

**民政事務總署**

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15 January 2019

Ms Wendy Jan  
Clerk to Bills Committee  
Council Business Division 2, Legislative Council Secretariat  
Legislative Council Complex  
1 Legislative Council Road  
Central, Hong Kong

Dear Ms Jan,

**Hotel and Guesthouse Accommodation (Amendment) Bill 2018 (“the Bill”)**

Thank you for your letter dated 14 December 2018 ref CB2/BC/5/17. Regarding the regulation of home-stay lodging in other places and our assessment on such practices, please refer to paragraphs 20-27 and Annex C of the Government’s response to the follow-up actions arising from the first meeting. As for our response to submissions from deputations/individuals to the Bills Committee, it is set out in **Annex**.

Yours sincerely,

(Miss Grace Li)  
for Director of Home Affairs

cc. Department of Justice (Attn: Mr Peter Sze)

**Bills Committee on Hotel and Guesthouse Accommodation (Amendment) Bill 2018 (“the Bill”)  
Submissions from Deputations/Individuals to the Bills Committee and the Government’s Responses**

<b>Views/Issues Raised</b>	<b>Deputation/Individual</b>	<b>Government’s Response</b>
<b>A. Compliance with deed of mutual covenant (“DMC”) or land lease provisions</b>		
1. The Government should include the DMCs as a requisite condition for the issue of licence.	<ul style="list-style-type: none"><li>● The Incorporated Owners of The Sorentino (339/18-19(09))</li><li>● Mr Yoshiaki KUBOTA (339/18-19(16))</li><li>● The Incorporated Owners of Continental Mansion (339/18-19(19))</li><li>● Mr David CHAN (367/18-19(01))</li><li>● 朱美美女士 (447/18-19(01))</li><li>● Mr CHOY Kwai-tim (447/18-19(02))</li><li>● Ms Yolanda NG (views raised in meeting)</li></ul>	<p>To address public concerns, the Bill proposes empowering the Hotel and Guesthouse Accommodation Authority (“the Authority”)<sup>1</sup> to take into account, in the licensing process, whether relevant land documents (e.g. the deed of mutual covenant (“DMC”) of the building concerned) contain any express provision which prohibits the premises concerned from being used (i) as a hotel or guesthouse, (ii) for commercial purpose or (iii) otherwise than for private residential purpose (hereafter referred to as “restrictive provisions”). The Authority will refuse to issue or renew a licence if it is not satisfied that there are no restrictive provisions in the land documents of the premises concerned.</p> <p>The requirement for hotels and guesthouses to operate in compliance with the relevant provisions in the land</p>

<sup>1</sup> Under section 4(1) of the Hotel and Guesthouse Accommodation Ordinance (“HAGAO”), the Secretary for Home Affairs is the Authority. Under section 4(2) of HAGAO, the Authority may authorize in writing any public officer (e.g. officers of the Office of the Licensing Authority (“OLA”) under the Home Affairs Department) to perform or exercise on behalf of the Authority all or any of the functions which are imposed or conferred on the Authority by HAGAO.

Views/Issues Raised	Deputation/Individual	Government's Response
		<p>documents has been given due consideration and has legal basis. DMCs and land leases are private contracts. Concerned parties including applicants for hotel or guesthouse licences have all along been required to comply with the terms therein. Owners can all along take action against commercial activities in breach of contracts through civil proceedings.</p> <p>Expressly providing that the licensing authority will take into consideration lands documents reflects our respect for the contractual spirit. The requirement on compliance with land documents is not only reasonable, but can better ensure that operation of hotels and guesthouses by applicants and prospective licensees does not contravene any restrictive provisions of the DMC or land lease concerned. This will help reduce disputes over hotel or guesthouse operation, and save the owners' or the residents' time, costs and trouble in bringing a case before the court.</p>
<p>2. Currently, premises would be granted hotel or guesthouse licences as long as they meet fire and building safety requirements. The Government arbitrarily changed the rules of the game by proposing to</p>	<ul style="list-style-type: none"> <li>● Mr LI Siu-tong (339/18-19(04))</li> <li>● Mr LAU Yin-ming (views raised in meeting)</li> <li>● Hong Kong Association of Hostels (views raised in</li> </ul>	<p>The requirement for hotels and guesthouses to operate in compliance with the relevant provisions in land documents has been given due consideration and has legal basis.</p> <p>DMCs and land leases are private contracts.</p>

<b>Views/Issues Raised</b>	<b>Deputation/Individual</b>	<b>Government's Response</b>
<p>include compliance with DMC or land lease as a consideration for a licence.</p>	<p>meeting)</p>	<p>Concerned parties including applicants for hotel or guesthouse licences have all along been required to comply with the terms therein. Owners can all along take action against commercial activities in breach of contracts through civil proceedings.</p> <p>We have also all along expressly stated on the Application for a Licensee that a hotel or guesthouse licence does not act as a waiver of any terms in any lease or tenancy agreement, nor does it affect or change the provisions of the DMC or other covenants relating to the building in which the hotel or guesthouse premises is situated. The issuance of a licence does not exempt or protect the licensee from any legal or other consequences and liabilities of any breach of the laws, DMC or other leases and agreements.</p> <p>Under the existing mechanism, the Authority will refuse the licence application or revoke the licence if the court of law has granted an injunction order against the use of the premises as a hotel or guesthouse on grounds of non-compliance with DMC, or if the Lands Department ("LandsD") has proven that the operation of the premises as a hotel or guesthouse breaches the land lease. Subject to the court judgment and the advice of LandsD, the arrangement may also apply to</p>

Views/Issues Raised	Deputation/Individual	Government's Response
		<p>other premises used as a hotel or guesthouse in the same building.</p> <p>We believe expressly providing that the licensing authority will take into consideration lands documents reflects our respect for the spirit of contract.</p>
<p>3 Some DMCs or land leases also prohibit the operation of other commercial activities. It is unfair to target the hotel or guesthouse industry in their enforcement.</p>	<ul style="list-style-type: none"> <li>● 大華旅館集團 (430/18-19(02))</li> <li>● Hong Kong Association of Hostels (views raised in meeting)</li> </ul>	<p>Different policies may have their respective considerations.</p> <p>The possible impacts of hotels or guesthouses on the neighbourhood have aroused extensive discussion in the society. To address public concerns, we need to further refine the licensing mechanism.</p>
<b>B. Local Consultation</b>		
<p>1. The introduction of local consultation is supported, so that views of the residents and owners' corporations ("OCs") concerned are taken into full account before licence issuance.</p>	<ul style="list-style-type: none"> <li>● Hong Kong Hotels Association (339/18-19(08))</li> <li>● The Incorporated Owners of The Sorrentino (339/18-19(09))</li> <li>● Dr CHENG Lee-ming (views raised in meeting)</li> <li>● Miss Yolanda NG (views raised in meeting)</li> </ul>	<p>The operation of hotels or guesthouses may, to a certain extent, cause nuisance and inconvenience to the neighbourhood. To provide residents in the neighbourhood with a proper channel to express their views in the licencing process, the Bill proposes empowering the Authority to take into account views of the residents before making a decision on the licence application.</p>

<b>Views/Issues Raised</b>	<b>Deputation/Individual</b>	<b>Government's Response</b>
	<ul style="list-style-type: none"> <li>● Miss Sammi FU Hiu-lam (339/18-19(25))</li> </ul>	
<p>2. Local consultation will cause social division. / Requirement to seek other people's views is "rule by man". / It would throttle the room for survival of guesthouses.</p>	<ul style="list-style-type: none"> <li>● Miss CHIU Wai-lam (339/18-19(07))</li> <li>● Mr CHAN Yuk (views raised in meeting)</li> </ul>	<p>To strike a fair and reasonable balance between efficiency and impartiality, the Authority would not conduct the consultation itself, but instead would set up an independent panel to collect views submitted by affected residents ("local consultation") and make recommendations to the Authority. The recommendations of the panel are not the sole consideration, but are among the factors which the Authority may take into account in deciding whether or not a licence should be issued, and whether or not to impose suitable licensing conditions. The independent panel, before making recommendations, will also take into consideration the applicant's response to the objections collected. Applicants/licensees may respond to the objectors' concerns and propose possible improvement measures.</p> <p>Any person aggrieved by the Authority's decision may appeal to an appeal board in accordance with the procedures proposed in the Bill. Besides, local consultation is an open and transparent process. The relevant enforcement departments will certainly take appropriate actions against any unlawful acts in the</p>

<b>Views/Issues Raised</b>	<b>Deputation/Individual</b>	<b>Government's Response</b>
		<p>process.</p> <p>To ensure impartiality, our initial idea is that the composition of the independent panel will include professionals (e.g. lawyers or engineers), local communities and members of the industry. The composition and detailed operation of the independent panel will be set out in the administrative guidelines, to be drawn up with reference to the prevailing guidelines of other licensing authorities.</p>
<p>3. A majority, more than half, of the members of the independent panel for local consultation are from the industry.</p>	<ul style="list-style-type: none"> <li>● Miss CHIU Wai-lam (views raised in meeting)</li> <li>● Mr LAM Yuet-man (views raised in meeting)</li> </ul>	<p>To ensure impartiality, our initial idea is that the composition of the independent panel will include professionals (e.g. lawyers or engineers), local communities and members of the industry. The composition and detailed operation of the independent panel will be set out in the administrative guidelines, to be drawn up with reference to the prevailing guidelines of other licensing authorities.</p>
<p>4. Local consultation shifts the responsibility on licensing to OCs and may increase the risk of corruption of OCs or management companies.</p>	<ul style="list-style-type: none"> <li>● Kowloon Incorporated Owners Joint Alliances (views raised in meeting)</li> </ul>	<p>The local consultation arrangement proposed in the Bill is not meant to shift the licensing decision to OCs.</p> <p>The independent panel will make recommendations to the Authority based on the results of local consultation. Such recommendations are not the sole consideration.</p>

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		<p>The Authority will take into account the recommendations, together with other relevant factors such as the building and fire safety in respect of the application, before deciding whether or not a licence should be issued, and/or whether or not to impose suitable licensing conditions.</p> <p>The proposed local consultation provides potentially affected residents with a proper channel to express their views. Depending on the scale of the hotel or guesthouse, participation and expression of views are not confined to OCs, resident organisations or management companies but any persons affected in the building or in the neighbourhood. The independent panel, before making recommendations, will also take into consideration the applicant's response to the objections collected. Applicants/licensees may respond to the objectors' concerns and propose possible improvement measures.</p> <p>The entire local consultation is an open and transparent process. The relevant enforcement departments will certainly take appropriate actions against any unlawful acts in the process.</p>



Views/Issues Raised	Deputation/Individual	Government's Response
<b>C. Enforcement actions against unlicensed hotels or guesthouses</b>		
<p>1. Support the Government to step up regulation and enforcement against unlicensed hotels or guesthouses which cause safety, hygiene and security concerns and serious nuisance.</p>	<ul style="list-style-type: none"> <li>● The Federation of Hong Kong Hotel Owners (339/18-19(02))</li> <li>● Hong Kong Hotels Association (339/18-19(08))</li> <li>● Mr NG Po-keung, MH (339/18-19(10))</li> <li>● Ms AU Tak-mei (339/18-19(18))</li> <li>● Miss Sammi FU Hiu-lam (339/18-19(25))</li> <li>● The Incorporated Owners of Continental Mansion (339/18-19(19))</li> <li>● 錦華樓業主立案法團 (339/18-19(20))</li> <li>● Southern District Office, HKI, Liberal Party (417/18-19(01))</li> <li>● 朱美美女士 (447/18-19(01))</li> <li>● The Tourist Guest Houses Federation of Hong Kong (views raised in meeting)</li> </ul>	<p>There have been public aspirations for a more stringent licensing mechanism. The public are also expecting more effective enforcement actions and stronger deterrent effect against unlicensed hotels and guesthouses.</p> <p>To address these public aspirations, the Bill proposes a number of measures to facilitate enforcement against unlicensed hotels and guesthouses, which include:</p> <ul style="list-style-type: none"> <li>(i) empowering the Authority to apply to the court for a search warrant to allow enforcement officers to enter into, or break into, with reasonable force when necessary, a suspected unlicensed hotel or guesthouse to collect evidence;</li> <li>(ii) introducing a strict liability on the owners and tenants of premises in connection with unlicensed hotels or guesthouses to address the difficulties in evidence collection arising from new modes of operation enabled by technology, and to encourage them to take the initiative to prevent their premises from being used as an unlicensed hotel or guesthouse;</li> <li>(iii) imposing a higher maximum penalty of a fine of</li> </ul>

Views/Issues Raised	Deputation/Individual	Government's Response
	<ul style="list-style-type: none"> <li>● Mr David LEUNG (views raised in meeting)</li> <li>● Mr LI Ka-lung (views raised in meeting)</li> <li>● Dr CHENG Lee-ming (views raised in meeting)</li> <li>● 曾卓兒女士 (views raised in meeting)</li> <li>● 張景勛先生 (views raised in meeting)</li> <li>● Miss Yolanda NG (views raised in meeting)</li> <li>● Mr Singh SUKHJIT (views raised in meeting)</li> </ul>	<p>\$500,000 and imprisonment for 3 years to underline the seriousness of the offence; and</p> <p>(iv) empowering 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 6 months.</p>
<p>2. Support empowering the Authority to apply for a search warrant to facilitate enforcement actions against unlicensed hotels and guesthouses.</p>	<ul style="list-style-type: none"> <li>● The Federation of Hong Kong Hotel Owners (339/18-19(02))</li> <li>● Hong Kong Hotels Association (339/18-19(08))</li> <li>● The Incorporated Owners of Continental Mansion (339/18-19(19))</li> <li>● Mr David CHAN (367/18-19(01))</li> <li>● The Federation of Buildings</li> </ul>	

Views/Issues Raised	Deputation/Individual	Government's Response
	<p>Owners Organization of Cheung Sha Wan and Lai Chi Kok (views raised in meeting)</p>	
<p>3. Support introducing the strict liability offence to facilitate enforcement actions against unlicensed hotels and guesthouses.</p>	<ul style="list-style-type: none"> <li>● Hong Kong Hotels Association (339/18-19(08))</li> <li>● Mr David CHAN (367/18-19(01))</li> <li>● The Federation of Buildings Owners Organization of Cheung Sha Wan and Lai Chi Kok (views raised in meeting)</li> <li>● Broadway-Nassau Investments Limited (views raised in meeting)</li> </ul>	
<p>4. The proposal to empower the Authority to apply to the court, upon the second conviction with 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</p>	<ul style="list-style-type: none"> <li>● Mr LAM Yuet-man (339/18-19(12))</li> </ul>	<p>Provisions similar to the closure order proposed in the Bill can be found in other ordinances, including the provisions regarding the closing of premises where there is illegal possession of a controlled substance under the Fire Services (Fire Hazard Abatement) Regulation (Cap. 95, sub. leg. F), and the provisions regarding the closing of vice establishments under the Crimes Ordinance (Cap. 200). The proposed closure</p>

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<p>premises is too stringent.</p>		<p>order can significantly enhance the deterrent effect of the Hotel and Guesthouse Accommodation Ordinance (Cap. 349) (“HAGAO”) and effectively combat repeated offenders.</p> <p>If an interested person believes it would be unjust for his/her interest in the premises to be affected by the order, the Bill provides a channel for this person to apply to a court or magistrate for the order to be rescinded under specified circumstances.</p>
<p>5. Introduction of the strict liability offence is unfair to owners. Instead of punishing owners, the Bill should empower them to recover the premises being used as unlicensed hotels or guesthouses.</p>	<ul style="list-style-type: none"> <li>● The Incorporated Owners of Mirador Mansion, 11th Management Committee Board (339/18-19(03))</li> </ul>	<p>The operation mode of hotels or guesthouses is evolving rapidly and many unlicensed hotels or guesthouses are operating via the Internet and hence the operators do not need to show up at the subject premises, causing great difficulties in evidence collection and law enforcement. Introduction of the strict liability offence mainly aims to address strong public demand for enhanced enforcement by the Government.</p> <p>“Strict liability” is introduced to address the difficulties in evidence collection arising from the use of technologies in business operation. It is primarily intended to target at owners and tenants who operate unlicensed hotels and guesthouses but do not show up</p>

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		<p>at the premises and hence cannot be caught red-handed by the Office of the Licensing Authority (“OLA”), but not the innocent owners and tenants. Therefore, we propose introducing statutory defences alongside the introduction of strict liability offence. Persons concerned are allowed to defend against the offence by raising that he/she does not have any knowledge or grounds for suspecting the use of the premises as unlicensed hotel or guesthouse, or he/she could not with diligence have prevented such illegal use. Prosecutors will also have to act in accordance with the Prosecution Code issued by the Department of Justice, under which prosecution can only be instituted with strong and reasonable justifications.</p> <p>In addition, the introduction of “strict liability” can encourage owners and tenants, who have the power to control the use of the premises, to take the initiative to prevent their premises from being used as an unlicensed hotel or guesthouse in order to protect their own interests.</p>
<p>6. The Home Affairs Department (“HAD”) should seek assistance from the Security Bureau and step up nighttime inspections for</p>	<ul style="list-style-type: none"> <li>● The Tourist Guest Houses Federation of Hong Kong (339/18-19(11))</li> </ul>	<p>The OLA has been committed to combating and raiding unlicensed hotels or guesthouses through a multi-pronged approach by such means as strengthening law enforcement, widening the</p>

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<p>combatting unlicensed hotels or guesthouses more effectively.</p>		<p>intelligence network and enhancing the deterrent effect. It also encourages and facilitates visitors to choose licensed accommodation by stepping up publicity and providing information of licensed hotels and guesthouses.</p> <p>The OLA will, having regard to the specific circumstances of individual cases, adopt the most appropriate and effective means for follow-up and evidence collection. Actions taken to collect evidence include conducting inspections and surprise checks during office and non-office hours, festivals and tourist peak seasons (including nighttime, weekends and public holidays), or posing as clients (i.e. covert operations). Some of the enforcement officers employed by the OLA have experience in law enforcement agency/department. This will enhance the effectiveness of the enforcement work.</p> <p>In recent years, the OLA has been stepping up nighttime inspections to enhance effectiveness, and conducted inter-departmental operations with other enforcement departments (e.g. Hong Kong Police Force, Immigration Department, etc.) from time to time. The number of inspections in 2018 increased by about 30% compared to that in past few years, and</p>

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		about 50 to 60 inter-departmental operations are conducted each year on average.
<p>7. The issue of fake home-stay lodging/hostel (e.g. domestic units that provide short-term accommodation for distributors from the Mainland who are receiving trainings) is not addressed in the amendment.</p>	<ul style="list-style-type: none"> <li>● The Federation of Buildings Owners Organization of Cheung Sha Wan and Lai Chi Kok (339/18-19(13))</li> </ul>	<p>Operation of hotels and guesthouses in Hong Kong is regulated by HAGAO. The purpose of HAGAO is to ensure that premises intended to be used as hotels and guesthouses comply with the statutory standards in respect of building and fire safety in order to safeguard lodgers and members of the public. Only premises providing accommodation at a fee for a minimum tenancy period of 28 continuous days or more for each letting are exempted from the licensing requirement. The OLA under HAD is responsible for administering the HAGAO, including issuing licences and performing enforcement duties.</p> <p>The proposals under the Bill will facilitate enforcement actions and step up combat actions against unlicensed hotels and guesthouses, thereby enabling prosecution against the true owners and operators of unlicensed hotels and guesthouses.</p>
<p>8. The Bill will make it difficult for some hotels and guesthouses to continue their business, affecting industry development and</p>	<ul style="list-style-type: none"> <li>● TWH-Tai Wan Hotel Ltd (339/18-19(05))</li> <li>● Mr LI Ying-cho</li> </ul>	<p>The proposed measures to facilitate enforcement and enhance deterrence are targeted at unlicensed hotels and guesthouses only. Licensed hotels and guesthouses in lawful operation will not be affected.</p>

<b>Views/Issues Raised</b>	<b>Deputation/Individual</b>	<b>Government's Response</b>
<p>livelihood of practitioners.</p>	<p>(339/18-19(06))</p> <ul style="list-style-type: none"> <li>● Mrs CHEN Chen-eng (430/18-19(01))</li> <li>● Hong Kong Association of Hostels (views raised in meeting)</li> <li>● Mr CHAN Yuk (views raised in meeting)</li> <li>● Mr LAU Yin-ming (views raised in meeting)</li> </ul>	<p>The requirement for hotels and guesthouses to operate in compliance with the relevant provisions in land documents is not brand new. It is to reflect in the licensing condition the established requirement for compliance with the deeds and contracts.</p> <p>The other proposals in the Bill, such as local consultation which seeks to collect views of the affected residents, aim to enhance operation of hotels and guesthouses for minimising the possible impacts on the neighbourhood, and is not intended to throttle the room for their survival.</p> <p>In fact, the Bill addresses the public demand for enhancing the regulation of hotels and guesthouses. It strikes a balance between the views of different parties (including the trade's), helping reduce the nuisance to the neighbourhood and the public, and ensuring a better regulatory environment and a level playing field. These will also help improve the overall management of services of hotels and guesthouses, achieving an all-win situation. In the long run, the proposal helps reinforce Hong Kong's reputation as a quality tourist destination, benefiting</p>



Views/Issues Raised	Deputation/Individual	Government's Response
		the sustainable development of Hong Kong as a tourist hub.
<b>D. Regulation of home-stay lodgings</b>		
<p>1. Letting out of residential units on short term tenancy causes serious nuisance to the neighbourhood, hygiene and security concerns, and a higher repair and maintenance cost for the building. Given the large number of densely populated multi-storey buildings' the mode of operation of home-stay lodgings in private residential units is not suitable for Hong Kong and should be prohibited.</p>	<ul style="list-style-type: none"> <li>● The Federation of Hong Kong Hotel Owners (339/18-19(02))</li> <li>● 錦華樓業主立案法團 (339/18-19(20))</li> <li>● Miss Sammi FU Hiu-lam (339/18-19(25))</li> <li>● Southern District Office, HKI, Liberal Party (417/18-19(01))</li> <li>● 朱美美女士 (447/18-19(01))</li> <li>● Broadway-Nassau Investments Limited (views raised in meeting)</li> </ul>	<p>We understand the concerns of the deputations/ individuals. The proposed requirements in the Bill are applicable to all types of hotels and guesthouses, including home-stay lodgings.</p> <p>Firstly, local consultation provides persons affected with a proper channel to express their views in the licensing process. It is effective regardless of the scale and operation mode of the hotels/guesthouses.</p> <p>Secondly, the Bill proposes empowering the Authority to take into account in the licensing process whether the land documents contain any restrictive provisions, so as to ensure that operation of hotels and guesthouses by the applicants and prospective licensees will not contravene any restrictive provisions of the DMC or land lease concerned.</p>
<p>2. Objection to allowing the letting out of residential units on short term tenancy which will reduce housing supply, aggravating the housing problem.</p>	<ul style="list-style-type: none"> <li>● The Federation of Hong Kong Hotel Owners (339/18-19(02))</li> <li>● Mr LEUNG Hong-sing (339/18-19(22))</li> <li>● Southern District Office, HKI, Liberal Party</li> </ul>	<p>Thirdly, the OLA will continue to impose building and fire safety requirements according to the Buildings Ordinance (Cap. 123) and the Fire Services Ordinance (Cap. 95) to ensure the safety of the premises.</p>

Views/Issues Raised	Deputation/Individual	Government's Response
	(417/18-19(01))	
<p>3. As sharing economy is a global trend, the Government should consider allowing the development of home-stay lodgings while enhancing the regulation of hotels and guesthouses.</p>	<ul style="list-style-type: none"> <li>● Mr LAM Yuet-man (339/18-19(12))</li> <li>● 張景勛先生 (views raised in meeting)</li> </ul>	<p>The Bill does not preclude home-stay lodgings. In fact, its proposed requirements apply to all types of hotels and guesthouses, including home-stay lodgings. Any premises may apply for a licence for lawful operation provided that they comply with the fire and building safety requirements proportionate to the scale and mode of operation of the premises and other requirements of the Bill.</p>
<p>4. Home-stay lodgings can make effective use of land resources and provide visitors with an alternate travel experience. The Government should establish another licensing regime for the regulation of home-stay lodgings.</p>	<ul style="list-style-type: none"> <li>● Airbnb (339/18-19(14))</li> <li>● Impact Communications Company (339/18-19(15))</li> <li>● Mr Aaron LEE (339/18-19(23))</li> <li>● Mr CHAN Ka-yu (339/18-19(24))</li> <li>● The Civic Party (367/18-19(02))</li> <li>● Hon Charles Peter MOK (376/18-19(01))</li> <li>● Mr CHAN Chun-yin (417/18-19(02))</li> <li>● Booking.com (views raised in meeting)</li> </ul>	<p>As stated in our response to the follow-up actions arising from the first meeting (paragraphs 20 – 27 and Annex C of that document), we believe the Bill is flexible enough to cater for the development of home-stay lodgings, and can strike a balance between ensuring public safety, offering necessary consumer protection and protecting the neighbourhood.</p>

Views/Issues Raised	Deputation/Individual	Government's Response
<b>E. Other issues</b>		
<p>1. Support to take into account in the licensing process whether an applicant is a “fit and proper” person.</p>	<ul style="list-style-type: none"> <li>● Hong Kong Hotels Association (339/18-19(08))</li> </ul>	<p>The Bill empowers the Authority to take into account in the licensing process whether an applicant (including a body of persons) is a “fit and proper” person, i.e. whether the applicant has committed an offence under the Ordinance, or any other serious offence resulting in a sentence to imprisonment for more than three months, or is a undischarged bankrupt, in liquidation or the subject of a winding-up order.</p> <p>To take into account in the licensing process whether an applicant is a “fit and proper” person will better protect lodgers and the public.</p>
<p>2. Support the differentiation between “hotel licence” and “guesthouse licence”.</p>	<ul style="list-style-type: none"> <li>● The Federation of Hong Kong Hotel Owners (339/18-19(02))</li> <li>● Hong Kong Hotels Association (339/18-19(08))</li> </ul>	<p>A hotel normally has to obtain an Occupation Permit for “hotel use” from the Building Authority, and meet more stringent design requirements.</p> <p>Given the significant differences in the licensing requirements for hotels and guesthouses, the Bill proposes a differentiation between a “hotel licence” and a “guesthouse licence” as well as prohibits the use of the word “hotel” in the business name of a guesthouse, so that consumers will not be misled and can be better protected.</p>
<p>3. Discontent with the prohibition against the use of the word “hotel” in the business name of a guesthouse.</p>	<ul style="list-style-type: none"> <li>● 大華旅館集團 (430/18-19(02))</li> </ul>	<p>Given the significant differences in the licensing requirements for hotels and guesthouses, the Bill proposes a differentiation between a “hotel licence” and a “guesthouse licence” as well as prohibits the use of the word “hotel” in the business name of a guesthouse, so that consumers will not be misled and can be better protected.</p>

<b>Views/Issues Raised</b>	<b>Deputation/Individual</b>	<b>Government's Response</b>
4. A transitional period of 12 months is not adequate.	<ul style="list-style-type: none"><li>● 大華旅館集團 (430/18-19(02))</li><li>● Mr LI Siu-tong (339/18-19(04))</li><li>● Mr LAU Yin-ming (views raised in meeting)</li></ul>	<p>Under the proposed transitional arrangements, a transitional period of 12 months will be provided. If the licence expires within the transitional period, the licence may be renewed once for 12 months under the existing licensing requirements. For other licences, the new requirements will have to be met upon expiry of the existing licence.</p> <p>It is considered that the proposed transitional arrangements will strike a proper balance between addressing public aspirations for early implementation of the proposals and responding to the needs of the industry. In fact, since the public consultation conducted in 2014, we have continued to closely engage with the trade and the relevant stakeholders and openly and clearly stated the proposed legislative proposals. If the Bill is passed by the Legislative Council, there will have already been five to six years since the beginning of the public consultation to the implementation of the proposals. Together with the transitional arrangement, it is considered that stakeholders will have sufficient time to adapt to the new requirements and make necessary arrangements. Further extending the grace period will defer the full implementation of the new licensing mechanism, which may not be acceptable to the public.</p>

Views/Issues Raised	Deputation/Individual	Government's Response
<p>5. Currently, premises providing accommodation for a minimum tenancy period of 28 consecutive days or more for each letting are exempted from the licensing requirement. It is suggested that the Government should reduce market intervention and relax the Ordinance by shortening the minimum tenancy period to one day.</p>	<ul style="list-style-type: none"> <li>● Mr NG Kin-wah (views raised in meeting)</li> </ul>	<p>The Ordinance regulates the operation of hotels or guesthouses. It is not for the purpose of intervening the market, but to ensure that premises intended to be used as hotels or guesthouses meet the relevant building structure and fire safety standards through a licensing regime.</p>
<p>6. The Government should tighten the fire and building safety requirements and prohibit hotel or guesthouse operators from carrying out substantial building alterations.</p>	<ul style="list-style-type: none"> <li>● Mr David CHAN (367/18-19(01))</li> </ul>	<p>The OLA has been imposing relevant building structure and fire safety requirements in accordance with the provisions of the Buildings Ordinance and the Fire Safety Ordinance to safeguard lodgers and the public.</p>
<p>7. Hotels or guesthouses cannot obtain a licence in a timely manner, as the processing time for granting of licence is too long.</p>	<ul style="list-style-type: none"> <li>● 大華旅館集團 (430/18-19(02))</li> <li>● Mr LAM Yuet-man (339/18-19(12))</li> <li>● Mr CHAN Yuk (views raised in meeting)</li> </ul>	<p>Currently, the processing time of the OLA for each licence application varies, depending on the conditions of individual premises and the progress of improvement works involved.</p> <p>In general, from submission of application to the issuance of licence, the time required is about one year. 70% of the time (i.e. eight to nine months) is spent on</p>

<b>Views/Issues Raised</b>	<b>Deputation/Individual</b>	<b>Government's Response</b>
		<p>necessary improvement works (and the preparation of relevant supporting documents) taken by the applicant. The actual time for processing of application by the OLA is about three to four months (including the time for arranging on-site inspection).</p> <p>In the course of processing licence applications, the OLA's case officers will maintain contact with the applicants to ensure that they understand the requirements for the improvement works and the supporting documents to be submitted. We will assess the manpower implications of implementing the various proposals in the Bill and seek additional resources to increase manpower following the established procedures, with a view to further shortening the actual processing time by the OLA.</p>

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