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the Administration)

Panel on Food Safety and Environmental Hygiene

Subcommittee to Study the Streamlining of Food Business Licensing

Minutes of meeting
held on Wednesday, 2 March 2005 at 8:30 am
in Conference Room A of the Legislative Council Building

Members present : Hon Tommy CHEUNG Yu-yan, JP (Chairman)
Hon WONG Yung-kan, JP
Hon Andrew CHENG Kar-foo
Hon Vincent FANG Kang, JP

Member attending : Hon Emily LAU Wai-hing, JP

Member absent : Hon WONG Kwok-hing, MH

Public Officers Attending : Mr Vincent LIU
Principal Assistant Secretary (Food & Environmental Hygiene) 2
Health, Welfare and Food Bureau

Ms Annette LEE
Deputy Director (Environmental Hygiene)
Food and Environmental Hygiene Department

Mr LO Fu-wai
Assistant Director (Operations)1
Food and Environmental Hygiene Department

Mr K M MO
Assistant Director (New Buildings)1
Buildings Department

Mr LAW Hung
Senior Divisional Officer (Licensing and Certification Command)
(Policy Division)
Fire Services Department

Ms Angela CHIU
Superintendent of Police (Licensing)
Hong Kong Police Force

Mr LUK Cheung-chuen
Principal Land Executive (Village Improvement and Lease
Enforcement/Land Control Section)
Lands Department

Mr KO Woon-ming
Housing Manager (Commercial Properties)
Housing Department

Mr TANG Hung-ki
Chief Officer (Licensing Authority)
Home Affairs Department

Mr YU Pang-chun
Convener, Retail Task Force of the Economic and Employment
Council Subgroup on Business Facilitation

Mrs Brenda YIP
Head, Business Facilitation Division
Economic Analysis and Business Facilitation Unit
Financial Secretary's Office

Clerk in attendance : Mrs Constance LI
Chief Council Secretary (2)5

Staff in attendance : Miss Lolita SHEK
Senior Council Secretary (2)7

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I Confirmation of minutes of meeting
[LC Paper No. CB(2) 937/04-05]

The minutes of the meeting on 1 February 2005 were confirmed.

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II Existing licensing procedures and measures taken/to be taken to streamline the licensing systems

[LC Paper Nos. CB(2) 960/04-05(01) to (03)]

2. Representatives of the Administration and Mr YU Pang-chun, Convenor, Retail Task Force of the Economic and Employment Council Subgroup on Business Facilitation highlighted the salient points in the papers provided by Food and Environmental Hygiene Department (FEHD), Home Affairs Department and the Subgroup on Business Facilitation respectively.

Scope of the review on food business licensing undertaken by the Retail Task Force

3. The Chairman sought clarification on the scope of the review on food business licensing undertaken by the Retail Task Force. Mr YU Pang-chun clarified that the review covered retail shops and supermarkets/chain stores selling food, but not general restaurants or fast food shops.

4. Mr WONG Yung-kan asked about the reason for not including restaurant licensing in the review of the Retail Task Force. He considered that restaurant licensing should be further streamlined in order to shorten the time for issuing a licence.

5. Head, Business Facilitation Division (Head/BFD) explained that in 1999 and 2000 respectively, the former Business and Services Promotion Unit had conducted reviews on restaurant licensing, and licensing of light food refreshment premises and non-restaurant premises. The Unit had made recommendations to improve the licensing processes, and some of the proposed measures had been accepted and implemented by the government departments concerned. As a result of these improvement measures, issuance of restaurant licences had been expedited. The Business Facilitation Subgroup therefore decided to accord priority to the review of other types of licences for which fewer improvements had been made.

6. The Chairman commented that the trade had expressed reservations about the consultancy study report and the outcome of the review on restaurant licensing conducted in 1999.

Licensing procedures

Certification of compliance of licensing requirements

7. Mr Andrew CHENG said that Legislative Council Members, the public and the food business trade were concerned about the long processing time for food business licence applications and the operation of some food premises before obtaining the requisite licences. Mr CHENG criticised that it still took a long time to issue a food business licence, as reflected by the complicated procedures shown in the flow charts in Annexes I and II to the paper provided by FEHD (LC Paper No. CB(2)

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960/04-05(01)). Mr CHENG considered that the present system was not really a one-stop service, as the documents had to be delivered to and from relevant departments, and there might be delay in providing responses to enquiries from licence applicants or Authorised Persons by the Buildings Department (BD) and Fire Services Department (FSD).

8. Mr Andrew CHENG and Ms Emily LAU informed members that the Economic and Employment Council (EEC) was studying the proposal of certification of compliance of licensing requirements by professionals in the private sector, in order to expedite the issuance of licences and facilitate business development. Mr CHENG and Ms LAU urged the Administration to consider adopting this measure in order to further streamline the licensing procedure. They stressed that in streamlining the licensing procedures, public health and safety should not be compromised.

9. Mr Andrew CHENG considered the proposal of certification of compliance by professionals feasible. He said that certification of compliance by professionals in the private sector was widely adopted in the licensing procedures of other countries. Since Authorised Persons were professionals, they would be held responsible for their certification. He suggested that full licences for food business should be issued upon receipt of certificates of compliance from Authorised Persons. If non-compliance with licensing requirements was detected after issuance of licence, enforcement actions could be taken against the licensee.

10. Mr CHENG further said that some civil servants might worry that streamlining of licensing procedures would reduce their workload and result in staff redundancy. He called upon the departments concerned to accept the need for reform in the food business licensing framework, in order to facilitate the trade while safeguarding public health and safety.

11. Ms Emily LAU declared that she was a member of EEC and the Retail Task Force under the Subgroup on Business Facilitation. Ms LAU said that BD had previously indicated that it would consider the proposal of certification of compliance by professionals if the community and the trade were in support of this direction. Ms LAU requested the Administration to pursue the proposal and assess whether implementation of the proposal could lead to savings in time and manpower in the processing of food business licence applications. Ms LAU also requested the Administration to provide the licensing statistics in 2004.

12. Mr Vincent FANG shared the concern that the long time required for issuing a food business licence might be caused by the need to verify compliance of licensing requirements, such as Fire Services (FS) requirements, by the relevant departments. He requested the Administration to adopt the proposal of certification of compliance of FS requirements by professionals, so as to further expedite food business licensing.

13. Deputy Director (Environmental Hygiene) of the Food and Environmental Hygiene Department (DD/FEHD) responded that issuance of provisional food

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business licences was already based on the certification of compliance by professionals in the private sector. She said that a “one-stop” service was being provided to licence applicants as FEHD had implemented the case manager scheme since April 2000, and the case manager played the coordinating role in liaising with the licence applicants and relevant departments. More support services had also been provided to licence applicants. Under the current system, on or before the 20th working day since the receipt of a food business licence application, staff of FEHD, BD and FSD would jointly conduct an Application Vetting Panel (AVP) meeting to explain to the applicant the detailed requirements for the issuance of a licence. DD(EH) said that the Administration was willing to consider suggestions for further streamlining the licensing procedure, so long as the public health and safety standards were not to be lowered.

14. On BD’s procedures, Assistant Director (New Buildings)¹ of BD (AD/BD) explained that on receipt of the layout plans referred by FEHD, BD would conduct site inspections and advise the applicant on the building safety requirements according to the three-tier system for verification of compliance. AD/BD further explained that there were three categories of building safety requirements. For Category 1 requirements, such as those on fire resistant doors, the applicant was required to certify compliance directly to FEHD. For Category 2 requirements, such as those on floor loading, the Authorised Person/registered structural engineer was required to certify compliance directly to FEHD. As for Category 3 requirements, such as removal of unauthorised building works, the Authorised Person/registered structural engineer was required to report to BD for verification of compliance. AD/BD added that as BD had to conduct site inspections to verify full compliance of Category 3 requirements, the time taken to process those applications was normally longer than that for those involving Categories 1 and 2 requirements.

15. As regards the manpower responsible for processing these applications, AD/BD informed members that there were nine teams in the Licensing Unit of BD, each comprising one Building Surveyor and one Surveying Officer, and they were responsible for processing all licence applications. There was an additional team of structural engineering staff providing supporting structural advice to the building surveying teams. In 2004, 6 000 to 7 000 applications were processed by the Licensing Unit. AD/BD said that there should be no worry about staff redundancy on the adoption of certification by private professionals because the surplus staff could be deployed to other duties. He added that while there would be some savings in time and resources with the private certification proposal, he did not have ready information on the amounts of savings that could actually be achieved.

16. In response to members’ enquiry about the cost of processing food business licences, AD/BD explained that BD did not charge the licensing authorities for services provided by BD.

17. Ms Emily LAU asked whether compliance of Category 3 building safety requirements could be certified by Authorised Persons so as to expedite the licensing

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procedures further. AD/BD responded that the Administration would consider the suggestion.

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18. The Chairman requested BD to provide statistics on the number of food business licence applications it processed, the time taken and the manpower responsible for processing these applications. Mr Vincent FANG requested that the processing time should be illustrated in tabular form. AD/BD agreed to provide the requested information after the meeting.

19. On the present procedures of FSD and certification of compliance by private professionals, Senior Divisional Officer (Licensing and Certification Command) (Policy Division) of FSD (SDO/FSD) explained that upon receipt of the layout plans from FEHD, FSD staff would conduct site inspections. The applicant would be informed of the FS/ventilation requirements within 17 days. When an applicant had reported compliance of the FS requirements, FSD would conduct follow-up inspections within seven working days. If requirements were fully complied with, the Fire Services Certificates would be issued to applicants within seven working days. For compliance of ventilation requirements, FSD would conduct follow-up inspections within 14 working days and then issue Letters of Compliance (Ventilation System) to applicants within seven working days if requirements were fully complied with. If an applicant failed to provide the necessary certificates or licence, such as Certificates of Fire Service Installations and Equipment (FS 251), the processing of the licence application would be delayed.

20. SDO/FSD further explained that under existing legislation, Director of Fire Services was not empowered to delegate certification of compliance of FS and ventilation requirements to private professionals. Consultation with the trade on the proposed delegation was being conducted by the Administration. The Administration would have to analyse the views received, as they were rather divergent.

21. The Chairman asked whether the BD and FSD would delegate their authority to the private professionals and Authorised Persons for certification of compliance of the building safety and FS requirements, if such requirements were clearly specified in the legislation. If this was feasible, the departments concerned would no longer need to conduct site inspections for issuance of full licences. This would greatly reduce the time required for issuance of a full licence.

22. AD/BD said that the building safety requirements were clearly specified in legislation, and the Authorised Persons or registered contractors were capable of carrying out the necessary works if the prescriptive requirements were followed. However, the private professionals would need to discuss with BD if they wished to adopt a performance approach. AD/BD reiterated that his department would be prepared to consider the third party certification proposal, if the community and the Government were in support of such a direction.

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23. SDO/FSD said that the FS requirements for food premises application were published in the FSD web page. At present, certificates for compliance of FS requirements by respective registered contractors regarding ventilation system and fire service installations and equipment were already implemented for issuance of provisional food business licences. FSD would conduct site inspections for compliance of FS requirements after provisional licences were issued. He said that consideration might be given to adopting the Authorised Persons system for processing full licence applications.

24. Mr Vincent FANG pointed out that for the construction of factory and commercial buildings, FSD accepted certification of fire service installations and equipment by registered contractors. FSD only conducted site inspections afterwards, if necessary. Mr FANG said that similar procedure should be adopted in the issuance of food business licences.

25. SDO/FSD explained that it was already stipulated in law that the fire service installations and equipment in every private building should be maintained by registered fire service installation contractors every twelve months. However, if a Dangerous Goods Licence was required, FSD would still need to conduct site inspections prior to the issuance of the licence.

26. Referring to Annex I to FEHD's paper (LC Paper No. CB(2) 960/04-05(01)), Mr Andrew CHENG enquired about the time taken by FEHD to verify compliance of the necessary requirements for building safety for the issuance of the full licence.

27. The Chairman added that the trade had expressed concern that while a provisional licence could be issued within a relatively short time, a longer time was now required for issuing a full licence.

28. DD/FEHD explained that FEHD accepted the certificate of compliance for building safety, and it was not necessary for BD to conduct further site visit. Based on the procedures laid down in the flow chart, the shortest possible time for issuing a full licence for restaurant was 48 days. According to the statistics in 2004, a full licence for food business could be issued on average in about six months.

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29. The Chairman requested the Administration to provide a paper on the procedures and requirements for obtaining the four certificates of compliance of the health requirements, building requirements, FS requirements and ventilation requirements, together with flow charts to illustrate the procedures and the time required. The Chairman further requested that the paper should also provide details about the one-stop service offered to applicants for Certificates of Compliance for club-houses and the manpower responsible for processing these applications, with flow charts to illustrate the procedures and requirements for obtaining the certificates and the time required.

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30. Mr Andrew CHENG suggested that the Subcommittee should explore the possibility of adopting certification of compliance of all licensing requirements by professionals in the private sector, for the issuance of a full licence for food business. He requested the Administration to provide information on the views collected from the relevant trades on the proposal.

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31. Head/BFD informed members that the Subgroup on Business Facilitation had consulted the relevant trades and some Authorised Persons on the proposal in conducting a review of the cinema licensing system. The Authorised Persons concerned supported self-certification but stressed the importance of making known the government standards and details of licensing conditions and requirements. Head/BFD agreed to provide a paper on the views collected from the trade on the proposal.

32. Mr Andrew CHENG suggested that the LegCo Research and Library Services Division should conduct a research study on the adoption of certification of compliance by professionals in the private sector in the licensing procedures in overseas countries.

(Post-meeting note: The subject of certification of compliance by professionals in the private sector will be covered in the research study on food business licensing being conducted by the Research and Library Services Division.)

Response from BD to referrals and enquiries relating to food business licences

33. Mr Andrew CHENG asked about the time taken by BD to respond to enquiries from Authorised Persons or food business licence applicants. The Chairman also sought information on the time taken by BD to retrieve building plans for viewing by licence applicants upon application.

34. In response, AD/BD informed members that in over 90% of the plan viewing applications, BD could retrieve and provide building plans for viewing by food business licence applicants within four working days. He added that BD had implemented a plan to convert all building plans into electronic format. A computerised Building Records Management System had also been installed to offer instant inspection services of building records of Mongkok, Yau Tsim Districts and the entire Hong Kong Island to the public.

35. As regards FEHD's referrals for comments, AD/BD said that for applications for restaurant, cold store and canteen licences which were processed under the AVP System, BD had pledged to process 95% of these cases within 14 working days. For subsequent revisions to building plans, BD had introduced an internal performance target to process 85% of these proposals within 14 working days. As regards revisions of plans or alternative proposals for other types of food business licences, the internal performance target of BD was to process 85% of these cases within 28 working days. AD/BD added that the performance achievements in 2004 were about

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95% for new AVP cases, and about 81% for revised plans or alternative proposals.

36. The Chairman asked about the time taken to provide copies of plans to applicants or Authorised Persons.

37. AD/BD responded that no performance pledge had been devised for this kind of requests. He explained that plans in paper format were stored in different offices, and copies of these plans could be provided within a few working days upon receipt of request. However, records of computerised plans were centralised in one place and copies of such records could be provided instantly. AD/BD undertook to provide statistics on the provision of copies of building plans to applicants and Authorised Persons in 2004.

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38. Mr Vincent FANG noted that while BD could retrieve plans in response to plan viewing applications relating to food business licences within four working days, it took 28 days for BD to respond to requests from other applicants. Mr FANG asked whether the processing of the latter cases could be expedited.

39. AD/BD explained that priority had been accorded to requests related to food business licence applications. He said that with the conversion of building plans into electronic format, the plan retrieval process for all applications would be expedited. Plans in electronic or microfilm formats could be retrieved within a few working days even for requests not related to licence applications.

40. In response to the Chairman's further enquiry, AD/BD advised that it was estimated that the computerisation of building plans would be completed by early 2006. He further clarified that only those plans of private buildings subject to regulation under the Buildings Ordinance (Cap. 123) were covered in this computerisation project. Plans of the housing estates under the Housing Department or small houses in the New Territories were not included. AD/BD added that while BD would try to expedite the processing of plan retrieval applications, the resources allocated to BD were limited.

41. The Chairman said that consideration should be given to recovering the costs incurred by other government departments in processing food business licence applications, so that more resources could be allocated to these departments for processing these applications.

Abortive applications

42. Referring to paragraph 16 of FEHD's paper (LC Paper No. CB(2) 960/04-05(01)), Mr Vincent FANG asked about the reasons for the large number of abandoned and withdrawn licence applications each year.

43. DD/FEHD informed members that in 2003, a total of 5 491 food business licence and permit applications were received and there were 1 425 abortive

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applications. In 2004, there were 1 510 abortive applications and a total of 6 045 applications received. She would confirm later whether the total number of applications received included applications for both provisional and full licences. DD/FEHD added that to address the problem of abortive applications, FEHD would consider the feasibility of recovering the administrative costs for processing the licence applications in the context of the fees and charges review now underway.

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44. Ms Emily LAU requested the Administration to elaborate on the proposal of charging an application fee as a measure to deter abortive applications. She also asked how existing licence fees were calculated.

45. The Chairman asked at what stage had these licence applications been withdrawn. He said that some applicants had intended to obtain only the provisional licences to enable them to commence operation, and they would abandon or withdraw their applications for full licences afterwards. This had resulted in a waste of government resources.

46. DD/FEHD advised that the licence fees collected by FEHD were credited to Government's General Revenue Account instead of FEHD's account. Currently, a review of licence fees was being conducted, and the feasibility of charging an application fee was being explored. The review would take into account the views of the Subcommittee, as streamlining of licensing procedures would affect the costs involved. As regards the reasons for abortive applications, DD/FEHD said under the current system, applicants were not required to provide reasons for withdrawal.

47. The Chairman suggested FEHD to ask the frontline staff as they might know the reasons for the abortive applications. On the calculation of costs for determination of licence fees, the Chairman expressed reservations about the need for Health Inspectors to conduct frequent inspections on licensed food premises, as such costs had inflated the licence fees. He added that health inspections on licensed food premises were conducted less frequently in overseas countries.

48. In response to the Chairman, AD/BD advised that BD did not keep record on whether a licence application had subsequently been withdrawn or abandoned after BD had provided comments on the applications referred by FEHD.

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49. At members' request, DD/FEHD undertook to provide a paper on the calculation of food business licence fees and the proposal for cost recovery for processing abortive applications.

Langham Place restaurants

50. The Chairman said that most food business licence applicants at Langham Place were experienced food operators and they should be well acquainted with the licensing procedures. He therefore could not understand why these applicants took so long to obtain the requisite licences. As far as he knew, more than 10 restaurants

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at Langham Place had not been able to obtain the provisional licences four months after they submitted their applications.

Admin

51. DD/FEHD stressed that the performance targets had been met in processing the licence applications from restaurants at Langham Place. She explained that in some cases, the licence applicants had taken a longer time for the submission of the required certificates of compliance for the issuance of the provisional licences. DD/FEHD undertook to provide a paper on the review of the issuance of provisional licences to the restaurants at Langham Place, including the time taken to issue licences to the restaurants there, and the problems/delays encountered in processing these licence applications.

III Any other business

52. The Chairman reminded members that the next meeting of the Subcommittee would be held on Saturday, 5 March 2005 to receive views from deputations.

53. There being no other business, the meeting ended at 10:35 am.

Council Business Division 2
Legislative Council Secretariat
11 May 2005