

Subcommittee on Issues Relating to Bazaars

Follow-up actions arising from the meeting on 21 March 2017

The Administration is requested to provide information on:

Measures to facilitate the setting up of bazaars

- (a) the Administration's response to Subcommittee members' suggestions as follows:
 - (i) the Administration should simplify the current application procedures and develop a comprehensive guidelines to facilitate the public in making applications for setting up bazaars (the guidelines should include the procedures for obtaining permission from the relevant departments in charge of different types of venues, the licences/permits required for the activities concerned, and the role and functions of the District Councils in vetting different types of bazaar proposals);
 - (ii) the Administration should set up a designated office (making reference to the one set up for the food truck pilot scheme) for co-ordinating bazaar applications in all districts and providing one-stop services to project proponents during the process;
 - (iii) instead of the list of vacant land for greening / community uses compiled by the Lands Department, the Administration should develop a list of sites over the territory suitable for setting up bazaars taking into account factors like the location, area, conditions and visitor flow of the sites; and
 - (iv) the Administration should conduct a territory-wide consultancy study on the feasibility of developing bazaars in different districts and consult the local community for views on related issues.

Motions passed by the Subcommittee

- (e) The Administration's response to the five motions passed at the meeting:
 - (i) Dr Hon KWOK Ka-ki – to develop a policy of establishing a bazaar for each of the 18 District Council districts; streamlining

bazaar application mechanism; set up a seed fund for the development of bazaars;

- (ii) Hon Andrew WAN Siu-kin – local consultation and in-depth study be immediately carried out with regard to the list of vacant land submitted by the Lands Department and the locations where bazaars were successfully held in the past by organizations to cater for the long-term development of bazaars.
- (iii) Hon HUI Chi-fung – conduct studies and carry out local consultation to collect the views of the people of Hong Kong on the establishment of cooked food bazaars and explore various feasible initiatives;
- (iv) Hon SHIU Ka-chun – use of idle markets by putting them to use as community kitchens; and
- (v) Hon YIU Chung-yim – set up seed fund to promoting the long-term development of bazaars and community economy.

Government's response:

Details on the procedures involved in setting up bazaars are set out in the Sub-Committee paper CB(1)690/16-17(03).

The Government adopts a positive attitude towards specific proposals on bazaars put by individuals/organisations in the community (the proponents). If the proponents have secured approval from the relevant site owners for the use of the proposed sites and obtained support from the local community and District Councils, and provided that food safety and environmental hygiene are upheld and public passageways are not obstructed, the Food and Health Bureau (FHB) and the Food and Environmental Hygiene Department (FEHD) stand ready to facilitate liaison with relevant Government Bureaux and Departments regarding the use of the sites. Noteworthy is that whether and how concerns about public order and safety, etc. should be met remain the prerogative of the relevant regulatory authorities.

The nature and positioning of bazaars can be distinctly different from each other. Some may aim at promoting cultural creativity, some for creating

opportunities for grass-roots people to start their own businesses, some for boosting community economy and some for promoting tourism, etc. Bazaars can also appear in various forms, such as festive celebrative activities, farmers' bazaars and carnivals. In this connection, we should allow room and flexibility for the development of different types of bazaars. The Government considers it more appropriate for the proponents to identify and secure suitable locations for organising bazaars which they consider appropriate, taking account of the circumstances, development, culture and planning of the district concerned. The department in charge of the venue will consider and process each application on its own merits in accordance with their vetting criteria and the specific details of the case. The mechanisms adopted by the various departments have been in place for years, with a view to safeguarding public interest. The application procedures and vetting criteria are open and transparent.

District Councils and their Members are stakeholders that should know best the conditions and public sentiments of their own Districts and the neighborhood of the identified sites. Different stakeholders of individual Districts may hold different views on various bazaar proposals. Residents near the proposed bazaar sites will usually express their concerns over the possible problems of traffic, noise and environmental hygiene caused by the proposed bazaars. Shop owners in the immediate vicinity selling similar products/services may also have concern about possible business displacement. All the above concerns should be addressed appropriately. The Government believes that the District Councils are best placed to gauge public sentiments, assess the local acceptance towards bazaar proposals and reach a common understanding on the best arrangements for taking forward bazaar proposals.

In terms of the application procedures, the proponents may have to apply for the following licences depending on the details, including the place, form and nature of the activities concerned:

- ❧ A places of public entertainment licence or a temporary places of public entertainment licence is required if the bazaar involves activities defined as “entertainment” under the Places of Public Entertainment Ordinance (Cap. 172).

- ❧ A temporary food factory licence is required under the Food Business Regulation (Cap. 132X) if the bazaar activities involve the selling of cooked food.
- ❧ A fresh provision shop licence is required under the Food Business Regulation (Cap. 132X) if the bazaar activities involve the selling of fresh, chilled or frozen meats, fish, poultry, etc.
- ❧ A restricted food permit is required under the Food Business Regulation (Cap. 132X) if the bazaar activities involve the sale of restricted foods.

The Government takes the view that the actual mooted of proposal may vary in the light of the specific situation in each district. Many a time, a Department's scrutiny of a proposal involves the exercise of its statutory functions and whose prerogative other Bureaux/Departments must respect. A working group may add to bureaucracy without adding any value or efficiency to the established inter-departmental coordination mechanism.

There is currently no plan to set up a dedicated team, conduct any studies, nor set up any seed funds.

Under the Food Business Regulation (Cap. 132X), any person who carries on any food business which involves the preparation of food for sale for human consumption off the premises must obtain a food factory licence from FEHD. The requirements and conditions imposed therein are to ensure that food is safe and fit for human consumption. It helps control food sold by the food business is to be prepared in premises which comply with the hygiene standards prescribed by law. The Government keeps an open mind towards community kitchens, so long as food safety and environmental hygiene are not compromised. The Government has an established mechanism to deal with the future use of vacant government venues. FEHD will discuss with relevant Government departments on the long-term use of the market(s) to be closed.

The organization of bazaars in public rental housing estates and venues managed by the Leisure and Cultural Services Department or Home Affairs Department

(b) the conditions under which the Housing Department ("HD") would

provide venues in public rental housing ("PRH") estates for organizing commercial activities with cash transactions;

- (c) the terms and conditions of the land leases or deed of mutual covenants requiring HD to obtain consent from other owners for setting up bazaars in common areas of PRH estates;
- (d) the Administration's response to Subcommittee members' views that:
 - (i) bazaars established in venues managed by HD, Leisure and Cultural Services Department ("LCSD") and Home Affairs Department should allow commercial activities with money transactions in principle, and only under special circumstances should bazaar organizers be required to seek prior approval from the relevant departments for such activities;
 - (ii) relaxing the stringent requirements adopted by LCSD in vetting applications for using leisure venues for setting up bazaars; and

HD's response:

As mentioned in the Sub-Committee paper CB(1)690/16-17(05), HD will handle proposals to set up bazaars in its public rental housing (PRH) estates in complement with the Government's policy. If a proponent identifies appropriate venues for setting up bazaars, and secures the support of local communities and the respective District Councils, HD will, on a case-by-case basis, examine the feasibility and the impact of the proposals in the light of the needs and circumstances of the estates concerned. In view of the enquiry of the Subcommittee, we set out the key points as follows for Members' easy reference –

Since some PRH estates involve other owners, and they are located on land lots subject to land leases with restrictions on land use and floor areas and deeds of mutual covenant (DMC), approval from the Lands Department and consent of other owners may also be required for the implementation of the proposals for setting up bazaars. Besides, the views of residents and other stakeholders have to be taken into account.

Under the prevailing practice, HD would provide venues at a fee for the provision of various non-profit making or commercial services as required by

the residents depending on the needs and circumstances of individual estates. Examples of these services include mobile Chinese medical clinics or physiotherapy vehicles, mobile banking, etc. As mentioned above, HD will handle such proposals on a case-by-case base. Interested parties could approach the estate management office concerned for enquiries.

When considering any applications for approvals relating to lease conditions, the Lands Department will require the applicant to seek the consent of all owners of the lot. Furthermore, for estates involving other owners and subject to DMC, the Estate Common Areas within the estates are jointly owned by all owners and any proposals to change the use of areas concerned would require the consent of all owners.

The relevant land information, including the land lease and DMC, are kept in the Land Registry. Interested parties may approach the Land Registry for access to such documents.

LCSD's response:

Leisure venues managed by the Leisure and Cultural Services Department (LCSD) are primarily for recreational purpose and are governed by the Pleasure Grounds Regulation (Cap. 132 BC), under which trading is normally not allowed without prior approval. These public pleasure grounds are valuable resources that provide immense amenity and recreational values for public enjoyment. The great public demand for use of recreational grounds and leisure facilities managed by LCSD demonstrates the importance of maintaining these venues for recreational use.

On the other hand, we understand that the public may sometimes wish to use LCSD venues for other community purposes such as organization of district community events, cultural activities or charitable functions, some of which are supported by the District Councils or district organisations. Most of these events are of one-off nature held once a year. Prolonged and regular non-designated use of leisure venues is normally not allowed. In the event when a proponent applies to use a venue under our management to organise short term bazaar like activities, we will handle and consider the application on a case by case basis in accordance with established procedure.

Organisations can submit applications for non-designated use of leisure venues to LCSD, which will in turn consult relevant departments and consult the respective District Council on the applications. In order to ensure that our leisure venues can carry out their missions to meet the recreational and amenity needs of the general public, each application for non-designated use of our leisure venues generally should not last more than three days or be on a recurrent basis, unless under exceptional circumstances. Approval may be granted by LCSD for the non-designated use of leisure venue subject to the proponent meeting the specific requirements in response to the comments received. As each application has to be considered by relevant departments on a case-by-case basis, LCSD is unable to grant the approval in principle.

On grounds of public safety and compliance with the relevant Ordinance, hirer of leisure venues for holding non-designated use activities is required, where applicable, to comply with the following requirements:

- (a) If income (other than sale of commodity in a bazaar) such as admission fees, rents, commercial sponsorship, etc is generated from the function, the hirer may be required to provide a copy of audited account statement of the function.
- (b) For temporary structures exceeding 1.7 metres high such as stage with backdrop, marquee and tent on or within which public programme or performance will be conducted, certification on the design and construction may be required.
- (c) For holding music, singing and instrument performance activities or activities with use of multiple or extensive sound amplification system, compliance with relevant noise control advice or guidelines is required.
- (d) For amusement games or games with prizes, permission from the Office of the Licensing Authority of the Home Affairs Department (HAD) for the Amusements with Prizes Licence is required to be obtained.
- (e) For fund raising activities, permission from the Social Welfare Department or the Home Affairs Bureau is required to be obtained.
- (f) For retail sale of liquor at public entertainment event or on public occasion, a Temporary Liquor Licence from the Hong Kong Police Force is required to be obtained.

- (g) For good business activities, a licence or permit from FEHD is required to be obtained.
- (h) If amusement rides are to be installed, the approval of Director of Electrical and Mechanical Services prior to the commencement of operation of the ride is required to be obtained.

In addition, the hirer should take out a public liability insurance policy in the joint names of the Government of the Hong Kong Special Administrative Region and itself in an amount of indemnity corresponding to the risk levels of activities.

LCSD will coordinate with the applicant and relevant departments as appropriate in the pursuit of necessary permission and joint site meeting will also be arranged with the applicant and relevant departments before the event if necessary.

HAD's response:

Under the current Government policy, community halls / community centres (CHs/CCs) managed by HAD provide venues for holding a wide range of local community activities to foster community building in districts. Applications from commercial organisations should therefore not be accepted.

However, District Officers may approve an application for use of CHs/CCs involving commercial organisations in very exceptional cases where the activities are clearly of public interest and public concern to the local community and that the provision of the venue in a CH/CC within the district will greatly facilitate the attendance and participation of the local community. An example is the conducting of annual auction of stalls for Lunar New Year Fair organised by the Food and Environmental Hygiene Department in CH/CCs.

We note Members' views. As CHs/CCs have all along been playing a vital role in community building which is one of the key programme areas of the HAD, we are of the view that the current booking policy should be maintained. As such, commercial activities such as bazaars or similar events should not be allowed.