

立法會
Legislative Council

LC Paper No. CB(2)667/18-19
(These minutes have been
seen by the Administration)

Ref : CB2/BC/5/17

**Bills Committee on
Hotel and Guesthouse Accommodation (Amendment) Bill 2018**

**Minutes of the second meeting
held on Tuesday, 4 December 2018, at 2:30 pm
in Conference Room 1 of the Legislative Council Complex**

Members present : Hon YIU Si-wing, BBS (Chairman)
Hon CHEUNG Kwok-kwan, JP (Deputy Chairman)
Hon Paul TSE Wai-chun, JP
Hon Charles Peter MOK, JP
Hon KWOK Wai-keung, JP
Hon Alvin YEUNG
Hon SHIU Ka-fai
Hon Vincent CHENG Wing-shun, MH
Hon Tony TSE Wai-chuen, BBS

Member absent : Hon James TO Kun-sun

Member attending : Hon Christopher CHEUNG Wah-fung, SBS, JP

Public Officers attending : Item II

Mr Jack CHAN, JP
Under Secretary for Home Affairs
Home Affairs Bureau

Miss Vega WONG, JP
Deputy Director of Home Affairs (2)
Home Affairs Department

Miss Grace LI, JP
Assistant Director of Home Affairs (4)
Home Affairs Department

Mr Lawrence LI
Administrative Officer (4)
Home Affairs Department

Mr Peter SZE
Senior Assistant Law Draftsman (Acting)
Department of Justice

Ms Carmen CHU
Senior Government Counsel
Department of Justice

Attendance by invitation : Item I

The Federation of Hong Kong Hotel Owners

Mr Michael LI Hon-shing
Executive Director

Hong Kong Guesthouses Association

Mr David LEUNG Tai-wai
Founder Chairman

The Incorporated Owners of Mirador Mansion,
11th Management Committee Board

Mr LI Ka-lung
Secretary

Kowloon Incorporated Owners Joint Alliances

Mr LEUNG Nga-lun
Chairman

Miss CHIU Wai-lam

Mr LI Siu-tong

TWH-Tai Wan Hotel Ltd

Mr LI Wai-ming
Owner

Mr LAM Yuet-man

Mrs CHEN Chen-eng

大華旅館集團

Mr LAW Kai-yiu
Owner

美麗都大廈業主立案法團

Mr LUI Kong-ngai
Committee Member

Miss Hazel HO Mu-zi

Mr CHAN Yuk

The Tourist Guest Houses Federation of Hong Kong

Mr LAU Kung-shing
Chairman

Hong Kong Hotels Association

Mr Patrick KWOK Chi-kit
Executive Director

Southern District Office, HKI, Liberal Party

Mr Jonathan LEUNG
Chairperson

The Lion Rock Institute

Mr NG Kin-wah
Event Officer

Mr LAU Yin-ming

Hong Kong Association of Hostels

Mr SEE Pak-luk
Vice Chairman

The Incorporated Owners of The Sorentino

Mr WAN Wing-man
主席

Dr CHENG Lee-ming
Member of Kowloon City District Council

反對無牌旅館大聯盟

曾卓兒女士
召集人

The Federation of Buildings Owners Organization of
Cheung Sha Wan and Lai Chi Kok

Mr CHUM Tak-shing
Executive Director

自由黨青年團

張景勛先生
團長

Booking.com

Mr Calvert LO
Area Manager

Broadway Nassau Investments Ltd

Mr LUI Kwok-ki
Senior Property Manager

Mr CHAN Chun-yin

Miss Yolanda NG
Member of Wan Chai District Council

朱美美女士

Airbnb

Mr Marvin MA
Public Affairs Manager - Hong Kong & Taiwan

Mr CHOY Kwai-tim

Mr David CHAN

Impact Communications Company

Ms Carmen POON Lai-king
HomeAway Spokesperson

Mr Yoshiaki KUBOTA

Ms AU Tak-mei

五洲大廈業主立案法團

趙建新女士
主席

Foreign Guest Houses Investor Concern Group

Mr Singh SUKHJIT
Convener

Miss Sammi FU Hiu-lam
Member of Islands District Council

Clerk in attendance : Mr Colin CHUI
Chief Council Secretary (2) 4

Staff in attendance : Ms Vanessa CHENG
Assistant Legal Adviser 5

Ms Catherina YU
Senior Council Secretary (2) 4

Miss Alison HUI
Legislative Assistant (2) 4

I. Meeting with deputations and the Administration

[File Ref.: HAD HQ CR/15/3/20(C); LC Paper Nos. LS96/17-18, IN01/18-19, CB(3)811/17-18, CB(2)190/18-19(01) to (02), CB(2)201/18-19(01), CB(2)339/18-19(01) and CB(2)376/18-19(01)]

The Bills Committee deliberated (index of proceedings attached at **Annex**).

2. The Bills Committee requested the Administration to:

- (a) provide its views on the suggestions made by operators of home-stay lodging and on the regulation of home-stay lodging in Japan, Taiwan and London set out in the Information Note. The Administration should also explain why it considered the measures adopted in those places infeasible in Hong Kong; and
- (b) provide its response to the views of individuals and deputations given to the Bills Committee.

II. Date of next meeting

3. The Chairman said that members would be informed of the date of the next meeting in due course.

III. Any other business

4. There being no other business, the meeting ended at 5:24 pm.

Council Business Division 2
Legislative Council Secretariat
21 January 2019

**Proceedings of the second meeting of the
Bills Committee on Hotel and Guesthouse Accommodation (Amendment) Bill 2018
on Tuesday, 4 December 2018, at 2:30 pm
in Conference Room 1 of the Legislative Council Complex**

Time marker	Speaker(s)	Subject(s)	Action required
<i>Agenda item I – Meeting with deputations/individuals and the Administration</i>			
000825-001346	Chairman	Opening remarks Declaration by the Chairman that he was an employee of a company which invested in hotel projects.	
001347-001700	The Federation of Hong Kong Hotel Owners	Presentation of views [LC Paper No. CB(2)339/18-19(02)(revised)]	
001701-002005	Hong Kong Guesthouses Association	Presentation of views	
002006-002249	The Incorporated Owners of Mirador Mansion, 11th Management Committee Board	Presentation of views [LC Paper No. CB(2)339/18-19(03)]	
002250-002554	Kowloon Incorporated Owners Joint Alliances	Presentation of views	
002555-002739	Miss CHIU Wai-lam	Presentation of views [LC Paper No. CB(2)339/18-19(07)]	
002740-003046	Mr LI Siu-tong	Presentation of views [LC Paper No. CB(2)339/18-19(04)]	
003047-003241	TWH-Tai Wan Hotel Ltd	Presentation of views [LC Paper No. CB(2)339/18-19(05)]	
003242-003542	Mr LAM Yuet-man	Presentation of views [LC Paper No. CB(2)339/18-19(12)]	
003543-003726	Mrs CHEN Chen-eng	Presentation of views [LC Paper No. CB(2)430/18-19(01)]	
003727-003952	大華旅館集團	Presentation of views [LC Paper No. CB(2)430/18-19(02)]	

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003953-004150	美麗都大廈業主立案法團	Presentation of views	
004151-004356	Miss Hazel HO Mu-zi	Presentation of views	
004357-004701	Mr CHAN Yuk	Presentation of views	
004702-005008	The Tourist Guest Houses Federation of Hong Kong	Presentation of views [LC Paper No. CB(2)339/18-19(11)]	
005009-005309	Hong Kong Hotels Association	Presentation of views [LC Paper No. CB(2)339/18-19(08)]	
005310-005615	Southern District Office, HKI, Liberal Party	Presentation of views [LC Paper No. CB(2)417/18-19(01)]	
005616-005922	The Lion Rock Institute	Presentation of views	
005923-010154	Mr LAU Yin-ming	Presentation of views	
010155-010499	Hong Kong Association of Hostels	Presentation of views	
010500-010804	The Incorporated Owners of The Sorentino	Presentation of views [LC Paper No. CB(2)339/18-19(09)]	
010805-010951	Dr CHENG Lee-ming, Member of Kowloon City District Council	Presentation of views	
010952-011236	反對無牌旅館大聯盟	Presentation of views	
011237-011525	The Federation of Buildings Owners Organization of Cheung Sha Wan and Lai Chi Kok	Presentation of views [LC Paper No. CB(2)339/18-19(13)]	
011526-011826	自由黨青年團	Presentation of views	

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011827-012016	Booking.com	Presentation of views	
012017-012211	Broadway Nassau Investments Ltd	Presentation of views	
012212-012508	Mr CHAN Chun-yin	Presentation of views [LC Paper No. CB(2)417/18-19(02)]	
012509-012740	Miss Yolanda NG, Member of Wan Chai District Council	Presentation of views	
012741-012928	朱美美女士	Presentation of views [LC Paper No. CB(2)447/18-19(01)]	
012929-013236	Airbnb	Presentation of views [LC Paper No. CB(2)339/18-19(14)]	
013237-013535	Mr CHOY Kwai-tim	Presentation of views [LC Paper No. CB(2)447/18-19(02)]	
013536-013840	Mr David CHAN	Presentation of views [LC Paper No. CB(2)367/18-19(01)]	
013841-014146	Impact Communications Company	Presentation of views [LC Paper No. CB(2)339/18-19(15)]	
014147-014437	Mr Yoshiaki KUBOTA	Presentation of views [LC Paper No. CB(2)339/18-19(16)]	
014438-014748	Ms AU Tak-mei	Presentation of views [LC Paper No. CB(2)339/18-19(18)]	
014749-015038	五洲大廈業主立案法團	Presentation of views [LC Paper No. CB(2)339/18-19(19)]	
015039-015345	Foreign Guest Houses Investor Concern Group	Presentation of views	
015346-015658	Miss Sammi FU Hiu-lam, Member of Islands District Council	Presentation of views [LC Paper No. CB(2)339/18-19(25)]	
015659-020526	Chairman Administration	In response to the views of individuals and deputations, the Administration explained: (a) the intent of the Hotel and Guesthouse Accommodation (Amendment) Bill 2018 ("the Bill");	

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		<p>(b) the requirement for guesthouse licence holders to comply with the provisions of Deeds of Mutual Covenant ("DMCs") or Government leases;</p> <p>(c) the functions and composition of the independent panel ("the Panel") which would be set up for collecting views of persons affected by the operation of hotels or guesthouses ("local consultation"); and</p> <p>(d) the objectives of (i) conducting local consultation on licence applications; (ii) imposing strict liability on owners and tenants of premises used as an unlicensed hotel or guesthouse; and (iii) empowering the Hotel and Guesthouse Accommodation Authority ("the Authority") to apply to the court, upon the second conviction within 16 months of the offence of operating an unlicensed hotel or guesthouse or the new strict liability offence in respect of the same premises, to issue a closure order for the premises for six months.</p> <p>The Administration also advised that:</p> <p>(a) the operator of a licensed guesthouse, as one of the occupants of the building, had all along been obliged to observe and comply with all the provisions of the DMC concerned. A guesthouse licence issued by the Authority did not act as a waiver of any terms in any lease, tenancy agreement or licence granted by the Government, nor did it affect or change the provisions of that DMC or other covenants relating to the building in which the guesthouse was situated. The issuance of a licence did not exempt or protect the licence holder from any consequence and liability of any breach of the laws, DMC or other leases and agreements;</p> <p>(b) it welcomed lawful operation of home-stay lodging, which was not precluded by the existing licensing regime. Specific types of licences for guesthouses, e.g. guesthouse (holiday flat) licences, were issued to village-type houses in the New Territories which operated in the mode of "home-stay lodging". The Home Affairs Department had provided assistance in facilitating the proposal for setting up holiday flats in the New Territories; and</p> <p>(c) in drafting the Bill, the Administration had taken into account the views collected from various stakeholders during and after the public consultation on the review of the Hotel and Guesthouse Accommodation Ordinance (Cap. 349) ("the Ordinance") conducted in 2014.</p>	
020527-021030	Chairman Mr Alvin YEUNG Administration	The Administration responded to Mr Alvin YEUNG's enquiry regarding whether the Bill had addressed all the concerns and views of individuals and deputations. The Administration further advised that it would follow up the views carefully.	

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		<p>Mr Alvin YEUNG enquired and the Administration replied regarding:</p> <p>(a) whether the Administration held a different stance on home-stay lodging in Hong Kong having listened to the views made by him and Mr Charles MOK at the first meeting of the Bills Committee on 6 November 2018; and</p> <p>(b) whether the Administration had made reference to the Information Note entitled "Regulation of home-stay lodging in selected places" prepared by the Research Office of the Legislative Council ("LegCo") Secretariat (LC Paper No. IN01/18-19) ("Information Note") in considering the regulation of home-stay lodging in Hong Kong.</p> <p>The Administration reiterated that it welcomed home-stay lodging provided that they met the licensing requirements and complied with DMC or land lease provisions of the premises concerned.</p>	
021031-021541	Chairman Mr Charles MOK Administration	<p>Mr Charles MOK took the view that the Administration should consider differentiating home-stay lodging from other types of guesthouses as recommended in the Director of Audit's Report No. 69 ("Audit Report") which was published in October 2017.</p> <p>Mr MOK enquired whether the Administration would take forward the recommendations made in the Audit Report on differentiating home-stay lodging from other types of guesthouses by simplifying the licence requirements for home-stay lodging, consulting relevant stakeholders and considering whether overseas examples on the regulation of home-stay lodging might be applicable to Hong Kong.</p> <p>The Administration responded that it had accepted all the recommendations made in the Audit Report and had taken follow-up actions as necessary. The Administration had also provided its response to the Audit Commission and the Public Accounts Committee. It had not ruled out the possibility of adopting a flexible approach to facilitate the operation of home-stay lodging in suitable places such as in Lai Chi Wo. It welcomed suggestions on the use of suitable premises for home-stay lodging.</p>	
021542-022603	Chairman Mr Paul TSE Administration	<p>Mr Paul TSE said that he had been affected by the operation of a guesthouse and its "shadow guesthouse".</p> <p>Mr TSE took the view that:</p> <p>(a) as home-stay lodging was a global trend and budget accommodation had become more popular, the Administration should keep up with the global tourism trend;</p> <p>(b) while welcoming the improvements to the existing licensing regime, he considered that the Administration</p>	

Time marker	Speaker(s)	Subject(s)	Action required
		<p>should also address the concerns of various stakeholders and balance their interests so as to keep up with the new tourism trend; and</p> <p>(c) the Administration could make reference to the registration system for home-stay lodging in New South Wales ("NSW"), Australia.</p> <p>The Chairman took the view that a reasonable increase in the supply of accommodation for tourists to meet their demand would help the development of tourism but the problems caused by unlicensed guesthouses needed to be addressed. He hoped that the Bill would not affect the development of the hotel/guesthouse sector and at the same time could safeguard the interest of operators of licensed hotels/guesthouses.</p> <p>In response to the Chairman's enquiry about the Panel's impartiality in collecting views during the local consultation exercise and considering these views, the Administration advised that, after the passage of the Bill, administrative guidelines would be drawn up for the Panel with reference to the guidelines and existing practice adopted for conducting local consultation on applications for various types of licences (e.g. liquor licence under the Dutiable Commodities Ordinance (Cap. 109) and amusement game centre licence under the Amusement Game Centres Ordinance (Cap. 435)). The Administration took the view that the local consultation exercise would not threaten the survival of licensed guesthouses.</p> <p>The Chairman enquired and the Administration replied regarding the composition of the Panel and the proportion of representatives from the hotel/guesthouse sector to the membership of the Panel.</p>	
022604-023110	Chairman Mr Charles MOK Administration	<p>Regarding the Administration's invitation of suggestions on home-stay lodging (time marker: 021031-021541 referred), Mr Charles MOK said that the home-stay lodging sector and some LegCo Members had been providing their views to the Administration in recent years. He had also provided his views on the Bill in his submission (LC Paper No. CB(2)376/18-19(01) issued on 4 December 2018).</p> <p>The Administration responded to the following views and enquiries from Mr MOK:</p> <p>(a) the new licensing regime would render the home-stay lodging sector unable to survive;</p> <p>(b) in considering regulation of home-stay lodging in Hong Kong, the Administration should make reference to such regulation in Japan, Taiwan and London set out in the Information Note; and</p> <p>(c) whether the Administration would conduct a public consultation exercise on differentiating home-stay lodging</p>	

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		<p>from other types of guesthouses and simplifying licence requirements for home-stay lodging.</p> <p>The Administration briefed members on its response to the Audit Report.</p>	
023111-023633	Chairman Mr Paul TSE Administration	<p>The Administration responded to the following views from Mr Paul TSE:</p> <p>(a) the Administration should take into account the global trend of home-stay lodging in considering the new licensing regime. Otherwise, the passage of the Bill might drive the home-stay lodging industry underground;</p> <p>(b) there should be different regulation regimes for guesthouses and home-stay lodging. The Administration could make reference to the registration system for home-stay lodging in NSW, Australia;</p> <p>(c) the guesthouse industry and home-stay lodging industry could co-exist and the Administration should be open-minded towards various options on operating home-stay lodging;</p> <p>(d) the Administration should carry out a study on the development of home-stay lodging in tandem with its proposed amendments to the Ordinance; and</p> <p>(e) the Administration should consider conducting a public consultation exercise on differentiating home-stay lodging from other types of guesthouses and simplifying licence requirements for home-stay lodging.</p>	
023634-024124	Chairman Administration	<p>The Administration responded to the following enquiries from the Chairman:</p> <p>(a) how the Administration would assist operators who had to relocate their guesthouses because there were express provisions which prohibited the premises concerned from being used as a guesthouse ("the restrictive provision") in the DMCs concerned or the Government leases; and</p> <p>(b) whether operators of licensed guesthouses or agents/agencies (e.g. travel agents/agencies) who recommended unlicensed guesthouses to travelers or someone who promoted unlicensed guesthouses via online platforms would be held criminally liable.</p>	
024125-024629	Chairman Mr Charles MOK Administration	<p>Mr Charles MOK requested the Administration to:</p> <p>(a) provide its views on the regulation of home-stay lodging in Japan, Taiwan and London set out in the Information Note and explain why it considered the measures adopted in these places infeasible in Hong Kong; and</p>	Admin (paragraph 2(a) of the minutes)

Time marker	Speaker(s)	Subject(s)	Action required
		<p>(b) provide its views on the suggestions made by operators of home-stay lodging.</p> <p>The Administration undertook to provide the required information.</p> <p>In response to Mr MOK's enquiry about whether the Administration would differentiate home-stay lodging from other types of guesthouses, the Administration said that the subject matter was a policy matter and should therefore be discussed by the relevant Panel from the policy perspective. The Bills Committee should focus on the examination of the Bill.</p> <p>Mr MOK expressed his view that as the proposed amendments to the Ordinance would affect the home-stay lodging sector, the subject matter should not be dealt with separately.</p>	
024630-025217	Chairman Mr Paul TSE Administration	<p>The Administration responded to the following views and enquiries from Mr Paul TSE:</p> <p>(a) licensing of guesthouses and nuisance caused by operation of guesthouses should not be discussed in a bundle;</p> <p>(b) it might not be necessary to impose strict regulations on guesthouses if the relevant laws were clear enough and enforcement actions were effective;</p> <p>(c) the passage of the Bill would not be able to solve all existing problems caused by unlicensed guesthouses and the new licensing regime might bring about other problems, e.g. concentration of guesthouses in buildings the DMCs of which did not have the restrictive provision, underground operation of unlicensed guesthouses, etc.; and</p> <p>(d) how the Administration would address the concerns about nuisance caused by operation of guesthouses.</p> <p>The Administration reiterated that:</p> <p>(a) compliance with land documents was not a new requirement imposed by the Bill; and</p> <p>(b) currently, the Authority would have to revoke the licence or refuse the licence application in respect of premises on which the court issued injunction orders regarding breach of DMC or the land authority advised on breach of land lease.</p>	
025218-025744	Chairman Mr SHIU Ka-fai Administration	<p>Mr SHIU Ka-fai indicated his support for the Bill.</p> <p>Mr SHIU gave the following views:</p> <p>(a) the Administration should eradicate unlicensed guesthouses and facilitate survival of the lawful ones;</p>	

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		(b) home-stay lodging should also be regulated by the licensing regime so as to safeguard the safety of local residents and minimize inconvenience caused to them by home-stay lodging; and (c) home sharing might reduce the supply of rental domestic flats in Hong Kong and cause rent increase, which were not beneficial to Hong Kong.	
025745-025803	Chairman	The Chairman requested the Administration to provide its response to the views of individuals and deputations given to the Bills Committee. The Administration undertook to do so. Date of next meeting	Admin (paragraph 2(b) of the minutes)

Council Business Division 2
Legislative Council Secretariat
21 January 2019