street Market and the To Kwa Wan Market.

**Extract from speech by Dr Hon Eric LI Ka-cheung, GBS, JP
Chairman, Public Accounts Committee
on "Public markets managed by the
Food and Environmental Hygiene Department"
in the Legislative Council on 25 February 2004**

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Public markets managed by the Food and Environmental Hygiene Department

On the subject "Public markets managed by the Food and Environmental Hygiene Department (FEHD)", the Committee is dismayed that the FEHD has not given a full and frank account of the operating conditions of public markets, including the real demand for the markets and the total amount of tangible and hidden government subsidies, such as the use of government land and buildings. The Committee considers that these are all important factors which decision makers take into account in assessing the viability of each of the public markets vis-à-vis the private ones.

The Committee is seriously dismayed that the FEHD had attempted to conceal the true market stall vacancy rate (MSVR) of public markets by different means. It changed the target overall market stall occupancy rate of 85%, which was set in January 2000, to 84% in January 2001. As a result, the overall MSVR which should not be exceeded was revised from 15% to 16%. The FEHD deducted the number of purposely frozen market stalls from the calculation of the overall MSVR, thereby reducing the MSVR for its markets from 22.7% to 11.8%. The latter figure thus compared more favourably with the overall vacancy rate of 10.7% for private commercial premises used for retail business. Moreover, the FEHD only issued verbal or written warnings to stall lessees for cessation of stall business in excess of the permitted non-trading period, instead of terminating the tenancy agreement. The existence of many non-trading market stalls has distorted the true vacancy position of market stalls.

The Committee notes that the Director of Food and Environmental Hygiene has apologised for the misunderstanding caused by the FEHD's approach of expressing the MSVR based on available space, that is, excluding those market stalls that had been frozen. We also note that he will review how best to express the MSVR and present a full picture.

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