



來函檔號：
本署檔號：() in FEHD HQ 1/352/15 Pt 2
電話號碼：3141 1238
傳真號碼：3101 0470/71

25 February 2011

Mrs Sharon TONG
Clerk to Panel
Panel on Food Safety and Environmental Hygiene
Legislative Council
8 Jackson Road, Central
Hong Kong

Dear Mrs TONG,

**Panel on Food Safety and Environmental Hygiene
Review of Liquor Licensing**

Thank you for your letter dated 18 February 2011 inviting the Liquor Licensing Board to provide our views on the review of liquor licensing.

The Liquor Licensing Board is delighted to be given the opportunity of presenting our views on the review of liquor licensing to the Panel though the Board was not invited to do so before the panel meeting on 15 February 2011. The Government has been in touch with the Board on the feasibility of implementing our views and recommendations. The views of the Board and our recommendations in Chinese version are attached at Annex I for your perusal. The English translation of the document will be sent to your office before 4 March 2011.

Yours sincerely,

Stephen YAU
Chairman, Liquor Licensing Board

Encl.

簽發酒牌的檢討

酒牌局對簽發酒牌的檢討提出的意見如下：

處所持牌人

大部份酒牌局委員贊同繼續以「自然人」的形式簽發酒牌，部份委員認為應就以下兩個方案進行詳細研究：

公司持牌人

酒牌持有人必須由公司董事、東主或有限公司擔任，但容許公司董事、東主或有限公司委任員工管理處所的日常運作。由於酒牌持有人為公司董事、東主或有限公司，他們定會非常關注自己投資的業務，亦會確保有關售酒處所不會觸犯法例而被撤銷牌照。為了避免出現持牌人及員工權責不清的問題，委員亦建議清楚釐定持牌人及管理人員分別應負的責任；及

後備持牌人

申請人可提名一名後備持牌人，酒牌局及警方會採用與現時考慮申請人是否適當人選的相同標準，考慮後備持牌人是否一名適合持有酒牌的人選，當後備持牌人獲酒牌局接納後，後備持牌人便可在原持牌人暫離職守或離職後承擔持牌人的職責，但後備持牌人須事先知會酒牌局及警方並辦理簡單的確認手續，以避免警方執法時產生困難。

售酒處所的地點規劃

根據《應課稅品(酒類)規例》第17(2)(b)(i)條的規定，酒牌局須信納處所的位置及結構適合用作售酒地方才可簽發酒牌。近年，委員留意到不少經營者選擇在民居密集的地段如中環荷李活道、雲咸街等，及以居住為主的舊式商住大廈開設售酒處所。酒牌局在詳細考慮有關地點後，雖認為在該些地點開設售酒處所會對社區及當地居民造成嚴重滋擾，但若拒絕簽發酒牌，亦會令投資者蒙受巨大損失。為免令投資者浪費金錢於不適合的地方開設售酒處所，委員認為政府當局應制訂清晰的政策，以便業界清楚了解在選址上及申請酒牌時必須符合若干的基本條件，例如處所

的位置不應在民居密集的地方或大廈內不可有一半的樓層已用作售酒用途等，使投資者能客觀地了解有關處所是否能符合申領酒牌的資格。委員亦希望政府當局在酒牌簽發的規劃上與其他政府部門如規劃署或屋宇署協商，制訂清晰的政策指引，令業界能清楚知悉不應開設售酒處所的地段，以解決上述浪費社會資源的問題。

樓上酒吧

委員留意到樓上售酒處所如雨後春筍般的蓬勃發展，因而帶來種種消防安全、噪音、治安和環境衛生等滋擾問題，令居民、區議會及社會團體強烈不滿和反對酒牌簽發。香港警務處作為酒牌法例的執法部門，曾多次向酒牌局表示高度關注多層商業大廈內有大量持牌售酒處所的趨勢。該等商業大廈原先為辦公室用途，大廈內的緊急出口和走火通道等設施均以預期為辦公室使用者而設計，警方質疑在該等大廈內有大量酒吧、食肆及會所領有酒牌經營，會對公眾治安和安全造成威脅。

委員認為現行的消防及屋宇條例未能考慮光顧樓上售酒處所人士受酒精影響下的逃生狀態，擔心在發生火警或其他緊急事故的情況下疏散人群，將會增加逃生困難，令酒吧顧客及居民面對的危險加倍險峻。此外，樓上售酒處所的湧現，往往令有關大廈於晚上及深夜時份聚集大量人群，醉酒人士在街道上叫囂吵鬧，生事打架，產生莫大的噪音滋擾和治安問題，影響居民的日常作息生活及環境治安，令居民不勝其擾，情況尤以灣仔、銅鑼灣及尖沙咀一帶特別嚴重。雖然市政服務上訴委員會曾針對個別樓上酒吧的申請個案裁決某些大廈並不適合增設售酒處所，但有關裁決只是因應個別大廈的設計及環境作出考慮，並沒有就樓上酒吧的位置作出規範性的指引。委員亦留意到處所提出酒牌申請時，往往已獲發食肆牌照或會社合格證明書，並已投放資金作裝修和營運之用，當中有部份處所在未有申領酒牌時便已開始營業。委員在缺乏法例的明確的指引下，在平衡商業活動與居民權益之間，經常感到愛莫能助。

考慮到樓上食肆及售酒處所的營商模式，及其經營所衍生的消防安全、治安和環境衛生滋擾等問題，委員要求政府當局從整體宏觀角度檢討樓上售酒處所、食肆和會社的發牌制度，與及樓上售酒處所的消防及屋宇規例，盡早制訂切合時弊的相應政策，以根治這類經營模式所帶來的各種問題，例如可考慮立法制

訂停止發牌予位於某一層數以上的處所或在商業大廈和商住大廈推行限額制等。委員亦建議進行綜合的城市規劃檢討，因應當前的營商模式及現今市民的生活習性和訴求，重新釐定在住宅密集的地區，是否適宜簽發酒牌，並考慮商住混合的城市規劃模式是否仍然適用。

違例記分制

部份委員有感於現行酒牌簽發制度只能以個別個案的獨特情況考慮，欠缺客觀的標準作指引，令委員難以運用科學化的方法審議酒牌申請個案，建議於酒牌簽發制度考慮引進類似食肆牌照的違例記分制。若售酒處所觸犯違規事件或對居民造成滋擾，酒牌局或警方便可扣除若干分數，當扣除一定分數後，有關酒牌便會被撤銷或被拒絕續期。若違例記分制的建議獲得接納，委員認為警方及食環署必須加強針對違規售酒處所的執法力度，以盡量發揮違例記分制的效用，而有關制度亦必須加設適當的渠道使市民能就有關酒牌申請個案作出申訴。

延長牌照有效期

委員認為將酒牌的有效期延長至兩年亦為可行的方法，有關建議除可減少每年續牌對業界造成的負擔，亦可保留市民、警方及有關政府部門就續牌申請提出意見及反對的機會，以平衡各方利益。

刊登公告

委員認為應容許業界自行選擇把有關申請資料上載於酒牌局管理的指定網頁或刊登報章公告，以便不懂電腦操作的申請人亦可使用現行方法徵詢公眾的意見。由於居民較容易透過張貼於處所附近的公告及民政事務處的諮詢知悉酒牌申請，故委員亦贊同繼續現時把申請告示張貼於處所附近，以及由民政事務處徵詢附近居民和區議會的做法。

酒牌局的組成

委員認為酒牌局成員必須包羅社會上各階層的人士，使酒牌局在考慮酒牌申請時能聽到社會上各階層不同人士的聲音。日後若上述的各項建議獲得落實而令酒牌簽發制度日臻完善，可考慮減少審議每宗酒牌申請個案的委員數目至3至5人，以減輕酒牌局委員日益繁重的工作量。

在售酒處所外吸煙的問題

自禁煙條例生效後，酒牌局收到不少市民投訴，指出顧客在售酒處所門外及附近街道吸煙、談笑、喧嘩而發出的噪音嚴重滋擾居民作息及睡眠，尤以深宵時份為甚，因而令居民就售酒處所的投訴不斷增加，並反對酒牌申請，而警方亦需花費大量警力以處理噪音投訴。委員建議政府當局可考慮容許售酒處所在室內加設獨立的吸煙間或禁止任何人在處所外的特定範圍內吸煙，以減少售酒處所的顧客在室外吸煙對居民造成的滋擾。

基於以上的各項建議，委員亦藉此提議政府當局應就酒牌簽發制度作出徹底及全面性的檢討，而並非只針對現行制度作出局部的改動。政府當局亦可考慮委託顧問公司就酒牌簽發制度、樓上酒吧問題、售酒處所地點的規劃、酒牌局的組成、違例記分制及相關法例的修改事宜作出全方位的檢討，並就各範疇提供可行和有建設性的建議和深入研究，並將顧問公司的報告及建議向公眾作出諮詢，使酒牌簽發制度能兼顧業界及廣大市民的訴求，並獲得他們的支持和認同。

酒牌局

2011年2月24日

(English Translation)

Review of Liquor Licensing

The views and recommendations of Liquor Licensing Board (LLB) in respect of the review of liquor licensing are set out below:

Premises Licensees

Most LLB Members agreed to continue with the practice of granting liquor licences to “natural persons” while some proposed to examine the following two alternatives:

Company Licensees

Liquor licensees must either be company directors, proprietors or limited companies. However, they are allowed to appoint staff members to manage the daily operation of the premises. As the liquor licensees are company directors, proprietors or limited companies, they will give due attention to their own business investments. They will ensure that the liquor selling premises are in compliance with the law in an effort to avoid revocation of their liquor licences by LLB. To address the possible problem of unclear authority and responsibilities between licensees and their staff, Members also called for a clear delineation of responsibilities between the licensees and their managerial staff; and

Reserve Licensees

An applicant can nominate one reserve licensee. In considering whether the nominated reserve licensee is a fit and proper person to hold the liquor licence, the LLB and the Police will adopt the same standard for consideration as the existing one for the applicant. Once the reserve licensee is accepted by the LLB, he/she will discharge the duties of the original licensee during the latter’s temporary absence or upon the latter’s leaving of service. However, prior notice must be given to the LLB and the Police, and the reserve licensee must complete a simple validation process to avoid causing difficulties to Police enforcement.

Location Planning of Liquor Selling Premises

According to Regulation 17(2)(b)(i) of the Dutiable Commodities (Liquor) Regulations (DCLR), the LLB shall grant a liquor licence only after it is satisfied that the

location and structure of the premises are suitable for selling liquor. Members note that in recent years, many operators chose to set up liquor selling premises in lots with cramped development of domestic premises (such as Hollywood Road, Wyndham Street in Central) and at old commercial-cum-residential buildings mainly for residential purposes. Having studied the locations in question, the LLB considers that the setting up of liquor selling premises at these locations will cause grave nuisances to the local residents. However, investors will suffer tremendous financial loss if the LLB refuses to grant them the liquor licence. To avoid wastage of money by investors as a result of setting up liquor selling premises at unsuitable locations, Members are of the opinion that a clear policy should be formulated so that the trade will have a clear understanding of certain basic requirements to be met in location selection and in the application for a liquor licence (e.g. the premises should not be located in areas with cramped development of domestic premises or in a building in which half of the floors have already been occupied by liquor selling businesses). The investors should also be able to assess objectively whether the premises concerned can meet the licensing requirements. Moreover, Members hope that the Government will negotiate with other government departments such as the Planning Department or the Buildings Department in the planning of location for liquor selling premises. Clear policy guidelines should be worked out so that the trade will be well aware of the lots where liquor selling premises should not be located. That would be a means to address the above-mentioned issue of wastage of social resources.

Upstairs Bars

Members are aware that the proliferation of upstairs bars has caused fire safety issues, noise and environmental nuisance, and law and order problems, resulting in strong discontent and objection from residents, District Councils and community organisations against the issue of liquor licences. The Police, as the enforcement agency of DCLR, have repeatedly expressed to the LLB their concerns about the increasing number of licensed liquor selling premises in multi-storey commercial buildings which are originally built for office use. Facilities of these building, such as emergency exits and fire escapes, are designed for the intended office users. The Police are concerned that the large number of licensed bars, restaurants and clubs in these buildings will pose a threat to public order and safety.

Members are of the view that the existing fire safety and buildings regulations fail to take into account the ability of customers of upstairs bars to make their way to safety under the influence of alcohol. They might have greater difficulties in escape and evacuation in case of fire or other emergency situations, constituting an aggravated danger to other bar customers and residents. Moreover, the upsurge of upstairs liquor selling premises

leads to crowds of people gathering on the street at late night. Intoxicated people yelling and fighting on the street inflict noise nuisance and public order problems, disturbing the normal life and living environment of the neighbourhood. This is particularly serious in Wanchai, Causeway Bay and Tsimshatsui. There have been occasions where the Municipal Services Appeals Board has decided not to grant a liquor licence to upstairs bars on the ground that the buildings concerned are not suitable for operating liquor selling premises. However, such decisions are only based on the designs and environment of individual buildings. There are no prescriptive guidelines on the location of upstairs bars. It has also come to Members' attention that premises have usually been issued with a Restaurant Licence or Certificate of Compliance and have already invested money in decoration and operation by the time they applied for a Liquor Licence; some even have started operation before a Liquor Licence is obtained. In the absence of clear statutory guidelines, Members cannot do anything to help balance the legitimate business of the trade and the interests of the residents.

In view of the operation mode of upstairs restaurants and liquor selling premises, as well as the fire safety, public order and environmental hygiene problems generated by their operation, Members urge the Government to review the licensing policy on upstairs liquor selling premises, restaurants and clubs, as well as the fire safety and buildings regulations governing upstairs liquor selling premises from a broader perspective. It is hoped that policies will be formulated as soon as possible to eradicate the problems brought by such operation mode. For instance, the Government may consider introducing a legislation to disallow the granting of liquor licences to premises above a certain floor, or implementing a quota system to control the number of liquor selling premises in a commercial or commercial-cum-residential building. Members also suggest that a comprehensive town planning review should be conducted to examine whether it is appropriate to issue liquor licences to premises situated in densely populated residential areas, and to consider whether the commercial-cum-residential land use is still appropriate in the light of the prevailing business mode and the living habits and aspirations of the general public nowadays.

Demerit Points System

Some Members indicate that under the current liquor licensing regime, each application will be considered on its own merits and that no objective criteria are in place to serve as guidelines. This makes it difficult for Members to take a scientific approach to considering the applications for liquor licences. It is proposed to introduce a demerit points system which is similar to that for restaurant licence under the liquor licensing regime. Penalty points will be given either by the LLB or the Police when the liquor selling premises

breach the regulations or cause nuisances to the residents. Upon the accumulation of a certain number of points, the liquor licence will be revoked or refused to be renewed. Should the proposal for a demerit points system be adopted, Members are of the view that the Police and FEHD should step up their enforcement action against the non-compliant liquor selling premises in order to maximise the effects of the demerit points system. Besides, appropriate channels for the public should also be established for airing grievances in respect of liquor licence applications.

Extension of the Licence Period

Members consider that it is feasible to extend the duration of a liquor licence to two years. Such proposal will not only ease the burden of annual licence renewal on the trade, but also retain the opportunities for the public, the Police and other relevant government departments to express their opinions on and raise objections to the liquor licence renewal applications. It can balance the interests of all parties concerned.

Placing of Advertisement

Members are of the view that the trade should be allowed to choose between uploading application information to the designated webpage run by the LLB or placing newspaper advertisements, which allow applicants who are not familiar with the computer to seek public opinion using the current practice. Since residents are more likely to know the liquor licence applications through notices posted near the premises and consultation conducted by District Offices, Members also agree that the current practices of posting notices near the premises and consultation with nearby residents and the District Council through District Offices should be maintained.

Composition of the Liquor Licensing Board

Members take the view that LLB Members should come from different sectors of society so that in the deliberation of liquor applications, voices from different sectors of society can be heard. With the implementation of the above recommendations which would result in enhancement of the liquor licensing regime in the future, consideration may be given to reducing the number of LLB Members deliberating liquor licence applications to three to five so as to ease the increasing workload of LLB Members.

The Problem of Smoking outside Liquor Selling Premises

Since the commencement of the Smoking (Public Health) Ordinance, the LLB has received a substantial number of public complaints about customers of liquor selling premises smoking outside the premises and on the streets nearby. Moreover, the chatting and clamouring noises of the customers seriously disturbed the rest and sleep of the residents,

particularly in the small hours. Therefore, the number of complaints from the residents against the liquor selling premises has continued to increase and the residents also raised objections to the applications for liquor licences. As such, the Police had to deploy a lot of resources in handling those noise complaints. Members propose for the consideration by the Government that the provision of separate indoor smoking rooms be allowed on liquor selling premises or smoking in specific areas outside the premises be prohibited in order to reduce the nuisances caused to the residents by customers smoking outside the liquor selling premises.

On the basis of the above proposals, Members recommend that a thorough and comprehensive review of the liquor licensing regime instead of a partial modification of the existing regime be carried out. In addition, the Government may consider commissioning a consultant to extensively review the liquor licensing regime, the upstairs bars problem, the location planning of liquor selling premises, the composition of the LLB, the demerit points system and the amendment of relevant laws. Feasible and constructive proposals on all these issues should be made together with an in-depth study. Furthermore, the consultancy report and the proposals made should be released for public consultation. The liquor licensing regime should be able to address the concerns and demands of both the trade and the public so as to gain their support and acceptance.

Liquor Licensing Board
24 February 2011