

立法會
Legislative Council

LC Paper No.CB(2)415/12-13(04)

Ref : CB2/PL/FE

Panel on Food Safety and Environmental Hygiene

**Updated background brief prepared by the Legislative Council Secretariat
for the meeting on 8 January 2013**

**The business environment of public market stalls,
including the rental adjustment mechanism and air-conditioning charges**

Purpose

This paper summarizes the concerns of the members of the Panel on Food Safety and Environmental Hygiene ("the Panel") on the business environment of public market stalls, including rentals, air-conditioning charges and recovery of rates in public markets.

Background

Management of public markets

2. Public markets were provided by the former Urban Council ("UC") and Regional Council ("RC") to meet the needs of the community and resite hawkers who would otherwise be trading on-street causing environmental nuisance and congestion to pedestrian and vehicular traffic. Since the dissolution of the then Provisional UC and Provisional RC on 1 January 2000, the Food and Environmental Hygiene Department ("FEHD") has taken over the responsibility for managing public markets.

3. At present, FEHD is responsible for managing 77 public markets and 25 free-standing cooked food markets, providing a total of some 14 450 stalls. The overall occupancy rate is about 89%.

4. Although FEHD has taken over the responsibility of the management of public markets in 2000, it has continued to adopt the versions of tenancy agreements used by the former UC and RC despite their considerable discrepancies. This successive extension of old tenancies has been criticized by the Audit Commission as well as the Public Accounts Committee ("PAC") of the Legislative Council ("LegCo"). In response to the views of the Audit Commission and PAC, FEHD agreed to review and align the different public market tenancy agreements, market rental adjustment mechanisms and arrangements for the recovery of rates and air-conditioning charges. It put forward proposals and revised proposals on the above subjects as well as a one-off tenancy transfer scheme in 2009 and 2010 respectively.

Proposals on the rental adjustment mechanism

5. As at February 2009, the average rental paid by all public market stall tenants was about 60% of the open market rental ("OMR"). OMR is assessed by the Rating and Valuation Department ("RVD"), having taken into account the general situation of Hong Kong, the actual conditions of individual markets as well as relevant factors such as the area and location of stalls and the location of the markets. It would also make reference from the rental information of shops selling similar commodities in nearby private premises and make appropriate adjustments accordingly. Following the publication of Reports No. 51 of the Director of Audit and PAC in 2008, the Administration proposed a rental adjustment mechanism in July 2009, under which the rentals of all market stalls were to be increased by equal annual increments so that the rentals would reach 80% of OMR in six years, and a cap of \$1,500 would be imposed on the monthly rental as the maximum annual increase ("the 2009 proposal"). As both the Panel and representatives of market tenants and traders objected to adjusting stall rentals based on OMR, the Administration proposed a new rental adjustment mechanism in December 2010 ("the 2010 proposal"). Under the 2010 proposal, the actual average rental of stalls of the same category of business in the same market ("AAR") would be used as the basis of the rental adjustment mechanism. The level of rental the stall tenant should pay would be determined by AAR or OMR, whichever was the lower. The rentals would be increased to the AAR or OMR level by equal annual increments during a three-year tenancy period. Different rental increase caps would also be

introduced for tenants of non-cooked food stalls and cooked food stalls. A compassionate arrangement for disadvantaged tenants would also be put in place. Tenants who met certain requirements in relation to age, business turnover, years of renting the stall, etc., might apply to the Director of Food and Environmental Hygiene on compassionate ground for discretionary rental increase adjustment.

Proposals on arrangements for recovery of air-conditioning charges

6. Due to historical reasons, air-conditioned markets in different regions of Hong Kong adopt different arrangements in recovering air-conditioning charges. There are also tenants who have never paid any air-conditioning charges. According to the Administration, separate charging is currently adopted for 70% of the stalls in air-conditioned markets. In the light of this, the Administration proposed in the 2009 proposal that the same arrangement of separate charging should be applied to the remaining 30% of tenants so that FEHD could recover costs based on actual expenses. Despite repeated calls from the Panel and many tenants to charge the air-conditioning cost pro rata to the stall areas, the Administration maintained its view that public areas were an integral and inalienable part of the market trading environment, and it was common practice in all government rental properties to include public areas in the calculation of air-conditioning charges payable by tenants. Yet, having regard to the concerns expressed by the Panel and tenants, the Administration proposed in the 2010 proposal that the increase in air-conditioning charges would be distributed evenly over the first three-year tenancy period and a cap would be imposed on the monthly increment allowed each year.

Recovery of rates

7. The old tenancy agreements have stipulated that tenants are responsible for payment of rental as well as all the rates, taxes, other charges, etc., in respect of the stalls. FEHD has, however, paid rates on behalf of the stall tenants all along and has not recovered the rates from them. The Administration proposed in the 2009 proposal that the rates should be paid by the stall tenants and RVD would assess the rates levels of market stalls. Since the assessment is still in progress, FEHD will continue the existing practice of paying rates on behalf of the stall tenants.

One-off tenancy transfer scheme

8. The Administration also proposed to introduce a one-off tenancy transfer scheme in the 2010 proposal to regularize the status of public market stall operators and to resolve the historical problem of the status of public market stall operators arising from the resiting of hawkers into public markets. The Administration proposed to allow any person who had been a registered assistant of the stall concerned for at least three years, or any person who had invested in the business of the stall concerned for at least three years, to apply for taking over the status of a tenant with the consent of the original tenant and on producing documentary proof. It was also proposed that successful transferees should pay AAR or the rental payable by the original tenant at the time of transfer of tenancy, whichever was higher.

Rentals of public market stalls

9. The rental of public market stalls was reduced across-the-board by 30% in 1998 and has been frozen at the reduced level since then. The Administration has recently announced the further extension of the rental freeze for 12 months until 31 December 2013.

Deliberations by the Panel

10. The Panel discussed issues relating to the business environment of public market stalls at a number of meetings between 2009 and 2011 and received views of deputations at three meetings. The deliberations and concerns of members on the business environment of public market stalls, including rentals, air-conditioning charges and recovery of rates in public markets are summarized below.

Public market rentals and the rental adjustment mechanism

11. Members expressed strong objection to the proposed rental adjustment mechanisms put forward by the Administration in 2009 and 2010. They questioned the validity and appropriateness of using OMR in assessing public market stall rentals, as the facilities of public markets were outdated and their environment and management were far from satisfactory. In their view, the business environment for market stall operators was already difficult because of the upsurge in the inflation rate. The proposed rental adjustment mechanism of

bringing the existing rentals to the level of OMR would impose additional financial burden to the market stall operators and in turn, the general public would suffer from higher prices in staple food. Members considered that any increase in the public market rentals would have an adverse impact on the social functions of public markets in providing active market services to the community. They suggested that the Administration should take steps to improve the customer flow and the management of public markets first before considering an increase in the public market rentals.

12. Members also considered it unreasonable to use AAR as the basis of rental adjustments since the patronage of a stall depended very much on its location. The Administration should take into account the location of individual stalls in determining the level of their rentals and should not solely average out the rentals of the stalls of the same category of business in the same market to calculate the rental adjustments. Some members pointed out that in several public markets, the rentals of stalls of the same category of business varied significantly. Using AAR as the basis of rental adjustments would be unfair as the increment in rentals would be substantial.

13. Members generally agreed that the Administration should subsidize the operation of public markets in view of its important social functions. Public markets were the major sources of fresh provisions for the public at large and provided employment opportunities for the grassroots. The Administration should help sustain the operations of small businesses and take steps to prevent monopoly of supermarkets.

14. The Administration clarified that OMR was not the prevailing rental in the commercial market. It was the market rental assessed by RVD by making reference to the location of the public market, the layout and size of the market stalls, the location of the stalls within the market, the customer flow and their historical background. The objective of the rental adjustment mechanism was neither to achieve the principle of full cost recovery nor to bring the rental of public market stalls on a par with the commercial market, but to rectify the long standing problem of having different versions of rental adjustment mechanisms in the territory. While OMR would reflect adequately the prevailing rental values, it had not taken into account the uniqueness of individual markets in the light of the historical considerations. As there was a host of historical factors that had led to the problem of rental disparity, a rental adjustment mechanism based on AAR would help minimize rental disparity among stalls of the same category of business in the same market. The Administration stressed that it

was open-minded on the level of rental adjustment and the timetable to implement the mechanism.

15. Members were generally of the view that the AAR approach would probably result in a substantial increment. Some members considered that using the median rental as the basis of the rental adjustment mechanism would be more desirable to minimize rental disparity and they urged the Administration to explore more options for consideration.

16. While welcoming the Administration's decision to further extend the rental freeze of public market stalls, members called on the Administration not to increase the stall rentals unilaterally. Decision on the rental adjustment mechanism should be made through consultation and consensus. The Administration assured members that on matters relating to public market rentals and air-conditioning charges, decisions would only be made after full consultation with the Panel and trade representatives.

Air-conditioning charges

17. Members shared the depositions' views that the air-conditioning charges attributable to the common areas of markets, such as passages and lobbies, should be borne by the Government, while tenants should only pay charges pro rata to their stall areas. Members requested the Administration to devise a new mechanism for the calculation of air-conditioning charges payable by stall tenants.

18. The Administration advised that the Government had all along been responsible for all capital costs for installing the air-conditioning systems in public markets and the costs for subsequent large-scale or system maintenance, while electricity charges and daily maintenance costs were borne by stall tenants on a pro rata basis of floor area. In the Administration's view, it was not unreasonable for tenants to pay air-conditioning charges attributable to those public areas of markets such as passageways which were an integral part of the market trading environment relating to the business of the stalls. Recovery of air-conditioning charges was already adopted for over 70% of the tenants in air-conditioned markets, and no objection had ever been raised from these tenants. Based on the "user-pays" principle, the Administration maintained its view that this arrangement should remain unchanged. However, the Administration would review whether the existing air-conditioning charging mechanism could be fine-tuned by excluding more common areas of markets.

19. Members expressed dissatisfaction with the Administration's slow follow-up with the exclusion of common areas of markets from the calculation of air-conditioning charges and the improvement of the operating environment of public markets. They stressed the need for the Administration to improve the operating environment of public markets first before introducing any air-conditioning charges. Noting that there were still some public markets without air-conditioning, members called on the Administration to provide air-conditioning systems in these public markets so as to improve their operating environment.

20. The Administration explained that it had reserved a provision of \$33 million for improvement works for public markets, including upgrading the ventilation systems in seven markets. As regards the proposal for installation of air-conditioning systems for all public markets, the Administration advised that according to past experience and assessments, the project costs for the installation were very high. As partial closure of the market might be required during the course of installation works, the installation of air-conditioning systems for all public markets would be subject to the support from the tenants. Currently, if the agreement of 85% or more of the tenants supported the installation of the air-conditioning system and bearing the recurrent expenditure such as the electricity charges and maintenance fees, the Administration would consider the feasibility of implementing the project. The Administration would review the required percentage of tenant agreement and consider members' proposal in connection with other measures to improve the operating environment of public markets.

21. The Panel passed two motions at its meeting on 22 February 2011 urging the Government to continue to freeze public market rental and hawker licence fee given its huge fiscal surplus; opposing to the Government's adoption of a new rental adjustment mechanism based on AAR or OMR; requesting the Government to calculate the air-conditioning charges of stalls according to the actual rental area; requesting the Government to allocate additional resources to improve the business environment of public markets; and requesting the Government to withdraw its paper on Public Market Stall Rentals and Air-conditioning Charges and to solicit afresh views of this Council and market traders.

Recovery of rates

22. The Panel passed a motion at its meeting on 13 April 2010 urging the Administration to continue to pay rates on behalf of public market stall tenants in the territory, so as to support small operations in public markets. Members called on the Administration to respect the consensus view of the Panel and actively follow up the matter. In members' view, the Administration should continue its long-standing practice of paying rates on behalf of market stall tenants.

23. The Administration pointed out that the original tenancy agreements had stipulated that tenants were responsible for the payment of rates in respect of the stalls. This requirement was in line with the "user-pays" principles adopted by the Government in other public properties. Having regard to the grave concern of the Audit Commission and PAC that the Administration had not collected the rates paid on behalf of stall tenants, the Food and Health Bureau and FEHD were in discussion with RVD on the specific arrangements for assessing the rates of individual market stalls. The Administration would seek members' view again on the specific arrangements for the recovery of rates when the details of rates assessment were finalized.

One-off tenancy transfer scheme

24. Some members and trade associations considered that successful transferees under the one-off tenancy transfer scheme should be charged the existing stall rentals. They expressed concern about the financial pressure on the transferees if the AAR approach was adopted. They requested the Administration to give due regard to the historical factors and different backgrounds of public market tenants. Consideration should also be given to imposing a ceiling to cap the rentals of the market stalls when implementing the one-off tenancy transfer scheme.

25. The Administration advised that successful transferees under the one-off tenancy transfer scheme would have to enter into a new tenancy agreement with the Government and pay AAR of stalls of the same category of business in the same market. This arrangement had fully taken into account the affordability of transferees and would also help ensure fairness to sitting tenants of the same category of stalls as the rental payable by a transferee would be comparable to that of similar stalls in the market concerned.

Improving the business environment of public markets

26. Members stressed the importance of revitalizing and improving the operating environment of public markets. They noted that the Administration had spent over \$230 million to carry out improvement works in public markets during the period of 2007 to 2010. Some members, however, considered that these improvement works were regular maintenance works only. Neither new promotional strategies nor new designs with respect to the enhancement of the business environment of public markets had been introduced. The vacancy rate of some public markets remained high. They called on the Administration to address the positioning, functions and usage of public markets, and improve the operating environment of all markets such as the surrounding transportation network and direction of pedestrian flow before requiring tenants to sign the new tenancy agreement or pay the air-conditioning charges. There was also a suggestion that the Administration should draw up a comprehensive and long-term plan to improve the operating environment of public markets.

Recent development

27. At the Council meetings of 31 October and 19 December 2012, an oral question and a written question in relation to public markets were raised by Hon Alice MAK and Dr Hon KWOK Ka-ki respectively. The respective extracts from the Official Records of Proceedings of the Council on the oral question, and the question and the Administration's reply of the written question are in **Appendices I and II**.

Relevant papers

28. A list of the relevant papers on the Legislative Council website is in **Appendix III**.

agencies, should the HA still have a role to play in respect of participating, showing concern, as well as providing assistance and co-ordination?

PRESIDENT (in Cantonese): What is your supplementary question? Have you asked your question already?

(Mr Tony TSE nodded in agreement)

PRESIDENT (in Cantonese): Secretary, please reply.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, in fact, as the so-called majority owner, the HA has participated in the OCs. It will also offer advice to OCs on various issues in the day-to-day management and maintenance of the estates. But as the HA is not ultimately responsible for the day-to-day management of the estates, we will not receive the relevant complaints directly. Nonetheless, given the concern expressed by a number of Members just now about the actual problems encountered, I hope that after this meeting, we can get hold of further information to be provided to Members in future.

PRESIDENT (in Cantonese): Fourth question.

Setting up Public Markets

4. **MISS ALICE MAK** (in Cantonese): *President, the former Secretary for Food and Health had stated that there were two main aspects in the government policy on markets: first, to pay close attention to whether or not the provision of public markets was adequate and make every effort to meet public demand in general; and second, to strive to improve market facilities and create a desirable, clean and hygienic business environment for market stall operators on the premise of putting public resources to rational use. In this connection, will the Government inform this Council:*

- (a) *whether the authorities had set up any new public markets in the past three years; if so, of the number of new markets set up each year and their locations; if not, the reasons for that; whether the authorities have any plans at present to set up new markets; if so, of the details; if not, the reasons for that;*
- (b) *whether the authorities will review the existing planning guidelines for new development areas to incorporate the principle of ensuring the public to have appropriate and diversified consumer choices, so as to facilitate consideration of the need to set up public markets in new development areas; if so, of the details; if not, the reasons for that; and*
- (c) *how the authorities assessed the public's demand for public markets in the past; whether the authorities have conducted any survey on the operating environment and commodity prices in various types of markets, so as to ensure that small business operators have room for survival and the public have abundant choices in consumption, thereby reducing the situation of consumers being exploited because of monopoly?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, my consolidated reply to the three parts of the question raised by Miss Alice MAK is given below.

At present, the Food and Environmental Hygiene Department (FEHD) is responsible for managing a total of 102 public markets and cooked food markets, including 77 public markets which mainly provide fresh food and other dry and wet goods, as well as 25 free-standing cooked food markets. Some 14 450 stalls are provided in these public markets with an average occupancy rate of 88.8%.

Historically, the former municipal councils and the FEHD built public markets mainly for the purpose of relocating hawkers from the streets, in the interest of improving environmental hygiene. These markets provided places for residents living nearby to buy daily necessities (particularly fresh food items). The Government has since ceased to issue new hawker licences and now that we are encouraging itinerant hawkers to surrender their licences, the number of

licensed hawkers has been decreasing gradually. As a result, the need to build public markets for the purpose of relocating hawkers has been greatly reduced.

Meanwhile, the number of markets in public and private housing estates as well as the number of retail outlets selling fresh provisions and live seafood in different districts have been growing over the years, while supermarkets have also provided more retail outlets for fresh provision and live seafood. At present, apart from the 2 635 stalls selling fresh provisions and live seafood in public markets, there are up to 2 700 other licensed fresh provision shops and supermarkets. Together, they provide diverse shopping options and choices for consumers.

In its previous reports on the planning and operation of public markets, the Audit Commission pointed out that the Government should, when planning the provision of new public market facilities, consider carefully the question of viability and cost-effectiveness in order to ensure that public resources are put to appropriate and effective use. In 2009, the Planning Department also made revisions to that part of the "Hong Kong Planning Standards and Guidelines" pertaining to the provision of public markets. Under the revised guidelines, it is suggested that apart from the population in the district concerned, other relevant factors should also be taken into account, including demographic mix, community needs, the availability of public and private market facilities nearby, the number of fresh provision retail outlets in the vicinity, and public sentiment towards preservation of hawker areas, and so on.

Having duly considered the various factors mentioned above, the FEHD has not brought in any new public markets over the past three years. Nor is there any plan for a new public market in the pipeline.

The Government will assess as appropriate the need to review the planning standards for the provision of public markets in keeping with present day circumstances and developments.

On improving the operating environment of public markets, the FEHD has in the past three years completed 10 enhancement projects involving a total outlay of over \$170 million. To improve the competitiveness of public markets, the FEHD has also strived to keep the markets clean, thereby providing customers

with a pleasant shopping environment. In addition, promotional activities are held in different markets from time to time to attract patronage.

We now turn to the prices of the goods. Tenants of public markets are free to determine and adjust the prices of their goods having regard to such market forces as supply and demand, as well as their operating costs. The Government does not control the prices of the goods sold in public markets and is not in a position to guarantee that the goods sold in public markets would be cheaper than those in other shops. In fact, according to the Consumer Council's monthly report on market food prices released in November 2010, among the 52 markets covered in the survey, the price indices of 25 markets were higher than the average prices and among them, 20 were public markets under the FEHD's management.

Besides the provision of public markets, it is open to us to consider other options that may help meet the shopping needs of local residents. For instance, having regard to the unique circumstances of Tin Shui Wai, the Government is collaborating with a non-government organization on operating a bazaar in the vicinity of Tin Sau Road in northern Tin Shui Wai. Not only would this provide local residents with an added choice in terms of shopping venue, it would help drive economic growth and create job opportunities in the district. The Government will continue to closely monitor the overall situation including the supply of the respective facilities in various districts and review the relevant policies as and when appropriate.

MISS ALICE MAK (in Cantonese): *President, as we all know, owing to the query raised in the Report of the Director of Audit on the FEHD's policy on markets, the FEHD had made some adjustments in the past few years.*

Report No. 51 of the Director of Audit mentioned that the purposes of providing public markets were first to meet the needs of the community, and second to resite hawkers. However, in the third paragraph of the Secretary's main reply, he said that the purpose was to relocate hawkers from the streets. First, has he overlooked the purpose cited by the Director of Audit, that is, to meet the needs of the community?

Second, in the fifth paragraph of his main reply, the Secretary mentioned the "Hong Kong Planning Standards and Guidelines". Before 2009, the Guidelines provided that for every 10 000 persons there should be 40 to 45 public market stalls or one public market stall for 55 to 65 households. I would like to ask the Secretary: As he has mentioned about reviews in his reply, has the aforesaid criterion been reviewed? Have the figures been changed? If not, why not use these figures, as no new public markets have been set up in the past three years? Are there any changes to the criterion and figures? If so, what are the new figures?

Third

PRESIDENT (in Cantonese): Miss MAK, you have asked three or four questions.

MISS ALICE MAK (in Cantonese): *I have only two questions.*

PRESIDENT (in Cantonese): Please repeat one supplementary question only.

MISS ALICE MAK (in Cantonese): *The first question is*

PRESIDENT (in Cantonese): Miss MAK, you can only ask one question. Please repeat your supplementary question.

MISS ALICE MAK (in Cantonese): *Yes, alright. I only ask one simple question.*

Regarding the planning standards and criteria, Secretary, are there any new figures?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): We do not have new figures. However, as I have mentioned in the main reply, other than relocating hawkers from the streets, we also have to see whether there are sufficient market facilities.

At present, the FEHD has provided 77 public markets which mainly sell fresh food, coupled with 105 markets managed by the Housing Authority (HA) and The Link REIT (The Link), there are altogether 182 markets over the territory, with five to 12 markets in each district. Besides, there are market facilities provided in individual private housing estates that have not been included in the above figures.

On the other hand, there are also a total of over 2 700 licensed retail shops selling fresh provision and live seafood, among which about 70% are owned by individual licensees and 30% are supermarkets or chained stores, which provide more choices for the public. Therefore, we consider that the present market facilities available are sufficient on the whole.

MR LEUNG CHE-CHEUNG (in Cantonese): *President, the Secretary said that currently there is a policy on the provision of public markets. According to the policy, markets will be built only for the purpose of relocating itinerant hawkers or other hawkers from the streets. However, according to our understanding in the past, that was not the only factor for consideration by the Government. There were markets in the housing estates managed by the HA in the past, which were regarded as government markets.*

However, after The Link's acquisition of markets in all public housing estates, there are no public markets in many places. Take Tin Shui Wai as an example. There is not a single public market there. How can local residents get quality market service at lower and more affordable cost? Under such circumstances, will the Government consider setting up a public market in places such as Tin Shui Wai where there is no government market, so as to serve local residents?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, first of all, I like to provide some more information, the Planning Department amended

the criteria in respect of the planning standards pertaining to the provision of public markets in 2009. Our amendments were not related to a new figure or a new ratio, instead we proposed that apart from the population in the district concerned, other relevant factors should also be taken into account, including demographic mix, community needs, the availability of public and private market facilities nearby, the number of fresh provision retail outlets in the vicinity, and so on.

As regards Tin Shui Wai, I have explained in my main reply some factors to be considered by the Government in deciding whether or not to set up a new public market. To my understanding, the Yuen Long District Council wished to build a public market at the location of Tin Wing Light Rail Station in Tin Shui Wai. We have studied the proposal, but given that there are many markets and shops in the vicinity of Tin Wing Station and the station is also next to a big shopping complex, we considered that providing public market facilities at Tin Wing Station might not be the most cost-effective.

In our view, since there is already a plan to set up a bazaar at Tin Sau Road, we suggest that the District Council should consider the actual operation of Tin Sau Road bazaar before deciding if there is a need to provide other modes of shopping facilities.

DR HELENA WONG (in Cantonese): *President, not only Tin Shui Wai lacks a public market, Lai Chi Kok also has the same problem. When I visit the district, residents of Hoi Lai Estate also complain to me about this situation. Therefore I do not agree with the Secretary that the purpose of providing a market is for hawker control. Actually the community has a great need in this respect.*

There is one other question, while there are 77 public markets over the territory as mentioned by the Secretary, the number of supermarkets have reached 2 700. This is downright monopoly, this is property hegemony encouraged by the Government. The Government often says that nothing about people's livelihood is trivial and that it cares about people's livelihood, yet if housing estates have not been built

PRESIDENT (in Cantonese): Dr WONG, please stop expressing your opinions and raise your supplementary question.

DR HELENA WONG (in Cantonese): *The Government has to review the supply of market facilities. Market facilities should be provided in every district in Hong Kong, so as to meet the needs of the grassroots as well as the middle-class families. My supplementary question is: the Secretary mentioned that though public markets are managed by the Government, the Government will not guarantee that the goods sold in public markets will be cheaper than those sold in other shops. A problem thus arises. Government market should not be profit-driven, and if the Government cannot control the prices through rent adjustments*

PRESIDENT (in Cantonese): Dr WONG, you are still expressing your opinions. Please raise your supplementary question.

DR HELENA WONG (in Cantonese): *My supplementary question is: Has the FEHD considered controlling the prices of goods by adjusting the rents of public market stalls, so as to ensure that residents' basic demand for food can be met?*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, as I have just said, in principle the markets managed by the FEHD are awarded to the operators through tender at the prevailing market price. Although I understand that due to various reasons, the rents of markets managed by the FEHD are currently lower than the market price as the rents have been frozen for several years. However, it is not our policy to influence food prices by means of rental subsidy. According to our policy, we will not manage or control the prices of goods sold in market stalls. Besides, prices are determined by many factors other than rent. Therefore, we cannot in fact guarantee that the prices of goods sold in these markets would be cheaper than those sold in other shops.

MR WU CHI-WAI (in Cantonese): *President, the Secretary mentioned in the main reply that the Government is duty bound to improve the business*

environment of the markets but many markets have not been installed with air-conditioning facilities. I would like to ask, in respect of the policy to set up air-conditioned markets, will the Government take the initiative to carry out the installation work so as to improve the business environment of markets?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, most of the non air-conditioned markets were mainly built in the 1990s or before. As the concept of air conditioning was not included in the construction design of these markets, no complementary facilities had been installed for the provision of air-conditioning systems in future. If air-conditioning systems are to be installed in these markets, plenty of resources are required. Besides, depending on the size of the markets and the complexity of works, the installation costs will amount to hundreds of thousands of dollars in general. The Government has to consider very carefully, so as to ensure the effective use of public money.

Though the installation of air-conditioning systems will help improve the overall environment of markets, according to the past experience of the FEHD, after the installation of air-conditioning systems, markets may not necessarily attract more market stall operators and increase the occupancy rate of stalls. The report of the Audit Department had also pointed out this point. In fact, the occupancy rate of markets is determined by many factors, such as the number of competitors in the vicinity, the demographic change in the district, and so on. The FEHD will adopt different measures to enhance the facilities and competitiveness of markets. As I have mentioned in the main reply earlier, the FEHD has in the past three years completed 10 enhancement projects involving a total outlay of over \$170 million. Of course, in the future if we think that there is a need for some works or installation of more facilities in order to enhance the environment or competitiveness of markets, we will consider.

MR WU CHI-WAI (in Cantonese): *Has the Government abolished the policy of installing air-conditioning systems in markets?*

PRESIDENT (in Cantonese): Secretary, do you have anything to add?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, we have not abolished this policy but there are many practical factors to consider. Even if the Government will bear the installation costs, the tenants still have to bear the future recurrent costs, such as electricity fees, and not every tenant is willing to do so. Therefore, unless we have obtained the consent of over 85% tenants, it will be very difficult to carry out the installation work of air-conditioning systems in markets.

MR ALAN LEONG (in Cantonese): *President, I would like to point out to the Secretary that the Audit Department conducts value for money audits. If new policy objectives of public markets are set, the basis of the value for money audits will be changed.*

The Secretary mentioned Tin Shui Wai in the last paragraph of his main reply. President also knows that Tin Shui Wai is the biggest city walled in by The Link, and local residents are mostly the grassroots. I would like to ask the Secretary on what basis does he believe that the operation of a bazaar in the vicinity of Tin Sau Road can be compared to that of a public market, and that the bazaar can fight against the hegemony of The Link? I really like to ask the Secretary.

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, as I have replied earlier, in order to ensure the effective use of resources, we believe that the setting up of a bazaar in Tin Shui Wai can provide local residents with an additional shopping option. The project is scheduled to be implemented early next year and then the bazaar will begin operation. We think we should first observe the actual operation of the bazaar and see if it can bring benefits, and what benefits can be brought before we consider the next move.

MR ALAN LEONG (in Cantonese): *Has the Secretary already believed that the bazaar will serve the purpose of a public market?*

PRESIDENT (in Cantonese): Secretary, the Member asks whether the authorities have already believed that the bazaar will serve the purpose of a public market.

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, we have made careful consideration in deciding the location of the bazaar. We choose that location because there are not many markets in the residential area nearby (particularly in northern Tin Shui Wai) to compete with the bazaar. As there are not many markets in that district, the bazaar can fill up the gap. Of course, we cannot say that we are 100% confident that this project would be a success. We will observe its actual operation after the commissioning and review afterwards.

MR TOMMY CHEUNG (in Cantonese): *President, the Secretary has assumed the post for a short time, after hearing the views voiced by colleagues from different parties and groups, he would understand the problems concerning wet markets and public markets. On this issue, the views of Members have transcended political parties and groups and we have even fostered a consensus, regarding the factors concerning the shopping needs of residents, the fight against the monopoly of The Link or supermarkets as mentioned by colleagues, or the opportunity for stall operators to do more business, which has not been mentioned by Members, we hope that a balance can be struck.*

Hence, President, one point I wish to remind the Secretary is that besides the issue about air-conditioning as mentioned earlier, I think this whole Council — members of the Panel on Food Safety and Environmental Hygiene have also brought up this issue — wishes that the Government will provide the hardware facilities as soon as possible, so that wet markets can compete with supermarkets. If the Government does not provide those facilities, markets do not have any competitive edge. With a limited volume of goods, it is very hard

PRESIDENT (in Cantonese): What is your supplementary question?

MR TOMMY CHEUNG (in Cantonese): *Therefore my supplementary question is to tell the Secretary not to merely consider the pros and cons of installing air-conditioning facilities. Another point I hope the Secretary will pay attention to — I do not know if he has — is that the management of markets and the sizes of stalls also play a role in determining whether the market is popular and whether people like to patronize. I would like to ask the Secretary whether he will consider the issue of market management and the sizes and design of stalls.*

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, as I have said, we will not only consider the air-conditioning of markets, but also consider other factors as well. In the past few years, the FEHD has put in plenty of resources to carry out enhancement projects for the markets currently managed by the FEHD.

PRESIDENT (in Cantonese): Secretary, the Member has specifically mentioned two aspects.

MR TOMMY CHEUNG (in Cantonese): *Market management and stall sizes.*

PRESIDENT (in Cantonese): Secretary, can you respond to the two aspects suggested by the Member that the Government should pay attention to?

SECRETARY FOR FOOD AND HEALTH (in Cantonese): It is rather difficult to answer Mr CHEUNG's second question as it is not easy to change the size of stalls in a market which is already in operation. We will certainly consider this factor if there is a need to build new markets. We also need to consider the overall design of markets. For markets built in the past, their design concept was older. As markets were built on very precious land, they were usually multi-storey buildings in order to save space. However, for multi-storey buildings, fewer people are willing to go to the upper floors. Therefore, even if we purposely build markets for relocating the hawkers from the streets, many hawkers would prefer to remain on the streets in view of the heavy pedestrian flow. Hence, whether markets should be built is one issue but if a market is to be built, I totally agree that there should be an overhaul of the design concept.

PRESIDENT (in Cantonese): This Council has spent over 23 minutes on this question. Fifth question.

Press Releases

LCQ9: Public markets

Following is a question by the Dr Hon Kwok Ka-ki and a written reply by the Secretary for Food and Health, Dr Ko Wing-man, in the Legislative Council today (December 19):

Question:

In October 2010, the Food and Environmental Hygiene Department (FEHD) launched a pilot scheme to let market stalls on short-term tenancies (STTs) for its public markets (the pilot scheme). Under the pilot scheme, market stalls which had been vacant for more than eight months were let through open auctions and their upset prices were fixed at 60% of the open market rents. The tenancies of the stalls leased out during the first round of open auctions covered three years, and stalls which had not been leased out were leased out in the form of STTs during the second round of open auctions. The STTs, which covered three months commencing on November 1, 2010, were renewable for another three months. The tenants might extend the tenancies later by paying the open market rents of the stalls as assessed by the Rating and Valuation Department or the STT rents, whichever were higher. The tenancy agreements for the third term covered 30 months. However, FEHD has not offered rent concessions to long-term market stall tenants who are required to pay rents higher than those payable by short-term tenants, resulting in two sets of rental standards applicable to the same market. In this connection, will the Government inform this Council:

- (a) of the vacancy rates of various FEHD markets in Tsuen Wan, Tuen Mun, Yuen Long and Kwai Tsing districts from 2008 to the first half of this year set out in Annex;
- (b) of the respective numbers of stalls leased out by three-year tenancies, STTs and tenancy extension through the pilot scheme in the past two years; and
- (c) of the existing number of tenants who have rented stalls for more than three years but not through the pilot scheme; whether the authorities will implement any concessionary measures for such tenants; if they will, of the details; if not, the reasons for that?

Reply:

President,

At present, the Food and Environmental Hygiene Department (FEHD) is responsible for managing 77 public markets which mainly provide fresh food and other dry and wet goods, as well as 25 free-standing cooked food markets (CFMs), providing a total of some 14 450 stalls. FEHD is committed to enhancing the operating environment and competitiveness of its markets and CFMs through the implementation of various measures. These measures include carrying out enhancement projects to upgrade their facilities, keeping the markets clean to provide customers with a pleasant environment, and holding promotional activities from time to time to attract patronage. Currently, the overall occupancy rate of public markets and CFMs managed by FEHD is approximately 89.1%, representing an increase of 12.2 percentage points from 76.9% in 2008. Excluding the number of vacant stalls that have been

withheld from letting out due to impending consolidation or improvement works in certain markets and CFMs, the actual occupancy rate is 96%.

My reply to the various parts of the question is as follows:

(a) The vacancy rates of various FEHD markets and CFMs in Tsuen Wan, Tuen Mun, Yuen Long and Kwai Tsing districts from 2008 to the first half of this year are set out in Annex.

(b) In February 2009, FEHD introduced the arrangement whereby long-standing vacant stalls were put up for auction at concessionary upset prices (the "concessionary upset prices" arrangement) in the interest of achieving better utilisation of these vacant stalls. Under the arrangement, FEHD reduced the upset auction prices for stalls vacant for more than six months and eight months to 80% and 60% of the Open Market Rental (OMR) respectively and let out the stalls through a three-year tenancy, with a view to enhancing their attractiveness. Since the implementation of the arrangement, a total of about 2 220 stalls have been let out at concessionary rent.

For stalls that could not be successfully let out despite the "concessionary upset prices" arrangement, most of them were situated at locations with relatively poor patronage which render them less attractive to prospective bidders. In view of this, FEHD had since October 2010 launched a pilot scheme to let out public market stalls through short term tenancy (the "STT pilot scheme") thus giving persons interested in starting up their business ventures in public markets the choice of trying out their business for three months without being bound by a three-year tenancy. Under the scheme, for stalls which had been left vacant for more than eight months and were not leased out in the first round of auctions at 60% of the OMR through a three-year tenancy, they would be auctioned in the second round through a STT for three months. The STT, upon expiry of the three-month period, is renewable for another three months. The tenant may then choose to extend the tenancy for another 30 months by paying the updated OMR as assessed by the Rating and Valuation Department or the STT rent, whichever is the higher. In the past two years, a total of 30 stalls have been let out under the "STT pilot scheme", with 15 tenancies being renewed for three months and nine subsequently renewed for further 30 months.

(c) Currently, a total of about 12 870 stalls in FEHD markets and CFMs have been let out. Among them, about 1 320 are let out under the "concessionary upset prices" arrangement and 12 under the "STT pilot scheme".

As mentioned above, the "concessionary upset prices" arrangement and the "STT pilot scheme" are applicable only in the case of long-standing vacant stalls. Hence, the concessionary rental rates are applicable to the tenants of these stalls only. In fact, the rentals of public market stalls were reduced across-the-board by 30% in 1998 and had been frozen at that reduced level since then. The tenants of many stalls are paying rents below the OMR. The Government has earlier announced its decision to further extend the rental freeze period for public market stalls under the management of FEHD up to December 31, 2013. There is currently no plan to introduce other rental concessions for market stalls.

Ends/Wednesday, December 19, 2012
Issued at HKT 16:20

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The vacancy rates of various Food and Environmental Hygiene Department
markets and Cooked Food Markets in Tsuen Wan, Tuen Mun, Yuen Long and
Kwai Tsing districts

Markets under the Food and Environmental Hygiene Department		Vacancy rate				
		First half of 2012	2011	2010	2009	2008
Tsuen Wan	Heung Che Street Market	4%	6%	0%	21%	24%
	Sham Tseng Temporary Market	0%*	0%*	0%*	33%	53%
	Tsuen King Circuit Market	0%*	0%*	0%*	49%	54%
	Tsuen Wan Market	8%	14%	16%	18%	21%
	Yeung Uk Road Market	2%	2%	3%	5%	10%
	Chai Wan Kok Cooked Food Market	3%	6%	16%	25%	19%
Tuen Mun	Hung Cheung Cooked Food Market	9%	9%	0%	27%	27%
	Kin Wing Cooked Food Market	5%*	5%*	15%	35%	40%
	Lam Tei Market	0%	0%	0%	0%	0%
	San Hui Market	2%	1%	7%	9%	19%
	Tsing Yeung Cooked Food Market	0%	11%	6%	17%	17%
	Yan Oi Market	1%	1%	10%	15%	17%
Yuen Long	Hung Shui Kiu Temporary Market	0%*	0%*	0%*	0%*	0%*
	Kam Tin Market	0%	0%	20%	20%	24%
	Kik Yeung Road Cooked Food Market	0%	0%	0%	0%	0%
	Kin Yip Street Cooked Food Market	0%	0%	0%	0%	0%
	Lau Fau Shan Market	12%	20%	20%	20%	20%
	Tai Kiu Market	2%	2%	10%	11%	30%
	Tai Tong Road Cooked Food Market	0%	0%	0%	0%	0%
	Tung Yick Market	0%*	0%*	0%*	0%*	0%*
Kwai Tsing	Cheung Tat Road Cooked Food Market	0%	0%	0%	0%	8%
	Ka Ting Cooked Food Market	0%	0%	18%	24%	29%
	Kwai Shun Street Cooked Food Market	0%	0%	0%	8%	8%
	North Kwai Chung Market	12%	5%	8%	16%	18%
	Tai Yuen Street Cooked Food Market	15%	10%	30%	75%	70%
	Wing Fong Street Market	9%	13%	25%*	0%*	0%*
	Wo Yi Hop Road Cooked Food Market	11%	11%	6%	6%	17%
	Tsing Yi Market	18%	20%	14%	18%	16%

* The figures shown are actual vacancy rates, i.e. vacant stalls withheld from letting out due to impending consolidation or improvement works in the markets and Cooked Food Markets (CFMs) concerned have been excluded from the calculation. Items without asterisk mean

that there are no stalls withheld from letting out due to consolidation or improvement works in the markets and CFMs concerned.

Appendix III

Relevant papers on the business environment of public market stalls, including the rental adjustment mechanism and air-conditioning charges

Committee	Date of meeting	Paper
Panel on Food Safety and Environmental Hygiene	14.4.2009 (Item VI)	Agenda Minutes
Panel on Food Safety and Environmental Hygiene	2.6.2009 (Item I)	Agenda Minutes
Panel on Food Safety and Environmental Hygiene	14.7.2009 (Item IV and V)	Agenda Minutes
Panel on Food Safety and Environmental Hygiene	10.11.2009 (Item IV)	Agenda Minutes
Panel on Food Safety and Environmental Hygiene	8.12.2009 (Item V)	Agenda Minutes
Panel on Food Safety and Environmental Hygiene	13.4.2010 (Item IV)	Agenda Minutes
Panel on Food Safety and Environmental Hygiene	3.5.2010 (Item I)	Agenda Minutes
Panel on Food Safety and Environmental Hygiene	11.5.2010*	CB(2)1309/09-10(01)
Panel on Food Safety and Environmental Hygiene	14.12.2010 (Item IV)	Agenda Minutes CB(2)553/10-11(01) CB(2)588/10-11(01)
Panel on Food Safety and Environmental Hygiene	22.2.2011 (Item I)	Agenda Minutes
Panel on Food Safety and Environmental Hygiene	17.5.2011*	CB(2)1574/10-11(01)

Committee	Date of meeting	Paper
Legislative Council	31.10.2012	Official Record of Proceeding (Question 5)
Legislative Council	19.12.2012	Question 9

* Issue date

Council Business Division 2
Legislative Council Secretariat
2 January 2013