

**LegCo Panel on Food Safety and Environmental Hygiene
Follow-up to Special Meeting on 13 June 2013**

**Supplementary Information Note:
Liquor Licensing – Guidelines on Assessing Liquor Licence Applications**

**(Response to Follow-up Questions Raised by
Hon. Tommy CHEUNG Yu-yan on 1 August 2013)**

Purpose

At the special meeting on 13 June 2013, the Panel on Food Safety and Environmental Hygiene (“the Panel”) discussed the “Guidelines on Assessing Liquor Licence Applications” (“the Guidelines”) prepared by the Liquor Licensing Board (“LLB”). In response to Members’ enquiries and after consulting the LLB and relevant Government departments, we had submitted a note (LC Paper No. CB(2)1668/12-13(01)) to the Panel on 29 July 2013 providing the supplementary information sought. For the purpose of responding to the follow-up questions raised by Hon Tommy CHEUNG Yu-yan via the Panel on 1 August 2013, we have again consulted the LLB and relevant Government departments. Our reply is set out below.

Criteria for Assessing Liquor Licence Applications and Special Considerations given to “Upstairs Bars”

2. When examining a liquor licence application, the LLB is required to give due consideration to all relevant issues under Section 17(2) of the Dutiable Commodities (Liquor) Regulations (“the Regulations”) including (a) whether the applicant is a fit and proper person to hold the licence; (b) whether the location and structure of the premises and their fire safety and hygienic conditions are suitable for the sale of liquor; and (c) whether the grant of the licence is contrary to the public interest. When granting the licence, the LLB may impose such conditions as it thinks fit (e.g. a capacity limit imposed taking into account the actual circumstances), for fulfilling the provisions stipulated in Section 17(2) of the Regulations.

3. Upstairs bars, relative to bars in general, may cause greater potential danger and nuisance associated with fire safety, public order, noise and environmental hygiene, etc to the public as well as bar customers due to their special physical environment. Having looked into these factors and obtained medical advice that alcohol impairs judgment and physical

coordination, the LLB considers it most appropriate to impose a more stringent capacity limit for “upstairs bars” as proposed. In fact, the purpose of imposing a more stringent capacity limit for “upstairs bars” is to provide more room for the safe evacuation, at times of emergencies, of their employees and customers as well as occupants of the buildings where the “upstairs bars” are located.

4. According to the Fire Services Department (“FSD”), they record the number of fire incidents in the territory every year according to the types of buildings (e.g. commercial buildings, commercial/residential buildings, residential buildings and factory premises, etc) but do not keep a breakdown of the number relating to “liquor-licensed premises located above street level”. As such, the FSD cannot provide separate figures on the number of fires or other emergencies caused by such premises and the number of casualties involved.

5. In assessing whether the premises are suitable for selling liquor, the LLB will take into account a number of factors, including the number, type, mode of operation and distribution of liquor-licensed premises already in the same building. The LLB will, when processing individual applications, make judgments taking into account the actual circumstances of each case and prudently balance the interests of the local community and the legitimate business interests of the trade. In terms of particulars including the information provided by the applicant and the objective circumstances then prevailing, each individual liquor licence application may have its own unique features. Bearing in mind the onus placed on the LLB to make decisions on each case after full and fair consideration of all relevant issues on the basis of circumstances prevailing at the material time, making public the list of places in a building which were at different times in the past considered not suitable for operation as a liquor-licensed premises may not necessarily offer much value in terms of reference.

Definition of “Upstairs Bars”

6. As mentioned in LC Paper No. CB(2)1668/12-13(01), the LLB will insert, in the Guidelines, the following definition for the easy reference of the trade:

“In general, the term “upstairs bars” refers to liquor-licensed premises which operate as bars with the sale and consumption of liquor on the premises being the main line of business and which are not located at the

street level. These premises are mostly situated in office buildings or domestic/commercial buildings. Due to their special physical environment and the relatively greater difficulties inherent in taking enforcement actions and conducting inspections in respect of fire safety, noise, environmental hygiene and public nuisance, etc, they are prone to attract public concerns and draw complaints from the neighbourhood nearby.¹

The LLB has consulted Section 2 of the Regulations which provides that the term “bar” means “any place exclusively or mainly used for the sale and consumption of intoxicating liquor”. The above definition for “upstairs bars” is consistent with the interpretation of the term “bar” as set out in the legislation.

7. Currently, the LLB makes public on its webpage the list of liquor-licensed premises and the additional licensing conditions imposed on them (e.g. the number of persons permitted on the premises) for the reference of the trade and the general public. Meanwhile, individual holders of liquor licences who have doubts on whether their premises fall under the category of “upstairs bars” or any person who intends to rent or purchase premises in a building for use as a bar and wishes to know, before applying for the licences required, whether the premises will be taken as “upstairs bars” may also make enquiries with the LLB.

Conclusion

8. Members are invited to note the content of this paper.

Food and Health Bureau
August 2013

¹ In general, for liquor-licensed premises that are located in shopping centres, hotels or buildings specifically designed for entertainment businesses, we do not put them under the “upstairs bars” category.