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The Hon Tommy CHEUNG Yu Yan, SBS, JP,
Chairman,
The Legco Panel on Food Safety and Environmental Hygiene
Management of Fixed Hawker Pitches at Fa Yuen Street
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Consultation on the Mechanism for Cancellation of Hawker Licences

The city is dying

Submission by

Ir Peter Y Wong¹

Introduction

01 The LC Paper No. CB(2)510/11-12(05) makes reference to measures aimed at reducing fire risks at Fa Yuen Street, and **only** at Fa Yuen Street.

02 In gist, the Administration is seeking reinforcement from the Panel to assist the Food and Environmental Hygiene Department (FEHD) in discharging the duty of the management of street side hawker stalls.

03 The measures proposed in the submission were not adequate but even so the submission was long over-due as the mechanism of ensuring an overall and proper

¹ The author is a professional engineer and was invited, in his capacity of the Chairman of Engineers Registration Board, to comment on the electrical installations of Fa Yuen Street shortly after the fire in November 2011. He is also a director of Yook Tong Estates Ltd, which holds premises in Tai Yuen Street, Wanchai. The company had filed an application for Judicial Review against the Administration in closing off the Northern portion of the Tai Yuen Street but failed. In July 2007, on behalf of the company, the author had also submitted an objection to the Sub-committee on Heritage Conservation on "Preservation of the open-air bazaar at Tai Yuen Street and Cross Street".

management of hawkers should have been urgently revisited at least a year ago after the December 2010 fire in Fa Yuen Street, if not earlier.

04 In addition, the coverage of any overhauled enforcement scheme in reducing fire risks should be applicable territory-wide and not limited to a particular location.

05 The only plausible reason for the Administration in singling out Fa Yuen Street is perhaps that the situation at Fa Yuen Street must be so peculiar, that FEDH was unable to prevent the breaking out or minimise the consequential damage of the fire in November 2011 (Second Fire) even with additional measures and enforcement being taken since the fire broke out in December 2010 (First Fire).

06 With the cause of the Second Fire still under investigation, FEDH is now seeking the Panel to endorse further measures at the disaster struck location.

07 I humbly submit that fire risks are still the same and real in other venues and the concern of protecting living stocks is not lesser elsewhere. Therefore there is no reason for a submission addresses only to Fa Yuen Street.

08 To this, this paper turns on by drawing experiences from appeals made on locating and relocating of temporary hawkers in Tai Yuen Street, Wanchai for a closer examination of what were actually the problems of the Administration.

09 In this connection, what follows is a rundown of the inherent structural faults of our city that even in the pursuance of public safety, average citizens were often frustrated by dismaying bureaucratic departments that would ultimately infect our city with threatening illness.

10 Each department would devote in seeing its own interest only and hide behind decisions, even if erroneous, made by other departments to establish the legitimacy of a chain of fait accompli.

11 Frequently, equity of the stakeholders downstream were sacrificed by an authority like the Panel which had inadvertently sanctioned proposals of which departments would only submit partial and selective facts to fulfil assignments at hands.

12 Worse, where and when preconceived desires from the influential persons were involved, average citizens must suffer unfairness to quench such personal preferences.

13 The Panel must look wider, further and deeper at what were the underlying issues that could be contagious and gradually bring fatal sickness to our municipality.

FEHD

14 FEHD quoted two reasons in the submission paper that could have contributed to the breaking out or aggravated the consequence of the Second Fire, namely, (1) reliance on self-discipline on hawkers themselves was no longer sufficient and (2)

notwithstanding rigorous enforcement leading to prosecutions as provided under various ordinances, the FEHD was unable to reduce the delinquency.

15 In July 2009, I had written to the Secretary for Development², referring to the submission paper³ addressed to the Sub-committee on Heritage Conservation on "Preservation of the open-air bazaar at Tai Yuen Street", pointing out, rather as claimed by FEDH that the initiation came from the Wanchai District Council (WDC), members of the WDC had actually objected the proposal from FEDH of not to relocate hawkers onto a newly built market but by keeping them on the street⁴.

16 Further in that submission FEHD had advised that stakeholders were consulted but had not spelt out there were ferocious objections from the residents⁵.

17 Considering these discrepancies in FEDH's previous submission, I have reservation in concurring the first reason as claimed by FEDH in this submission paper was free from misrepresentation.

18 As to the second reason claimed, the FEDH gave statistics across the territory without making reference to Fa Yuen Street to support the reason why only this location was singled out.

19 It can only be assumed that Fa Yuen Street was on the high side of the curve as, if otherwise, the FEDH must have adopted a practice of giving out selective but irrelevant array of information with the purpose of manipulating statistics to mislead the Panel.

20 Noting this can be a very serious allegation, the Panel may wish to ascertain whether there was malpractice on the part of FEDH in this submission.

21 But the fact remains that FEDH had admitted the situation in Fa Yuen Street was unsatisfactory - albeit the cause of the Second Fire was still unknown - and now asks for assistance of setting out further guidelines for enforcement.

22 I do not see there is other option considering it is a proposal to protect living stocks. I therefore beg to submit that the Panel should favourably consider the request from FEDH in strengthening the enforcement guidelines.

23 But at the same time the FEDH should be asked whether the existing field control management is proper, adequate and diligently implemented. And if not, whether corresponding rectifications would be put in place.

24 I also submit, in addition to the guidelines, the Panel has to ensure the improved field control management is adopted territory-wide and the field officers should be properly trained for due enforcement with their performance to be closely monitored. The duty of FEDH does not stop after the Panel sanctions a paper likely

² Letter dated 26 July 2009.

³ LC Paper N0. CB(2)2417/06-07(02)

⁴ Wan Chai Star 16 April 2003

⁵ Photo - protest by the residents in Tai Yuen Street

aimed to rectify previous defeasance or questionable performance.

History

25 I agree street hawking has a long history in Hong Kong providing opportunities for some to earn a decent and honest living.

26 In older days merchandise offered by the street side hawkers was mostly sundry items, like empty cans and jars or old copies of magazine, spread across and usually on top of a piece of card board.

27 Some, on occasions, would take on trading of seasonable and festive items, perhaps also in quantities with a fast turn-around time, like clothes-rejects in heaps. The merchandise was carried on wheeled cart, sadly, to maintain mobility to ditch police enforcement.

28 And some would offer their particular skill or speciality like fortune telling or letter writing, all ready to get up and go without the need to store the trade somewhere on site overnight.

29 When licensing of temporary hawkers was first introduced, the conditions that the stall size should be 3 feet by 4 feet and must be on wheels ready-to-clear the site at night time for cleansing were appropriate for the purpose, then.

30 With the passage of time, the intention of the licensing arrangement on a temporary basis was defeated. Mobile hawkers now turn into fixed stalls.

31 I submit the granting of a licence even to be renewed on a monthly basis but seldom revoked, did give an impression of permanency. Coupled with the lack of proper and prompt enforcement in the past by FEDH the impression was reinforced with the installation of permanent fixtures like canopies, awnings and appliances.

32 Today, we may still call it licence for temporary hawkers but the trading mode is definitely anything but temporary because the types of commodities are very different now.

33 Customers can now find hawker stalls well stocked in dresses of different sizes or gadgets of wide choices and many would often offer exchanges and product warranty of merchandise on customers' return⁶.

34 The question is "are the previous criteria for street side hawkers still appropriate today" when hawker stalls are now operated no different from one would find in a building?

35 If it is intended to be temporary then the stalls should be put on wheels, and the need of vacating merchandise at close of business from the site is a condition and not an operative problem for objection. Certain items of the proposed guidelines in this respect are contradictory to the intention and hence irrelevant.

⁶ Photo - hawker stall selling dresses

36 But if permanency is indeed the revised position, then the matter must be looked at from that perspective. Affected stakeholders should be consulted in this light; stalls should also be constructed to suit this changing status.

37 Hence it is not adequate to only look at a piece meal solution in upgrading enforcement regulations and only at a particular location, like Fa Yuen Street.

38 The Panel must decide whether the submission is just another example of a hastily patching-up job after a disaster to silent public outcry of a lack of effective and coherent policy of the Administration, or the poor performance or negligence of a particular department.

39 The Panel should be the platform to alert the Administration to take on a holistic approach on such a complex issue by revisiting the matter from the top and not only tying offending loose ends to stop media sprint.

40 Further the Panel should not be the last procedure to legitimise an off-course or outdated policy, let alone being a party to put the final seal to a chain of defeasance accentuated by personal desires.

41 In the interim at least it is appropriate for the Panel to recommend the same enforcement guidelines should be adopted elsewhere, for consistence if not for public safety.

Electrical Installation

42 During my invited visit to Fa Yuen Street by the media to give comments on the electrical installations after the fire in last November, I found the installations were far from satisfactory with imminent danger apparent at certain locations

43 This submission by the FEDH and for that matter previous rectification introduced after the First Fire stopped short at the utility point of supply and did not adequately address the electrical safety and fire risks beyond that point.

44 A more detailed report is appended as Appendix 1.

45 Further, the concern of environmental hygiene due to nuisance generated by improper or over lit stalls that should be reviewed by the Panel was missing.

46 One of the stalls, at or around the corner of the street, was equipped with some ten external floodlights with discharge lamps likely at 150-watt rating.

47 The lumen per unit area lit with that many floodlights was definitely brighter than that of the many sign boards found in Central and along Nathan Road.

48 Apparently blinding brightness of this kind escaped the notice of environmental concerns.

49 Also apparently, the recommendation of the *Guidelines on Industry Best Practices for External Lighting Installations* recently published in January 2012 by the Administration with the Environment Bureau in lead has not taken this environ into

account.

50 I am not contesting advertising but just point out the paper is not adequate in this respect. Not surprising as FEDH did not have the practice to consult Environment Protection Department on impacts arising from hawkers gathering⁷.

51 I must add the observations listed in this section were not exhaustive and they were based on a brief walk-around investigation.

52 I submit that the Panel should advise FEDH to liaise with more departments to re-assess the completeness of the proposal for effectiveness.

53 I humbly submit the caveat to stop our city from getting sicker is for the Panel to ensure individual department must be thorough in case studies.

Fire Services Department (FSD)

54 The paper advised FSD was consulted since the First Fire to come up with a check list of improving measures. Despite what were implemented, the Second Fire broke out to an extent that it took the lives of NINE victims⁸.

55 It is not fair to say the hawker stalls, or their locations and the state of maintenance, or the way the hawkers operated, alone or collectively, were the principal culprits for such grave loss.

56 But the existence of numerous hawker stalls does have bearing in how the nature of use and occupancies that the surrounding buildings would develop.

57 More often than not crowded areas deter vigilant up keeping by the tenants and coupled with the presence of hawkers, it would generally bring a greater rate of depletion to the surrounding premises

58 Less "desirable" premises and district in turn invite hawker stall operators and pedestrians not to observe regulated measures in a diligent manner.

59 The submission paper recognises the complication of this vicious effect on enforcements which may hinder residents to evacuate safely in fire, timely or at all.

60 But the enforcement guidelines stop at the street level. There was no suggestion stipulating FSD would inspect buildings abutting hawker stalls with increased routine or in a more rigorously manner.

61 It is submitted that parallel requisite of stepped up enforcement from the FSD should also be included in the submitted proposal.

62 On the other front, the Building Department (BD) provides codes stipulating various minimum widths of passage clearances.

⁷ EPD confirmed FEDH had not consulted them on any likely environmental impacts on the proposal to relocate further 80+ onto Tai Yuen Street.

⁸ Oriental Daily 1 December 2011

63 The paper had not indicated whether reference to BD codes was made in stipulating clearances between the stalls themselves and between the stalls and the building staircases, the latter often the only exit for evacuation to safety.

64 Even if references were made, simply adhering to the BD codes might not be sufficient as that was drawn for buildings of fixed segregations, many of them installed with fire alarm and other fire safety and prevention measures. The BD codes were not written for dynamic environments like a hawkers market in the open.

65 Consider this, when a fire broke out at one end of the street in a congested and buzzing area like Fa Yuen Street on a busy day how would those at the other end know of the emergency? There might be music chanting from one of the stalls but there was no fire alarm bell in the street. Last minute panic of persons rushing in amok kills more than fire.

66 The proposed submission has not provided for situation like this and it appears it dwells on controlling the dynamic risk by employing static and fixed indicators. This is not only inadequate but also inappropriate.

67 As expressly stated, the driving force of this submission paper to the Panel was to "aim to reduce fire risks" after the Fa Yuen Street saga, but I cannot find the relevancy of how contraventions of "subletting" and "hiring non-registered assistant" are relevant factors⁹.

68 Unless in a far-fetch manner the FEDH is implying that the endorsement of the cancellation and revoking of licences is needed to enhance the management of the street side hawkers by decimating the number of hawkers that ultimately it would serve the goal of reducing fire risks.

69 What's more relevant in protecting against casualty is the speedy access of emergency vehicles. The fire trucks are large and long and demand certain minimum turning radii. It appeared it was not addressed in the submission paper.

70 Against the proposal of relocating temporary hawkers, I had written to the Wanchai District Office (WDO) inquiring whether FSD was consulted on a decision made by the Wanchai District Council (WDC) in year 2000.

71 The inquiry must have been routed away and subsequently I could only receive a confirmation from FSD that they gave advice on 2 May 2006 against a FEDH circulation dated 27 April 2006. No one offered to comment the gap between Year 2000 and 2006¹⁰.

⁹ "Stall subletting considerably increases the fire risks by aggravating the problem of unauthorized trading outside the approved area..." Annex2, *Consultation on the Mechanism of Cancellation of Hawker Licences*.

¹⁰ Both WDO and FSD refused to comment the gap between year 2000 and 2006. FSD advised test runs were made and at least one was recorded on video tape. FSD did not advise whether test runs conducted elsewhere would also be recorded. No one confirmed whether the test run was conducted after receiving my inquiry as fall back evidence or as a part of evaluation before decision. Suspicion as it was at least the residents in Tai Yuen Street were aware at least for one test run FEDH officers were giving pre-warning to hawkers.

72 The maze of bureaucracy was at work and actions were taken to avoid oversights or negligence being identified.

73 I humbly submit the caveat for the Panel is to ensure FSD would not point to a sanctioned paper submitted by FEHD that there would be no negligence in their part should disaster strike again in the future, by claiming the approved guidelines were the parameters under which they would and have to operate.

74 Herewith I propose that the Panel should consider recommending FEDH to invite interested party to witness test-run of emergency vehicle access, at least once a year, carried out at time to be chosen arbitrarily.

75 Again this practice should be adopted not only at Fa Yuen Street.

Transport Department (TD)

76 TD is the responsible department for the assessment and making proposals related to vehicle and pedestrians traffic in Wanchai District, large and small.

77 From records of WDC meeting minutes, traffic arrangements at Tai Yuen Street and its surrounding area was more personal desires driven so much so optimal recommendations from the TD professionals frequently compromised.

78 For decades, Tai Yuen Street allowed vehicle traffic. First unlimited to all, then for access only (briefly in the 70s'), then through traffic for all was again reinstated.

79 The vehicle through traffic increased after the MLC Tower was built at the Southern end of Tai Yuen Street.

80 In his affirmation¹¹ in or about October 2002, a senior engineer of TD stated he had concurrently held two "tests" in Tai Yuen Street.

81 Based on the two "tests" the senior engineer recommended the southern portion of Tai Yuen Street be turned into a 2-way traffic and the vehicular access to northern portion be prohibited within the office hours.

82 A closer look at the sequence of events strongly suggested the two "tests" were conducted in order to justify a pre-determined result so as to overcome oversights by the TD when s16 of MLC Tower was submitted with the Town Planning Board¹².

83 HCAL 94/2002 concluded FEDH was not at fault to relocate hawkers by acting in according to the new traffic implemented by TD and likewise TD had to act because of the s16 of MLC Tower was approved. The fact that departments collectively overlooked the impact of future vehicle traffic during the s16 application

¹¹ HCAL 94/2002

¹² The first test was to ascertain whether it was "workable" (sic), of turning a section of the Southern portion of Tai Yuen Street into a 2-way traffic so that cars exit from MTL Tower were directed to Queen's Road East and did not have to go through the Northern portion. The second test was really clerical work to examine the statistics of "incidents" at Tai Yuen Street & Cross Street. The findings were used to justify closing off the Northern portion to relocate hawkers previously residing on the Southern portion. The Administration paid a senior engineer to conduct the first test which was obvious "workable" even to a layman. No explanation was offered why the two tests were conducted **simultaneously**

was legitimized and the residents in the area had to suffer for their mistakes.

84 As a result, the MLC Tower developer could offer a faster route for their car park patrons and the street in front of their premises free from hawker stalls¹³.

85 As a result, tenants and shop operators in the northern portion of Tai Yuen Street were discriminated and treated unfairly¹⁴

86 I humbly submit the caveat for the Panel is not to become a venue approving submissions with oversights from one department upon which others would find legitimate excuses to act accordingly to the detriment of the wellbeing of our city.

87 Were it not an oversight by the TD, it could be worse. Likely, as administrators in our government tended to instruct professionals preparing reports so as to lend authority to their corny ideas. As if otherwise what was the need to have a senior engineer doing clerical job. It was more than an insult to the engineering profession, it was injury afflicted to our society.

88 In one of the meeting minutes of the WDC it was noted the closing off of the southern portion of Tai Yuen Street was aimed to compliment Project H15 of Urban Redevelopment Authority (URA)¹⁵.

89 Hence it might not be an oversight of TD on a particular s16 application, the two tests were conducted to achieve a result to the advantage of the H15 project.

90 Either way nonetheless, the big developer was again benefited at the expense of the residents. Nonetheless, the residents in the vicinity would have a bigger stumbling block to request re-opening of the street now that with the combined forces from the approval of the s16 application of H15 and a resolution of the WDC.

91 The caveat of the Panel is to ensure such discriminating measures would not predicate in Fa Yuen Street and elsewhere.

92 By a separate cover¹⁶ TD advised the footpath widening at Johnston Road immediately abutting to the northern end of Tai Yuen Street was initiated in 2001 with work commenced in February 2002.

93 In this connection, I can only assume when the senior engineer conducted the two "tests" listed above under paragraph 80, he was aware of the scheme but did not find it relevant of mentioning it in his affirmation¹⁷. As with this scheme vehicle traffic would be hampered when exiting via the Northern part of Tai Yuen Street anyway serving as a motive to close off the street. Simply put, it was not necessary to conduct any "workable" test.

94 Simply put, with two projects of URA in place; the need to divert traffic from

¹³ Photo – south end of Tai Yuen Street

¹⁴ Photo – north end of Tai Yuen Street

¹⁵ Paper 73/2006

¹⁶ Letter from TD dated 2 July 2009

¹⁷ "...the facts and matters deposed to herein are within my own knowledge and are true or are obtained after perusal of office documents and information to which I have access in which case they true to the best of my knowledge, information and belief."

MLC Tower; the desire of politicians to be seen protecting the interest of a “minority group” of hawkers; the need of widening the footpath at Johnston Road, it would be convenient to close off the Northern portion of Tai Yuen Street to accommodate the relocation of hawkers. The residents and shop operators in Tai Yuen Street must suffer in this zero sum decision.

95 This scheme of footpath widening was another example of patching-up job to solve one particular by TD. This failure to take a holistic approach would have a serious effect as it would prohibit emergency vehicles turning onto Tai Yuen Street from Johnston Road.

96 The price of the patching-up job was fire trucks leaving the Wanchai Station at Hennessy Road must now take a detour via Wanchai Road and Queen’s Road East to reach the great part of Tai Yuen Street and Cross Street, seriously compromising speedy and timely access for the safety of tenants.

97 I should add TD had advised they always take a holistic approach. But from minutes of WDC, I submitted it was not.

98 TD on 16 May 2006 advised WDC maintaining 2-way traffic on the southern portion of Tai Yuen Street would lead to congestion and proposed vehicles exiting car park via the northern portion! This basically repealed to what had been “verified” by the two tests carried out in October 2002, some 40 odd months ago.

99 Between Wanchai Road and Tai Wong Street East, there are a total of eleven streets.

100 Only four, namely Wanchai Road, Tai Yuen Street, Spring Garden Lane, and Lee Tung Street allow vehicles travelling between Queen’s Road East and Johnston Road.

101 Access to the northern portion of Tai Yuen Street was closed during office hours to make way for URA H15 project.

102 The H15 project would close off Lee Tung Street permanently¹⁸. Like a previous project of the predecessor of URA west of H15 where a building blocked a public street deterring transit to enhance property value. Lee Tung Street would serve the same mean for H15 and more, enriched by special events and festive functions to be held from time to time. Vehicles in congestion can pollute the air elsewhere and Tai Yuen Street can keep the hawkers. H15 can keep the enrichment.

103 If tenants in the vicinity believed the Administration was only interested with the benefit of the influential, I have no counter arguments.

104 Traffic congestion as it was, the rich can buy right of way¹⁹.

105 The caveat for the Panel is not to encourage this kind of bias by the

¹⁸ Photo - Lee Tung Street

¹⁹ Photo – Apple Daily 25 January 2010

Administration to the riches and at the same time squeezing the smaller operators out of business.

106 A last word on a simple solution to diffuse the chaos created by TD at the congested junction of Tai Yuen Street, Johnston Road and O'Brien Road: Move the two tram stops away from the junction. The junction would be less crowded without waiting and arriving tram passengers; the need to widening footpath was no longer necessary; two lanes for vehicles traffic is now feasible and vehicles would not be held up by trams stopping for boarding in front of a green traffic light; vehicle over 7 meter long can make access to the street; the need to provide a turning circle along Cross Street is overcome; Tai Yuen Street can help to ease congestion at Queen's Road East and more importantly – emergency vehicles can turn into Tai Yuen Street from Johnston Road for speedy life-saving.

107 The caveat for the Panel is to ensure the interests of all stakeholders were addressed and in most cases it is achievable if the Administration does not take a bias preference in the beginning.

WDC

108 Proposals from FEDH on the hawker issues at Tai Yuen Street must be referred to the WDC.

109 In or around April 2003, WDC turned down the proposal to permit hawkers operating in the street indefinitely. Members emphasised the need to maintain through traffic in Tai Yuen Street.

110 But later, the resolution was overturned by preferences of individuals.

111 Originally there was an open market ground for hawkers at the junction of Wanchai Road and Queen's Road East. It was demolished to make way for the URA *One Wanchai* project which scored record high property prices when launched.

112 Displaced by *One Wanchai*, a new market building was built to accommodate affected hawkers but on completion the facility was abandoned when the new session of the WDC simply wished to overturn a previous resolution.

113 Two legislative Councillors²⁰ meddled in the WDC affairs by expressing their wishes to keep Tai Yuen Street as an open market for tourist attraction.

114 The two legislative councillors were put on notice²¹ of the current state in Tai Yuen Street was of high fire risks²² and unless negligence of various were rectified tenants might hold them one of the liable parties. Both did not acknowledge receipt of letters. Both went on TVB 6.30 news expressing their regret on the

²⁰ The Hon Ms CHOY So-Yuk and Mrs Selina CHOW LIANG Shuk-Yee as confirmed by WDO that both had expressed their desires to WDC. In one of the meeting minutes of WDC, members raised the concern and insisted legislative councillors should not be intervening affairs at the district level.

²¹ By respective letters dated 8 August 2006.

²² Photo – Protest by the Tai Yuen Street residents

decision of not to further relocate 86 hawkers extending the street to a more vibrant open market. Both maintained their aspirations Tai Yuen Street that must be a venue for an open market. Both ignored petitions signed by 50 plus residents

115 The influential had spoken. The average John and Jean were ignored.

116 Despite the failure to relocate an additional 86 hawkers, the Chairlady of WDC still had the strong preference in keeping the street as an open market²³.

117 In my view the way she had conducted the Council meetings was a series of misfeasance²⁴. WDO declined to forward my correspondence delineating my allegation to the Chairlady.

118 I had informed the succeeding Chairman of my allegation of the Chairlady by a written submission delineating the reasoning and requested an inquiry.

119 The Chairman did not even have the decency to acknowledge receipt of the letter and many reminding ones that followed.

120 As an appointed member to the district council by the Chief Executive I must assume he was of a knowledgeable person.

121 The record indicated he was one of the members objecting the original proposal by FEDH on the issues of hawkers. I must hence believe he would have a concern of an alleged misfeasance of overturning a resolution without due discussion in the WDC.

122 With many registered letters sent and months later, WDO finally informed me the Chairman had referred the matter to a sub-committee which did not have the relevant Terms of Reference to investigate alleged misfeasance or misconduct.

123 What more can one says when a subcommittee was asked to adjudicate matters without authority except it was nothing but an uncanny example to hide thorny warts if not errors in the past by a more recent committee resolution?

124 As such the Chairman had also failed to discharge his duty as the Chairman of WDC²⁵. I had informed him of my accusation but he did not respond.

²³ In her opening speech on the 25 July 2006 meeting held with residents most of whom had objected to relocate further 86 hawkers onto Tai Yuen Street North, despite repeating she was neutral, the Chairlady went on for some 15 minutes trying to impress the congregation on her overseas experience of finding how desirability it was to have an open market for hawkers.

²⁴ The Chairlady quashed the suggestion from one member that previous WDC resolution to gradually reduce the number of hawkers in the area must be honoured by citing circumstances had changed. In a hung debate the Chairlady volunteered with another Council Member having the same view to be members of a working party to advise the Council on further recommendation. The outcome of any recommendation was already known even to a layman not versed in meeting tactics. I had informed the Chairlady that there was a standing verbal agreement from the then Chairman of the embracing district boards but considering her opinion spoken in public talk show where she opined terms of a valid contract should be subject to reassessment when circumstances changed, I had little hope that she would abide to the contractual spirit. She together with the other member sharing the same view personally made deputation to the Sub-committee on Heritage Conservation on "Preservation of the open-air bazaar at Tai Yuen Street"

²⁵ In addition of failing to investigate alleged misconduct carried out by the Chairlady in meetings of previous session, he failed to bring to the attention of WDC members of our letter dated 21 August 2008 and four follow-up letters between 24 November 2008 and 13 February 2009 that the content of the 21-August letter "...would have bearing for their (WDC members) deliberations...on traffic..." when the

125 The caveat for the Panel to whom I have total confidence that however palpable an issue, the Panel would not shy away in exploring the truth.

Heritage

126 The issue of Hawker in Tai Yuen Street then fell within the jurisdiction of Development Bureau (DEVB) and the Sub-committee on Heritage Conservation presided the hearing.

127 I noted only hawkers were consulted. The residents were not.

128 I informed the DEVB that two members from WDC making deputation could have biased views exemplified by double representation so much so their views might not truly reflect that of the other members of the WDC.

129 Despite the minute of meeting had their official positions listed, DEVB advised "all of them attended the meeting in personal capacities". The ridicule was, DEVB further confirmed "...suggestions were made to them in their respective official positions as the Chairlady and member of WDC".

130 DEVB also indicated with a submission handed in my view had been fairly treated even though my late request to attend the deputation was declined.

131 Heck, I had been requested to attend deputations by the Administration at the very last minute, in the literal sense, when my view was favourable to them. Heck, I knew chairperson of Legco Subcommittee offered extra meetings when there was a concern of missing out hearing views from the public at large.

132 I noted in order to preserve the open bazaar in situ, professional opinion from TD was comprised to put a turning circle for vehicles²⁶. More congestion and nuisances from noise & fumes to the tenants.

133 With Lee Tung Street closed off by the H15 and if an open bazaar was so desirable, the Administration could have moved all hawkers to Lee Tung Street, solving all the problems at Tai Yuen Street, Wanchai Road and Cross Street.

134 I must give credit to DEVB in sending me eleven pages of structured words in their reply even though I termed them "...not constructive to have the issue properly addressed save repeating itself as botoxed phellem sheltering bureaucratic jaunts". That was during the time when a tree fell in Stanley bringing a sudden haunt to the life of a young girl. I hope the administrative officers would understand that was a warning signal from an engineer that our Administration was not healthy at heart²⁷.

135 I had informed DEVB that URA had a direct conflict of interest joining as a member of the Special Committee of revitalization of the Tai Yuen Street Bazaar.

traffic arrangement related to project of Hopewell Holding was deliberated.

²⁶ Ming Po 14 November 2007

²⁷ At least, even though for many years FEDH ignored all my correspondences when they were put on the circulation, on this instance FEDH sent me a reply – a cover sheet attaching the eleven pages of DEVB's work. URA did the same by fax and mail. So I received the same eleven pages several times

DEVB advised "...the Chief Executive tasked the DEVB & URA to jointly adopt a district-based approach...revitalisation of the old Wan Chai area."

136 So does one have to make petition to the Chief Executive in the end from an issue, say, sparked off by questioning whether a FEDH field officer had done the job of keeping hawkers in line, and in between going through ten departments, three Bureaux, six Committees, Boards and Councils?

137 But when URA was asked what plan was in store for Tai Yuen Street as broadcast by their Chairman and whether there was a conflict of interest as a member of the Special Committee, URA replied their role was only secretarial.

138 But the secretary was invited on stage under the spot light²⁸.

139 Bureaucracy like these killed the victims in the Fa Yuen Street fire²⁹.

140 I humbly submit denials of responsibility spread like cancerous cells rendering the ultimate fall of our city.

141 I also humbly submit the imminent duty of the Panel is to make use this opportunity to ensure the matter of hawker stalls must be considered as a whole, free from arbitrary preferences sanctioned in cascade against which the silent majority can only remain silent.

Residents

142 Residents of Tai Yuen Street have always been tolerant to temporary hawkers operating in the area. But others took advantage of this goodwill gesture.

143 Shops in the street are of small business nature but their operation was penalized. Owners of premises pay rates and minimum wages to compete with hawkers selling the same commodities in front of the shops at a minimal licence fee.

144 Adverse environmental impacts affecting residents were not only ignored but would worsen on every proposal randomly advanced by the Administration. The living stocks are at stake from high fire risks and impeded emergency vehicle access.

145 Shop operators were prosecuted if they tried to put a trash can to keep hawkers' patronage away from their shop front. The hawkers were allowed to put merchandise on hangers reaching to the middle of the street.

146 The residents saw the value of their properties depleted so that other developments just meters away can make gains.

147 Grudges from the residents are without limits and it can go on.

148 But what is most hurting was the hawkers were allowed to install oversized canopy but tenants had to remove scaffolding protruding 50 mm beyond the "guidelines". By doing this, the tenants had to employ professionals to respond to

²⁸ HK Headlines 28 September 2009

²⁹ am730 5 December 2011

BD. By doing this, the contractors cannot command their vans to off load tools during the office hours. By doing this, it did not make the evacuation paths safer. 149 The reason was that the whole Tai Yuen Street was put under a one-off special scheme by BD that all illegal structures must be removed in selected areas. The residents are keeping watchful eyes on how the Administration would handle illegal structures territory-wide.

150 True to form that Bureaux treated others as extraterritorial creatures: There were empty lots within the area that could host all the hawkers serving truly as open markets attracting tourist to the region and not only to one street. Instead they were turned into cement barracked resting spaces for residents to enjoy as long as they do not sing and smoke, and remain quiet and tidy. Over the parapet walls, the other side was noisy, trash trapped in sidewalk catchments with smell of cigarette fumes. For this enjoyment, the residents have to pay a price of ever fearing a fire would break out amidst their sleep and finding the staircases to safety blocked.

151 Rumour had it that the initiation came from the Chief Executive Mr Donald Tsang, a former resident of Tai Yuen Street, after his home coming visit. I was not convinced even though a similar rumour roamed around that it was his insistence of turning caves into wine cellars after a visit to one in Adelaide, Australia.

152 I humbly submit the caveat of the Panel is to ensure there would be fair playing grounds for all. The society is in an olive shape with both tips well taken care of, one by the jet-setters themselves and the other by the Government. Grudges like this if continue to buildup would bring this city to a loathsome end. The Panel is in a good position to check the decay as a harbinger, if it chooses to be one.

Conclusion

153 To demonstrate it was not mere bitterness in submitting this, I have appended my recommendations under Appendix 2.



Dedicated to my mom, Madam WONG CHAN Hop

Consultation on the Mechanism for Cancellation of Hawker Licences

Submission by Ir Peter Y Wong, Registered Professional Engineer (BSS, ELL)

29 March 2012



Paragraph 15 – Footnote 04

Wanchai Star 16 April 2003



Paragraph 16 - Footnote 05



Paragraph 33 – Footnote 06



Paragraph 54 – Footnote 08

東方日報 2011 年 12 月 1 日 - 花園街四級火 9 死 34 傷

ht http://orientaldaily.on.cc/cnt/news/20111201/00174_001.html



Paragraph 84 – Footnote 13

South end of Tai Yuen Street



Paragraph 85 – Footnote 14

North end of Tai Yuen Street

Consultation on the Mechanism for Cancellation of Hawker Licences

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29 March 2012



Paragraph 102 – Footnote 18



P paragraph 104 – Footnote 19



Paragraph 114 - Footnote 22



P paragraph 132 - Footnote 26



Paragraph 138 – Footnote 28



P paragraph 139 – Footnote 29

Consultation on the Mechanism for Cancellation of Hawker Licences
Submission by Ir Peter Y Wong, Registered Professional Engineer (BSS, ELL)

Report on the Electrical Installation at Fa Yuen Street carried out shortly after the November 2011 fire.

- 01 I found the newly installed electricity supply on one side of the street was safe albeit ugly in appearance. Improper alternations were found on the other side which could compromise safety.
- 02 Installations of many of those wirings feeding out from the distribution boxes, new and old, were not acceptable, as well as the installations of some of the sockets and lighting fixtures.
- 03 First and foremost, with *de facto* permanency, the electrical installation in the stalls should be in compliance of similar requirements for commercial premises as well as an outdoor installation.
- 04 Frequency of the inspection of the electrical installation must be in line with what is being required for commercial premises.
- 05 Water-proof socket outlets/switches must be used as in an outdoor installation.
- 06 I also observed multi-plug adaptors were widely used to feed power to the lighting tracks.
- 07 Typically almost every stall put on four to five lighting tracks around and along the edge of the stall perimeter beneath the canopy.
- 08 Many of the lighting tracks were not securely fixed. Each of them feeding eight to ten 50-watt halogen spot lights.
- 09 Due to the high temperature, lighting tracks with halogen spot lights are meant to be installed at ceiling or inside show windows at a height that is out of the reach of a lifting hand. The way these were commonly installed at the stalls in Fa Yuen Street was therefore not acceptable and the hot halogen spot lights added to the risk of scorching hands.
- 10 In addition, hot halogen lamps closely clustered in overloaded lighting tracks hanging close to merchandise, many of them of textile or other combustible items, are high fire risk.
- 11 Feeding wires are not permanently fixed and often routed through wire mesh openings giving rise to risk of electrical shock from worn wirings.
- 12 It is submitted the lighting circuits should also be protected by RCD to reduce shock and fire risks.

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Consultation on the Mechanism for Cancellation of Hawker Licences
Submission by Ir Peter Y Wong, Registered Professional Engineer (BSS, ELL)

Recommendation

Underlying Policy

- 01 In the long run, hawker fixed stalls must be moved away from the street side operation into more “permanent” spaces.
- 02 It appears the market buildings are not attractive to some, particular to those trading in seasonal goods or customers in vacation are the targeted clients. Provisions related to this different nature of business should be made.
- 03 To balance the need for some less privileged or in need to earn a living and the intrusions caused to small business operators and the safety of residents the shift must be carried out in stages, likely over a decade’s period.

Locations

- 04 The preferences from hawkers are those next or amid busy districts. This must be stopped as there are many hawkers in less dense area. The parallel is all would like to choose public housing in town but most have to make their choices off CBD.
- 05 There is no need to find big lots to host many at once to rectify the situation. It could be several smaller lots within walking distance.
- 06 Median strips of busy streets, like Nam Cheong Street before can be a good location.
- 07 Certain areas next to parks and beaches are other choices.
- 08 Certain areas like pedestrian bridges or tunnels can take on a fixed number of hawkers on first-come-first-serve basis like metered car park space.
- 09 There may some hawkers that may prefer not to operate only over the weekends and with proper provisions it would free up the need to dwell on street side fixed stalls. An example is spaces in front of tourists areas or ferry terminals.

Nature of business

- 10 For those targeted to returning customers, they should be asked to move into market places
- 11 For those targeted to infrequent clients like passerby, they should be strictly on mobile basis.
- 12 Obviously there are some special cases like shoeblacks in central that would warrant on a case to case arrangement until they retired.
- 13 In the interim the street side stalls have to be maintained before phased out

Licence

- 14 The licence must be on personal basis.
- 15 Transfer and subletting are not allowed
- 16 The need to register assistances should be cancelled. As a family member, or a neighbour or a friend or even on occasion a hire-hand can take watch when there is need. Instead, FEDH should keep a record on names of person manning the stalls on every inspection. Prolonged absence from the stall by the licensee would be investigated as it suggests either sub-letting or operating the stall as a normal business with staff. The intention is to help person earning his trade not to subsidize a small business.

Fixed stall

- 17 Dimensions of the stall should be strictly enforced. There should be enough space under carriage to facilitate cleansing.
- 18 Merchandise must be removed at close of business.
- 19 The present cable entry and meter box arrangement are not satisfactory as the void in the pipe could trap debris and attract termite and insect causing damage to the cables. The underground cable should be buried and fed right into the stall. The meter box is to be at the lower portion at the back.
- 20 All electrical installation and equipment must be of outdoor type. All circuits are to be controlled by RCD. Annual inspection required.
- 21 The size of the stall can be enlarged to 1 meter by 1.5 meter from existing 900 mm x 1200 mm
- 22 Only one stall is allowed in front of a shop of the standard lot size at around 15 meter wide and away from the staircase
- 23 Only one side of the street is allowed for fixed stalls, the other side to remain vacant to allow loading and unloading
- 24 The street is to be one-way only with stalls at a good distance from junction to allow long vehicle like fire truck turning
- 25 The pavement of the side of the street hosting hawkers should be widened as well as the catchment area.
- 26 Fire drill to be run annually with fire alarm installed on selected stalls. Fire extinguishers should be installed at appropriate locations on the street.
- 27 Points system is optional as with improved conditions and larger stall, it may help to reduce delinquency.

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