

For Information
on 2 June 2009

LegCo Panel on Food Safety and Environmental Hygiene

Signing of New Public Market Tenancy Agreements

Purpose

This paper briefs Members on the background and latest development relating to the signing of new aligned tenancy agreements between the Food and Environmental Hygiene Department (FEHD) and public market tenants.

Background

2. Last year, the Audit Commission reviewed the management of public markets and identified problem areas for improvement. The Public Accounts Committee (PAC) of the Legislative Council also criticised the management of public markets, and expressed serious concern about the practice of not recovering from stall tenants rates paid on their behalf as well as the air-conditioning cost. PAC also considered stall subletting unacceptable. To respond positively to the views of the Audit Commission and PAC, including criticism over FEHD's successive tenancy extension, we need to act promptly and enter into new tenancy agreements with market tenants instead of further extending their existing tenancies.

3. In fact, since FEHD was established in 2000 and took over the responsibility of the management of public markets, it has adopted the different versions of tenancy agreements used by the former Provisional Municipal Councils, with considerable discrepancies. To facilitate market management, new tenancy clauses and conditions have been added from time to time and conveyed to tenants in writing for compliance. In response to the recommendations of the Audit Commission and PAC, we have decided to align the different versions of public market tenancy agreements currently in use, and itemise in the new tenancy agreement existing public market management measures so as to align market management and enable tenants to have a better understanding of the requirements. The new tenancy agreement template is largely based on the provisions of the existing tenancy agreements for public markets in the urban area and the New Territories, with

appropriate amendments to remove discrepancies, rendering the agreement more comprehensive and achieving greater consistency.

4. FEHD has earlier issued letters to some 10 000 market stall tenants whose tenancies will expire on 30 June this year, inviting them to sign the new aligned tenancy agreements. In line with the Government's earlier decision to extend the rental freeze for public markets for 12 months to 30 June 2010, the new tenancies will be valid for a period of one year up to 30 June 2010.

The New Tenancy Agreement Template

5. The new tenancy agreement template is applicable to all public markets in the territory. Compared with the old versions, it has incorporated the following major amendments:

- (a) It states explicitly that the rent is exclusive of rates, air-conditioning charge (if applicable) and other miscellaneous payments, all of which shall be paid by the tenant separately. The Government may, by giving the tenant not less than one month's notice, adjust the air-conditioning charge;
- (b) It requires the tenant to display in a conspicuous manner at the stall the Business Registration Certificate issued in the name of the tenant;
- (c) It confers to the Government the right to vary the category of prescribed commodities to be sold at the stall or the use of the stall to meet the operational need of the market; and
- (d) It requires the tenant to comply with the Government's request for an interview within 14 days, except with an acceptable reason.

These new or revised clauses are introduced mainly in response to the recommendations of the Audit Commission and PAC. They also help enhance the management of public markets.

Arrangements for Signing New Tenancy Agreements

6. Before inviting tenants to sign new tenancy agreements, FEHD met with market trader associations and Market Management Consultative

Committees in early May 2009 to brief them on the above background, and informed tenants individually in writing of the detailed arrangements. The new tenancy agreement template has also been posted on the notice board of each public market and kept in the office of market offices for tenants' easy reference.

7. FEHD has issued letters in batches to invite tenants to sign new tenancies at its offices in the respective district. Its staff will also brief the tenants on the content of the new tenancies before they sign them. The exercise involves the signing of over 10 000 tenancies. To ensure timely completion in an orderly manner, depending on the number of cases to be handled, district offices have started to send out appointment letters in batches from 13 May 2009. As at 26 May 2009, FEHD has concluded new tenancies with about 1 800 tenants.

Recent Developments

8. Recently, market tenants have raised different views on the arrangements for signing new tenancies. Members of the Legislative Council, District Councils and market trader associations have also expressed their views to FEHD.

9. In view of the decision of the LegCo Panel on Food Safety and Environmental Hygiene to convene a special meeting to discuss this matter, FEHD issued a notice on 25 May 2009 to advise market tenants that they are free to decide whether to sign the new tenancies on the date and at the time specified in the appointment letter. They will be informed of the discussion outcome after the Special Panel Meeting.

Food and Health Bureau
Food and Environmental Hygiene Department
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