



中華人民共和國香港特別行政區政府總部食物及衛生局

Food and Health Bureau, Government Secretariat
The Government of the Hong Kong Special Administrative Region
The People's Republic of China

(Translation)

13 November 2017

Clerk to LegCo Panel on Food Safety and Environmental Hygiene
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong
(Attn: Miss Josephine SO)

Dear Miss SO,

Panel on Food Safety and Environmental Hygiene
Letter from Dr Hon KWOK Ka-ki

Thank you for your letter of 30 October 2017 addressed to the Food and Health Bureau, enclosing a letter from Dr the Hon KWOK Ka-ki (“Dr KWOK”), Legislative Council Member, to the Chairman of the Panel on Food Safety and Environmental Hygiene (“the Panel”). In his letter, Dr KWOK expressed concerns over the media reports about a restaurant (“Restaurant A”) operated by a relative of a member of the Liquor Licensing Board (“the Board”), where a dinner gathering involving the Chairman, Vice Chairman and some other members of the Board was held one month after its liquor licence had been renewed by the Board at a closed-door meeting. In this connection, Dr KWOK requested discussion of the procedures for vetting liquor licence applications by the Board, the composition and operation of the Board, and the system of declaration of interests adopted by the Board. Our reply to the above is set out as follows.

The Board's procedures for considering a liquor licence application

When examining each liquor licence application, the Board will give thorough and detailed consideration to the relevant issues under regulation 17(2) of the Dutiable Commodities (Liquor) Regulations (Cap.109B) ("the Regulations"), including: (a) whether the applicant is a fit and proper person to hold the licence; (b) whether the location and structure of the premises and the fire safety and hygienic conditions thereof are suitable; and (c) whether the grant of the licence is contrary to the public interest.

Moreover, regulation 14A of the Regulations states that the Board may determine the procedure for meetings of and applications to the Board including the manner of making, hearing and determining applications and the documents to be lodged or served in connection with applications.

In considering a new liquor licence application, the Board consults the relevant Government departments, including the Police, the Buildings Department, the local District Office via the Licensing Office of the Food and Environmental Hygiene Department ("FEHD"). Exercising their respective professional knowledge and experiences, the relevant Government departments examine the application covering various matters including the background of the applicant, the condition of the premises and possible reaction of the neighbourhood. On the basis of their analyses and assessments, the relevant Government departments tender their impartial advice to the Board through the established mechanism. The applicant is also required to place an advertisement in local newspapers, and the same advertisement is also posted on the Board's webpage for information and comment by relevant parties.

For any case with neither objection nor adverse comment¹, FEHD will approve the application under the authority delegated by the Board. For any contentious case², the Board will conduct a closed-door meeting for deliberations. For any contested case³, the Board will conduct an open hearing to listen to representations from the applicant, the objector(s) and the relevant Government departments. After making appropriate enquiries and deliberating on the relevant case and taking into

¹ The Board has not received any objection or adverse comment in relation to the liquor licence application from members of the public or from the relevant Government departments.

² The Board has received adverse comment(s) in relation to the liquor licence application from members of the public or from the relevant Government departments, but there is no objection to the application.

³ The Board has received objection(s) in relation to the liquor licence application from members of the public or from the relevant Government departments.

consideration the views from relevant Government departments, the applicant and the objector(s), the Board members will come up, after the closed-door deliberation of the Board, with an independent decision on the case concerned. For any contested case where objection(s) is/are received from the public, the Board will conduct an open hearing only if the objector(s) is/are willing to attend the open hearing; otherwise, the Board will arrange a closed-door meeting for deliberation of the application.

Moreover, pursuant to regulation 17(5) of the Regulations, an applicant or objector to which the application relates may appeal to the Municipal Services Appeals Board if they are not satisfied with the decision made by the Board.

Reasons for conducting a closed-door meeting

Generally speaking, in accordance with the above vetting procedures of liquor licences, the Board conducts a closed-door meeting to consider the liquor licence application under the following circumstances:

- (a) For any contentious case: The Board has received adverse comment(s) in relation to the liquor licence application from members of the public or from the relevant Government departments, but there is no objection to the application; and
- (b) For any contested case: The objector(s) is/are not willing to attend the open hearing.

There is no disparity in the criteria adopted by the Board for processing the liquor licence application by Restaurant A and those by other applicants. The liquor licence application details of Restaurant A are summarised as follows:

(a) Application for new issue of a liquor licence

The Board received an application for new issue of a liquor licence from Restaurant A in February 2016. FEHD sought comments from the Police and the District Officer (Central and Western) ("DO (C&W)") on the application concerned. In reply, the Police remarked that they had no objection to the application but recommended imposition of an additional licensing condition requiring that "All doors and windows of the premises shall be kept closed between 11:00 p.m. and 9:00 a.m. the following day". DO (C&W) replied that

objections were received from members of the public/Councillors. Given that the Police had no objection to the application, that some of the objectors were unwilling to attend the public hearing arranged by the Board, and that some other objectors gave no response, the Board discussed the liquor licence application of Restaurant A at the closed-door meeting on 7 June 2016. Having taken into consideration the three criteria of the Regulations quoted in paragraph 2 above, the Board decided to issue a 12-month liquor licence to Restaurant A with imposition of the said additional licensing condition.

In accordance with the existing policy, the liquor licence would not be issued until a valid restaurant licence had been issued to Restaurant A. Restaurant A was issued a six-month Provisional General Restaurant Licence (PGRL) (valid from 16 June to 15 December 2016) by FEHD on 16 June 2016. Accordingly, the Board issued to Restaurant A a liquor licence with the validity period being the same as the PGRL. On 13 January 2017, Restaurant A was issued a General Restaurant Licence by FEHD. Under the circumstances, the Board issued a further liquor licence for the remaining validity period (i.e. from 13 January to 15 June 2017) to Restaurant A.

(b) Application for renewal of the liquor licence

The Board received an application for renewal of the liquor licence of Restaurant A in February 2017, and thus consulted the Police and DO (C&W) on the application. The Police responded that they had no objection to the application but recommended the retention of the existing additional licensing condition. According to the Police's information, during the period from 10 March 2016 to 10 March 2017, there was no prosecution record in relation to the premises concerned. It was stated in the reply of DO (C&W) that objection comments on the renewal application had been received from the residents/Councillors. As the Police did not raise any objection to the application and since the residents/Councillors did not indicate whether they were willing to attend the open hearing arranged by the Board, the Board considered the application of Restaurant A at the closed-door meeting on 16 May 2017. Having considered the three criteria of the Regulations stated above, the Board decided to renew the liquor licence of Restaurant A for 12 months (i.e. valid from 16 June 2017 to 15 June 2018) with retention of the existing additional licensing condition.

In the documents related to the two liquor licence applications of Restaurant A, the Police visit summary relating to Restaurant A, **did not** mention any records of prosecution or penalty against Restaurant A for selling liquor without a licence as reported by the media earlier. It is obvious that the media reports in question were not consistent with facts. As the Police did not raise any objection to the above two liquor licence applications and no objector indicated the intention to attend the open hearings, under the above mentioned procedures for processing liquor licence, these two applications were considered by the Board at closed-door meetings. Mr LO, an incumbent member of the Board mentioned in the media reports, was not present at the two meetings in which the liquor licence applications of Restaurant A were considered, nor did he participate in the related deliberation. The above two applications were indeed processed in accordance with the established procedures of the Board and no irregularity was involved in the whole process.

The composition of the Board

As provided for in regulation 2A of the Regulations, the Board consists of a Chairman, a Vice Chairman and nine other members. The Board members are appointed by the Chief Executive for a term of two years. When appointing the Board members, the Government will take account of the need to balance the views of different sectors of society. At present, the Board consists of members from various sectors, including welfare, legal, catering, commerce, accounting, etc., and some of them are conversant with districts' affairs. The composition of the Board strikes a balance of interests of different parties, ensuring that professional views from various sectors can be fully considered when liquor licence applications are being processed.

The Board's system of declaration of interests

The Board has currently adopted a two-tier reporting system in making a declaration of interests, including: (a) the Chairman and members shall register in writing their personal interests on their first appointment to the Board, and annually thereafter, to the secretary of the Board, with related information being uploaded to the register of interests at the Board's website; and (b) the Chairman and members should declare their interests and, if necessary, withdraw themselves from the relevant meetings prior to the discussion of any applications which may involve conflict of interests.


Dining at Restaurant A

The dinner gathering at Restaurant A attended by individual Board members, as reported by the media, was arranged by the Board members themselves. According to the information provided by the Board members involved, they paid for the dinner out of their own pockets and the bill was shared among themselves.

In response to the recent media reports on the incident, the Board has issued a press release, a copy of which is enclosed.

Should you have any enquiries, please contact the undersigned at 3509 8926.

Yours sincerely,



(Miss Diane WONG)
for Secretary for Food and Health

c.c.: Director of Food and Environmental Hygiene
(Attn: Mr Eric CHEUNG) (Fax no. 2530 1368)

Press Releases

LLB handles liquor licence applications according to established procedures

The following is issued on behalf of the Liquor Licensing Board:

In response to recent media reports that the Liquor Licensing Board (LLB) had given preferential treatment to its member when processing liquor licence applications, the LLB issued the following statement today (November 8):

The LLB has been handling every liquor licence application in accordance with the established procedures, and adopting the same yardstick by taking relevant departments and stakeholders' views into full consideration before making decisions.

According to Section 17(2) of the Dutiable Commodities (Liquor) Regulations (Regulations) (Cap 109B), the LLB will consider three criteria as laid down in the Regulations in considering each liquor licence application, including (a) whether the applicant is a fit and proper person to hold the licence; (b) whether the premises are suitable for selling liquor having regard to its location, structure, fire safety and hygienic conditions; and (c) whether in all the circumstances the grant of the licence is not contrary to the public interest. The LLB will also seek the views of relevant government departments, such as the Police, who will, based on their respective expertise and experience, review the case and provide impartial opinions to the LLB through the established mechanism. As regards the case of the restaurant in Sai Ying Pun mentioned in the media reports, taking the three above-mentioned criteria into consideration, the LLB decided to grant a one-year liquor licence to the restaurant with an additional licensing condition of keeping all doors and windows closed from 11pm to 9am the following day imposed, not a "clean licence" without conditions as mentioned in the media reports. Under the prevailing policy, if the LLB approves a liquor licence application, the liquor licence will only be issued to the applicant after the subject premises has obtained a valid restaurant licence.

In addition, three points mentioned in the media reports are not factually correct or may be misleading, which are clarified as follows. The restaurant concerned in Sai Ying Pun mentioned in the media reports did not have any record of being prosecuted for selling liquor without a licence according to Police information. The LLB has strictly followed the established procedures in handling the application of the concerned restaurant. Since the Police did not raise any objection to the applications by the restaurant concerned and the objectors did not express willingness to attend an open hearing, the LLB, thus, in accordance with the established procedures, considered the application at a closed-door meeting. The LLB member mentioned in the media reports, Mr Lo, was not present at the meeting and had not participated in the related discussion.

Moreover, the dinner gathering mentioned in the media reports was arranged by the LLB members themselves, and the members attended the gathering at their own expense and the bill was shared among them.

For the other restaurant next to the above restaurant mentioned in the media report, an additional licensing condition of keeping all doors and windows closed from 11pm to 9am the following day was also imposed on its liquor licence.

The LLB has currently adopted a two-tier reporting system in making a declaration of interest, including (a) the chairman and members shall register in writing their personal interests on their first appointment to the LLB, and annually thereafter, to the secretary of the LLB, with related information being uploaded to the register of interests at the LLB website; and (b) the chairman and members should declare their interests or withdraw from the meeting if necessary prior to the discussion of any applications which may involve conflict of interest.

As to whether the meeting minutes should be made open, since the minutes and the audiotape records are internal confidential documents of the LLB, the Code on Access to Information is not applicable. After taking legal advice, the LLB will not disclose the concerned documents and audiotape records.

Ends/Wednesday, November 8, 2017
Issued at HKT 19:30

NNNN