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Mrs Constance Li
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Dear Mrs Li,

Provision of Municipal Services (Reorganization) Bill
The Administration's Response to the Views of Various Organizations

On 22 October 1999, the LegCo Bills Committee on Provision of Municipal Services (Reorganization) Bill met the representatives of some organizations to hear their views on the Bill and the related issues. Many of the views put forward by the organizations in their written submissions are similar to each other. Our reply is summed up as follows:

“One Council, One Department” Proposal

Some organizations suggest that the Administration should adopt the proposal of “one Municipal Council, one Municipal Services Department”. We have on numerous occasions explained to the LegCo members that the proposal is undesirable. Our main concerns are that -

- the proposed Municipal Services Department would comprise about 27 000 staff or almost one-sixth of the entire civil service. Because of its huge size, the department would be difficult to manage;
- the proposed Municipal Council fail to address the problem of fragmentation of responsibilities for food safety and environmental hygiene among various departments and cannot handle food safety crises effectively ; and
- there would continue to be some overlapping of responsibilities for arts and sports services among the proposed Council, the Home Affairs Bureau, the Arts Development Council and the Sports Development Board, affecting the overall policy formulation and coordination.

Division of Responsibilities Concerning Food Safety and Environmental Hygiene Matters

Some organizations query whether the new structure can improve efficiency and reduce duplication of the use of resources, particularly the division of responsibilities for food safety and environmental hygiene. We have briefed the Bills Committee on the future division of responsibilities concerning food safety and environmental hygiene matters among various departments. In brief, the Food and Environmental Hygiene Department will be responsible for monitoring and controlling the food chain, handling food incidents and providing environmental hygiene services. The Environment and Food Bureau will be responsible for coordinating and formulating relevant policies and will assume a coordinating role in handling major food incidents. The Department of Health will continue to be responsible for the prevention and control of diseases. The Agriculture and Fisheries Department will be responsible for veterinary health and farm hygiene. In case of major food incidents, the Environment and Food Bureau, the Health and Welfare Bureau and the relevant departments will work together and adopt appropriate contingency measures. The

responsibilities of the various departments will be clearly defined and an effective coordination mechanism will be put in place.

Monitoring Municipal Services

Some organizations are worried about the lack of a mechanism to monitor municipal services after the dissolution of the two Provisional Municipal Councils (PMCs). After the dissolution of the PMCs, the main responsibilities of the Municipal Services Departments will be taken over by the new Food and Environmental Hygiene Department and the Leisure and Cultural Services Department. The Advisory Council on Food and Environmental Hygiene and the Culture and Heritage Commission to be set up will advise policy bureaux and departments on the relevant issues. At the central level, the Administration will be more accountable to the LegCo in respect of food safety, environmental hygiene, leisure and cultural services. The LegCo can monitor the implementation of policies for the above services and examine the relevant public expenditure. At the district level, the role of District Councils in monitoring municipal services will be enhanced.

Complaint Mechanism

Some organizations are worried about the lack of a complaint mechanism for municipal services under the new structure. In future, if members of the public feel dissatisfied with the work of any departments, apart from lodging the complaint directly with the relevant departments, they may also lodge their complaints through the various existing channels, including the LegCo, the District Councils and the Office of the Ombudsman.

We will also set up a statutory Licensing Appeals Board to hear appeals against licensing decisions in respect of various municipal services. The Board will comprise non-official members. If the licence applicants are not satisfied with the decisions of the Licensing Appeals Board, they may lodge an appeal with the Municipal Services Appeals Board.

Contracts

Some organizations suggest that parties to contracts with either Council should be given the option to withdraw from the contracts. We have explained to the Bills Committee that the substitution of the Government for the PMCs does not give rise to a breach of the contracts or other situation of loss. In view of the fact that terms and conditions of the contracts are not affected by the substitution of the Government in place of the Councils, there is no need for such a provision. This of course does not prevent parties from varying or rescinding the contract by agreement.

Unification of Bylaws

Some organizations opine that the Administration should widely consult the relevant trades and professions and the parties concerned on the unification of the bylaws of the two PMCs. We have taken into full account the effect of the amendments on the trades and professions when considering the unification of the bylaws of the PMCs. If necessary, we will suggest a grace period be granted for the trades and professions to comply with the new provisions gradually. (For example, existing commercial bathhouses in the New Territories are given a two-year grace period to comply with the licensing requirement.)

Liquor Licensing Board

Some organizations query the accountability and efficiency of the new Liquor Licensing Board. The new Liquor Licensing Board, which will comprise wholly non-official members, will be responsible for handling liquor licence applications for the whole territory and hold open hearings for contested applications to ensure fairness and impartiality of the system. If the applicants are dissatisfied with the decisions of the Liquor Licensing Board, they may lodge an appeal with the Municipal Services Appeals Board. We will also suggest to increase the number of meetings of the Board to improve its efficiency in processing applications. The new Liquor Licensing Board will follow the existing procedures for handling liquor licence applications, and will

examine whether the procedures can be simplified to facilitate applicants.

Restaurant Licensing

Some organizations opine that the Administration should put forward proposals to improve and expedite restaurant licensing process. Although the licensing system will remain basically unchanged in the near future, the new department, after its establishment, will review the current licensing system (including the proposal put forward by the consultant on improving restaurant licensing) to look into the ways to improve and streamline the licensing process.

Appeals Boards

Some organizations are worried about the overlapping of responsibilities between the Licensing Appeals Board and the Municipal Services Appeals Board, which may lead to a waste of resources. The establishment of the Licensing Appeals Board is modelled on the current review committee mechanism of the PMCs so as to provide a less formal channel for appeals against licensing decisions. Anyone who are dissatisfied with the decisions of the Licensing Appeals Board may lodge an appeal with the Municipal Services Appeals Board. Furthermore, appeals concerning termination of market stall tenancies will also be included in the jurisdiction of the Municipal Services Appeals Board. We believe that the two-tier appeals mechanism will provide the public with reasonable and fair channels for lodging appeals to safeguard their interests. We have also accepted Members' suggestion to remove government' right of appeal to the Municipal Services Appeals Board.

Fees and Charges for Municipal Services and Facilities

Some organizations are worried about the lack of monitoring on the fee setting mechanism in respect of municipal services and facilities after the dissolution of the two PMCs. The Bill provides that the fees

and charges of licences and permits in respect of food and environmental hygiene services will be prescribed by regulation and subject to vetting by the LegCo. As for venues and facilities widely used by the public such as swimming pools, museums, tennis courts and badminton courts, the fees and charges will also be prescribed by regulation and subject to vetting by the LegCo. Furthermore, we will continue to subsidize fees and charges for leisure and cultural services so as to achieve our policy objective of promoting arts, culture, recreation and sports. We will also ensure that the fees and charges are kept at reasonable levels.

Market Rentals

Some organizations suggest that an appeal mechanism for market rentals be set up. We have addressed the issue in our previous reply. The new department will undertake a review on the mechanism for determining market rentals. Pending the review, the existing mechanism will be retained.

Hawker Policy

Some organizations enquire about the future direction of hawker policies. At present, there are discrepancies in the hawker policies between the two PMCs (such as whether to implement compulsory deletion of Itinerant Hawker Licence). The new department will conduct a review on the issue after its establishment and we will consult the relevant LegCo panel on the outcome of the review. Before the new policy is finalized, we will not implement compulsory deletion of Itinerant Hawker Licence.

Civic Centres Regulation

Some organizations opine that the existing Civic Centres (Urban Council) Bylaws are suffice and we should not impose restriction on recording, photographing and filming activities, and on the entry to civic centres. In the Bill, we suggest that the new Civic Centres

Regulation be modelled on the Civic Centres (Regional Council) Bylaws which provide for the above restrictions. As far as recording, photographing and filming activities in civic centres are concerned, the hirer will normally make an application to the civic centre manager before the performance or activity is held. If the recording, photographing and filming activities do not affect the audience, the application will usually be approved. We believe the provisions will enable proper management of the civic centres and will not cause much inconvenience to the users. Furthermore, we believe that to empower the civic centre managers or any member of the staff authorized by him to refuse any person entry into a civic centre may also enable proper management of the civic centres and is a reasonable arrangement. The requirements have worked well in the civic centres of the Provisional Regional Council.

Music Office

Some organizations opine that to incorporate the Music Office into the Hong Kong Academy for Performing Arts is a controversial issue and decisions should only be made after all the parties concerned have reached a consensus. We are still studying the proposal and will carefully consider all the views before making a decision.

Fixed Penalty Prosecution for Litterbug

The Public Health Select Committee of the Provisional Urban Council suggests that the Bill should incorporate amendments to the bylaws concerning the prosecution of litterbug (throwing or depositing litter in public places). The two PMCs agreed in principle to put in place fixed penalty for the above offence early this year. At present, the two municipal services departments are discussing with the relevant departments the details of the amendment to the legislation. As the details are still under discussion, it does not tie in with the timetable of the Bill under examination. After the details of the amendment are finalized, we will proceed with the drafting of the relevant regulation.

Naming of the New Department

We have made a separate reply to address the concern over the English name of the proposed Food and Environmental Hygiene Department.

Other Views on Food and Environmental Hygiene Services

The Public Health Select Committee of the Provisional Urban Council suggests that the age restriction of licence holders of funeral parlours be lowered from 21 to 18, and the definition of shell fish in the Food Business Regulation be amended. We have accepted their proposals. The Committee also suggests that the definition of “harbour” should cover those areas which are declared as polluted waters by the Government. We believe that the definition of “harbour” that we put forward earlier can adequately cover the waters that need to be controlled. There is no need to make amendments for the time being, but we will undertake reviews from time to time and put forward amendments when necessary.

Sports and Recreation Services

In June this year, the Government Recreation and Sport Service Staff Union submitted its views to the Home Affairs Bureau which has given it a reply. Our response to the two main points raised in its submission is summarized below:

First, the Union suggests that the Government should draw up a long-term development objective for sports and recreation services. After the reorganization, the new Leisure and Cultural Services Department will focus on the promotion of recreation activities and the sport-for-all programme. The Sports Development Board will concentrate on sports development and elite training programme. The Sports Federation and Olympic Committee of Hong Kong will continue to lead the various sports associations in the furtherance of sports development and will be Hong Kong’s representative in the

International Olympic Committee. In the longer term, we will draw up a coordinated strategic sports development programme to provide a blueprint for Hong Kong's sports development in the next century.

Furthermore, the Union also puts forward their proposals on the amalgamation of Recreation and Sport Officer grade and the Amenities Officer grade, the new title of the amalgamated grade and the mode of management. The two municipal services departments have set up a working group to study the amalgamation of the two grades. The submission of the Union has been passed to the working group for consideration. A draft proposal of the amalgamation has already been drawn up and the Home Affairs Bureau will hold a briefing and consult the staff members concerned in due course.

Yours sincerely,

(John C.Y. Leung)

for Secretary for Constitutional Affairs