

民政事務總署
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Home Affairs Department

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本署檔號 Our Ref. HAD HQ CR/15/3/20(C)
來函檔號 Your Ref. CB2/BC/5/17
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25 February 2019

Ms Wendy Jan
Clerk to Bills Committee
Legal Service Division
Legislative Council Secretariat
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 31 January 2019 ref CB2/BC/5/17. Our replies to the questions raised are set out in the ensuing paragraphs.

(a) provide the number of successful and unsuccessful applications for guesthouse (holiday flat) licences; and

2. The numbers of successful and unsuccessful applications for guesthouse (holiday flat) licences in the past four years (application status as at 31 January 2019) are set out below –

	2015	2016	2017	2018	TOTAL
Licence granted	11	9	6	2	28
Application rejected	3	3	0	1	7
Under processing	0	0	0	4	4
TOTAL	14	12	6	7	39

3. The Office of the Licensing Authority will continue to adopt a flexible and pragmatic approach in considering each application and provide assistance to the applicants as appropriate.

(b) provide elaborations of “a right to exclusive possession”.

4. As explained in the judgment of *Street v Mountford* 1 A.C. 809¹, a right to exclusive possession means the right to exclude all others, including the landlord, save for the exercise of any contractual or statutory right of entry reserved to the landlord.

Yours sincerely,



(Miss Grace Li)
for Director of Home Affairs

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

¹ In *Street v Mountford* 1 A.C. 809, the House of Lords adopted the position on exclusive possession in the context of landlord and tenants as summarised by Windeyer J in the High Court of Australia in *Radaich v Smith* (1959) 101 C.L.R. 209, 222 –

“A right of exclusive possession is secured by the right of a lessee to maintain ejection and, after his entry, trespass. A reservation to the landlord, either by contract or statute, of a limited right of entry, as for example to view or repair, is, of course, not inconsistent with the grant of exclusive possession. Subject to such reservations, a tenant for a term or from year to year or for a life or lives can exclude his landlord as well as strangers from the demised premises. All this is long-established law...”