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(These minutes have been seen by
the Administration)

Panel on Food Safety and Environmental Hygiene

**Minutes of Special Meeting
held on Friday, 7 July 2006 at 10:45 am
in the Chamber of the Legislative Council Building**

- Members present** : Hon Fred LI Wah-ming, JP (Chairman)
Hon WONG Yung-kan, JP (Deputy Chairman)
Hon Andrew CHENG Kar-foo
Hon TAM Yiu-chung, GBS, JP
Hon Tommy CHEUNG Yu-yan, JP
Hon Alan LEONG Kah-kit, SC
- Members absent** : Hon Bernard CHAN, GBS, JP
Hon Vincent FANG Kang, JP
Dr Hon Joseph LEE Kok-long, JP
Dr Hon KWOK Ka-ki
- Public officers Attending** : Mr Vincent LIU
Acting Deputy Secretary (Food & Environmental Hygiene)/
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 FAN Yung-kai
Senior Superintendent (Licensing)
Food and Environmental Hygiene Department

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

Mr Patrick TSUI
Chief Building Surveyor (Rail and Licensing)
Buildings Department

Mr J S Corrigall
Deputy Director (General)
Lands Department

Mr Simon YU
Assistant Director (Estate Management)
Lands Department

Mr LAU Sing
Assistant Director (Board)
Planning Department

Attendance by : Association of Restaurant Managers Limited
invitation

Mr WOO Lun
Vice Chairman

Mr NG Kwok-keung
Vice Chairman

Hong Kong Catering Industry Association

Mr WOO Chu
President

The Hong Kong Federation of Restaurants and Related Trades

Mr Michael LEUNG
Director

King Bakery Holdings Limited

Mr CHONG Yam-ming
Chief Executive Officer

Satay King (Holdings) Company Limited

Mr CHENG Chit-ming
Chairman

Igor's Group

Mr Lenz Christopher
Managing Director

Miss Sandy LI

Hsin Kuang Restaurant (Holdings) Limited

Mr FAN Chor-wah
Engineering Manager

Tao Heung Holding Limited

Miss Stella CHAN
Director, Marketing and Administration

Miss Donald TSEUNG
Officer, Property and Technical Support

Choi Fook Group

Mr CHEUNG Ka-ho
Chairman

Miss LUK Sze-nga
Secretary

Hong Kong Retail Management Association

Mr Philippe GIARD
Chairman, Government Regulations Sub-Committee
Hong Kong Retail Management Association

PARKnSHOP

Mr Peter JOHNSTON
General Manager
Quality, Food Safety and Regulatory Affairs

The Dairy Farm Company Limited — Wellcome

Mr Kenny WONG Chi-tak
Project Director

Mr LEUNG Yiu-wah
Senior Project Manager

Pizza Hut

Mr KO Cham-chuen
Construction and Maintenance Director

California Red

Ms Jessica LI
Administration Secretary

The Hong Kong Institute of Architects

Mr Michael YUEN
Representative

Mr TSANG Man-biu
Representative

The Hong Kong Institute of Surveyors

Mr Raymond CHAN
Senior Vice-President

Mr Lawrence PANG
General Practice Division Council Member

Famous Focus Development Limited

Mr Sunny WONG Ming-sang
Director

高寶地產代理有限公司

Mr Dickie CHOW
Director

Miss Shirley KWAN
Director

Concept Bright Investment Limited

Mr HO Kwong-man
Director

Miss AU YEUNG Yin-ming
Manager

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

Staff in Attendance : Miss Betty MA
Senior Council Secretary (2)1

Ms Anna CHEUNG
Legislative Assistant (2)5

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I Follow-up discussion on the changes to food business licensing procedures

(a) Meeting with deputations

The Chairman said that at the Panel meeting on 13 June 2006, members agreed that a special meeting would be held to meet with deputations and further discuss with the Administration the changes to food business licensing procedures.

2. The Chairman welcomed representatives of deputations to the meeting. The views of deputations were summarised below.

Association of Restaurant Managers Limited

3. Mr WOO Lun said that the existing food business licensing procedures were complex, and the processing time taken was unduly long. At the time of submitting an application for new food business licence, the applicant was required to submit the layout plan of the premises. The Food and Environmental Hygiene Department (FEHD) would then refer the application to the Buildings Department (BD) and Fire Services Department to confirm compliance with the building and fire safety requirements.

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4. Mr WOO further said that since 18 April 2006, FEHD had introduced a set of new licensing procedures for new food business licence and transfer of licence relating to the existence of unauthorised building works (UBWs) at the premises and compliance with Government lease conditions. Mr WOO pointed out that under the new procedures, a licence would only be issued if an applicant could obtain certification from a recognised professional that the premises under application were free from UBWs. The new arrangements resulted in more complexity in the licensing system and lengthening the processing time, which had increased the operation cost of the food business.

5. Mr WOO said that the food business trade held strong views against the changes to the food business licensing procedures. The trade also opposed to the requirement to comply with the Government land lease conditions without prior consultation. Mr WOO strongly urged the Administration to suspend the implementation of the changes to the food business licensing procedures.

Hong Kong Catering Industry Association

6. Mr WOO Chu said that the Association had received a number of complaints and requests for assistance after the implementation of new licensing procedures. When the trade was consulted on the new procedures last year, the trade had expressed grave concerns about the cost implications on the trade and the risk to transferees. However, the Administration still decided to implement the new arrangements without prior notice. The hasty changes to the licensing procedures had upset the business plan of operators to a great extent. Mr WOO advised that many applicants only became aware of their responsibility for removing UBWs at the premises when they submitted the applications for new licences or transfer of licences. As removal of UBWs took time and was costly, many operators could not proceed with the transfer of licence. Mr WOO considered that it was Government's responsibility to take enforcement actions against UBWs. It was unfair to hold food business licence applicants responsible for UBWs which were not erected by them. Mr WOO also questioned the justifications for only requiring food business operators, but not operators of other types of business, to remove UBWs at their premises.

7. Mr WOO added that the food business trade was disappointed that without prior consultation, the Lands Department (LD) had required applicants for new food business licence to pay a land premium for variation in land use, instead of paying an administrative fee after a waiver as in the past. The new requirement had increased the operation cost of the trade.

The Hong Kong Federation of Restaurants and Related Trades

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8. Mr Michael LEUNG said that the problem of UBWs such as signboards had existed in Hong Kong for many years especially in old, developed areas. Given that a large number of restaurants and food premises were operating in old areas where UBWs were common, it was difficult for food operators alone to remove the UBWs attached to the premises or the buildings concerned. Mr LEUNG urged the Administration to further consult the trade and allow a grace period for implementing the new licensing procedures.

King Bakery Holdings Limited

9. Mr CHONG Yam-ming said that the requirement for an applicant to obtain certification from a recognised professional for the purpose of applying for a new food business licence or transfer of licence was unfair to the food business trade, as similar requirement was not imposed on other trades. Mr CHONG further said that it was practically impossible for an applicant to obtain such certification before leasing the premises concerned. However, the applicant would suffer financial loss if he signed the tenancy agreement but subsequently found that UBWs were attached to or extending from the premises. Mr CHONG considered the new licensing procedures not viable, and urged the Administration to explore other practical options.

Satay King (Holdings) Company Limited

10. Mr CHENG Chit-ming said that under the new licensing requirements, a licence would only be issued after the UBWs attached to or extending from the premises were removed. This would add costs to the trade in view of the high monthly rental, and the operators might suffer substantial financial loss if a licence was not granted subsequently.

11. Mr CHENG further said that it was unfair to hold the food business operators responsible for removing UBWs found at food premises when they had no information about the existence of UBWs. To facilitate the trade to acquire information on existing UBWs found at food premises, the Administration should compile such a list and make available on the website. He considered that the Administration should withhold the implementation of the new licensing procedures, pending compilation of the list of UBWs.

Igor's Group

12. Mr Lenz CHRISTOPHER commented that Team Clean's recommendations did not specifically target at food premises with UBWs, and the Administration's recent measures were in the wrong direction.

13. Mr CHRISTOPHER said that the definition of UBWs was unclear under the new licensing procedures. He pointed out that prior to the introduction of the new

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licensing procedures, a licence would not be issued only if the existence of UBWs were classified as category III UBWs, i.e. category I and II UBWs were tolerated. It was unclear whether the same criteria still applied under the new arrangements. Even the case managers of FEHD could not adequately advise on the scope of certification expected from a recognised professional. Mr CHRISTOPHER further said that a recognised professional usually took 18 working days to advise whether the premises concerned were free from UBWs, while food business operators often had to take a decision on entering a tenancy agreement based on judgement before a recognised professional could offer his advice given the keen competition for ideal sites for operating food business. Mr CHRISTOPHER added that on some occasions, the food business operators could do nothing with regard to the UBWs concerned if they were located outside the premises or attached to other premises which they had no control. Mr CHRISTOPHER considered that the Administration should suspend the implementation of the new licensing procedures, in view of the unclear definition of UBWs and risk posed to the applicants.

Hsin Kuang Restaurant (Holdings) Limited

14. Mr FAN Chor-wah said that applicants for transfer of food business licences did not know whether there were UBWs attached to or extending from the premises concerned. As these food premises operated under licence, it was assured that they already met the building and fire safety requirements. It was therefore a waste of resources for applicants for transfer of food business licences to obtain certification from a recognised professional that the premises were free from UBWs.

Tao Heung Holding Limited

15. Miss Stella CHAN said that her company had applied for new food licence and transfer of licence after the introduction of the new licensing procedures. The requirement for obtaining certification from a recognised professional had increased the cost of the trade. Moreover, it took time to prepare the necessary certification and to remove the UBWs identified. As a result, the food premises under application could not start operation as scheduled.

Choi Fook Group

16. Mr CHEUNG Ka-ho said that for those food premises operated in old developed areas, the operators did not have complete information about the UBWs attached to or extending from the premises. In some cases, the operators could do nothing with regard to the UBWs attached to the premises; for example, there was no space in the building for relocation of the water tank. These operators could not transfer the licences to other potential operators under the new licensing procedures.

17. Mr CHEUNG further said that the food business licensing procedures were complex as too many government departments were involved. Mr CHEUNG urged the Administration to critically review the impact of the new licensing procedures on

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the trade and suspend the implementation of the arrangement in respect of those UBWs attached to or extending from the food premises which were beyond the ability of an applicant to remove or re-instate.

Hong Kong Retail Management Association
[LC Paper No. CB(2) 2678/05-06(01)]

18. Mr Philippe GIARD presented the views of Hong Kong Retail Management Association (HKRMA) as detailed in its submission. Mr GIARD said that the new arrangements resulted in more administration, cost and complexity, and would extend the time for the licensing procedures, all of them were contrary to the Government's objective of simplifying the licensing system. Mr GIARD further said that while HKRMA was supportive of the measures to remove UBWs, the procedures for approving UBWs extending from licensed premises should be streamlined.

19. Mr GIARD pointed out that the licensee might not have control over structures that "were attached to or extending from the premises". HKRMA would like to seek clarification from the Administration on the meaning of the phrase and how a licensee could control the removal of UBWs that did not form part of the leased premises.

PARKnSHOP

20. Mr Peter JOHNSTON said that PARKnSHOP supported the position of HKRMA. Mr JOHNSTON expressed concern that the new licensing arrangements would further extend the processing time taken in respect of licence application. Mr JOHNSTON further said that the Administration should amend the much outdated Government lease conditions which were introduced in 1912 and modelled on similar provisions in England laid down centuries ago. He pointed out that the sale of pork or beef was prohibited in many parts of the Hong Kong Island a long time ago.

The Dairy Farm Company Limited — Wellcome
[LC Paper No. CB(2) 2629/05-06(01)]

21. Mr Kenny WONG said that The Dairy Farm Company Limited — Wellcome fully supported the views expressed by HKRMA. The Company's views were detailed in the submission, and he had nothing to add.

Pizza Hut

22. Mr KO Cham-chuen commented that UBWs covered a wide range of structures including handrails to staircase. He said that the strict enforcement would create difficulties for the trade. He pointed out that even recognised professionals did not have completed information on whether the interior of the premises and the structures attached to or extending from the premises were UBWs. It was therefore important that BD could provide ready advice on whether the structures in question were UBWs.

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Mr KO considered that the new licensing arrangements were unjust and unfair to the food business as similar requirements were not applied to other types of business.

23. Mr KO added that the Administration should discuss with the food business trade the implementation details of the new licensing arrangements.

California Red

24. Ms Jessica LI said that the food business trade expressed strong dissatisfaction that FEHD insisted on implementing the new licensing procedures with immediate effect despite the new arrangements had great impact on the trade.

25. Ms LI expressed concern that an applicant for food business licence would be required to pay a land premium for variation in land use, and that LD might take a long time in valuating the premises concerned and the amount of premium. Ms LI considered that LD should no longer classify food business trade as an offensive trade in the context of Government lease conditions. She strongly urged the Administration to amend the relevant legislation.

The Hong Kong Institute of Architects
[LC Paper No. CB(2) 2704/05-06(01)]

26. Mr TSANG Man-biu presented the views of The Hong Kong Institute of Architects as detailed in its submission which was tabled at the meeting. Mr TSANG said that the Institute was concerned that the new procedures would deter some food business operators, especially the small businesses, from applying for a licence, as small business operators would find it difficult to continue business under the zero tolerance approach. Mr TSANG further said that while the licensing procedures should be concerned with public hygiene and safety, the problem of UBWs involved a much wider scope of building issues not necessarily related to hygiene and safety. Therefore, the Institute suggested that a more flexible approach should be adopted in dealing with complicated cases.

The Hong Kong Institute of Surveyors

27. Mr Lawrence PANG said that while the Hong Kong Institute of Surveyors respected the Administration's decision to require applicants for food business licences to comply with Government lease conditions, the Institute considered that the Administration should issue a set of clear guidelines on the interpretation and enforcement of the lease conditions.

28. Mr PANG further said that according to the preliminary assessment of the Institute, the level of additional land premium required for food premises should not

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be high. To reduce the administration cost for valuating the land premium under the new arrangement, the Institute suggested that a scale of standard charges similar to that adopted for variation in industrial land use could be adopted.

Famous Focus Development Limited
[LC Paper No. CB(2) 2629/05-06(02)]

29. Mr Sunny WONG presented the views of Famous Focus Development Limited as detailed in its submission. Mr WONG said that from an investor's perspective, the new licensing procedures were unfair to small and medium enterprises. If LD strictly enforced the classification of food premises under the Government lease conditions as an offensive trade, the premises owner would have to apply for variation in land use if he wished to operate food business at the premises. Subject to the approval of LD, the premises owner would have to pay a land premium. If approval was not granted, the food business would have to cease business, and the number of licensed food premises in Hong Kong would decrease significantly. Mr WONG considered that commercial premises should be allowed for operation of food business, but the uncertainty in obtaining the necessary approvals would deter food business and had adverse impact on the economy.

高寶地產代理有限公司

30. Mr Dickie CHOW said that many Government land lease conditions were outdated. If strict compliance of land lease conditions was to be imposed, many premises were in breach of such conditions. Having regard to the adverse effect on the business environment and the impact on the trade, Mr CHOW strongly opposed to the implementation of the new arrangements without consultation with the affected parties.

31. Miss Shirley KWAN added that FEHD would usually seek comments from relevant departments on new licence application, and LD would be consulted on compliance with the Government land lease conditions. However, LD would take nearly one year to offer comment on application for variation in land use. Miss KWAN urged LD to shorten the time taken for considering an application for variation in land use. She suggested LD giving approval in principle to enable FEHD to issue a provisional food business licence, while the premises owner and operator could negotiate the rental level under the tenancy agreement. Miss KWAN also urged the Administration to provide flexibility in enforcement of the compliance with Government lease conditions.

Concept Bright Investment Limited
[LC Paper No. CB(2) 2678/05-06(02)]

32. Miss AU YEUNG Yin-ming presented the views of Concept Bright Investment Limited as detailed in its submission. Miss AU YEUNG said that offensive trades

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referred to in the Public Health and Municipal Services Ordinance did not include food business. If Government land lease conditions were to be strictly enforced, the Administration should consult the trade and allow time for preparation for implementation. Miss AU YEUNG further said that many premises were currently in breach of land lease conditions. The premises owners and food business operators concerned would suffer enormous loss if they were not allowed to operate food business at such premises.

Other submissions received

33. Members noted that two other organisations had provided written submissions to the Panel but had not sent representatives to the meeting.

(b) Meeting with the Administration

34. The Chairman requested the Administration to respond to the concerns raised by deputations as summarised below –

- (a) the Administration should review the “offensive trade” clause in the Government lease conditions;
- (b) those UBWs which the operators of food business had no control should be tolerated under the new licensing arrangements; and
- (c) the new licensing arrangements were unfair to the food business trade, as similar arrangements were not applied to other types of business.

Removal of UBWs

35. Acting Deputy Secretary for Health, Welfare and Food (Food and Environmental Hygiene) (DS(FEH)(Ag)) explained that the proposed requirement that there should be no UBWs attached to or extending from the premises under application was not new. DS(FEH)(Ag) said that in order to tackle the problem of UBWs in buildings, Team Clean proposed in 2003 that FEHD should refuse to issue a new food business licence if it came to FEHD’s knowledge that there were UBWs attached to or extending from the premises under application. The Administration consulted the Panel on the proposal in 2003, and the majority of the Panel members expressed support for the proposal in principle. FEHD had consulted the relevant professional bodies and the trade representatives in 2004 and 2005. After taking into account the trade’s practical concerns, the proposal was finalized and implemented in 2006.

36. DS(FEH)(Ag) further said that to minimise the impact on the trade, the new procedures applied to new licence and transfer of licence only, the latter represented about 10% of the applications for food business licences per annum. DS(FEH)(Ag)

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added that compliance with Government lease conditions and statutory plan restrictions was a requirement all along.

37. Deputy Director/FEHD (DD/FEHD) added that FEHD had involved the trade and the relevant professional bodies in formulating the guidelines and procedures. The trade's concerns included extra cost, complication of the licensing process and risk to the transferee. These had been taken into account in finalization of the revised procedures. DD/FEHD said that the acceptance of professional certification that the premises were free from UBWs was to meet the trade's concern that the processing time should not be prolonged and in order to streamline the licensing process. She stressed that the time taken by FEHD and departments concerned for processing new licence applications remained unchanged. DD/FEHD pointed out that since 18 April 2006, the number of application for new licence remained more or less the same as before.

38. DD/FEHD said that since 2000, applicants for restaurant licence had been reminded in FEHD's guidelines that they should choose premises which were suitable for operating restaurant business under the occupation permit and the government lease. DD/FEHD further said that since 2002, the application form for new licences had clearly stated that it was the applicant's responsibility to ensure that the premises concerned were in compliance with the relevant food business legislation and other relevant statutory requirements, including the conditions in the Government lease and the statutory plan. The applicant was also required to sign against statements in the application form to indicate his understanding and acceptance of such terms. To streamline the licensing procedures, FEHD had since mid-April 2006 introduced a self-declaration form for the applicant to confirm compliance with Government lease conditions.

39. DD/LD said that LD had recently studied the difference in premises value that would be brought about by removing the clause of "offensive trade" in the context of use of premises covered under Government lease conditions. No significant change in value was envisaged if the clause was removed. Therefore, LD decided that the practice of paying an administrative fee for granting a waiver if the proposed food business was not in compliance with the designated trade under the Government land lease would continue.

40. The Chairman clarified that the Panel was consulted on the Administration's proposal to implement Team Clean's recommendations to tackle the problem of UBWs in 2003, but not the new arrangements on compliance with Government lease conditions.

Compliance with Government lease conditions

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41. Mr Tommy CHEUNG said that the “offensive trade” clause was included in the Government lease conditions as early as 1912, and bakery was also regarded as an offensive trade. Mr CHEUNG advised that prior to 18 April 2006, if the proposed food business was not in compliance with the designated trade under the Government land leases, the applicants for food business licences could apply for a waiver, and paid an administrative fee of about \$10,000. The trade had no objection to paying an administrative fee. However, under the new arrangement, LD now considered requiring the applicants to pay a premium for variation in land use in anticipation of an increase in rental for the premises. Mr CHEUNG did not consider that the rental would increase significantly since the food operator had been paying market rental all the time.

42. DD/LD clarified that he had indicated LD’s intention of charging a premium for the removal of the offensive trade clause at a previous meeting with the food business trade. As he had explained earlier at the meeting, the evaluation result did not show a significant increase in value of the premises concerned if the offensive trade clause was removed. LD therefore decided that the practice of paying an administrative fee for the variation of land use under the Government lease conditions should continue.

43. Mr Tommy CHEUNG welcomed LD’s decision.

44. Mr Sunny WONG of Famous Focus Development Limited asked whether the consent of all owners of the building would be required for an application for a waiver, if the proposed food business was not in compliance with the designated trade under the Government land lease. AD/LD advised that the consent of the owner of the food premises under application would suffice.

UBWs found at food premises

45. Mr Tommy CHEUNG said that Team Clean’s recommendations aimed to tackle the problems of UBWs at buildings and back lanes, instead of UBWs at food premises. Mr CHEUNG asked whether the Administration had consulted the food business trade other than the professional institutes and what their views were. Mr CHEUNG also invited views from representatives of professional institutes on the estimated time and cost needed for providing certification that the premises under application were free from UBWs.

46. Mr TSANG Man-biu of The Hong Kong Institute of Architects responded that its members had received many enquiries about the procedures and cost for obtaining certification. Mr TSANG advised that normally BD would be able to provide the building plan of the premises concerned within the same day. For most cases, an AP could inform the licence applicants whether the premises concerned were free from UBWs during site visit. Mr TSANG further said that the fees charged by an AP would be calculated on the basis of time spent.

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47. Mr Raymond CHAN of The Hong Kong Institute of Surveyors said that for most cases, a recognised professional could obtain from BD a copy of building plan of the premises under application within one day. However, plans for premises located at old buildings or complicated cases would take longer time. Mr CHAN further said that BD had issued a set of guidelines for recognised professionals who were commissioned to certify that food business premises were free of UBWs required by the Licensing Authority. In general, UBWs not included in the list of tolerated UBWs should be removed. Mr CHAN added that fees charged by an AP on certification would be calculated according to time spent.

48. Mr Raymond CHAN said that while BD conducted site inspection to food premises to check if the premises were free of UBWs when considering an application for food licence, no further site inspection would be made by BD afterwards. In these circumstances, BD would not know about any UBWs subsequently erected at the food premises.

49. Responding to Mr Raymond CHAN's remarks, DD/FEHD clarified that any UBWs found during regular inspection by FEHD would be referred to BD for follow-up.

50. On consultation with the trade, DD/FEHD said that, FEHD had over the past year or so met with representatives from food business related organisations every two to three months to solicit views and concerns relating to licensing issues. Meetings with the trade on matters relating to enforcement of UBWs and Government lease conditions had been held since 2002. DD/FEHD said that FEHD had issued a letter to the trade in October 2003 explaining Team Clean's proposal after a briefing session to food trade representatives and licensees in August 2003 on the subject. The proposal was further discussed at meetings with the trade held in February 2004 and November 2005. The relevant professional bodies were consulted on the proposed measures in October 2004 and January 2006. DD/FEHD reiterated that the concerns expressed by the trade and views of the professional bodies had been taken into account in finalizing the revised procedures.

51. Responding to Mr Tommy CHEUNG's enquiry about the definition of UBWs, Assistant Director/BD (AD/BD) said that BD had issued a set of guidelines for APs and registered structural engineers for certification of food business premises free of UBWs, which was also available on the website of FEHD for the trade's reference. The guidelines listed out UBWs that must be removed or rectified before a food business licence would be issued.

52. DD/FEHD supplemented that before 18 April 2006, FEHD would issue a licence provided that the applicant had complied with all other licensing requirements. If UBWs were found at the premises, the applicant would be informed of BD's comment and that the UBWs might be subject to future enforcement action. As this

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practice could not effectively tackle the problem of UBWs, Team Clean had recommended additional measures to deal with the problem.

53. Mr Alan LEONG said that to his understanding, BD would accord priority for tackling UBWs that posed danger to the buildings concerned or to public safety. Owing to resources constraints, BD had no specific plan to tackle UBWs with low priority. However, under the new licensing arrangements, application for new licences or transfer of licences would not be approved unless the UBWs had been removed. This gave rise to the concerns that BD was transferring the responsibility of removing UBWs to food business operators, especially those UBWs which were not included in BD's priority list. Mr LEONG sought clarification whether the types of UBWs found at food premises that must be removed were the same as those on BD's priority list for taking enforcement action.

54. The Chairman asked whether there was any change to the list of tolerated UBWs found at food premises.

55. AD/BD responded that BD had prioritised UBWs at buildings for taking enforcement action in the light of available manpower and resources. For UBWs at food premises, BD and FEHD had agreed on a system of certification by recognised professional in view of Team Clean's recommendations on tackling UBWs. AD/BD said that these were two separate systems and some UBWs needed not be included in the certification system for food business. The Department had issued guidelines to the recognised professionals and the trade.

56. Mr Alan LEONG considered it acceptable for BD to adopt two lists of tolerated UBWs for different purposes. However, BD should provide clear guidelines to the trade to minimise uncertainty. The Chairman agreed with Mr Alan LEONG.

57. Mr Lenz CHRISTOPHER of Igor's Group said that although the Administration had just advised that certain types of UBWs were not covered by the certification system for food business, it was stated in the application form for new licence or licence transfer that an application would be rejected if UBWs were found at the premises concerned. It remained unclear to the applicants and the case managers in FEHD that there was actually a list of tolerated UBWs.

58. AD/BD advised that as the new licensing arrangements had come into effective for less than three months, it would take some time for the parties affected to get used to the new arrangements. He said that the Administration was prepared to further explain to the trade and recognised professionals on the new licensing arrangements, if necessary. DD/FEHD confirmed that this was not a zero-tolerance approach and that some UBWs as advised by BD were exempted from certification.

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59. Mr Alan LEONG considered that the Administration had cleared the doubts raised by the trade concerning the new licensing arrangements. Mr LEONG requested FEHD to consider requiring recognised professionals to certify that there were no intolerated UBWs at the premises under application. He also requested BD to further discuss with the trade the list of tolerated UBWs, with a view to removing any grey areas in the guidelines.

60. Mr Tommy CHEUNG stressed that in some cases, the applicants for licence transfer could not do anything about the UBWs, such as the water tank, as this was communal facility located outside the premises. He asked whether such UBWs were tolerated under the new licensing procedures.

61. AD/BD responded that any UBWs within the food business premises, attached to or extending from the external walls of the food business premises, and those UBWs located off the premises but directly associated with or serving the premises under application should be removed for the purpose of obtaining certification from a recognised professional. AD/BD further said that the types of UBWs that did not need to be included in the certification were listed out in the guidelines on certification. For avoidance of doubt, the Administration would consider spelling out in the guidelines that if the food business premises under application was served by the central air-conditioning plant of the building in which the premises was situated, those ventilation ducts, associated frames and related branching off accessories of the central plant serving the premises needed not be included in the certification.

62. The following supplementary points were made by deputations –

- (a) Ms Jessica LI of California Red said that at FEHD's meeting with the trade in November 2005, the trade was also consulted on a number of proposals which had far-reaching impacts on the trade, including the proposed demerit point system for food business. The trade had raised strong opposition to the proposed new licensing arrangements at the meeting;
- (b) Mr CHEUNG Ka-ho of Choi Fook Group urged the Administration to suspend the implementation of the new licensing procedures;
- (c) Mr CHONG Yam-ming of King Bakery Holidays Limited requested the Administration to make clear to the trade the categories of tolerated UBWs in relation to applications for new licences and transfer of licences of food businesses; and
- (d) Mr Lenz CHRISTOPHER of Igor's Group pointed out that it was stated in the checklist for certifying food business premises free of UBWs to

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be completed by a recognised professional that the premises under application must be free of UBWs. Such description was misleading.

63. DD/FEHD responded that FEHD would consider improving the wordings of the certification form to make clear that the recognised professional needed only to certify that the premises were free of UBWs not exempted by BD.

64. In concluding the discussion, the Chairman said that the meeting had clarified concerns raised by the trade about the new licensing arrangements. The Chairman requested the Administration to provide the updated guidelines on UBWs to members for reference within two weeks. The Administration agreed.

Admin

(Post-meeting note : The guidelines of Buildings Department, incorporating clarification on UBWs, were issued to members vide LC Paper No. CB(2) 2816/05-06(01) on 21 July 2006.)

65. The meeting ended at 12:45 pm.

Council Business Division 2
Legislative Council Secretariat
20 October 2006