

黃大仙區議會

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WONG TAI SIN DISTRICT COUNCIL

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Hon MA Fung-kwok, SBS, JP
Chairman of the Panel on Home Affairs
c/o Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong

26 May 2014

Dear Hon MA,

**Proposal to Introduce a Fixed Penalty System
as an Enhanced Measure to Tackle Shop Front Extensions**

Thank you for your letter inviting the Wong Tai Sin District Council (WTSDC) to nominate a representative to attend the special meeting scheduled for 7 June 2014 and to provide written submission on the captioned subject. Mr. HO Hon-man, MH, the Chairman of the Food and Environmental Hygiene Committee (FEHC) under the WTSDC, will represent the WTSDC to attend this special meeting. We would also like to take this opportunity to briefly set out our stance and views on the captioned matter.

The subject matter was discussed at the FEHC meeting on 15 April 2014. Members generally welcome the public consultation on the Government's enhanced measures against shop front extensions (SFEs) and support the Government's attempt to introduce measures to tighten the regulation against SFEs. However, Members are of the view that relevant Government departments, in particular the Food and Environmental Hygiene Department (FEHD), have not duly exercised the enforcement power rested in them by law in a serious and perseverant manner. As such, FEHD and other relevant law enforcement departments should step up their law enforcement actions. The Government should also draw up clear and concrete guidelines on the law

enforcement procedures and delineate clearly the roles and responsibilities of various Government departments concerned. To facilitate law enforcement and to avoid injustice or disparity in treatment during the course of law enforcement, additional manpower and adequate support to frontline staff should be provided.

Members considered that a fixed penalty system is relatively simple, straight forward and easy to implement. Nevertheless, its deterrent effect to big businesses will not be significant. On the other hand, if the penalty is too high, it will have detrimental effect on the business of small shops. We therefore suggest that the Government should strike a balance between the room for survival of small shops and the right of road users when determining the level of penalty.

We also suggest the Government to make video records of the situation of SFEs during inspections. To heighten the deterrent effect, the relevant law enforcement departments may consider imposing more stringent measures on repeated offenders or shop owners causing serious street obstruction, such as imposing progressive rates of penalty, seizing their goods or ordering them to suspend business. Regarding the proposal put up by the Government for District Councils to give advice on the SFE black spots in the district and tolerable SFEs which constitute distinct characteristics, we consider it inappropriate. That said, District Councils may collaborate with the Government to step up publicity and education efforts in the district, regularly review the effectiveness of law enforcement actions and give suggestions on improvement measures. In addition, the Government may make reference to current measures in place to tackle illegal hawkers where goods will be seized on-the-spot with a view to ensuring a clear passageway.

All in all, we support in principle the Government's attempt to introduce enhanced measures to deal with SFEs situations. However, we hope that the Government would exercise due care in working out the details of law enforcement actions and establish a set of fair and impartial law enforcement criteria. To reinforce the effectiveness of the new regulatory measures, the FEHD may also take the lead to organize joint departmental operations or special duties squads focusing law enforcement actions against SFEs.

For enquiries, please contact Miss Victoria LAM, Secretary of the Wong Tai Sin District Council, at 3143 1104.

Signed
(LI Tak-hong, MH, JP)
Chairman of Wong Tai Sin District Council