



HONG KONG BAR ASSOCIATION

Secretariat: LG2 Floor, High Court, 38 Queensway, Hong Kong
DX-180053 Queensway 1 E-mail: info@hkba.org Website: www.hkba.org
Telephone: 2869 0210 Fax: 2869 0189

30th January 2012

Mr. Raymond Lam
for Clerk to Subcommittee
Subcommittee on Places of Public Entertainment
(Exemption) (Amendment) Order 2011
Legislative Council Complex
1 Legislative Council Road, Central
Hong Kong.

Dear Mr. Lam,

Subcommittee on Places of Public Entertainment (Exemption) (Amendment) Order 2011 (Meeting on 2 February 2012)

Thank you for your letter dated 18 January 2012.

The Hong Kong Bar Association expressed certain views on the Places of Public Entertainment Ordinance (Cap 172) on 2 June 2010. The relevant press release is accessible at: <http://www.hkba.org/whatsnew/press-release/20100602.pdf>. The Bar Association understands that there has been a prosecution arising out of the related incident at Times Square, Causeway Bay, a magistrate sitting in Eastern Magistracy may have ruled on the issues the Bar Association had questioned, and an appeal from the magistrate's verdict might have been lodged. It would be inappropriate for the Bar Association to comment on a matter which is most probably sub judice and in the absence of the submissions and statement of findings of the criminal case mentioned.

As far as the Places of Public Entertainment (Exemption) (Amendment) Order 2011 is concerned, the Bar Association notes that the amending Order adds "a place under the management of The Legislative Council Commission" to the list of exempted places from the operation of the Places of Public Entertainment Ordinance (Cap 172). It is a beneficial provision so that activities involving the members of the public in the LegCo Complex shall not be subject to licensing requirement on a per activity basis.

.../2

香港大律師公會

香港金鐘道三十八號高等法院低層二樓

Chairman 主席：

Mr. Kumar Ramanathan, S.C. 林孟達

Vice Chairmen 副主席：

Mr. Paul Shieh, S.C. 石永泰

Ms. Winnie Tam, S.C. 譚允芝

Hon. Secretary & Treasurer

名譽秘書及財政：

Mr. Frederick Chan 陳慶輝

Deputy Hon. Secretary

副名譽秘書：

Mr. Richard Khaw 許偉強

Administrator 行政幹事：

Ms. Dora Chan 陳少琼

Council Members 執行委員會委員：

Mr. Michael Blanchflower, S.C. 白孝華

Mr. Selwyn Yu, S.C. 余承章

Ms. Liza Jane Cruden 高麗莎

Mr. Giles Summan 蘇明哲

Mr. Kamlesh Sadhwani 金偉民

Mr. Hectar Pun 潘熙

Mr. Gary Soo 蘇國良

Mr. Charles J Chan 陳永豪

Mr. Colin Wright 韋高倫

Mr. Jose-Antonio Maurellet 毛樂禮

Ms. Elaine Liu 廖玉玲

HONG KONG BAR ASSOCIATION

Letter to Subcommittee on Places of Public Entertainment
(Exemption) (Amendment) Order 2011
on 30th January 2012

Whether the activities proposed involving members of the public in the LegCo Complex falls within the definition of “entertainment” as defined in s 2 of the principal Ordinance and whether the definitions of “entertainment” or “place of public entertainment” have been inappropriately drafted are, in the respectful opinion of the Bar Association, matters which pertain to the possible amendments of the principal Ordinance.

The Bar Association hopes that the above views may be of assistance to the deliberations of the Sub-committee.

Yours sincerely,

A handwritten signature in black ink that reads "Kumar Ramanathan". The signature is written in a cursive style with a long horizontal stroke at the end.

Kumar Ramanathan SC
Chairman

PY/al

HONG KONG BAR ASSOCIATION

Secretariat/Library: LG2, High Court, 38 Queensway, Hong Kong
Telephone: 2869 0210
Fax: 2869 0189

FAX COVER SHEET

TO : **All Press**
FROM : **Bar Secretariat**
DATE : **2nd June 2010**
NO. OF PAGES : **1 (including cover page)**

If any portion of the facsimile transmission is not received or is illegible, please notify the sender at tel. no. 2869 0210 immediately.

The Hong Kong Bar Association (HKBA) notes the statement by a Government spokesman on 31 May 2010 on the removals of June 4th Incident exhibits from the public place at Times Square, Causeway Bay on 29 and 30 May 2010, in which it was said that a Places of Public Entertainment Licence was required from the Food and Environmental Hygiene Department (FEHD) for the display of those exhibits at that public place.

The HKBA questions the correctness of the Government's statement on legal grounds, in particular as to whether or not there was a "public entertainment" at a "place of public entertainment" within the relevant statutory definitions. But, more importantly, the HKBA would urge that any use of the Places of Public Entertainment Ordinance Cap 172 (the Ordinance) - the requirements of which are mainly to ensure the safety of participants at events of public entertainment - should not undermine the Government's stated continued efforts to give effect to its commitment to promote freedom of expression.

The HKBA also notes that the exhibits have now been returned to their owners by the police force, and the circumstances of that return.

The HKBA deplors any attempt by the police force to incriminate the owners of the exhibits during the negotiation for their return. This purported act undermines the Rule of Law and must not be repeated.

While the HKBA expects those affected by the action taken by the FEHD and the police force may be able, if advised, to take any legal action thought appropriate, the HKBA considers that the content of the statement and the conduct of the police are such that it is necessary to issue this statement to avoid any misunderstanding on the part of the public on matters of law.

Dated 2 June 2010.

Hong Kong Bar Association