

立法會 *Legislative Council*

LC Paper No. CB(2)2182/13-14

(These minutes have been seen
by the Administration)

Ref : CB2/PL/HA

Panel on Home Affairs

Minutes of special meeting held on Saturday, 7 June 2014, at 9:00 am in Conference Room 1 of the Legislative Council Complex

Members present : Hon MA Fung-kwok, SBS, JP (Chairman)
Dr Hon Kenneth CHAN Ka-lok (Deputy Chairman)
Hon Starry LEE Wai-king, JP
Hon CHEUNG Kwok-che
Hon Claudia MO
Hon Steven HO Chun-yin
Hon YIU Si-wing
Hon CHAN Chi-chuen
Hon LEUNG Che-cheung, BBS, MH, JP
Hon IP Kin-yuen
Dr Hon CHIANG Lai-wan, JP
Hon Christopher CHUNG Shu-kun, BBS, MH, JP
Hon Tony TSE Wai-chuen

Members attending : Hon Tommy CHEUNG Yu-yan, SBS, JP
Hon Vincent FANG Kang, SBS, JP

Members absent : Hon Cyd HO Sau-lan
Dr Hon LAM Tai-fai, SBS, JP
Hon IP Kwok-him, GBS, JP
Hon Frankie YICK Chi-ming
Hon WU Chi-wai, MH
Hon Alice MAK Mei-kuen, JP
Dr Hon Helena WONG Pik-wan

**Public Officers : Item I
attending**

Mr Eric HUI Kwok-sun, JP
Deputy Director of Home Affairs (1) (Acting)

Mr Francis CHU Chan-pui
Senior Consultant
Home Affairs Department

Mr SIN Kwok-hau, JP
Assistant Director (Operations) 3
Food and Environmental Hygiene Department

Ms LEUNG Yuen-sheung
Senior Superintendent (Hygiene)
Food and Environmental Hygiene Department

Mr Jacob CHEUNG Tak-keung
Assistant Commissioner (Operations)
Hong Kong Police Force

Mr Ken YEUNG Man-pun
Superintendent (Operations Wing)
Hong Kong Police Force

Ms Olga LAM Wai-ha, JP
Assistant Director (Estate Management)
Lands Department

Mr Joel NG Chung-lai
Principal Land Executive (Village Improvement and
Lease Enforcement / Land Control Section)
Lands Department

Mr Jacky CHIONG Kam-yueng
Chief Structural Engineer
Buildings Department

**Attendance : Item I
by invitation**

People's Livelihood Development Concern

Mr Joe YUEN King-ho
Chairman

The Lion Rock Institute

Mr LO Ming-hin
Representative

Hong Kong Nineteen Districts Micro & Small
Enterprises Association

Mr David LEUNG Tai-wai
Chief Founder Chairman

The Association of Public Relations Practitioner

Mr Alan LEUNG
Secretary General

Hung Hom Area Committee

Ms YAU Suk-fong
Convenor of Activities Organizing Committee

青山灣飲食業商會

Mr Kevin KEUNG
Chairman

New People's Party

Mr PAK Hon-pan
Community Development Officer

The Hong Kong Wholesale Florist Association Ltd.

Mr LAI Wing-chun
Chairman

The Incorporated Owners of Tuen Mun Ming Wai
Building

Mr TSANG Chum-wo
Chairman

Hong Kong Catering Industry Association

Mr Thomas WOO
Vice President

Civic Party

Mr CHENG Tat-hung
Hong Kong Island District Developer

The Incorporated Owners of Glamour Garden

Mr KWOK Tsz-yeung
Senior Administrative Officer

Individual

Ms LAM Chui-lin
Eastern District Council Member

Individual

Ms TUNG Kin-lei
Sha Tin District Council Member

Individual

Mr CHOW Ping-tim
Tsuen Wan District Council Member

Individual

Mr LO Siu-kit
Tsuen Wan District Council Member

Democratic Party

Ms Josephine CHAN Shu-ying
Member of Central Committee

Individual

Mr Dominic FOK Wai-pong

Individual

Miss KWONG Shun-yee

Individual

Mr Michael LEUNG Chi-kong

Yau Ma Tei Residence Group

Mr Ronald YIP Ho-lun
Committee Member

Individual

Mr CHEUNG Yan-hong
Kowloon City District Council Member

Tuen Mun Leung King Estate Leung Wai House Mutual
Aid Committee

Mr CHOI Shea-yin
Chairman

Democratic Alliance for the Betterment and Progress of
Hong Kong

Mr NGAN Man-yu
Policy Committee Member

Individual

Ms Sunshine CHIU Sin-har

Individual

Mr WONG Sze-chun

Individual

Mr HUI Nang-ching

Individual

Mr TANG Wing-fai

Individual

Mr LAM Ping-leung

Wong Tai Sin District Council

Mr HO Hon-man
Chairman of Food and Environmental Hygiene Committee

Individual

Mr LEE Tat-yan
Wong Tai Sin District Council Member

Individual

Mr WONG Cho-kwong

Owner's Committee of The Blue Yard

Mr WONG Kin-yiu
Chairman

Labour Party

Mr CHIU Yan-loy
Representative

Individual

Mr NG Kim-sing
Kwai Tsing District Council Member

The Incorporated Owners of Chuen Fai Centre

Ms Gladys YIM
Chairman

The Association of North Point Merchant and Hawkers

Mr Steven WONG
President

Association of Restaurant Managers

Mr CHONG Yam-ming
Director

Individual

Ms CHIU Sim-hing

Individual

Mr CHAN Kim-ming

Individual

Mr LEUNG Kwai-hung

Individual

Mr CHAN Kim-wai

Individual

Mr LAM Chu-sing

Clerk in attendance : Ms Alice LEUNG
Chief Council Secretary (2) 2

Staff in attendance : Miss Josephine SO
Senior Council Secretary (2) 6

Miss Emma CHEUNG
Legislative Assistant (2) 2

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I. Shop front extensions

(Consultation document on "Enhanced Measures against Shop Front Extensions" issued jointly by the Home Affairs Department, Food and Environmental Hygiene Department ("FEHD"), Lands Department, Hong Kong Police Force and Building Department in mid-March 2014 and LC Paper No. CB(2)1652/13-14(01))

1. The Chairman said that in view of the number of deputations attending this special meeting, the meeting would last for three and a half hours and be conducted in two sessions with a break in between. During each session, deputations would be invited to present their views, to be followed by views and questions from members and then responses from the Administration. As he had other commitments, the Deputy Chairman would take over the chair for the second session of the meeting. He further reminded the deputations attending the meeting that they were not covered by the protection and immunity provided under the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) when addressing the Panel. At the invitation of the Chairman, 43 deputations presented views on the subject matter.

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Presentation of views by deputations

Session One

People's Livelihood Development Concern

2. Mr Joe YUEN considered that the increased number of Mainlanders visiting Hong Kong under the Individual Visit Scheme was the major reason for the crowdedness of footpath/carriageway. It was inappropriate for the Government to address the problem through stepping up enforcement actions against shop front extensions ("SFEs") instead. The proposed introduction of a fixed penalty system to tackle problems associated with SFEs would adversely affect the business operation of the catering and retailing trades, in particular those small and medium-sized enterprises ("SMEs").

The Lion Rock Institute

3. Mr LO Ming-hin said that The Lion Rock Institute was against the Government's proposal to involve District Councils ("DCs") in the determination of enforcement priority against SFEs as this would affect the consistency in enforcement.

*Hong Kong Nineteen Districts Micro & Small Enterprises Association
(LC Paper No. CB(2)1652/13-14(02))*

4. Mr David LEUNG presented the views of Hong Kong Nineteen Districts Micro & Small Enterprises Association, as set out in its submission.

*The Association of Public Relations Practitioner
(LC Paper No. CB(2)1652/13-14(03))*

5. Mr Alan LEUNG presented the views of The Association of Public Relations Practitioner, as set out in its submission.

Hung Hom Area Committee

6. Ms YAU Suk-fong expressed support for the Administration's proposal to introduce a fixed penalty system to tackle SFEs as it could increase the deterrent effect against SFEs. In her view, the continued patronage by members of the public in shops with SFEs might, in effect, encourage shop operators to continue the malpractice. Public education and publicity was therefore conducive to improving the situation.

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青山灣飲食業商會

(LC Paper No. CB(2)1652/13-14(04))

7. Mr Kevin KEUNG presented the views of 青山灣飲食業商會, as set out in its submission.

New People's Party ("NPP")

8. Mr PAK Hon-pan said that NPP was supportive of the proposed fixed penalty system, which was intended to be an additional enforcement tool to tackle SFEs more efficiently and effectively. To achieve the desired deterrent effect without adversely affecting the operation of small enterprises, NPP considered it necessary for the Government to work out the details for implementing the new system including the level of fixed penalty to be imposed. NPP also supported the proposal that the Government should strengthen its collaboration with DCs in determining the enforcement priority against SFEs for consideration by the relevant enforcement departments.

The Hong Kong Wholesale Florist Association Ltd.

(LC Paper No. CB(2)1652/13-14(06))

9. Mr LAI Wing-chun presented the views of The Hong Kong Wholesale Florist Association Ltd., as set out in its submission.

The Incorporated Owners of Tuen Mun Ming Wai Building

(LC Paper No. CB(2)1652/13-14(08))

10. Mr TSANG Chum-wo presented the views of The Incorporated Owners of Tuen Mun Ming Wai Building, as set out in its submission.

Hong Kong Catering Industry Association

(LC Paper No. CB(2)1727/13-14(01))

11. Mr Thomas WOO presented the views of Hong Kong Catering Industry Association, as set out in the joint submission.

Civic Party

12. Mr CHENG Tat-hung said that the Civic Party did not object to the proposed fixed penalty system as it might be a feasible and effective measure to solve the problems associated with SFEs. Regarding the level of penalty, reference might be made to the current level of fixed penalty under the Fixed Penalty (Public Cleanliness Offences) Ordinance (Cap. 570) (i.e. at \$1,500). In determining the enforcement priority, SFEs which posed imminent danger to pedestrians and traffic should generally be assigned a higher priority; while

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others might be assigned lower priorities or tolerated, subject to the conditions that the SFEs concerned did not cause any imminent danger to pedestrians and traffic and that the shop operators could exercise self-discipline by adhering to the level of extension agreed with the relevant enforcement departments. For this reason, the Government should provide platforms for various stakeholders, such as resident organizations in the districts, the shop operators involved and the relevant enforcement departments and other organizations, to maintain dialogues.

*The Incorporated Owners of Glamour Garden
(LC Paper No. CB(2)1652/13-14(09))*

13. Mr KWOK Tsz-yeung presented the views of The Incorporated Owners of Glamour Garden, as set out in its submission.

*Ms LAM Chui-lin, Eastern District Council Member
(LC Paper No. CB(2)1739/13-14(01))*

14. Ms LAM Chui-lin briefed Members on the SFE problems in the Eastern District, as outlined in the supplementary information paper provided by her after the meeting. In Ms LAM's view, the Government should formulate a clear enforcement policy against SFEs to ensure consistency in enforcement, instead of relying on DCs' advice in drawing up the criteria for determining the enforcement priority against SFEs.

*Ms TUNG Kin-lei, Sha Tin District Council Member
(LC Paper No. CB(2)1652/13-14(11))*

15. Ms TUNG Kin-lei presented her views as detailed in her submission.

*Mr CHOW Ping-tim, Tsuen Wan District Council Member
(LC Paper No. CB(2)1652/13-14(12))*

16. Mr CHOW Ping-tim presented his views as set out in his submission. He was supportive of the Government's proposal to introduce a fixed penalty system to tackle SFEs. In his opinion, the proposed fine should be fixed at a level sufficient to achieve a deterrent effect.

*Mr LO Siu-kit, Tsuen Wan District Council Member
(LC Paper No. CB(2)1652/13-14(13))*

17. Mr LO Siu-kit presented his views as set out in his submission.

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Mr Dominic FOK Wai-pong

18. Mr Dominic FOK held the view that the Government should set guidelines on circumstances where SFEs could be tolerated without the need of taking enforcement actions, and that in the process of agreeing on the locations of tolerated areas and the tolerated levels, all relevant parties should be consulted and involved.

Miss KWONG Shun-yee

19. Miss KWONG Shun-yee said that she represented an aged operator of a small food premise in Shamshuipo. She hoped that the Government could strike a proper balance between effective enforcement and provision of a tolerance level for some SFEs, taking into account the circumstances of individual cases.

Mr Michael LEUNG Chi-kong

20. Mr Michael LEUNG hoped that the Government would strike a balance between enhancing enforcement and protecting the livelihood of businesses, in implementing the proposed fixed penalty system.

Yau Ma Tei Residence Group

21. Mr Ronald YIP stressed that whilst taking enhanced enforcement action and introducing a fixed penalty system could help tackle SFEs more effectively on one hand, this could also have an impact on the livelihood of some businesses, particularly SMEs. The Government should therefore strike a balance carefully, taking into account the views of the community. For this reason, the Government should provide platforms for relevant stakeholders, including residents and shop operators in the districts, to discuss and determine whether a tolerance level for SFEs should be set.

*Mr CHEUNG Yan-hong, Kowloon City District Council Member
(LC Paper No. CB(2)1697/13-14(01))*

22. Mr CHEUNG Yan-hong presented his views as detailed in his submission.

*Tuen Mun Leung King Estate Leung Wai House Mutual Aid Committee
(LC Paper No. CB(2)1652/13-14(14))*

23. Mr CHOI Shea-yin presented the views of Tuen Mun Leung King Estate Leung Wai House Mutual Aid Committee, as set out in its submission.

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Democratic Alliance for the Betterment and Progress of Hong Kong ("DAB")

24. Mr NGAN Man-yu said that DAB was supportive of the proposed fixed penalty system. This notwithstanding, the Government should not adopt a simple across-the-board approach to tackle the problems associated with SFEs. In considering whether a tolerance level for SFEs should be set, the Government should take into account the unique circumstances of individual cases. To ensure consistency in enforcement, the Government should formulate a clear enforcement policy, instead of relying on DCs' advice in drawing up the criteria for determining the enforcement priority against SFEs. DAB also recommended that the proposed fine should be fixed at a level sufficient to achieve a deterrent effect, and relevant enforcement departments should continue to take vigorous prosecution actions against serious and repeated SFE offences. The Government should consider increasing the manpower of enforcement departments for performing beat/inspection duty, in order to achieve the desired deterrent effect.

Democratic Party ("DP")

25. Ms Josephine CHAN said that illegal extension of business area by food premises often obstructed public access and caused noise and environmental hygiene problems and FEHD should take enforcement actions against nuisances created by illegal SFEs for the maintenance of environmental hygiene. As regards the proposed fixed penalty system, DP considered it necessary for the Government to formulate clear prosecution policy and guidelines, if it was to be implemented.

Session Two

Ms Sunshine CHIU Sin-har
(LC Paper No. CB(2)1727/13-14(02))

26. Ms Sunshine CHIU presented her views as detailed in her submission.

Mr WONG Sze-chun
(LC Paper No. CB(2)1652/13-14(15))

27. Mr WONG Sze-chun presented his views as set out in the joint submission.

Mr HUI Nang-ching
(LC Paper No. CB(2)1652/13-14(15))

28. Mr HUI Nang-ching presented his views as set out in the joint submission.

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Mr TANG Wing-fai
(LC Paper No. CB(2)1652/13-14(15))

29. Mr TANG Wing-fai presented his views as set out in the joint submission.

Mr LAM Ping-leung
(LC Paper No. CB(2)1652/13-14(15))

30. Mr LAM Ping-leung presented his views as set out in the joint submission.

Wong Tai Sin District Council ("WTSDC")
(LC Paper No. CB(2)1652/13-14(16))

31. Mr HO Hon-man presented the views of WTSDC as detailed in its submission.

Mr LEE Tat-yan, WTSDC Member

32. Mr LEE Tat-yan said that he was in support of the Government's proposal to introduce a fixed penalty system against SFE offences. To ensure effective law enforcement, additional manpower and adequate support to frontline staff should be provided. As the continued patronage by members of the public in shops with SFEs might, in effect, encourage shop operators to continue the malpractice, it was necessary for the Government to step up publicity and education efforts to raise the public awareness of the problem.

Mr WONG Cho-kwong
(LC Paper No. CB(2)1652/13-14(15))

33. Mr WONG Cho-kwong presented his views as set out in the joint submission.

Owner's Committee of The Blue Yard
(LC Paper No. CB(2)1652/13-14(17))

34. Mr WONG Kin-yiu presented the views of Owner's Committee of The Blue Yard as set out in its submission.

Labour Party

35. Mr CHIU Yan-loy said that Labour Party supported the proposed introduction of the fixed penalty system on the ground that it could increase the deterrent effect against SFEs.

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*Mr NG Kim-sing, Kwai Tsing District Council Member
(LC Paper No. CB(2)1652/13-14(18))*

36. Mr NG Kim-sing presented his views as detailed in his submission.

The Incorporated Owners of Chuen Fai Centre

37. Ms Gladys YIM said that The Incorporated Owners of Chuen Fai Centre was supportive of the proposed fixed penalty system. Although the new measure could have an impact on the livelihood of some businesses, the Government should strike a balance taking into account the views of the community. Apart from the problem of obstruction to shop front pavements, The Incorporated Owners of Chuen Fai Centre was also concerned about the safety risks posed to residents in the vicinity of the food premises that carried on business illegally beyond the confines of their premises.

*The Association of North Point Merchant and Hawkers
(LC Paper No. CB(2)1734/13-14(01))*

38. Mr Steven WONG presented the views of The Association of North Point Merchant and Hawkers, as set out in its submission.

*Association of Restaurant Managers
(LC Paper No. CB(2)1727/13-14(01))*

39. Mr CHONG Yam-ming presented the views of Association of Restaurant Managers, as set out in the joint submission.

*Ms CHIU Sim-hing
(LC Paper No. CB(2)1697/13-14(02))*

40. Ms CHIU Sim-hing presented her views as set out in the joint submission.

*Mr CHAN Kim-ming
(LC Paper No. CB(2)1697/13-14(02))*

41. Mr CHAN Kim-ming presented his views as set out in the joint submission.

*Mr LEUNG Kwai-hung
(LC Paper No. CB(2)1697/13-14(02))*

42. Mr LEUNG Kwai-hung presented his views as set out in the joint submission.

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Mr CHAN Kim-wai
(LC Paper No. CB(2)1697/13-14(02))

43. Mr CHAN Kim-wai presented his views as set out in the joint submission.

Mr LAM Chu-sing
(LC Paper No. CB(2)1697/13-14(02))

44. Mr LAM Chu-sing presented his views as detailed in his submission.

Written submissions from organizations/individuals not attending the meeting

45. Members noted the following submissions from organizations/individuals not attending the meeting -

- (a) Submission from The Yuen Long Merchants Association (LC Paper No. CB(2)1652/13-14(05));
- (b) Submission from Hong Kong Commercial & Industrial General Association Limited Yuen Long Branch (LC Paper No. CB(2)1652/13-14(07));
- (c) Submission from Hing Cheung House Mutual Aid Committee (LC Paper No. CB(2)1652/13-14(10));
- (d) Submission from Mr LO Sou-chour, Tai Po District Council Member (LC Paper No. CB(2)1652/13-14(19));
- (e) Submission from Mr William CHEUNG Kwok-wai, Tai Po District Council Member (LC Paper No. CB(2)1652/13-14(20));
- (f) Submission from a member of the public (LC Paper No. CB(2)1652/13-14(21));
- (g) Submission from The Incorporated Owners of Hoi Wan Building (LC Paper No. CB(2)1652/13-14(22));
- (h) Submission from The Incorporated Owners of Prime View Garden (LC Paper No. CB(2)1652/13-14(23));
- (i) Submission from Mr Daniel CHAM Ka-hung, Yuen Long District Council Member (LC Paper No. CB(2)1652/13-14(24))

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- (j) Submission from Mr CHONG Kin-shing, Yuen Long District Council Member (LC Paper No. CB(2)1652/13-14(25));
- (k) Submission jointly signed by a group of food premises operators (LC Paper No. CB(2)1652/13-14(26));
- (l) Submission jointly signed by a group of members of the public (LC Paper No. CB(2)1652/13-14(27)); and
- (m) Submission from Tuen Mun District Council (LC Paper No. CB(2)1652/13-14(28)).

Administration's response to deputations' views

46. Deputy Director of Home Affairs (1) (Acting) ("DDHA(1)(Atg)") gave a consolidated response to the views and concerns raised by the deputations as follows -

- (a) in addition to consulting DCs and members of the public, the inter-departmental consultation team had taken and would continue to take the initiative to consult relevant shop operators' unions, merchants' associations and relevant stakeholders' organizations. The inter-departmental consultation team would like to collect the views of relevant sectors and different strata of the community, so as to strike a balance carefully, taking into account the views of various sectors of the community;
- (b) the Administration acknowledged that whilst taking enhanced enforcement action and introducing a fixed penalty system could help tackle SFEs more effectively on one hand, this could also have an impact on the livelihood of some businesses and their employees on the other, as the Administration had mentioned in paragraph 3.7 of the public consultation document on "Enhanced Measures against Shop Front Extensions";
- (c) the problems associated with SFEs had been thoroughly discussed by the Steering Committee on District Administration, and it was concluded that efforts should be stepped up to tackle the problems. Given DCs' in-depth knowledge of the district characteristics, and the needs and aspirations of residents in their district, they were placed to advise the Government on the proposed enhanced measures against SFEs. So far, the inter-departmental consultation team had consulted 16 DCs (except Kwun Tong DC and Islands DC), the Business Facilitation Advisory Committee and its Food Business and

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Related Services Task Force. Consultation sessions for relevant stakeholders and organizations had also been arranged;

- (d) under the existing Ordinances, heads of the relevant law enforcement departments were empowered to tackle different situations involving SFEs, and they had further devolved such power to their frontline enforcement officers. The proposed involvement of DCs was to enhance community involvement by capitalizing on DCs' knowledge of the district characteristics, and the needs and aspirations of residents in their district. DCs were well placed to give advice on how to tackle SFE problems. The Administration had no intention whatsoever to shift the enforcement responsibility to DCs;
- (e) it was clearly indicated in the consultation paper that the proposed fixed penalty system was intended to be an additional enforcement tool to tackle SFEs and would not replace the other existing enforcement tools including taking prosecution by way of issuing summonses. Should the proposed fixed penalty system be supported, the Administration would proceed to amend the relevant Ordinances; and
- (f) at present, enforcement departments and District Offices would consult the respective DCs on enforcement strategies against SFEs from time to time and took specific actions where appropriate taking into account advice, if any, of the DCs or individual DC members concerned. A typical example was Yuen Ngai Street (commonly known as "Fa Hui (花墟)") in Mong Kok area where SFE was tolerated subject to the shop operators' adhering to the conditions set by the law enforcement departments.

Discussion

Proposal for introducing a fixed penalty system

47. Mr Tommy CHEUNG and Mr Vincent FANG said that the catering and retail sectors strongly objected to the Government's proposal of introducing a fixed penalty system as it would bring adverse impact on their business operating environment, affecting in particular small-sized retail stores and food premises.

48. Mr IP Kin-yuen wondered if the problem of SFEs could be resolved effectively through shop operators exercising self-discipline and the Government stepping up communication, education and publicity efforts in promoting the message against SFEs.

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49. Dr CHIANG Lai-wan and Mr Vincent FANG held the view that the Government should not adopt a simple across-the-board approach to tackle the problems associated with SFEs. They questioned whether the proposed fixed penalty system could really address the problem of SFEs, given the complicated and controversial nature of the issue. Dr CHIANG doubted whether shop operators could exercise self-discipline.

50. Members invited deputations to give their views on the proposed penalty system and the involvement of DCs in drawing up the criteria for determining the priority of enforcement against SFEs for consideration by relevant enforcement departments. Mr LAI Wing-chun, Mr David LEUNG and Mr WONG Sze-chun considered that the proposed fixed penalty system could not solve the problem of SFEs and would only bring adverse impact on the business environment of some businesses. They hoped that the Government could strike a proper balance between effective enforcement and provision of a tolerance level for some SFEs, taking into account the circumstances of individual cases, including whether or not the SFEs concerned were recurrent in nature and had caused obstruction that unduly inconvenienced or endangered road users.

51. Mr Dominic FOK reiterated his view that the Government should put in place policies/guidelines on circumstances where SFEs within certain levels could be tolerated without the need of taking enforcement actions. In the process of agreeing on the locations of the tolerated areas and the tolerated levels, all relevant parties including residents and shop operators should be involved and consulted.

52. Mr CHOW Ping-tim considered that the proposed fixed penalty system could cater for straight-forward and clear-cut cases of SFEs. Citing the problem of SFEs causing obstruction to road users in Tai Wai District as an example, Ms TUNG Kin-lei considered it not easy to forge a consensus among various parties on whether discretion might be granted or SFEs be tolerated. Her view was echoed by Mr WONG Kin-yiu and Ms Gladys YIM. They cast doubt on whether shop operators would exercise self-discipline and adhere to the level of extension agreed with the enforcement departments.

53. Noting that there were diverse views among deputations on the proposed fixed penalty system, the Chairman wondered whether there were other alternatives to enforcement actions in resolving the problem of SFEs.

54. Mr CHEUNG Kwok-che, Mr IP Kin-yuen and Mr Vincent FANG suggested that the Government should consider providing a platform where DC members, residents in the districts concerned, representatives of relevant trade associations and representatives of relevant government departments could discuss whether and how to set guidelines on circumstances that SFEs could be tolerated without the need of taking enforcement actions.

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55. DDHA(1)(Atg) responded that after discussion with relevant parties (including DCs, the District Management Committees, local resident organizations and representatives of relevant trade associations) and with the agreement of relevant enforcement departments, there were at present eight locations in five districts where SFEs were tolerated subject to certain conditions set out by the enforcement departments concerned. These communication channels had been effective in forging consensus on the extent of tolerance for SFEs and resolving SFE cases. The Deputy Chairman requested the Administration to provide, in writing, information on the eight cases where SFEs within certain levels were tolerated. The information should include the departments and other parties (such as DCs, etc) involved in the discussions and the principles adopted, in arriving at the locations of the tolerated areas and the tolerated levels agreed. The Deputy Chairman said that members would also like to have information about the role of Liaison Officers, if any, in supporting the discussions.

56. Mr Alan LEUNG said that owing to high shop rentals and keen business competition, many shop operators were pressurized or coaxed into extending the shops' business areas onto the walkway/carriageway. In his view, the Government should address the root of the problem.

57. Mr CHEUNG Yan-hong hoped that, if the proposed fixed penalty system was to be implemented, enforcement departments would adopt a "caution-before-enforcement" approach to handle SFEs. In his view, given that the problem of SFEs was a long-standing district issue, there was room for the Government to strengthen its collaboration with DCs in tackling SFEs across all the 18 districts.

58. Mr HO Hon-man and Mr CHONG Yam-ming agreed that there was room for the Government to strengthen its collaboration with DCs. According to past experience, it had been effective for enforcement departments and DCs to work together in determining the black spots as well as the tolerated areas where SFEs within the levels were tolerated.

(Members agreed to extend the meeting by 15 minutes.)

Proposed level of penalty

59. Mr CHAN Chi-chuen said that he had reservations about the Government's adoption of an across-the-board approach to tackle SFEs and application of a uniform penalty to all businesses irrespective of their size and scale. In his view, for the sake of fairness, the Government should consider adopting a tiered penalty system by imposing heavier penalties if SFE offences were committed by large establishments and the stacks of goods were placed on fairly crowded walkway/carriageway during busy hours.

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60. Mr Steven HO said that he did not support the adoption of a tiered penalty system under which the level of penalty be scaled on the basis of business size and the location of SFEs. In his view, apart from exploring the possibility of introducing a fixed penalty system against SFE offences, the Government should continue to follow up and monitor the situations and make sustained public education and publicity efforts.

District Councils' involvement

61. Mr YIU Si-wing acknowledged that the proposed fixed penalty system was intended to be an additional measure which would help address the deficiency of the existing summons system, i.e. the long lead time of prosecution and light penalties that had been proven as carrying little deterrent effect. In view of the controversies over the issue, he considered it feasible and desirable for the Administration to invite DCs to help work out the criteria for determining the enforcement priority against SFEs for consideration by relevant enforcement departments. Based on the agreed criteria, DCs would advise the enforcement departments on which location(s) with SFEs should be assigned a higher or otherwise priority in enforcement action. He sought information on DCs' views over the Government's proposal to involve DCs in the tackling of SFEs.

62. In response, DDHA(1)(Atg) made the following points -

- (a) given their local knowledge and close contacts with residents, DCs were well placed to advise the Government on the enforcement priority. In general, SFEs that posed imminent danger to pedestrians and traffic should be assigned a higher priority. On the other hand, SFEs that constituted a distinct characteristic and contributed to the vibrancy of the district might either be assigned lower priorities or even tolerated, subject to the conditions that the SFEs concerned did not cause any imminent danger to pedestrians and the traffic, and the degree of obstruction was not serious, and that the shop operators could exercise self-discipline by adhering to a level of extension set by the relevant enforcement departments;
- (b) at present, after discussion with relevant parties and with the agreement of relevant enforcement departments, subject to certain conditions, SFEs were tolerated in certain locations such as designated areas in Hung Hom and Mong Kok. As a matter of fact, enforcement departments had all along been consulting the relevant DCs on the problem of SFEs seeking their advice on the designation of "black spots";

Action

- (c) it should be noted that the proposed fixed penalty system was not meant to be applied in a dogmatic and inflexible manner. While in general, most DC members whom the inter-departmental consultation team had consulted so far supported the Government's proposal to step up enforcement efforts against SFE offences and to introduce a fixed penalty system to enhance the deterrent effect, some of them had expressed concerns about the extent of DCs' involvement in assisting the law enforcement departments in determining enforcement priority against SFEs;
- (d) according to the views obtained from the meetings with the 16 DCs or their relevant committees, the majority of DC members were supportive of the Government's proposal that subject to certain requirements, such as district characteristics and conditions, SFEs within the agreed level of extension might either be assigned lower enforcement priorities or tolerated. In their views, the Government should not adopt an across-the-board approach to tackle SFEs. They hoped that the Administration could strike a balance between aligning the enforcement criteria and exercising discretion. Some other DC members however held an opposite view;
- (e) there was suggestion that the Government should consider taking more vigorous actions or imposing heavier penalties against repeated SFE offences, especially if the problem was not rectified within a reasonable period of time; and
- (f) the Administration would take all comments received during the public consultation period, which would end on 14 July 2014, into consideration before deciding on the way forward. It would revert to the Steering Committee on District Administration the results of its consultation on the proposed enhanced measures against SFEs, including the proposed fixed penalty system.

63. The Deputy Chairman reminded Members that the public consultation would last until 14 July 2014. Concluding the discussions, he requested the Government to report to the Panel when the consultation results were available. DDHA(1)(Atg) responded that the Administration would do so.

64. There being no other business, the meeting ended at 12:44 pm.