

立法會

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Panel on Food Safety and Environmental Hygiene

Background brief prepared by the Legislative Council Secretariat for the meeting on 14 February 2012

Management of fixed pitch hawker

Purpose

This paper gives an account of past discussions by the Panel on Food Safety and Environmental Hygiene ("the Panel") on the management of fixed pitch hawker.

Background

2. A No. 3 alarm fire broke out at Fa Yuen Street on 6 December 2010 had damaged a number of single-storey tin-sheeted and wooden hawker stalls. The Food and Health Bureau ("FHB") immediately convened a cross-bureaux and departmental meeting with representatives of the Security Bureau, the Food and Environmental Hygiene Department ("FEHD"), the Fire Services Department ("FSD"), the Electrical and Mechanical Services Department ("EMSD"), the Buildings Department and the Home Affairs Department to discuss the measures to enhance the fire safety and the management of the Fa Yuen Street Hawker Permitted Area.

3. On 30 November 2011, a fatal No. 4 alarm fire broke out at the same location, resulting in nine deaths and 34 injuries. The Chief Executive announced on the same day that he had directed the Chief Secretary for

Administration to convene and chair an inter-departmental working group to ensure and coordinate services available to the victims and families, as well as to consider the measures to enhance public safety in the Fa Yuen Street area, including the dismantling of stalls after trading hours.

Deliberations of the Panel

4. At its meeting on 14 December 2010, the Panel discussed the subject of the management of fixed hawker pitches at Fa Yuen Street after the fire broke out on 6 December 2010. Panel members opined that the Administration should impose various measures, including the re-construction of hawker stalls with flame-retardant and self extinguishing frames and materials, safety measures to prevent fire hazards in the area and provision of assistance to enable the affected fixed pitch hawkers to resume business as soon as possible. Members considered that the Administration should retain the open-air bazaars with local characteristics and carry out improvement works to enhance their vibrancy as shopping attractions for local people and tourists as well as their co-existence with the shops in the vicinity. Members also called on the Administration to improve the design of Fa Yuen Street Hawker Permitted Area.

5. The Administration advised the Panel that FEHD and FSD would work closely with the affected hawkers to improve the design and safety of the stall structures. It would also consider any proposals to improve the design and operation mode of open-air bazaars if there was a consensus among District Councils, the local community and the public. A number of measures including using fire-resisting materials for building stall structure, reserving proper separation space between hawker stalls, installing legal electricity supply and giving sufficient space for passage of fire engines, etc., would be implemented to enhance the safety and assist the fixed-pitch hawkers to resume business soonest possible. FEHD would step up inspection and enforcement against non-compliance of hawking requirements. EMSD would conduct unscheduled inspection to ensure the compliance of the electrical installations with the legislation and inform FEHD of any irregularities found for taking appropriate enforcement actions.

6. Following the fire incident on 30 November 2011, the Panel discussed the management of fixed hawker pitches again at its meeting on 13 December 2011. Members criticized the lax implementation of safety measures that the Administration had proposed after the fire incident in 2010. Members were

informed that FEHD had immediately strengthened enforcement regarding non-compliance in the hawker area at Fa Yuen Street and all hawker areas in Hong Kong. The two fire incidents at Fa Yuen Street had revealed that irregularities including oversized stall canopies, street obstruction by commodities and overnight storage of commodities beyond the stall area may aggravate any fire which broke out in the area. The Administration was studying the arrangement of "setting up stalls only during trading hours" and other measures such as other modes of operation of hawker stalls.

7. Members noted that the Administration had proposed introducing a mechanism for cancellation of hawker licences ("the proposed mechanism") to improve the management of and prevent fire at fixed hawker pitches. The consultation on the proposed mechanism had started and would last for two months until 12 February 2012, with a view to putting it into effect in April 2012. Members in general were gravely concerned about the proposed mechanism under which a hawker licence might be cancelled if the licensee was convicted of contravention of any hawker-related provisions in the Public Health and Municipal Services Ordinance (Cap. 132) or its subsidiary legislation for six times within three months. Some members considered the proposal too harsh and not effective to reduce fire risks posed by fixed hawker pitches. In their view, the Administration might consider raising the existing penalties such as increasing the fines.

8. According to the Administration, the proposed mechanism had been put forward after making reference to the existing licensing requirement arrangements for other trades, such as the termination of licence/tenancy for restaurant operators/market stall tenants and the Demerit Points System for funeral parlours. As some fixed stall hawkers persisted in blatantly contravening regulations despite repeated prosecutions, the mechanism was intended to achieve greater deterrent effect. During the Administration's discussions with the relevant District Councils ("DC") following the two fire incidents, some DC members had expressed support for introducing a mechanism for revocation of hawker licences. The Administration would gauge the views from the relevant stakeholders, including the DCs concerned and hawker associations, in order to formulate an appropriate mechanism.

9. Some members were of the view that the arrangement of "removing the commodities without dismantling the stalls at night" should be considered. Members noted the Administration's advice that it was not necessary to implement the arrangement of "dismantling the stalls after trading hours"

immediately. However, stall hawkers were required to comply with the existing regulations such as commodities stored within their permitted areas. Members were advised that the Administration and stall hawkers at Fa Yuen Street had reached a consensus on the arrangement of "keeping only the metal frames for display but removing the goods". The Administration's top priority in improving the operating environment of hawker bazaars was to ensure that the fixed hawker pitches would not become fire traps when they were left unattended at night. FEHD would also focus enforcement against illegal sub-letting of hawker stalls.

10. Given that the Christmas and the Chinese New Year holidays were approaching, members called on the Administration to allow the affected hawkers at Fa Yuen Street to resume their business as early as possible. According to the Administration, a part of Fa Yuen Street had been closed as the relevant Government departments were still undertaking safety inspection at the fire scene, such as examination of damaged signboards and building structures. The timing for the resumption of business of the affected hawkers had yet to be decided, but it was hoped that the closed area would soon be opened up. The hawker stall operators were required to rectify the irregularities to ensure the safety of the operating environment before they were allowed to resume business.

11. Members also requested the Administration to consider the suggestion of providing financial support to the affected hawker stall operators in erecting fixed pitches for approval by FEHD.

Council questions and motion

12. Five urgent oral questions under Rule 24(4) of the Rules of Procedures (RoP) relating to Fa Yuen Street fire were raised at the Council meeting of 7 December 2011 by Dr Hon Priscilla LEUNG, Hon James TO, Hon WONG Yuk-man, Hon Alan LEONG and Hon Starry LEE respectively. At the same Council meeting, Hon James TO moved a motion for the adjournment of the Council under Rule 16(4) of RoP for the purpose of debating the following issue: the fire tragedy at Fa Yuen Street in Mong Kok and ways to improve street environment and fire safety of buildings for the purposes of avoiding the recurrence of similar incidents and safeguarding the lives and properties of the public.

Latest development

13. All the affected stall hawkers had been allowed to access the Fa Yuen Street bazaar since 21 December 2011. Members had also requested the Chief Secretary for Administration to attend a meeting of the House Committee to discuss the Administration's follow-up work after the fire tragedy.

Relevant papers

14. A list of the relevant papers on the LegCo website is in the **Appendix**.

Council Business Division 2
Legislative Council Secretariat
9 February 2012

Relevant papers on management of fixed-pitch hawkers

| Meeting | Date of meeting | Paper |
|--|-------------------------|--|
| Panel on Food Safety and Environmental Hygiene | 14.12.2010 (Item VI) | Agenda Minutes CB(2)553/10-11(04) |
| | 13.12.2011 (Item V) | Agenda CB(2)510/11-12(05) CB(2)510/11-12(06) |
| Legislative Council | 12.1.2011 | Official Record of Proceedings Pages 67 - 71 (Question raised by Dr Hon Priscilla LEUNG on the assistance for victims of fire at Fa Yuen Street) |
| | 7.12.2011 | Official Record of Proceedings Pages 7 - 62 (Five urgent questions raised under Rule 24(4) of Rules of Procedures ("RoP") relating to Fa Yuen Street fire) |
| | 8.12.2011 | Official Record of Proceedings Pages 27 - 77 (Motion for the adjournment of the Council under Rule 16(4) of RoP moved by Hon James TO relating to Fa Yuen Street fire) |