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the Administration)

Panel on Food Safety and Environmental Hygiene
Subcommittee to Study the Streamlining of Food Business Licensing

Minutes of meeting
held on Monday, 4 April 2005 at 8:30 am
in Conference Room A of the Legislative Council Building

- Members present** : Hon Tommy CHEUNG Yu-yan, JP (Chairman)
Hon Andrew CHENG Kar-foo
Hon Vincent FANG Kang, JP
Hon WONG Kwok-hing, MH
- Member attending** : Hon Emily LAU Wai-hing, JP
- Member absent** : Hon WONG Yung-kan, JP
- Public Officers : Attending**
- Mr Vincent LIU
Principal Assistant Secretary (Food & Environmental Hygiene) 2
Health, Welfare and Food Bureau
- Ms Annette LEE
Deputy Director (Environmental Hygiene)
Food and Environmental Hygiene Department
- Mr LO Fu-wai
Assistant Director (Operations)1
Food and Environmental Hygiene Department
- Ms Shirley LAU
Chief Treasury Accountant
Food and Environmental Hygiene Department

Mrs YUEN KWONG Wai-king
Chief Executive Officer (Boards & Committees)
Food and Environmental Hygiene Department

Mr W S YIP
Senior Assistant Law Officer (Civil Law)
Department of Justice

Mr K M MO
Assistant Director (New Buildings)1
Buildings Department

Mr CHEUNG Yin-chiu
Deputy Chief Fire Officer
(Licensing and Certification Command)
Fire Services Department

Mr KO Woon-ming
Housing Manager (Commercial Properties)
Housing Department

Mr LUK Cheung-chuen
Principal Land Executive (Village Improvement and Lease
Enforcement/Land Control Section)
Lands Department

Ms Vivian LO
Superintendent of Police (Licensing) (Acting)
Hong Kong Police Force

Mr TANG Hung-ki
Chief Officer (Licensing Authority)
Home Affairs Department

Mrs Brenda YIP
Head, Business Facilitation Division
Economic Analysis and Business Facilitation Unit
Financial Secretary's Office

Clerk in : Mrs Constance LI
attendance Chief Council Secretary (2)5

Staff in : Miss Lolita SHEK
attendance Senior Council Secretary (2)7

Ms Anna CHEUNG
Legislative Assistant (2)5

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I Meeting with the Administration

[LC Paper Nos. CB(2) 1155/04-05(01) to (12)]
(8:30 am – 10:25 am)

Time taken for processing food business licence applications

At the invitation of the Chairman, Deputy Director (Environmental Hygiene) of the Food and Environmental Hygiene Department (DD/FEHD) highlighted the salient points in the Administration's paper on the number of food business licence applications and time taken for processing applications [LC Paper Nos. CB(2) 1155/04-05(02)]. She informed members that the average time taken for issuance of a restaurant licence in 2004 was eight months while that for a non-restaurant licence was five months.

2. DD/FEHD pointed out that the average processing time might not reflect the actual time required for complying with the licensing conditions for issuance of a full licence. She explained that as provisional licences were issued to applicants for a period of six months, some of them tended to take active steps to comply with the outstanding requirements for issuance of a full licence only a few months before the expiry of the provisional licence. The original purpose of issuance of a provisional licence for trade facilitation might not have been achieved, i.e. to allow an operator to commence business upon meeting the basic requirements and for him to comply with the outstanding requirements for a full licence as soon as possible.
3. The Chairman asked about the reasons for the marked difference in the processing time in different cases.
4. Referring to the statistics on the food business licence applications provided in Appendix I of the paper, DD/FEHD pointed out that some applications received in 2002 were still not completed because reports of compliance of licensing requirements had yet to be provided by the applicants. Some of these applicants had not taken active steps to comply with the licensing requirements, but under the present system, these applications were treated as outstanding cases despite that the operators concerned appeared to have no genuine interest to obtain a licence. In one case, the premises concerned were locked and the applicant could not be traced, and the application was ultimately classified as abandoned. In another case, the applicant kept revising the layout plans.
5. DD/FEHD added that the Administration would review the licensing procedures to address this problem. One option was to treat these applications as withdrawn when the applicants did not take active steps to comply with the licensing

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requirements for a full licence, say, by 12 months after the issuance of a provisional licence.

6. Referring to Appendix I of the paper, the Chairman enquired about the position of the two outstanding applications for provisional licence which were received in 2002.

7. DD/FEHD said that in these two cases, the applications for both provisional and full licence were still outstanding. She explained that these applicants had still not yet provided reports of compliance of licensing requirements two years after they submitted their applications, and this indicated that the applicants might not be serious in obtaining such licences.

8. DD/FEHD further informed members that a total of 37 applications for full food business licences were received from the food businesses at Langham Place in Mongkok. So far, three full licences had been issued, while the remaining cases were pending the provision of reports of compliance of outstanding licensing requirements from the applicants.

9. Mr Andrew CHENG noted that the total average time taken by the Buildings Department (BD) and the Fire Services Department (FSD) to process food business licence applications was 55 days while that by FEHD was 164 days. Mr CHENG expressed concern that although FEHD had, to some extent, provided one-stop service by coordinating the processing of food business licence applications, it still had to refer the applications to other government departments for comments on licensing requirements. It seemed that the transfer of documents between the departments concerned could be very time consuming, as indicated by the long time taken by FEHD alone to process licence applications. Mr CHENG asked FEHD to explain the big difference in the processing time between FEHD and other departments.

10. DD/FEHD pointed out that Appendix II of FEHD's paper [LC Paper No. CB(2) 1155/04-05(02)] provided statistics on the applications received in 2004, while those provided by BD and FSD referred to applications completed in 2004 [LC Paper No. CB(2) 1155/04-05(04) and (05)], and the statistics therein could not be directly compared. She further pointed out that in most of the cases, the applicants concerned took a longer time to comply with the outstanding licensing requirements after obtaining the provisional licence.

11. DD/FEHD further explained that as FEHD acted as the coordinator between the licence applicants and the departments concerned, applications were sent to FEHD first and then referred to the relevant departments. The time taken by FEHD to process licence applications depended to a large extent on report of compliance of various aspects by the applicants. She clarified that BD and FSD calculated their processing time from the time of receipt of information from FEHD.

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12. The Chairman commented that based on the statistics provided, it was difficult to ascertain whether delay in the issuance of food business licence was caused by the applicants' failure to provide reports of compliance.

13. DD/FEHD explained that the departments concerned were required to comply strictly with the procedures for processing licence applications and the related performance pledges.

14. The Chairman said that since provisional food business licences were issued for a period of six months only and were rarely renewed, it was possible that some applicants who had not obtained full licences when their provisional licences expired continued operation without licences.

15. DD/FEHD responded that the Administration had consulted the trade when setting the validity period of a provisional licence. The consensus was that six months was a reasonable time for the applicant to meet the outstanding licensing requirements for a full licence. Setting the validity period any longer than necessary would provide a disincentive for the applicant to meet full licensing conditions as soon as possible.

16. Ms Emily LAU declared that she was a member of the Economic and Employment Council (EEC). She said that at the Subcommittee's meeting on 5 March 2005, she had sought comments from the deputations on the proposal to introduce application fees for food business licences in order to tackle the problem of withdrawn or abandoned applications.

17. The Chairman said that the deputations had commented at the meeting that the licensing procedures were complicated, and applicants who were not serious about obtaining a full licence would not have submitted an application. He said that he would further consult the food business trade on the proposal for the introduction of application fees. The Chairman agreed in principle that the administrative costs incurred in processing applications should be borne by the applicants and not the tax payers.

Proposal for the establishment of a unified licensing authority

18. Mr WONG Kwok-hing said that deputations from the food business trade which attended the Subcommittee's meeting on 5 March 2005 had strongly requested for a one-stop service, similar to that provided by the Home Affairs Department (HAD) for Certificates of Compliance for club-houses. Mr WONG further said that with professional and technical staff seconded from BD and FSD, HAD was able to provide one-stop licensing service for Certificates of Compliance for club-houses and shorten the processing time of these applications. If similar one-stop service was provided by FEHD for all types of food business licences, it would reduce the delay caused by transfer of documents between departments.

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19. At the invitation of the Chairman, Chief Officer (Licensing Authority) of HAD (CO/HAD) briefed members on the one-stop service offered by the Office of the Licensing Authority in HAD in processing Certificates of Compliance for club-houses, details of which were provided in HAD's paper [LC Paper No. CB(2) 1155/04-05(06)]. He added that professional and technical staff seconded from BD and FSD worked together with staff of HAD in one office. Such arrangement enhanced staff communication and facilitated the processing of applications.

20. CO/HAD further informed members that if applicants failed to submit reports of completion of the requirements twelve months after submission of applications, staff of HAD would ascertain with them the reasons for the delay. If the applicants concerned still did not take steps to complete the requirements, HAD would cease processing their applications.

21. As regards the manpower in the Office of the Licensing Authority, CO/HAD said that there was a total of 69 staff, including professional and technical staff seconded from BD and FSD, responsible for the licensing matters under four different ordinances. The secondment normally lasted for three to four years, and their salaries were paid by HAD. About 40% of the staff was responsible for processing licence applications while the remaining 60% was responsible for enforcement and administration.

22. CO/HAD further said that the fees for the Certificate of Compliance were calculated on the basis of the area of the club-houses. The costs for processing licence applications were recovered from the fees but those for enforcement actions were excluded from the fee calculation.

23. Mr Vincent FANG supported the proposal of setting up a unified licensing authority to provide one-stop service for all types of food business licences. He considered that it was not desirable to have two separate food business licensing authorities, i.e. FEHD and HAD, which adopted different arrangements for processing these licence applications. Mr FANG considered that the Financial Secretary's (FS's) Office should study the proposal. He also said that the food business trade should avoid delays in providing the required reports of compliance to the Administration so as to expedite issuance of licences. He proposed that FEHD should adopt similar arrangement as that adopted by HAD and cease processing those applications where the applicants failed to provide the required reports of compliance within 12 months.

24. DD/FEHD responded that the Administration was reviewing the licensing procedures, and the views and suggestions of the Subcommittee would be taken into consideration.

25. Mr WONG Kwok-hing asked when the review undertaken by FEHD would be completed. Mr WONG opined that complaints from the food business trade against the long processing time for licence applications were not ungrounded. He considered that as the one-stop service provided by HAD had proved to be a

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successful model, FEHD could adopt such an approach, without conducting further review on the subject.

26. The Chairman said that the previous municipal councils had also proposed setting up a unified licensing authority, but it was not accepted by the Government. Although improvements to the licensing procedures had been made after the review in 1999, the time taken to process applications involving revisions to layout plans was still very long. The Chairman pointed out that there was more manpower in the HAD licensing office for processing licence applications, and that there was no provisional licences or third party certification system for the issuance of Certificate of Compliance for club-houses.

27. Principal Assistant Secretary (Food & Environmental Hygiene)² of the Health, Welfare and Food Bureau (PAS/HWF) responded that the departments concerned would consider the views and suggestions made by the Subcommittee and deputations, including those on the provision of one-stop service, and the Health, Welfare and Food Bureau (HWFB) would coordinate an initial response from the relevant departments and revert to the Subcommittee in one or two months. However, it would not be appropriate for HWFB to comment on the system for the issuance of Certificates of Compliance for club-houses, as the subject was under the purview of the Home Affairs Bureau (HAB).

28. PAS/HWF further explained that the establishment of a unified licensing authority was a complicated issue, as transfer of staff and resources among different departments and bureaux would be involved. Moreover, a unified licensing authority might not be the solution to all problems. As a start, the Administration could implement less complicated improvement measures to streamline food business licensing. PAS/HWF pointed out that according to paragraph 6 of the paper provided by HAD, a site inspection would be arranged within 43 working days from receipt of an application. The processing time was not shorter than that for restaurant licence applications, for which an AVP meeting with the applicant would be arranged within 20 working days from receipt of the application.

29. Mr WONG Kwok-hing maintained the view that a unified licensing authority should be set up to provide one-stop service for all types of food business licences in Hong Kong. He said that the matter should be pursued at a higher level of the Government, if there were problems in the coordination among the bureaux and departments concerned in setting up the unified licensing authority.

30. Ms Emily LAU said that she supported the proposal for providing one-stop service to licence applicants. She believed that the EEC Subgroup on Business Facilitation would also support the proposal. Ms LAU urged that FS and the relevant Directors of Bureaux should discuss the policy aspects of the proposal and provide a response to the Subcommittee as soon as possible. If additional staff was required for providing such service, the Government should allocate extra resources to implement the proposal so as to expedite the issuance of licences. She commented

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that given the large amount of licence fees collected from the food business trade, the Administration should provide better services to the licencees. Ms LAU also asked whether the costs for the provision of one-stop service could be covered by the existing licence fees; otherwise, there would be an increase in licence fees, particularly if extra resources had to be sought.

31. Referring to the Administration's paper on "Fees for Food Business Licences" [LC Paper No. CB(2) 1155/04-05(08)], PAS/HWF clarified that not all the costs had been taken into account in the calculation of the current licence fees, as the Government had been subsidizing part of the costs. PAS/HWF further informed members that the Administration was embarking on a review on fees and charges for food business licences. In line with Government's full-cost recovery principle, the Administration would include the costs of all government departments in the calculation of licence fees. The scales of charges would be based on the area of the food premises.

32. PAS/HWF added that the licence fees collected by FEHD were credited to Government's General Revenue Account instead of FEHD's account. HWFB would require additional resources if it was responsible for paying the salaries of staff seconded from BD and FSD to provide the one-stop service. The Government would also need to examine the overall cost implications for introducing the one-stop service.

33. The Chairman commented that since the staff costs incurred by BD and FSD in processing food business licences were not recovered from the licence fees, the departments concerned might have reservations about seconding staff to another department or agency for providing one-stop service for licence applicants.

Admin 34. The Chairman requested the Administration to provide a response and revert to the Subcommittee on the proposal for the establishment of a unified licensing authority to provide one-stop service for all types of food business licences in Hong Kong. He said that in examining the proposal, the Administration should include the staff costs in BD, FSD and other departments concerned in processing these licence applications, so that tax payers would not be required to subsidize the licensees. The Chairman further suggested that the Administration should also review the costs for licence renewal and enforcement action.

35. Mr WONG Kwok-hing asked whether the processing time of food licence applications could be reduced to, say, five working days as in the case in Japan.

36. The Chairman advised that the licensing authority in Japan was only required to consider compliance of hygiene requirements in processing food business licence applications. He suggested that the Administration should consider requiring those designated areas for food premises in new buildings to be in compliance with the existing building safety and Fire Services requirements for food business.

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37. PAS/HWF said that the time for issuance of a food business licence would be greatly reduced, if the licensing authority would only need to look at the hygiene requirements in processing applications.

38. At the invitation of the Chairman, Head, Business Facilitation Division (H/BFD) informed members that the Division had studied the licensing procedures in Singapore, the United Kingdom and Australia in a review of non-restaurant licensing. In these places, the building and fire services requirements were not part of the food business licensing procedures but were dealt with separately. She said that the food business licensing authority in Hong Kong had, to some extent, provided one-stop service to licence applicants.

Third party certification for compliance of licensing requirements

39. Mr Andrew CHENG considered that the Administration should introduce drastic reform to streamline food business licensing procedures. It should introduce not only one-stop service for licences but also third party certification for compliance of licensing requirements. Mr CHENG said that he had made the same suggestion at meetings of the EEC. He added that third party certification had been adopted in overseas countries, and supported by many of the deputations who attended the meeting of the Subcommittee on 5 March 2005. Mr CHENG explained that even if one-stop licensing service was to be provided to applicants, BD and FSD would still be required to verify compliance of the building and Fire Services requirements, and a lot of time would be wasted on transferring documents among departments. He considered that certification by Authorised Persons or professionals in the private sector would be the ultimate solution that could help expedite the issuance of food business licences.

40. Mr Vincent FANG and Ms Emily LAU expressed support for the proposal of third party certification for compliance for food business licensing. The Chairman added that such arrangement was consistent with the government policy of “big market, small government”.

41. Ms Emily LAU said that EEC had discussed the proposal for third party certification. She urged the Administration to complete the review on the licensing procedures and adopt the proposal as soon as possible. She requested the Administration to revert to the Subcommittee on this issue and advise members on the impact on existing staff, if the proposal was adopted.

42. DD/FEHD clarified that third party certification had already been adopted for issuance of provisional food business licences. The suggestion that such practice be extended to full licences was being studied by individual departments concerned.

Admin 43. Mr Andrew CHENG suggested that HWFB should coordinate a response and revert to the Subcommittee.

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Licensing of food business at Langham Place

44. Referring to the Administration's paper on licensing of food business at Langham Place [LC Paper No. CB(2) 1155/04-05(07)], Ms Emily LAU suggested that the details of the licensing position of the food businesses at Langham Place provided in Annex I to the paper should be forwarded to the applicants concerned for comments, in order to ascertain the reasons for the delay in processing their applications.

45. DD/FEHD assured members that FEHD staff had kept in close contact with the applicants on the status of the applications.

46. The Chairman pointed out that since the names of the applicants had not been disclosed in Annex I to the paper, there would be difficulty in identifying the applicants concerned and forwarding the information to them.

47. Referring to the remarks made by the Director of Food and Environmental Hygiene in December 2004 that two food businesses at Langham Place had not submitted any application prior to commencement of business, the Chairman asked whether the two cases had been included in Annex I to the paper.

48. DD/FEHD replied that details of the licensing position of the two cases were provided under item No. 27 in Annex I and item No. 7 in Annex II to the paper. In both cases, the applicants had submitted licence applications only after FEHD initiated prosecution action against them for conducting unlicensed food businesses. They subsequently obtained provisional licences within a short time.

49. The Chairman informed members that according to some food businesses at Langham Place, the time taken for BD to respond to applications with revisions to layout plans was quite long, hence delaying the issuance of full licences. He said that he would contact the food businesses at Langham Place to obtain more information on the processing of their licence applications.

Way forward

Unified licensing authority and third party certification

50. Mr Andrew CHENG suggested that the Subcommittee should focus its future discussion on the Administration's response to the proposals for the provision of one-stop service and adoption of third party certification for compliance of licensing requirements. He further suggested that the Subcommittee should put forth its views and recommendations on streamlining of food business licensing to FS and the Directors of Bureau concerned.

51. Mr Vincent FANG concurred with Mr Andrew CHENG. He also agreed with Ms Emily LAU that additional resources, if required, should be allocated for the provision of one-stop service to licence applicants. However, he considered that the

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Administration should not increase licence fees before the services to the licensees were improved.

52. Ms Emily LAU requested H/BFD to reflect the Subcommittee's views and suggestions to FS's Office. Ms LAU also agreed that the Subcommittee should convey its views to FS in writing and copy the letter to the Directors of Bureaux concerned.

(Post-meeting note : The Legislative Council Secretariat has written to FS on 14 April 2005 to convey the Subcommittee's views. The letter was circulated to members vide LC Paper No. CB(2)1342/04-05 dated 21 April 2005.)

Admin 53. The Chairman requested the Administration to provide a written response to the views of the Subcommittee and deputations, in particular the proposals for the setting up of a unified licensing authority to provide one-stop service for all types of food business licences and adoption of third party certification for compliance of licensing requirements.

Cinema licensing

54. Ms Emily LAU suggested that the Subcommittee should also study cinema licensing in view of recent cases of cinemas operating without licences.

55. H/BFD informed members that BFD of the Economic Analysis and Business Facilitation Unit was reviewing the cinema licensing regime. The subject was under the policy purview of HAB although cinema licences were issued by FEHD. H/BFD added that the report on the review of cinema licensing would be discussed by the Subgroup on Business Facilitation and EEC in April and June 2005 respectively.

56. The Clerk advised that cinema licensing was not within the terms of reference of the Subcommittee which was set up under the Panel on Food Safety and Environmental Hygiene primarily to study the streamlining of food business licensing.

(Post-meeting note: As the subject of cinema licensing falls within the terms of reference of the Panel on Home Affairs and not the Panel on Food Safety and Environmental Hygiene, the Chairman of the Panel on Home Affairs who is also the Chairman of the Subcommittee has agreed that HAB and FS's Office will provide a paper on the subject for discussion by the Panel on Home Affairs in due course.)

Next meeting

57. The Chairman suggested that as there was no time to discuss liquor licensing procedures at the meeting, the subject should be discussed at the next meeting of the Subcommittee to be held on 17 May 2005 at 4:30 pm. Members agreed.

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II Any other business

58. There being no other business, the meeting ended at 10:34 am.

Council Business Division 2
Legislative Council Secretariat
13 May 2005