

# 立法會 *Legislative Council*

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## **Panel on Food Safety and Environmental Hygiene**

### **Subcommittee on Issues Relating to Public Markets**

#### **Background brief prepared by the Legislative Council Secretariat for the meeting on 25 March 2014**

#### **Issues relating to Public Markets**

#### **Purpose**

This paper provides background information of the establishment of the Subcommittee on Issues Relating to Public Markets ("the Public Markets Subcommittee"), and a brief account of the past discussions at the meetings of the Panel on Food Safety and Environmental Hygiene ("the Panel") on issues relating to public markets.

#### **Background**

2. Since the dissolution of the then Provisional Urban Council ("PUC") and Provisional Regional Council ("PRC") on 1 January 2000, the Food and Environmental Hygiene Department ("FEHD") has taken over the responsibility for managing public markets. According to the Administration, FEHD is currently managing over 70 public markets that sell wet and dry goods.

#### Retrofitting of air-conditioning in public markets

3. The House Committee at its meeting on 20 October 2000 agreed to set up the Subcommittee to Follow up the Outstanding Capital Works Projects of the Former Municipal Councils ("the Capital Works Projects Subcommittee") to follow up the outstanding capital works projects of PUC and PRC, including 19 projects on retrofitting of air-conditioning in public markets and/or cooked food centres. The Capital Works Projects Subcommittee had repeatedly urged the Administration to take forward all these 19 projects expeditiously in order to

improve the hygiene condition and business environment of those public markets. However, the Administration maintained its position that a support rate of 85% among market stall operators was needed for taking forward these projects. The Capital Works Projects Subcommittee suggested in its report<sup>1</sup> that the issue could be further pursued by the relevant Panel.

4. In March 2004, the Administration consulted the Panel on the proposal to undertake retrofitting of air-conditioning in three public markets and four cooked food centres that already obtained the support of at least 85% of stall operators. These public markets and cooked food centres included (a) Bowrington Road Cooked Food Centre; (b) Yue Wan Market & Cooked Food Centre; (c) Fa Yuen Street Market & Cooked Food Centre; (d) Shek Wu Hui Cooked Food Centre; and (e) San Hui Market. For the remaining markets and/or cooked food centres with a net support rate below 85%, the Administration proposed to proceed with general improvement works but not air-conditioning retrofitting. The Panel supported the Administration's proposals after taking into consideration that the Public Accounts Committee ("PAC") had previously expressed reservation about the need and cost-effectiveness of providing air-conditioning systems in those 19 public markets. Funding proposals for air-conditioning retrofitting in the abovementioned public markets and cooked food centres (except for the Fa Yuen Street Market & Cooked Food Centre<sup>2</sup>) were approved by the Finance Committee at its meetings on 16 May 2003, 23 June 2004 and 26 January 2005.

#### Rental adjustment and air-conditioning charges

5. In Report No. 51 of PAC in 2009, criticisms were made against FEHD's continued adoption of the versions of tenancy agreements used by the former PUC and PRC irrespective of their discrepancies, and FEHD subsequently agreed to review and align the different public market tenancy agreements, market rental adjustment mechanisms and arrangements for air-conditioning charges.

6. In July 2009, December 2010 and January 2013, the Administration consulted the Panel on its various proposals to align different public market tenancy agreements, address the problems of rental disparity and recovery of

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<sup>1</sup> For the Capital Works Projects Subcommittee's deliberation on the retrofitting of air-conditioning in public markets and/or cooked food centres, please refer to paragraphs 17 to 23 of the Report of the Capital Works Projects Subcommittee (LC Paper No. CB(2)2523/02-03).

<sup>2</sup> According to the Administration, the Public Works Subcommittee questioned the cost-effectiveness of retrofitting of air-conditioning in Fa Yuen Street Cooked Food Centre, whereas the Yau Tsim Mong District Council and the Fa Yuen Street Cooked Food Centre stall operators expressed strong view that retrofitting of air-conditioning should be done in both the Market and the Cooked Food Centre.

air-conditioning costs as well as regularize the status of public market stall operators. However, members were generally of the view that these proposals had failed to address the fundamental problems faced by the stall operators in public markets including poor operating environment, outdated market facilities and low patronage. Members had repeatedly urged the Administration to take action to improve the operating environment of public markets including the installation of air-conditioning systems in all public markets, and expressed dissatisfaction that little progress had been made in this regard so far. Members therefore considered it high time to review the policy of public markets, in particular, the positioning, functions, usage and promotion of public markets with a view to improving the business environment and patronage of public markets.

7. At the Panel's meeting on 5 February 2013, members agreed to form a subcommittee under the Panel to study and review issues relating to public markets, examine the Administration's proposals for the rental adjustment mechanism and air-conditioning charging arrangement for public market stalls, and make timely recommendations. Members noted that the Public Markets Subcommittee was placed on the waiting list as the number of subcommittees on policy issues in operation had reached the maximum number of eight.

8. At its meeting on 15 November 2013, the House Committee agreed that the Public Markets Subcommittee could be activated when a vacant slot arose in March 2014.

### **Deliberations of the Panel**

9. The Panel discussed issues relating to public markets at a number of meetings between 2009 and 2013 and received views of deputations at four meetings. The main concerns of members on the subject are highlighted in the ensuing paragraphs.

#### **Rental adjustment mechanisms**

10. Members shared the views of the deputations expressing objection to the various proposed rental adjustment mechanisms put forward by the Administration. Members questioned the validity and appropriateness of the Administration's proposal in 2009 that used open market value ("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 proposed rental adjustment mechanism would impose

additional financial burden to the market stall operators and in turn, the general public would suffer from higher prices in staple food.

11. Members also considered the Administration's revised proposal in 2010 unreasonable for using the actual average rental of stalls of the same category of business in the same market ("AAR") as the basis of the rental adjustment mechanism. Members were of the view that 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. There was a view that using AAR as the basis of rental adjustment would be unfair as the increment in rentals would be substantial in several public markets where the rentals of stalls of the same category of business varied significantly.

12. The Administration advised the Panel that the objective of the rental adjustment mechanism was to rectify the long standing problem of having different versions of rental adjustment mechanisms in the whole territory, instead of attempting to achieve the principle of full cost recovery or to bring the rental of public market stalls on par with the commercial market.

13. In January 2013, the Administration put forward a further revised proposal of rental adjustment mechanism under which the market rentals would be adjusted in accordance with the movement of the average Consumer Price Index (A) ("CPI(A)") of the past three years, with the increase capped at 5% or OMR, whichever was the lower. In the Administration's view, the effect of rental adjustments under this revised proposal would be mild and affordable to market stall operators, and the rental would be adjusted downwards in case of deflation as rental changes would be pegged with the movement of CPI(A).

14. However, members considered that any increase in the public market rentals would have an adverse impact on the social functions of public markets, which include serving as the major sources of fresh provisions for the public at large and providing employment opportunities for the grassroots. Members generally agreed that the Administration should subsidize the operation of public markets, and suggested that the Administration should take steps to improve the customer flow and the management of public markets. Members also stressed that there would not be any ready support for any proposals to increase the rentals of public market stalls unless the business environment of public markets had been substantially improved. There was also a view that the Administration should continue the rental freeze of public market stalls.

Installation of air-conditioning facilities and the charging arrangement

15. Members were of the view that improving the business environment of public markets, in particular, the provision of air-conditioning facilities was of utmost importance. Noting that there were still some public markets without air-conditioning, members repeatedly urged the Administration to install air-conditioning systems in these public markets so as to improve their operating environment.

16. The Administration advised the Panel that the project costs for installation of air-conditioning systems in public markets were very high, and installation projects would be subject to the support from the market stall operators as partial closure of the market might be required during the course of installation works. Accordingly, the Administration would consider the feasibility of implementing the project only if 85% or more of the stall operators supported the installation of the air-conditioning system and agreed to bear the recurrent expenditure such as the electricity charges and maintenance fees.

17. Members shared the deputations' views that it was unfair for the market stall operators to pay for the air-conditioning charges for common areas in public markets such as passages and lobbies, and suggested that stall operators should only pay charges pro rata to their stall areas. There was also a view that it was unreasonable to charge a uniform air-conditioning rate to stall operators operating at different locations of a public market, and a more reasonable approach should be to take into account the patronage or revenue of the stalls when determining the charging policy.

18. As advised by the Administration, 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 operators on a pro rata basis of floor area. According to the Administration, it was common practice in all government rental properties to include public areas in the calculation of air-conditioning charges. The Administration maintained its view that public areas were an integral and inalienable part of the market trading environment, and this arrangement should remain unchanged based on the "user-pays" principle.

19. Members repeatedly expressed dissatisfaction with the Administration's slow follow-up with the installation of air conditioning facilities in public markets as well as the exclusion of common areas of markets from the calculation of air-conditioning charges. Members also requested the Administration to submit to the Panel revised proposals on air-conditioning

charges in conjunction with rental adjustment mechanism. The Administration advised the Panel that it would review the required percentage of stall operator agreement prior to the installation of air conditioning in public markets and consider members' proposed measures to improve the operating environment of public markets.

### Improving the operating environment of public markets

20. Members stressed the importance of revitalizing and improving the operating environment of public markets. The Administration was criticized for failing to introduce new promotional strategies or new designs with respect to the enhancement of the business environment of public markets. Members urged 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 market stall operators 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. Expressing dissatisfaction that little progress had been made in this regard, members passed a motion at the Panel's meeting on 8 January 2013 that a subcommittee should be formed under the Panel to follow up on issues relating to public markets.

21. In response to the Panel's request, the Administration agreed to appoint a consultant to commence a study on improving the operating environment of public markets. Members generally welcomed the Administration's initiatives to develop improvement measures on the operating environment of public markets. There was also a view that apart from improving the operating environment of public markets, the consultant appointed should also review the demand for public markets and examine the need to set up public markets in new districts.

22. However, the Administration advised the Panel that while there was a request for constructing new public markets in new districts, the most important task was to improve the operating environment of existing public markets. The Administration maintained that the consultancy study would focus on improving the operating environment of existing public markets and the need for providing new public markets would not be covered in the scope of the consultancy study.

23. Concerns were raised that, owing to the lack of public markets in some new districts, consumer choices were limited and the food prices therein were comparatively higher than other districts. Members passed a motion at the

Panel's meeting on 9 July 2013, urging the Administration to consider building new markets in Tin Shui Wai and Lai Chi Kok, so as to safeguard consumers' right to choose.

### **Latest Developments**

24. In October 2013, the Administration provided the Panel an information paper advising members of the Administration's decision to further extend the rental freeze of public market stalls until 31 December 2015.

25. At the Panel's special meeting on 17 January 2014, the Administration advised that the consultancy study commenced in December 2013 and the preliminary findings were expected to be submitted in mid-2014. The scope of the study covered four areas, including (a) tendering views on the functions and positioning of public markets; (b) surveying the public markets and coming up with specific improvement proposals for five or six representative ones; (c) providing some general suggestions for the routine improvement works for public markets; and (d) suggesting ways and concrete measures to preserve market stalls that are selling traditional commodities or involving traditional specialty.

### **Relevant papers**

26. A list of relevant papers on the Legislative Council's website is in the **Appendix**.

Council Business Division 2  
Legislative Council Secretariat  
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**Relevant papers on  
Issues Related to Public Markets**

<b>Committee</b>	<b>Date of meeting</b>	<b>Paper</b>
Panel on Food Safety and Environmental Hygiene	14.4.2009 (Item VI)	<a href="#">Agenda</a> <a href="#">Minutes</a>
Panel on Food Safety and Environmental Hygiene	2.6.2009 (Item I)	<a href="#">Agenda</a> <a href="#">Minutes</a>
Panel on Food Safety and Environmental Hygiene	14.7.2009 (Items IV and V)	<a href="#">Agenda</a> <a href="#">Minutes</a>
Panel on Food Safety and Environmental Hygiene	10.11.2009 (Item IV)	<a href="#">Agenda</a> <a href="#">Minutes</a>
Panel on Food Safety and Environmental Hygiene	8.12.2009 (Item V)	<a href="#">Agenda</a> <a href="#">Minutes</a>
Panel on Food Safety and Environmental Hygiene	13.4.2010 (Item IV)	<a href="#">Agenda</a> <a href="#">Minutes</a>
Panel on Food Safety and Environmental Hygiene	3.5.2010 (Item I)	<a href="#">Agenda</a> <a href="#">Minutes</a>
Panel on Food Safety and Environmental Hygiene	14.12.2010 (Item IV)	<a href="#">Agenda</a> <a href="#">Minutes</a>
Panel on Food Safety and Environmental Hygiene	22.2.2011 (Item I)	<a href="#">Agenda</a> <a href="#">Minutes</a>
Panel on Food Safety and Environmental Hygiene	8.1.2013 (Item IV)	<a href="#">Agenda</a> <a href="#">Minutes</a>
Panel on Food Safety and Environmental Hygiene	5.2.2013 (Item VII)	<a href="#">Agenda</a> <a href="#">Minutes</a>
Panel on Food Safety and Environmental Hygiene	16.4.2013 (Item VI)	<a href="#">Agenda</a> <a href="#">Minutes</a>



<b>Committee</b>	<b>Date of meeting</b>	<b>Paper</b>
Panel on Food Safety and Environmental Hygiene	9.7.2013 (Item III)	<a href="#">Agenda</a> <a href="#">Minutes</a>
Panel on Food Safety and Environmental Hygiene	---	<a href="#">CB(2)90/13-14(01)</a> (issued on 18.10.2013)
Panel on Food Safety and Environmental Hygiene	17.1.2014 (Item I)	<a href="#">Agenda</a>

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