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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 29 June 2015

Matters related to public market stall rental

Purpose

This paper provides background information on matters related to public market stall rental, and summarizes the main views and concerns of members of the Panel on Food Safety and Environmental Hygiene ("the Panel") and the Subcommittee on Issues Relating to Public Markets ("the Subcommittee") on the subject.

Background

2. Following the dissolution of the two former Municipal Councils ("MCs") on 1 January 2000, the Food and Environmental Hygiene Department ("FEHD") has taken over the responsibility for managing public markets. In Report No. 51 of the Public Accounts Committee in 2009, criticisms were made against FEHD's continued adoption of the versions of tenancy agreements used by the two former MCs irrespective of their discrepancies. FEHD subsequently agreed to review and align the different public market tenancy agreements and market rental adjustment mechanisms.
3. In 2009, 2010 and 2013, the Administration briefed the Panel on its various proposals to align different public market tenancy agreements. The Panel 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address the fundamental problems faced by the stall operators in public markets including poor operating environment, outdated market facilities and low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. The Administration was urged to take action to improve the operating environment of public markets including the retrofitting of air-conditioning facilities in public markets. Members were subsequently advised at the Panel meeting on 9 July 2013 that the Administration would engage a consultant to study ways to improve the operating environment of public markets. 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.

4. When the Subcommittee discussed the key findings of the consultancy study and the Administration's preliminary thinking on the consultant's proposed measures to improve the operating environment of public markets at its meetings on 20 January and 1 June 2015, the Subcommittee members were advised that in the consultant's view, the low rental for many of the stalls might be one of the factors contributing to the inherent problems of public markets. The Administration also advised that it would revert to the Subcommittee in late June 2015 on its proposals to implement the improvement plans for public markets, and at the same time, the proposals for rental adjustment mechanism.

Members' concerns

5. The main concerns expressed by Members at various meetings since 2009 are summarized in the ensuing paragraphs.

The proposed rental adjustment mechanisms

Proposals in 2009 and 2010

6. Members queried 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 views, the proposed rental adjustment mechanism would impose additional financial burden on the market stall operators and in turn, the general public would suffer from higher prices in staple food.

7. Members 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. They considered 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 it was unfair to use AAR as the basis of rental adjustment as the increment in rentals would be substantial in public markets where the rentals of stalls of the same category of business varied significantly.

8. The Administration stressed that the objective of introducing 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.

The 2013 proposal

9. Members noted that under the Administration's revised proposal in 2013, stall rentals would be adjusted in accordance with the movement of the average Consumer Price Index (A) of the past three years, with the increase capped at 5% or OMR, whichever was the lower. While the Administration considered that the effect of rental adjustments under this revised proposal would be mild and affordable to market stall operators, Members took the view that any increase in the public market rentals would have an adverse impact on the social functions of public markets, which included 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 stressed that there would not be any ready support for any proposals to increase the rentals of public market stalls unless the operating environment of public markets had been substantially improved.

The operating environment of public markets

10. Members had time and again urged the Administration to prioritize the improvement of the operating environment of public markets over the adjustment of stall rentals. Some Members considered that as public markets were one of the major sources of fresh food provision for the general public, the Administration should continue to subsidize the operation of public markets. The Administration was also urged to take into consideration that some stall operators were ex-hawkers being resited to public markets at a low rent when contemplating the rental adjustment mechanism. There was another view that public markets should be operated in such a way that stall operators were selected on their ability to attract patronage and their business turnover, instead of awarding the tenant contracts to bidders merely offering the highest bids.

11. According to the consultancy report, a level playing field in renting public market facilities as a use of public resources might help drive continued improvements in services that would enhance customer satisfaction, thus benefiting all stakeholders who had an interest in keeping public markets vibrant. In the consultant's view, the continuously low rental for many of the stalls was an issue that should be duly addressed.

Latest development

12. The Administration will brief the Subcommittee on the latest position on matters related to public market stall rental at the meeting on 29 June 2015.

Relevant papers

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

Council Business Division 2
Legislative Council Secretariat
24 June 2015

**Relevant papers on
Matters related to public market stall rental**

| Committee | Date of meeting | Paper |
|---|-------------------------|---|
| Panel on Food Safety and Environmental Hygiene | 2.6.2009 (Item I) | Agenda Minutes |
| | 14.7.2009 (Items V) | Agenda Minutes |
| | 8.12.2009 (Item V) | Agenda Minutes |
| | 13.4.2010 (Item IV) | Agenda Minutes |
| | 3.5.2010 (Item I) | Agenda Minutes |
| | 14.12.2010 (Item IV) | Agenda Minutes |
| | 22.2.2011 (Item I) | Agenda Minutes |
| | 8.1.2013 (Item IV) | Agenda Minutes |
| | 9.7.2013 (Item III) | Agenda Minutes |
| Subcommittee on Issues Relating to Public Markets | 25.3.2014 (Item II) | Agenda Minutes |
| | 20.1.2015 (Item I) | Agenda Minutes |
| | 1.6.2015 (Item I) | Agenda |