

Subcommittee on Issues Relating to Bazaars

**Provision of information as requested at the meetings
on 13 June and 4 July 2017**

In response to the written requests (Annex 1 and Annex 2) made by and a letter (Annex 3 (*only Chinese version is available*)) referred by the Secretariat of the Subcommittee on Issues Relating to Bazaars (the Subcommittee) regarding the captioned subject, this paper provides a consolidated reply from the relevant departments.

Definition of District Councils (DCs)' support

2. The Government adopts a positive attitude towards specific bottom-up proposals for organising bazaars. When suitable sites have been identified by the organisations concerned (i.e. the venue owners have no in-principle objection to the proposed bazaars being held at their venues at the proposed time slots) and support from local communities and respective DCs have been obtained, provided that the bazaar proposals will not compromise public order and safety, food safety and environmental hygiene, and will not obstruct public passageways, the Government will facilitate liaison with the relevant bureaux and departments regarding the use of the sites.

3. Bazaar proposals are bottom-up initiatives in nature. We believe that the circumstances of different districts vary, and DCs provide effective platforms to discuss local issues according to the District Councils Ordinance (Chapter 547).

The “general principles” of handling specific bazaar proposals and enhancing the processing procedures

4. The considerations of the relevant departments in handling specific bazaar proposals are already set out in LC Paper No. CB(1) 690/16-17(03). We will closely monitor whether there is room for

enhancing the processing procedures for the proposals.

Bazaar proposals organised in public rental housing (PRH) estates under the Housing Authority (HA)

5. We have explained in various papers¹ submitted to the Subcommittee on how HA supports the Government's policy on bazaars, and the mechanism, considerations and principles of HA in processing applications for organising activities in PRH estates under its purview. In response to the Subcommittee's request for supplementary information at the meetings on 13 June and 4 July 2017, we provide another consolidated reply as follows.

HA's principles and considerations in processing bazaar proposals

6. As we pointed out in the said Legco papers, HA will act in complement with the Government's policy on bazaars. Upon receipt of proposals to set up bazaars in PRH estates under its purview, HA will examine the feasibility of such proposals and their impact on the estates concerned, in light of the needs and actual circumstances of these estates. Support from the local communities and respective DCs must be obtained for these specific proposals.

7. Generally speaking, PRH estates are densely populated and open spaces on the ground level are often used for public passageways, sitting-out areas or common spaces for residents' use. As for the common areas jointly-owned by HA and other private owners, consent from other owners is required for the establishment of bazaars in such areas. In addition, if the land lots are subject to land leases and deeds of mutual covenant with restrictions on floor areas and land use, approval from the Lands Department (LandsD) may be required for the implementation of the bazaar proposals. Regardless of whether or not the estates involve other owners, HA has to take into account the views of

¹ Including the LC Paper Nos. CB (1) 690/16-17 (03) and CB (1) 690/16-17 (05) submitted on 17 March 2017, LC Paper No. CB (1) 842/16-17 (03) submitted on 19 April 2017, LC Paper No. CB (1) 973/16-17 (01) submitted on 19 May 2017 and LC Paper No. CB (1) 1118/16-17 (01) submitted on 12 June 2017.

residents and other stakeholders, and to consider the impact of such proposals on the PRH estates, including whether the proposals would cause environmental hygiene problems, obstruction of public passageways, nuisances to residents or the risk of drawing in illegal hawking activities, etc. The above arrangements are put in place based on the actual circumstances and the relevant legal framework. HA seeks legal advice on legal matters for its own internal use only and is not in a position to make it available to the Subcommittee.

LandsD's mechanism in handling applications for short term waiver or lease modification

8. When applications for short term waiver or lease modification are received, District Lands Offices (DLOs) will consult the relevant government departments and, if necessary, the local communities through the respective District Offices during the vetting process. If objections are received, DLOs will consider each case on its own merits. Since each case is different, there is no hard and fast rule on how to handle objections. For successful applications, the applicants must pay temporary waiver fees or land premium and accept other additional terms and conditions.

HA's mechanism in processing bazaar applications

9. As requested by members, we attach the flow chart of HA's procedures in handling bazaar applications at Annex 4(A) and the application form at Annex 4(B) (*only Chinese version is available*) for members' information. The Housing Department (HD) will consider whether further amendments to the application form are required according to the needs and circumstances after taking into account the practical experience in processing bazaar applications.

10. HD has also promulgated the considerations and principles in processing applications for organising bazaars in PRH estates under HA to the estate management staff. If organisations have any questions about temporary bazaar activities to be held in these PRH estates, the management staff of the estates concerned are prepared to explain the

Government's policy on bazaars and the vetting procedures to them.

11. HA will assist the bazaar proponent to consult the residents and other stakeholders through the Estate Management Advisory Committee (EMAC) of the estate concerned. If the estate concerned involves land lease, deed of mutual covenant and other owners, HA will also assist the proponent to consult the owners concerned and LandsD. Besides, the proponent must obtain support from the local communities and respective DCs for its proposed bazaar. To conclude, a specific proposal can be implemented if the venue is technically feasible and support is obtained from the stakeholders of the estate concerned, the local community and the respective DC.

12. If objections to the bazaar proposal are raised by owners or other stakeholders of the estate, HA will carry out coordination work, aiming to reduce differences and bring about consensus between the proponent and the owners or stakeholders so that the proposal could be implemented.

13. If more than one organisation apply for setting up a bazaar at the same time slot and venue, HA will carry out coordination work according to the actual circumstances of each case, aiming to let all proposals proceed as planned. The relevant bureau(x) will be consulted if necessary.

14. As to members' question about the application process for the bazaar activities proposed to be held in the open space outside Lai Kok Shopping Centre, the proponent submitted a specific proposal to HD's Lai Kok Estate Office on 15 May 2017 after securing the support of Shum Shui Po District Council's Bazaar Project Strategy Group on 12 May 2017. With the assistance of the Estate Office, the proponent gave a briefing on the bazaar proposal at the meeting of Lai Kok EMAC on 13 June 2017. Having considered various factors such as environmental hygiene and noise nuisance, the EMAC concluded that it was not suitable to hold bazaar activities at Lai Kok Estate. HD has informed the proponent of the EMAC's views for their further consideration.

Follow-up actions arising from the meeting on 13 June 2017

The Administration is requested to provide information on:

- (a) the Administration's response to Subcommittee members' suggestion of developing a common standard to be adopted by 18 District Councils ("DCs") and the District Environmental Hygiene Offices in determining how a bazaar proposal would be regarded as having obtained support from DC (e.g. no dissenting voice from DC members to the proposal, the proposal needs to be voted on at a DC meeting, written endorsement from DC has to be obtained, etc.);
- (b) the general principles (通則) adopted by various departments in vetting and approving bazaar proposals, in particular the requirements of the Food and Environmental Hygiene Department on the content of a concrete proposal (具體計劃書) (e.g. should include the floor plan of the bazaar);
- (c) concrete measures to improve the existing application procedures for establishment of bazaars, including setting clear vetting criteria and enhancing communication among relevant departments;
- (d) a copy of the new application form developed by the Housing Department for setting up bazaars in public housing estates (i.e. 慈善團體／機構在屋邨／屋苑內進行臨時墟市活動申請書); and
- (e) the Administration's response to the views raised by deputations at the meeting and in their submissions.

Follow-up actions arising from the meeting on 4 July 2017

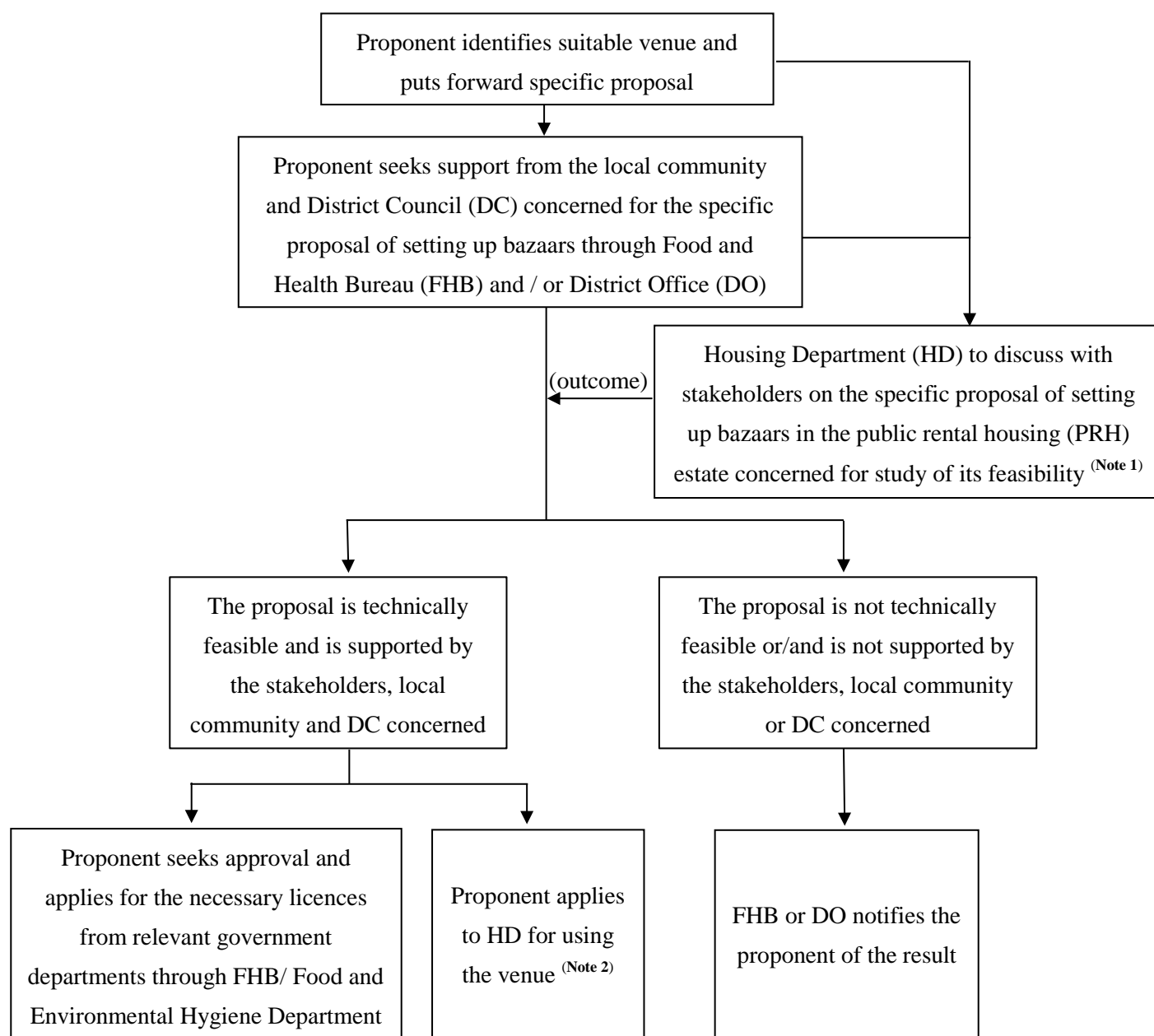
The Administration is requested to provide information on:

- (a) Members note that the Housing Department ("HD") will need to seek consent from other private owners for the establishment of bazaars at the common areas of public rental housing ("PRH") estates that are jointly-owned by the Housing Authority and other private owners (e.g. Link Real Estate Investment Trust ("Link REIT")). Moreover, some PRH estates are located on land lots subject to land leases or deed of mutual covenants. Subject to the terms and conditions of the land leases or deed of mutual covenants, approval from the Lands Department ("LandsD") may also be required for a temporary waiver or lease modification permitting the use of the land for the purpose of establishing bazaars. The Administration is requested to provide the following information:
 - (i) legal advice on whether HD, being the major owner of PRH estates with the majority of shares in the property, has the legal power to approve a bazaar proposal even there is objection from other private owners;
 - (ii) legal advice on the role and power of LandsD in vetting applications for change in the use of land in PRH estates for setting up bazaars, in particular when residents welcome the bazaar proposal but consent from some of the private owners cannot be obtained;
 - (iii) the mechanism adopted by HD in handling bazaar proposals (including procedures for obtaining consent from other private owners and communication with bazaar organizers during the process), using the recent proposal of setting up a bazaar in Lai Kok Estate as an example; and
 - (iv) a copy of the new application form developed by HD for setting up bazaars in PRH estates (i.e. 慈善團體／機構在屋邨／屋苑內進行臨時墟市活動申請書) which the Subcommittee has already requested at the meeting on 13 June 2017.

(b) The Administration's response to Subcommittee members' suggestions as follows:

- (i) using vacant stalls of public markets to develop community kitchens with a view to assisting bazaar operators to prepare cooked food for sale;
- (ii) to work out a list of vacant market stalls suitable for setting up community kitchens; and
- (iii) identifying and liaising with potential non-governmental organizations for setting up community kitchens in vacant market stalls.

**Application Process for Organising Temporary Bazaar Activities in
Public Housing Estates under the Hong Kong Housing Authority**



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Note 1 HD will, through the Estate Management Advisory Committee concerned, consult residents and other stakeholders, and duly consider whether the proposal will obstruct public and emergency access, compromise environmental hygiene, cause nuisances to residents and draw in illegal hawking activities, as well as whether the necessary facilities are available, such as power supply and drainage provision. If the PRH estate concerned involves other owner(s), and the land lot is subject to land lease and deed of mutual covenant, consent of other owner(s) and approval from the Lands Department have to be obtained.

Note 2 The proponent will also be responsible for the operation of bazaars and the management of the venue. If the proponent is a charitable / non-profit making organisation and the operation of the proposed bazaar is non-profit making in nature, HA will charge the venue fees on a concessionary basis with a view to recovering the administrative costs generally. If the organisation of the proposed bazaar and the organiser are commercial in nature, HA will assess and charge the venue fees at market level.