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Panel on Food Safety and Environmental Hygiene

**Background brief prepared by the Legislative Council Secretariat
for the meeting on 13 December 2011**

Management of fixed hawker pitches at Fa Yuen Street

Purpose

This paper provides background information on the two blazes happened at Fa Yuen Street in 2010 and 2011 and gives an account of past discussion by the Panel on Food Safety and Environmental Hygiene on the management of fixed hawker pitches at Fa Yuen Street.

Background

2. A No. 3 alarm fire broke out at Fa Yuen Street on 6 December 2010 had damaged a number of single-storey tin-sheeted and wooden hawker stalls. According to the Administration, the Food and Health Bureau ("FHB") had convened a cross-bureaux and departmental meeting in December 2010 with representatives of the Security Bureau, the Food and Environmental Hygiene Department ("FEHD"), the Fire Service Department ("FSD"), the Electrical and Mechanical Services Department ("EMSD"), the Buildings Department and the Home Affairs Department to discuss the measures to enhance the fire safety and the management of the Fa Yuen Street Hawker Permitted Area.

3. On 30 November 2011, a fatal No. 4 alarm fire broke out at the same location and caused casualty of nine death and 34 injured. The Chief Executive announced on the same day that he had directed the Chief Secretary for Administration to convene and chair an inter-departmental working group to ensure and coordinate services available to the victims and families, as well as to consider the measures to enhance public safety in the Fa Yuen Street area, including the dismantling of stall after trading hours.

Deliberations of the Panel

4. The Panel discussed the subject of the management of fixed hawker pitches at Fa Yuen Street after the fire broke out on 6 December 2010 at the meeting on 14 December 2010. Panel members opined that the Administration should impose various measures, including the re-construction of hawker stalls with flame-retardant and self extinguishing frames and materials, safety measures to prevent fire hazards in the area and provision of assistance to enable the affected fixed pitch hawkers to resume business as soon as possible. Members considered that the Administration should retain the open-air bazaars with local characteristics and carry out improvement works to enhance their vibrancy as shopping attractions for local people and tourists as well as their co-existence with the shops in the vicinity. Members also called on the Administration to improve the design of Fa Yuen Street Hawker Permitted Area.

5. The Administration advised the Panel that FEHD and FSD would work closely with the affected hawkers to improve the design and safety of the stall structures. It would also consider any proposals to improve the design and operation mode of open-air bazaars if there was a consensus among District Councils, the local community and the public. A number of measures including using fire-resisting materials for building stall structure, reserving proper separation space between hawker stalls, installing legal electricity supply and giving sufficient space for passage of fire engines, etc., would be implemented to enhance the safety and assist the fixed-pitch hawkers to resume business soonest possible. FEHD would step up inspection and enforcement against non-compliance of hawking requirements. EMSD would conduct unscheduled inspection to ensure the compliance of the electrical installations with the legislation and inform FEHD of any irregularities found for taking appropriate enforcement actions.

Latest development

6. The Secretary for Food and Health said on 3 December 2011 that the Administration was exploring the feasibility of introducing a demerit system for the fixed-pitch hawkers who violated the restrictions. The hawkers' licences might be terminated if they convicted multiple times of breaching rules. The Administration would also explore the feasibility of dismantling the stalls after trading hours and disallowing overnight storage of commodities at stalls.

Members' concerns

7. At the Council meeting of 12 January 2011, Dr Hon Priscilla LEUNG raised a question on the assistance for victims of fire at Fa Yuen Street on 6 December 2010.

8. Five urgent oral questions under Rule 24(4) of the Rules of Procedures (RoP) relating to Fa Yuen Street fire were raised at the Council meeting of 7 December 2011 by Dr Hon Priscilla LEUNG, Hon James TO, Hon WONG Yuk-man, Hon Alan LEONG and Hon Starry LEE respectively. The wording of the questions and the Administration's replies are in **Appendix I**. At the same Council meeting, Hon James TO moved a motion for the adjournment of the Council under Rule 16(4) of RoP for the purpose of debating the following issue: the fire tragedy at Fa Yuen Street in Mong Kok and ways to improve street environment and fire safety of buildings for the purposes of avoiding the recurrence of similar incidents and safeguarding the lives and properties of the public.

Relevant papers

9. A list of the relevant papers on the LegCo website is in **Appendix II**.

Press Releases

LC Urgent Q1: Fire at Fa Yuen Street

Following is a question by the Hon Priscilla Leung Mei-fun under Rule 24(4) of the Rules of Procedure and a reply by the Chief Secretary for Administration, Mr Stephen Lam, in the Legislative Council today (December 7):

Question:

In less than a year after the fire at the Fa Yuen Street bazaar in December last year which destroyed around 50 hawker stalls, another fire broke out at a nearby location in the early hours of November 30 this year which resulted in heavy casualties. According to the owners of the hawker stalls in the vicinity of the fire scene, fire precautions have been enhanced following the authorities' recommendations, including reserving sufficient space between hawker stalls to facilitate the evacuation of residents of nearby buildings in case of fire, and providing appropriate space to separate hawker stalls which are not joined together to prevent the spread of fire. Nevertheless, it has been reported that the fire last week still spread very rapidly. In this connection, will the Government inform this Council:

(a) after the fire which broke out at the end of last year, whether the authorities have comprehensively assessed the fire risk in several large downtown open-air bazaars, including those at Fa Yuen Street, Tung Choi Street and Temple Street, and reviewed the corresponding fire safety measures in place; if they have, of the results of the assessment and the review; if not, the reasons for that; as the owners of the hawker stalls at the site of the recent fire said that they had already enhanced fire precautions following the authorities' recommendations, but the fire still spread rapidly and resulted in heavy casualties, whether this indicates that the authorities' analysis of and conclusion on the causes of the fire which broke out at a nearby location at the end of last year were not comprehensive and thus could not prevent the recurrence of another tragedy;

(b) after the fire last week, whether the authorities have assessed the structural and overall safety of those residential buildings in the vicinity of the fire scene; if they have, of the results; as some victims are worried about their safety in the future, and they have indicated that they dare not move back to the aforesaid buildings even after the closure order on the fire scene is lifted, whether the authorities have any measure in place to help rehouse these residents; if they have, of the measures; and

(c) of the emergency financial relief measures provided by the authorities to the affected residents and family members of the deceased and injured this time; whether the Government will consider using the Community Care Fund to provide emergency assistance if the victims cannot benefit from the relevant measures?

Reply:

President,

First of all, on behalf of the HKSAR Government, I wish to extend our condolences to the victims of the fire and also wish that those who are still being hospitalised will soon recover.

Immediately after the outbreak of the fire at Fa Yuen Street in the early hours of November 30, at the direction of the Chief Executive, relevant bureaux and departments of the HKSAR government have set up an inter-departmental working group to handle relief work and to enhance public safety.

In sum, we are taking follow-up actions along the following five directions.

First, rendering relief and assistance to the fire victims. After the outbreak of the fire, we immediately opened up community centres to provide temporary shelter to the fire victims and to conduct registration. Relevant departments including the Home Affairs Department, Social Welfare Department (SWD) and Housing Department (HD) have provided various forms of assistance to the fire victims in accordance with their existing policies.

Charitable organisations and other civic-minded members of the community have also shown their care for the victims. About five to six million dollars of donations were collected within a matter of days. Families with members who passed away during the fire can each receive emergency assistance of about \$300,000; other residents directly affected by the fire can also receive emergency assistance of more than \$60,000 per household.

Besides, HD has also made available the temporary accommodation in Shek Lei to temporarily house people who do not have a home to go back to. As at December 6, 62 families comprising a total of 126 affected persons have moved there. They can temporarily live in the temporary accommodation for three months.

We hope that these measures can help the fire victims tide over this difficult period and resume normal life as soon as possible. At present, the first stage of Government's relief work has basically been completed.

Secondly, the fire has resulted in nine deaths and 34 injuries. Up to now, five persons are still being hospitalised and are in either critical or serious condition. The Hospital Authority will try their utmost to provide them with medical treatment.

Thirdly, the Police and the Fire Services Department (FSD) have started extensive and in-depth investigation into the cause of the fire. If there is evidence indicating that any criminal element is involved, we will take vigilant enforcement action.

Fourthly, the Food and Environmental Hygiene Department (FEHD), Buildings Department (BD) and FSD have taken actions in several areas.

FEHD has tightened up the inspection of over 40 hawker stalls areas, and will take strict enforcement actions against those breaching the regulations. To obviate the risk of fire, each hawker stall licensee can only operate within the permitted area. The canopy of a stall cannot be connected with other stalls or adjacent buildings. Furthermore, during non-operating hours,

any goods stored in the stall must be kept within the stall area as prescribed by the licence.

In the coming six months, BD will also strive to complete the inspection of about 300 old buildings built before 1980 that are six to twelve storeys in height with double staircases and hawker stalls in front of them. BD will take enforcement action immediately, if irregularities are found and any alteration works have blocked the fire escape. FSD will provide support to the work of FEHD and BD.

The objective of all these actions is to minimise the chance of recurrence of similar fire incidents based on existing laws and policies.

Fifthly, with a view to managing the hawker stalls more effectively and to enhancing public safety, Food and Health Bureau and FEHD will take the lead in examining various feasible options to enhance fire safety of the hawker stalls. In assessing these measures, we will have two considerations. First and foremost, measures to be adopted must be able to enhance public safety and to minimize the risk of fire. At the same time, such measures would also need to take into account the interests of the licensees of the hawker stalls.

Possible options suggested so far for enhancing public safety include: dismantling the stalls after trading hours, keeping only the metal frames for display within the approved pitch but removing the goods, introducing a demerit points system, relocation of the hawker stalls, etc. We are prepared to listen to the views of the Legislative Council, District Council, members of the public and trade representatives on these measures.

Our intention is, after detailed study and consideration, to put forth proposals and consult the public on feasible measures to enable the community to have an in-depth and substantive discussion on the issue. If necessary, we can take forward the relevant measures in stages starting with those which are easier to implement.

In respect of the questions raised by Dr Hon Priscilla Leung, my replies are as follows -

(a) FSD has been providing assistance to FEHD in enhancing the fire safety standard of hawker stalls. Since the fire at the hawker stalls in Fa Yuen Street in December last year, FEHD, in conjunction with FSD, the Electrical and Mechanical Services Department and the hawker associations concerned, has implemented fire safety improvement measures, which include ensuring sufficient space in the carriageway for fire appliances and firemen; allowing sufficient space between hawker stalls to facilitate evacuation of residents of buildings in the vicinity; providing proper separation space between un-linked hawker stalls so as to prevent the spread of fire; ensuring that stalls are erected with fire-resisting materials; requiring hawker stalls to obtain independent electricity supply from legal sources, etc.

According to the observations of FSD at the scene, highly combustible canvas or plastic materials were found on top of some of the hawker stalls in Fa Yuen Street and the separation space between un-linked hawker stalls was inadequate, thus threatening fire safety. However, the actual causes of the fire and the circumstances leading to the spread of fire cannot be ascertained

until the investigation is completed.

Since the No. 4 alarm fire broke out in Fa Yuen Street, FSD has joined forces with FEHD in conducting inspections in areas where residential buildings are found near closely packed hawker stalls and in reminding the hawker stalls to observe fire safety measures. In light of this recent fire incident in Fa Yuen Street, FEHD, FSD and other departments concerned are now reviewing the fire safety measures for hawker stalls and considering ways to further enhance their fire safety.

FSD has formulated contingency plans for some 20 areas in the territory where old residential and composite buildings are found near closely packed hawker stalls, in order to enhance the efficiency in fire-fighting and rescue operations in case of a fire. To ensure emergency vehicles can pass through smoothly, FSD has also been conducting road tests from time to time in these areas.

(b) After FSD has completed its fire fighting and rescue operation, staff of the BD have inspected the buildings in the vicinity of the fire scene. The inspection revealed that the overall structural stability of these buildings was not affected by the fire and the buildings were still in a structurally sound condition.

As I said earlier, HD has arranged temporary accommodation in Shek Lei for registered victims on December 4 to address their urgent housing needs. For individual occupants with special difficulties who may need to extend their stay in the temporary accommodation, HD will work with SWD to render them with the appropriate assistance as far as possible based on their specific circumstances. For those who are interested in applying for public rental housing (PRH), HD will assist them in the submission of PRH applications. For those who are already registered on the PRH Waiting List, they would have to wait for the allocation of PRH according to the priority of their registration numbers.

(c) To help the affected residents and family members of the victims cope with immediate needs, the Government has swiftly provided them with financial assistance and offered help in other areas after the fire. First, many charitable organisations and trust funds, including the Jockey Club Emergency Relief Fund, Yan Oi Tong Love and Care Project, Chinese General Chamber of Commerce Charitable Donation, Tung Wah Groups of Hospital, Pok Oi Hospital Emergency Fund, General Chinese Charities Fund, Lok Sin Tong Caring Fund, Sik Sik Yuen Emergency Fund, Yan Chai Emergency Fund, Po Leung Kuk and Hong Kong Young Industrialists Council, promptly offered a helping hand by providing emergency relief fund to address victims' urgent needs. SWD has proactively assisted in distributing financial assistance to all victims expeditiously. Earlier in my reply I have already briefed Members on the details of financial assistance received by individual persons.

Apart from financial assistance, the Administration has also distributed household electrical appliances and other necessities to victims to address their daily needs. Moreover, SWD has immediately arranged for clinical psychologists and social workers to provide emotional support and sharing sessions for victims. For households in need, the clinical psychologists and social workers will provide further counselling services. Colleagues of SWD have contacted the family members of

the deceased where possible to provide them with further emotional and financial assistance. With a view to providing family members of the victims and the affected residents with suitable assistance in a timely manner, SWD will continue to follow up on their welfare needs to facilitate their return to normal life as soon as possible.

As regards the Community Care Fund (CCF), when drawing up assistance programmes, the CCF will consider whether they can complement the assistance and services provided by the Government or other charitable funds so that duplication can be avoided as far as practicable. Having regard to the services and assistance already provided by the Government and other charitable funds to the victims, CCF has no plan to launch relevant assistance programme.

None of us wish to see this fire happen. The Government has the responsibility to offer proper relief to the families of the deceased and to other fire victims, to conduct a detailed investigation into the cause of the fire, and to consider and discuss possible options with members of the public in order to prevent similar incidents from happening again. I believe that with the concerted efforts of all relevant bureaux and departments, and through soliciting the support of the community, we can duly perform these tasks.

Ends/Wednesday, December 7, 2011
Issued at HKT 13:13

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Press Releases

LC Urgent Q2: Fire safety improvement measures of hawker stalls

Following is a question by the Hon James To Kun-sun under Rule 24(4) of the Rules of Procedure and a reply by the Secretary for Security, Mr Ambrose S K Lee, in the Legislative Council today (December 7):

Question:

President,

On the 30th of last month, a Number 4 alarm fire broke out at Fa Yuen Street in Mong Kok, in which the hawker stalls along the street caught fire first and it then spread to nearby old buildings, resulting in heavy casualties and substantial property losses. In this connection, will the Government inform the Council :

(a) of the causes of the fire and the rapid spread of the fire, and the reasons why it has resulted in so many deaths and injuries, so as to immediately remind residents living in a similar condition to raise their awareness, and of how to prevent fire and avoid loss of lives and injuries in case of fire;

(b) of the number of similar situations in Hong Kong in which hawker stalls are set up in the vicinity of residential buildings; whether the authorities will immediately inspect similar hawker stalls and the buildings nearby, so as to assess whether these buildings can endure the risks in case of fire, including whether such type of living condition and such buildings are in compliance with the requirements of the Fire Services Ordinance, whether there is adequate fire service equipment, whether there are unauthorised building works or flat units divided into separate units (commonly known as "sub-divided units") inside those buildings, whether the fire escapes are free of obstruction, and whether the residents are sufficiently aware of fire prevention, etc., as well as what immediate measures the authorities will take to prevent the recurrence of similar tragedies; and

(c) whether the authorities will immediately liaise with the Hong Kong Housing Society and the Urban Renewal Authority to target at those old buildings which have similar living conditions in various districts and immediately and proactively provide technical and financial support to them, so as to raise the awareness of fire safety of the flat owners and help them improve the fire protection and fire service equipment in their buildings?

Reply :

President,

(a) and (b) The Fire Services Department (FSD) and the Police are still investigating into the causes of the No. 4 alarm fire in Fa Yuen Street, and the findings of the investigation are still being awaited. Subject to the findings of departments' investigation and the final report, it is estimated that the piling up of stocks at the hawker stalls along the roadside and

the many inflammable substances in the stocks might have led to the rapid escalation and spread of fire. However, I wish to emphasise that the actual causes of the fire and the circumstances leading to the spread of fire can only be confirmed when the investigation is completed.

Since the fire at the hawker stalls in Fa Yuen Street in December last year, the Food and Environmental Hygiene Department (FEHD), in conjunction with FSD, the Electrical and Mechanical Services Department and the hawker associations concerned, has implemented fire safety improvement measures, which include ensuring sufficient space in the carriageway for fire appliances and firemen; allowing sufficient space between hawker stalls to facilitate evacuation of residents of buildings in the vicinity; providing proper separation space between un-linked hawker stalls so as to prevent the spread of fire; erecting stalls with fire-resisting materials; and requiring hawker stalls to obtain independent electricity supply from legal sources, etc.

According to the information provided by the FEHD, there are about 40 locations in the territory where hawker stalls are found adjacent to composite/ residential buildings. The FEHD and FSD have inspected these locations on December 1 and 2 for potential fire hazard, and FEHD has taken enforcement action against hawkers who contravened relevant regulations. In light of this recent fire incident, the FEHD, FSD and the departments concerned are proactively reviewing safety measures formulated at the end of last year, and studying how to further improve the fire safety of hawker stalls and nearby composite/residential buildings. The results will be announced as soon as practicable.

Most of the buildings in the vicinity of Fa Yuen Street are composite buildings or residential buildings completed in or before 1987. They are regulated by the Fire Safety (Buildings) Ordinance (Cap 572). The FSD and Buildings Department (BD) have been inspecting the composite buildings with higher fire risks under a programmed approach to enhance their fire safety standard and fire safety construction measures. If obstructions to means of escape or potential fire hazards caused by structural problems are identified during inspections, or if problems are found in the fire service installations (FSIs) and equipment, the department(s) concerned would take enforcement action. If there were articles causing obstructions to means of escape which would lead to imminent and serious fire hazard, FSD could make arrangement to remove those articles.

Six old composite buildings near the hawker stalls were involved in the recent serious fire incident in Fa Yuen Street. Five of them have already been inspected by the FSD and BD. Fire Safety Directions requiring the enhancement of fire safety measures were issued to them respectively between August 2008 and November 2011. Among these five buildings, the deadline for compliance of the Fire Safety Direction of one building is yet to expire. The other four have either applied for or have been granted approval for extension of deadlines. The main reason for extension is that the owners need more time to prepare for and carry out the works required.

Currently, the Fire Safety (Buildings) Ordinance does not regulate or require provision of fire service equipment within private domestic units. Therefore, there are no statutory requirements on provision of fire service equipment for so-called "sub-divided units" inside private domestic units. Given the lower fire load and fire risks of strictly residential buildings

and general domestic units, the code of practice issued by the FSD only requires the provision of essential FSIs and equipment in common areas of these buildings, such as fire hydrants and hose reel systems, and adequate unobstructed escape routes.

As regards building safety, the BD has since April 2011 launched a Large Scale Operation against sub-divided flats, under which the BD will inspect the sub-divided flats in 150 buildings each year and carry out enforcement action against those in contravention of the law. The Secretary for Development announced on December 2 that the BD would adjust its enforcement strategy against sub-divided flats by adopting a risk-based approach in selecting old non-single staircase buildings which were located in the proximity of hawker stalls for inspection. The Secretary for Development will explain in details the operation of the BD when providing her reply to another urgent question later.

The FSD has been conducting publicity activities to enhance public awareness of fire prevention. A television programme of the FSD on fire safety was broadcast in November this year, with an emphasis on educating the public on the correct way of escape in case of a fire. Leaflets on fire safety have also been distributed to resident's organisations to remind them to stay vigilant. For example, residents should ensure that all means of escape are free from obstruction, they should not store large amount of goods at home or near their residence, they should ensure that the FSIs in the building are operating normally and they should install FSIs in accordance with the Fire Safety Direction as early as possible, etc. If potential fire hazards are identified, the occupiers should also notify the local fire station as soon as possible for their follow up.

In addition, FSD has been arranging the Special Enforcement Unit to inspect old buildings with higher fire risks to ensure their fire safety. The FSD launched a special inspection operation in districts with a high density of old buildings in last November. More than 200 buildings were inspected during the exercise and 47 prosecutions were taken against irregularities such as obstruction to means of escape. Cases involving structural problems were referred to the BD.

(c) The Government and its partner organisations, i.e. the Hong Kong Housing Society (HKHS) and the Urban Renewal Authority (URA), have a number of technical and financial assistance schemes providing assistance to owners on matters related to building and fire safety. These include the Comprehensive Building Safety Improvement Loan Scheme and the Building Maintenance Grant Scheme for Elderly Owners funded by the Government, and the Integrated Building Maintenance Assistance Scheme jointly administered by the HKHS and URA. The scope of works covered by these assistance schemes include those related to fire safety constructions and fire safety installations and equipment. In addition, if owners encounter any technical difficulties when arranging for the works, they could seek assistance from the HKHS and URA apart from approaching the relevant government departments or consulting the professionals.

Furthermore, to encourage owners to improve the fire safety of their buildings and to facilitate them to receive proper assistance under the various schemes, the FSD and BD will provide information of the above assistance schemes when taking enforcement action against fire safety issues.

Ends/Wednesday, December 7, 2011
Issued at HKT 16:42

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Press Releases

LC Urgent Q3: Sub-divided units

Following is a question by the Hon Wong Yuk-man under Rule 24(4) of the Rules of Procedure and a reply by the Secretary for Development, Mrs Carrie Lam, in the Legislative Council today (December 7):

Question:

In the early hours of last Wednesday (November 30), a fire broke out at the Fa Yuen Street hawker stalls and spread to the nearby buildings with flat units divided into separate units (commonly known as "sub-divided units"), resulting in a tragedy with at least nine people killed and 34 injured. A fire broke out at the same location on December 6, last year, and an explosion involving sub-divided units also occurred at Tung Choi Street last Tuesday. In recent years, similar incidents occurred quite frequently, threatening the lives and properties of residents in sub-divided units and hawker stall owners. In this connection, will the Government inform this Council:

(a) given that the Development Bureau pointed out in June this year that it had thus far been unable to ascertain the number of sub-divided units across the territory, whether the authorities will immediately deploy manpower to inspect all old-style residential buildings and record the locations of all sub-divided units and particulars of their tenants, so as to offer assistance to tenants of sub-divided units;

(b) given that the Chief Executive has pointed out in this year's Policy Address that sub-divided units provide accommodation for low-income people not eligible for public housing, and he does not wish to ban sub-divided units across the board, whether the Housing Department will immediately revise the public housing allocation system to enable existing tenants of sub-divided units to be allocated public housing more expeditiously; and

(c) given that quite a number of hawker stall owners there have divided their stalls into sub-divided stalls for lease, and this type of sub-divided stalls are so closely packed together that they not only block the fire escapes but also cause a fire to get out of control more easily, and yet so far no one has been prosecuted for this, whether such division of stalls breaches the law; and if so, whether the Food and Environmental Hygiene Department will step up its inspection and enforcement efforts, and institute prosecution in respect of the non-compliance cases?

Reply:

President,

The fire at Fa Yuen Street which has caused heavy casualties, was peculiar in that it originated from the hawker stalls in front of the buildings. For general building designs, there should be a separation of at least six meters between the window of a fire escape staircase and the building facing it so as to reduce the risk of fire spreading from the opposite building. In this incident, although the buildings on the two sides of Fa Yuen Street are more than six meters apart, it is

obvious that the affected buildings have much less than six meters in distance from the stalls in front of them. This has brought about potential fire risk.

The Buildings Department (BD) entered the building that was affected by the fire most, i.e. 192 to 194 Fa Yuen Street, to conduct an inspection after the fire and it was found that in the 14 residential units of the building, seven of them were sub-divided and it was estimated that there were more than 20 sub-divided units in total. We cannot ascertain at the moment whether these sub-divided units have aggravated the casualties in this incident as this should only be known after detailed investigation and taking of statements. Nevertheless, undeniably the existence of sub-divided units would generally increase the risk for the occupants during fire, such as when some sub-divided units block the rear staircase of a double staircase building and hence leaving some of the occupants with only one of the staircases to escape instead of both during fire. The same situation also applies to 192 to 194 Fa Yuen Street.

The emergence of and increase in sub-divided units is indeed a social phenomenon that has aroused public concern. As pointed out by the Members, the issue of sub-divided units is multi-faceted, involving issues such as fire and building safety, building management and housing demand.

From building safety angle, sub-divided units will generally contravene the Buildings Ordinance (BO) in only three manners - the obstruction of means of fire escape, overloading that affects the structural safety of a building and the resulting serious water seepage. The work of the Development Bureau is to ensure that these sub-divided units would not result in building safety problems. We are now tackling the building safety problems associated with sub-divided units through the four prongs of legislation, enforcement, assistance to owners as well as publicity and public education.

The reply to the three-part question after consolidating the information from relevant policy bureaux and departments is as follows:

(a) The BD currently does not have specific statistical breakdown of applications for works of sub-divided units and hence could not provide information on legally or illegally altered sub-divided units in different districts in Hong Kong. Indeed, the existing BO does not specifically categorise or regulate different types of works involved in sub-divided units. Nevertheless, with the full implementation of the Minor Works Control System (MWCS) on December 31, 2010, internal drainage works commonly found in sub-divided units have already been covered by the MWCS. Contractors who carry out such works have to submit relevant information of the works to the BD. However, not all the cases of internal drainage works involve sub-divided units. Although the BD is currently conducting a stock-taking exercise for all the unauthorised building works at the exterior of private buildings in Hong Kong, it will be difficult to verify the situation of interior sub-divided units during the exercise. As a result, this operation will not enable us to provide comprehensive information on sub-divided units.

As I have, for some time in the past, pointed out during the Panel meetings of the Legislative Council and in response to the oral and written questions from the Members, the BD has since

April 2011 commenced a Large Scale Operation against sub-divided units, and has set a target of inspecting 150 buildings with sub-divided units in the current year. In response to the fire, I announced after my inspection of the scene last Saturday that the BD would adjust the strategy of its enforcement action by taking into account the fire risk that might be brought about by hawker stalls when choosing the target buildings. The buildings that the Department chooses will be those situated in the vicinity of hawker stalls, as well as those that are of the same type as the building at 192 to 194 Fa Yuen Street, i.e. double staircase buildings of 6 to 12 storeys in height. It is estimated that there are around 334 such buildings over the territory, which are distributed in the Kowloon City District, Yau Tsim Mong District, Sham Shui Po District, Central and Western District, Wan Chan District and Eastern District. The BD will endeavour to complete the inspection of this category of buildings within the coming six months. The focus of the inspection will be on whether there is a blockage of means of escape as a result of sub-divided units or other alterations. During the course of inspection, the BD will immediately issue removal orders once they have collected sufficient evidence. If the owner refuses to co-operate and allow BD to enter the premises for investigations, we will not rule out the possibility of exercising the power given to the Department by the current BO, and breaking into the premises in the presence of the police to carry out the investigations. We hope that through this enforcement action, we will be able to promptly attend to the building safety problems arising from the special properties of hawker stalls and the potential risks posed by sub-divided units, so as to ensure the safety of the residents.

If, during the current round of inspection of buildings in areas with hawker stalls, it comes to the BD's knowledge that some owners or residents of sub-divided units are in need of assistance, the Department will refer the case to the relevant departments or organisations for follow-up action as necessary. The BD will also provide all possible assistance under its purview. For example, the Department currently has a Comprehensive Building Safety Improvement Loan Scheme. If the owners who have received the removal orders from the BD encounter financial difficulties, they can apply for a loan from the BD to carry out the associated improvement works. Under the scheme, applicants will not be required to go through any means test and can receive a maximum loan of one million dollars.

(b) According to the Transport and Housing Bureau, public rental housing (PRH) is a limited and valuable resource, and the Administration has to allocate it in a fair and rational manner to address the genuine housing needs of low-income families who cannot afford private rental accommodation. The Hong Kong Housing Authority maintains a PRH Waiting List (WL) to allocate PRH to eligible applicants in accordance with their date of registration, size of family and choice of district, etc. The Housing Department (HD) appreciates the housing needs of occupants residing in sub-divided flats and will process their PRH applications in accordance with the existing allocation policy. For occupants who have special housing needs, they may consider applying for Compassionate Rehousing (CR) from the Social Welfare Department (SWD). The HD will arrange the rehousing of occupants to PRH after they have obtained SWD's recommendation for CR. As for the suggestion of according priority to offer PRH flats to applicants who have been living in sub-divided flats, the Administration needs to avoid being unfair to the over 155 000 applicants currently on the WL and beware of

such an arrangement would lead to other issues, such as in effect encouraging people to move into sub-divided flats which would worsen the problem.

(c) The Food and Health Bureau points out that, according to section 13 of the Hawker Regulation (Cap. 132AI), except with the consent in writing of the Director of Food and Environmental Hygiene, no hawker shall sublet, transfer or lend any stall or transfer his licence or pitch card, if any, to any other person. Besides, the Food and Environmental Hygiene Department (FEHD) has so far instituted a total of 70 prosecutions this year against stalls selling commodities which they are not permitted to sell or operating services which they are not permitted to operate. Some of these cases involve stall subletting. After the fire at Fa Yuen Street on November 30, 2011, FEHD has strengthened enforcement involving irregularities found in the hawker bazaar in Fa Yuen Street and all other hawker bazaars in the territory. Subletting is among these irregularities. If stall subletting is substantiated, FEHD will enforce the regulations strictly. FEHD appeals to members of the public to report immediately to it any suspected stall subletting and FEHD will carry out follow-up investigations accordingly.

Thank you, President.

Ends/Wednesday, December 7, 2011
Issued at HKT 19:38

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Press Releases

LC Urgent Q4: Fire safety measures for hawker stalls

Following is a question by Hon Alan Leong under Rule 24(4) of the Rules of Procedure and a reply by the Secretary for Food and Health, Dr York Chow, in the Legislative Council today (December 7):

Question:

After a Number 3 alarm fire broke out at Fa Yuen Street in Mong Kok in 2010, the Government ordered the stall hawkers to switch to the use of fire resisting materials, and removed 10 stalls away from the exits of nearby buildings to reserve space for fire escapes. In less than a year, another more serious Number 4 alarm fire broke out at Fa Yuen Street in the early hours on November 30, 2011, resulting in nine people killed and 34 injured. This incident has aroused public concern about insufficient fire control over hawker stalls, which fails to deal with the potential hazards posed by them. Apart from Fa Yuen Street in Mong Kok, similar types of hawker stalls are still found in quite a number of old districts in Hong Kong (such as Fuk Wing Street and Ap Liu Street in Sham Shui Po, Temple Street and Po Ning Street in Jordan, etc.), and there are old buildings on both sides of the stalls, thus posing potential fire risks, all the more giving rise to concern whether the fire precautions for hawker stalls in Hong Kong are comprehensive. In this connection, will the Government inform this Council:

(a) whether, in the regulatory control over streets with open-air hawker stalls of the Fire Services Department (FSD) and the Electrical and Mechanical Services Department, there are specific requirements on the safety separation distance between hawker stalls, distance between hawker stalls and residential buildings, as well as fire protection equipment; if there are, of the details; if not, the reasons for that; of the number of inspections conducted by FSD at Fa Yuen Street since the Number 3 alarm fire which occurred there last year and the details concerned;

(b) given that the Government has indicated that it will adopt a zero-tolerance stance towards non-compliant hawker stalls and actively study the feasibility of requiring such stalls be closed and cleared each night and be set up only during the day for business, the introduction of a demerit point system and the revocation of licences, etc., of the measures to be taken by the authorities to strike a balance between reducing fire risks and facilitating the operation of hawker stalls; whether consideration will be given to providing subsidies to stall hawkers so as to reduce their operating costs; if so, of the details; if not, the reasons for that; and

(c) given that the authorities have provided loans for repairs of the buildings affected by the fire last year and helped the buildings concerned to form owners' corporations, of the progress of the relevant arrangements; whether the authorities will consider providing subsidies to those owner's corporations and flat owners affected by this fire for the purpose of repairing all the damaged public areas and private residential areas of their buildings, if they will, of the details; if not, the

reasons for that?

Reply:

President,

My reply to the various parts of the question is as follows:

(a) Since the fire at the hawker stalls in Fa Yuen Street in December last year, the Food and Environmental Hygiene Department (FEHD), in conjunction with the Fire Services Department (FSD), the Electrical and Mechanical Services Department and the hawker associations concerned, has implemented fire safety improvement measures, which include ensuring sufficient space in the carriageway for fire appliances and firemen; allowing sufficient space between hawker stalls to facilitate evacuation of residents of buildings in the vicinity; providing proper separation space between un-linked hawker stalls so as to prevent the spread of fire; erecting stalls with fire-resisting materials; and requiring hawker stalls to obtain independent electricity supply from legal sources, etc. FSD has formulated contingency plans for some 20 areas in the territory where old residential and composite buildings are found near closely packed hawker stalls, in order to enhance the efficiency in fire-fighting and rescue operations in case of a fire. To ensure emergency vehicles can pass through smoothly, FSD has also been conducting road tests from time to time in these areas.

According to the observations of FSD at the scene, highly combustible canvas or plastic materials were found on top of some of the hawker stalls in Fa Yuen Street and the separation space between un-linked hawker stalls was inadequate, thus threatening fire safety. However, the actual causes of the fire and the circumstances leading to the spread of fire can only be confirmed when the investigation is completed.

Since the No. 4 alarm fire broke out in Fa Yuen Street, FSD has joined forces with FEHD in conducting inspections in areas where residential buildings are found near closely packed hawker stalls and assisted FEHD in taking enforcement action. In light of this recent fire incident in Fa Yuen Street, FEHD, FSD and other departments concerned are now reviewing the fire safety measures for hawker stalls and considering ways to further enhance their fire safety.

(b) In the wake of the fire at Fa Yuen Street on November 30 this year, FEHD has immediately strengthened enforcement regarding non-compliances in the hawker bazaar at Fa Yuen Street and all hawker bazaars in Hong Kong. If the area used or the size of canopy is found to have exceeded the requirements imposed on the stall, or if street obstruction by commodities or overnight storage of commodities beyond the stall area is detected, FEHD will take enforcement actions. By December 4, FEHD has issued 170 summons against non-compliances at Fa Yuen Street.

Drawing on the experience of this fire at Fa Yuen Street and the one last year, we consider that it is necessary to introduce new measures to improve the environment of hawker bazaars, so as to further reduce the fire risks. In this connection, the inter-departmental working group chaired by the Chief Secretary for Administration is actively considering different options. Public safety, particularly the safety of life and properties of people who live in the vicinity of hawker bazaars, is our paramount consideration when examining these options. We consider that it

is the duty of stall operators to operate in accordance with the licensing conditions. However, according to past experience in stall management, reliance on the self-discipline of traders alone is not sufficient. We need to step up enforcement with immediate effect in order to prevent the recurrence of incidents similar to this fire. Naturally, the long-term operating environment of stall operators should also be taken into account.

To enhance public safety, we will actively consider various improvement options, including introducing the arrangements of "setting up stalls only during trading hours" or "removing the commodities without dismantling the stalls at night", a mechanism for cancellation of hawker licences and realigning or relocating the hawker stalls, etc. Since each option has its own pros and cons, we must conduct careful studies to assess the risks involved and discuss with the relevant stakeholders, including the stall operators and the District Councils. We understand that the public expect an early implementation of the improvement measures. FEHD and the departments concerned are now conducting the studies at full speed and will strive to strike a balance between reducing fire hazards and taking the stall operation into consideration.

Regarding the question of providing subsidies to stall operators raised by Hon Alan Leung, I would like to point out that all stall operators are obligated to comply with licensing conditions. They should not expect subsidies from public money.

(c) Since the No. 3 alarm fire broke out at Fa Yuen Street last year, the Yau Tsim Mong District Office (YTMDO) has enhanced its active follow-up action on the building management problems in the district. Through various channels including distributing leaflets and arranging roadshows, YTMDO together with the Property Management Advisory Centre of the Hong Kong Housing Society (HKHS) has frequently visited the buildings affected by the fire, so as to introduce the "Building Management and Maintenance Scheme" and the "Building Maintenance Grant Scheme for Elderly Owners" of HKHS to assist the affected residents in repairing their buildings and restoring to normal life as soon as possible. According to information from HKHS and the Buildings Department (BD), among the six buildings eligible for financial support, four have been included under the Operation Building Bright (the Operation). Two of these buildings are arranging for the works, while the other two have commenced the works. As for the two buildings that have not participated in the Operation, the owners of one of the buildings have stated that they do not intend to join any of the financial support schemes as the costs will be covered by an insurance company. The other building is currently receiving the support from HKHS under the Building Maintenance Incentive Scheme. Some of the buildings have also been subsidised to carry out a number of fire safety improvement works.

As for those buildings without Owners' Corporations (OCs), YTMDO, in collaboration with HKHS, has conducted home visits and briefing sessions to encourage owners to form OCs to strengthen building management, as well as to introduce the various financial assistance schemes to assist owners in meeting various needs. Since December 2010, YTMDO has assisted two private buildings at Fa Yuen Street in holding owners' meetings and forming OCs. Furthermore, YTMDO has also strengthened their visits to the private buildings along the affected sections of Fa Yuen Street, in order to understand the building conditions and enhance the residents' awareness of building management.

Similar to last year's arrangement, HKHS has plans to proactively contact the affected OCs and visit the affected owners and occupants upon the re-opening of the affected buildings, with a view to providing information of and offering appropriate assistance under the various assistance schemes under the Government, HKHS as well as the Urban Renewal Authority (URA). In particular, for those eligible owners or OCs of private buildings affected by the fire this time, if they encounter financial difficulties in building repair and maintenance, they may apply for the "Integrated Building Maintenance Assistance Scheme" (the Integrated Scheme) jointly administered by HKHS and URA. The Integrated Scheme provides one-stop comprehensive support to owners, including Common Area Repair Works Subsidy, Common Area Repair Works Interest-free Loan, Home Renovation Interest-free Loan and Owners' Corporation Formation Subsidy. These two organisations also provide technical assistance to applicants. Furthermore, owners or OCs may apply for two Government-funded programmes via the Integrated Scheme, which include the Building Maintenance Grant Scheme for Elderly Owners administered by HKHS and the Building Safety Loan Scheme administered by BD.

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Press Releases

LC Urgent Q5: Improvement options for hawker stalls

Following is a question by Hon Starry Lee under Rule 24(4) of the Rules of Procedure and a reply by the Secretary for Food and Health, Dr York Chow, in the Legislative Council today (December 7):

Question:

A fire resulting in the heaviest casualties since the reunification of Hong Kong broke out at the hawker stalls at Fa Yuen Street in Mong Kok in the early hours of last Wednesday, in which the fire rapidly spread and smoke engulfed two adjacent tenement buildings, resulting in nine people killed and 34 injured. Apart from the concern about the safety management of hawker stalls, quite a number of residents also complained that when they escaped from the fire, the staircases were piled up with too many miscellaneous items, thus blocking the fire escapes, resulting in heavy casualties. In this connection, will the Government inform this Council:

(a) whether it will consider conducting inspections of all old buildings with potential safety hazards throughout the territory immediately; and with fire safety as a priority consideration, requesting the Food and Environmental Hygiene Department to provide immediate assistance in clearing the fire escapes once they are found seriously blocked by miscellaneous items; and

(b) whether it will request hawker stalls at Fa Yuen Street to immediately adopt the temporary arrangement of "no overnight storage of goods at stalls" until a proposal acceptable to various parties is arrived at through discussion?

Reply:

President,

My reply to the various parts of the question is as follows:

(a) Old composite and residential buildings are regulated under the Fire Safety (Buildings) Ordinance (Cap. 572) (the Ordinance). The Ordinance came into operation in July 2007. It aims at upgrading the fire safety standards of about 12 000 composite and residential buildings completed before 1987 to present day fire safety standards. Of the about 9 200 old composite buildings, the Fire Services Department (FSD) and the Buildings Department (BD) have so far conducted joint inspections for about 4 600 (i.e. 50%) of them. Fire safety directions have been issued to owners or users of about 2 600 buildings, requiring them to upgrade the fire safety standards of their buildings. If obstructions to means of escape or potential fire hazards caused by structural problems are identified during inspections, or if problems are found in the fire service installations and equipment, the department(s) concerned would take enforcement action. If there are articles causing obstructions to means of escape which would lead to imminent and serious fire hazards, FSD could make arrangement to remove those articles.

In addition, FSD has been arranging the Special Enforcement Unit to inspect old buildings with higher fire risks to ensure their fire safety. FSD launched a special inspection operation in districts with a high density of old buildings last November. More than 200 buildings were inspected during the exercise and 47 prosecutions were taken against irregularities such as obstructions to means of escape. Cases involving structural problems were referred to BD. Leaflets on fire safety have also been distributed to the residents.

Owners and residents have to ensure that the fire escape passageways of their buildings are free of obstruction and they are responsible for clearing any such obstruction.

(b) The inter-departmental working group chaired by the Chief Secretary for Administration is actively considering different options. Public safety, particularly the safety of life and properties of people who live in the vicinity of hawker bazaars, is our paramount consideration when examining these options. We consider that it is the duty of stall operators to operate in accordance with the licensing conditions. However, according to past experience in stall management, reliance on the self-discipline of traders alone is not sufficient. We need to step up enforcement with immediate effect in order to prevent the recurrence of incidents similar to this fire. Naturally, the long-term operating environment of stall operators should also be taken into account.

In order to enhance public safety, we will actively consider various improvement options, including the arrangements of "no overnight storage of commodities at stalls" or "setting up stalls only during trading hours" and "removing the commodities without dismantling the stalls at night". Since each option has its own pros and cons, we must conduct careful studies to assess the risks involved and discuss with the relevant stakeholders, including the stall operators and the District Councils. We understand that the public expect an early implementation of the improvement measures. FEHD and the departments concerned are now conducting the studies at full speed and will strive to strike a balance between reducing fire hazards and taking the stall operation into consideration.

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Relevant papers on management of fixed-pitch hawkers at Fa Yuen Street

Meeting	Date of meeting	Paper
Panel on Food Safety and Environmental Hygiene	14.12.2010 (Item VI)	Agenda Minutes CB(2)553/10-11(04)
Legislative Council	12.1.2011	Official Record of Proceedings Pages 67 - 71 (Question raised by Dr Hon Priscilla LEUNG on the assistance for victims of fire at Fa Yuen Street)

Council Business Division 2
Legislative Council Secretariat
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