

Press Releases

LCQ12: Noise-related nuisance made by users of holiday flats

Following is a question by the Hon Albert Chan and a written reply by the Secretary for Home Affairs, Dr Patrick Ho, in the Legislative Council today (March 28):

Question:

In reply to my question regarding the nuisance caused by users of holiday flats at the Council meeting on November 24, 2004, the Secretary for Home Affairs said that since noise-related nuisance was not subject to regulation under the Hotel and Guesthouse Accommodation Ordinance (Cap. 349), the Office of the Licensing Authority ("OLA") under the Home Affairs Department ("HAD") could not cancel a licence on account of this. On receiving such complaints, OLA would refer them to the government departments concerned, such as the Police and the Environmental Protection Department, for their follow-up action. However, in recent years, I still continue to receive complaints from villagers that they have been seriously disturbed for years by users of holiday flats. Very often, 20 to 30 people gather in a holiday flat, amusing themselves noisily through the night. Such a situation occurs frequently during summer, disrupting the sleep of residents in the neighbourhood. In this connection, will the Government inform this Council:

(a) of the number of complaints received by the Government in each of the past two years about noise nuisance from holiday flats, and how such complaints were handled;

(b) whether HAD had issued warnings to operators of holiday flats in the past two years because of nuisance caused to residents in the neighbourhood by users of holiday flats; if so, of the number of warnings issued each year; and whether at present, HAD may cancel the licences of the holiday flat operators concerned on grounds of noise nuisance; if so, of the number of cases in which the licences of holiday flat operators were cancelled on such grounds in each of the past two years;

(c) of the measures to regulate the operation of holiday flats; and

(d) whether new measures were taken in the past two years to reduce the nuisance caused by users of holiday flats to the residents in the neighbourhood; if so, of the details?

Reply:

Madam President,

(a)&(d) The numbers of complaints received by the government departments concerned about noise-related nuisance made by users of holiday flats in the past two years are as follows:

2005	2006
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Home Affairs Department The Office of the Licensing Authority	0	0
Home Affairs Department District Office (Islands)	1	0
Environmental Protection Department	0	2
Police	111	150

According to the Police, they received a total of 150 cases of complaints about noise-related nuisance caused by users of holiday flats in 2006. Among these cases, 100 were related to holiday flats at Wang Tong Tsuen, Mui Wo and 70 of them were made by two complainants or related persons against five blocks of holiday flats at Wang Tong Tsuen.

At present, there are 138 licensed holiday flats in Hong Kong. The figures above show that the complaint cases concerning noise-related nuisance caused by users of holiday flats were mainly concentrated in Wang Tong Tsuen, Mui Wo, accounting for 67% of the total number of complaints in 2006. The departments concerned have carried out discussions in this context in order to find a solution to tackle this district issue.

Firstly, the Islands District Office (IDO) has met with residents of Wang Tong Tsuen, Mui Wo, and will discuss the matter with holiday flat operators and related district organisations. The Police will also work with the IDO in stepping up publicity targeting at users of holiday flats and maintain liaison with holiday flat operators, asking them to remind users to refrain from making noises that may affect others.

Generally speaking, sections 4 and 5 of the Noise Control Ordinance provide for the regulation of noises associated with holiday flats, which are regarded as "noises from domestic premises and public places". On receipt of a complaint, the Police will deploy officers to the scene. If a case is established, the Police will give either advice or a warning to the relevant parties. If the situation is not improved subsequently, the Police will consider issuing summonses to the relevant parties for prosecution. Any person who commits an offence shall be liable to a maximum fine of \$10,000 on conviction. In 2005 and 2006, the Police issued 28 and 37 verbal/written warnings respectively. As the complainers made improvements immediately after the warnings, the Police did not need to issue summonses.

(b)&(c) The purpose of the Hotel and Guesthouse Accommodation Ordinance (HAGAO) is to provide for the regulation, control and safety of hotel and guesthouse accommodation and for connected purposes. All hotels and guesthouses, including holiday flats, must meet the current requirements relating to fire safety, building safety and health and hygiene under the HAGAO before they can be issued with a licence by the Hotel and Guesthouse Accommodation Authority.

Section 8(3)(c) of the HAGAO provides that the operation, keeping, management and other control of a holiday flat must be under the continuous and personal supervision of the licence

holder. If the licence holder fails to comply with this requirement, the Office of the Licensing Authority (OLA) under the Home Affairs Department may cancel or suspend the licence concerned or refuse to renew the licence by exercising the power conferred by the HAGAO. Under section 10(b) and (c) of the HAGAO, if a licence holder has been convicted of an offence against the HAGAO or an indictable offence in respect of the holiday flat concerned, or in respect of the holiday flat concerned or the persons accommodated therein, any of the provisions of the HAGAO have been or are being contravened, the OLA may also exercise its power to cancel or suspend the licence or refuse to renew it. In cases of any contravention of the HAGAO as stated above, the OLA will take action by cancelling or suspending the licence concerned.

Furthermore, if the licence holder of a holiday flat contravenes the licensing conditions (e.g. requirements relating to fire safety or the maximum number of guests permitted), the OLA will issue a warning letter to him calling for rectification of the irregularities. If the licence holder fails to improve the situation in respect of the licensing conditions, he may be prosecuted or may have his licence cancelled.

However, as noise-related nuisance does not fall within the ambit of the HAGAO, the OLA cannot cancel a licence of a hotel or guesthouse simply on account of this. When OLA receives this kind of complaints, it will refer them to the departments concerned such as the Police and the Environmental Protection Department for their follow-up action. Staff of the OLA will also contact the licence holder and advise him to address the complaints and resolve the problem.

Regarding the noise nuisance from holiday flats at Wang Tong Tsuen, Mui Wo, the OLA has reminded the licence holder to comply strictly with the HAGAO and the licensing conditions set out in the licence. Apart from that, the licence holder has also been reminded to avoid contravening the Noise Control Ordinance. He should state clearly in the hire conditions that users of holiday flats are not allowed to make any noise that will cause a nuisance to others after 11 pm. Responsible persons of the holiday flats should advise users not to engage in any outdoor activities after 11 pm which are prone to create noises, such as group games, barbecues and singing. Notices should be posted in prominent positions inside and outside the holiday flats to remind users not to cause noise-related nuisances during the night. Contact telephone numbers of the responsible persons of the holiday flats should also be displayed so that affected persons can ask them to follow up noise-related complaints.

The OLA will continue to follow up the noise-related nuisance problem caused by users of holiday flats at Wang Tong Tsuen, Mui Wo. It will exercise the power conferred by the HAGAO and take appropriate actions promptly if cases of contravening the provisions of the HAGAO or the licensing requirements set out in the licence are found.

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