

**Twelfth Meeting of
the Business Facilitation Advisory Committee**

***Agenda Item 4(c) : Report on the work of the
Food Business Task Force***

Purpose

This paper reports on the work of the Food Business Task Force (FBTF) since the last Business Facilitation Advisory Committee (BFAC) meeting on 16 July 2009.

Work progress of the FBTF

Outside seating accommodation application of a restaurant in the Grand Millennium Plaza

2. In view of the trade's concerns about the handling of an application for outside seating accommodation (OSA) of a restaurant in the Grand Millennium Plaza and the implications on similar applications occupying public space in private developments, the Administration was invited to brief the FBTF on 8 October 2009.

3. According to the Administration, the owner of the Grand Millennium Plaza is required under the land lease to provide and maintain a public open space (POS) and under a deed of dedication to keep and maintain a dedicated area for public passage. Both the POS and the dedicated area (the POS and the dedicated area are termed "public space" hereafter for simplicity) are on private land.

4. In 2002, the owner of the Grand Millennium Plaza applied to the Lands Department (LandsD) for a waiver to use an area of 40.52 m² (or 1.2%) of the public space for OSA purpose. The relevant policy bureaux and government departments considered that the proposal would help the local economy and promote tourism, particularly under the economic conditions prevailing at that time. The Food, Environment, Hygiene and Works Committee (FEHWC) of the Central and Western District Council (C&WDC) gave its support in principle to the application. In the light of the

Administration's assessment and the C&WDC's feedback, the LandsD granted a temporary waiver for a term of 18 months from 1 April 2003 and thereafter quarterly. The owner paid full market fee for the waiver to reflect the enhancement in value of the relevant part of the public space during the waiver period. Also, in order to operate at the OSA, the restaurant operator concerned had to apply for relevant licences from the Food and Environmental Hygiene Department (FEHD).

5. In view of public concern over misuse of public space in private developments, the waiver was discussed at the C&WDC's meeting on 17 July 2008, and subsequently referred to its FEHWC for further discussion. At its meeting on 15 January 2009, the FEHWC requested the LandsD and FEHD to terminate the waiver and licence respectively for the OSA within six months. Subsequent to further discussion with the restaurant operator, the FEHWC has expressed no objection to the continued extension of the waiver on a quarterly basis pending further consideration by the FEHWC of the POS management guidelines to be issued by the Administration. Subsequently, the LandsD has cancelled the termination notice, and the FEHD has informed the licensee of the restaurant that the OSA approval would continue subject to the said waiver granted by the LandsD.

6. The Administration appreciates the District Councils' expectation of a consistent approach in handling such waiver applications related to POS in private developments and the request for objective guidelines for this purpose.

7. The FBTF appreciates the Administration's efforts in producing the guidelines and advises the Administration to strike a pragmatic balance and consider business facilitation as well apart from other considerations such as the public's right of access and the private owners' rights when drafting the guidelines.

Progress on the implementation of the proposed fire safety conditions for conducting temporary or occasional hot pot / food warming / flambéing activities in seating accommodation of general restaurants / factory canteens

8. In view of the mounting demand by food premises operators using portable stoves to provide hot pot in the seating accommodation of food premises, the Fire Services Department (FSD) has decided to relax the relevant regulatory control and allow general restaurant (GR) / factory canteen (FC) operators to conduct temporary or occasional hot pot / food

warming / flambéing in the seating accommodation (excluding OSA) of their GR / FC without having to obtain prior approval provided that the relevant additional fire safety conditions are observed. After trade consultation, the Administration has agreed to defer implementation of these new conditions to the winter of 2009 with a view to minimizing business impact.

9. As suggested by the FBTF, the FSD had informed all GR and FC licensees by registered post of the implementation details of the additional fire safety conditions in early August 2009. FEHD had issued letters to all GR and FC licensees in September 2009, advising them to observe relevant good hygiene practices and reminding them to observe fire safety conditions stipulated by the FSD. FEHD has also been issuing the same advisory letter to GR and FC licence applicants from September onwards. To help the licensees better understand their compliance requirements, two briefing sessions on implementation details of the proposal were jointly conducted by relevant departments on 3 and 15 September 2009. During the briefing sessions, departments concerned had clarified relevant requirements and conditions with the attendees. The relevant additional fire safety conditions have taken effect on 1 October 2009.

Implementation programme for the study on the “Review on Bakery Licence”

10. The FBTF commissioned the Efficiency Unit to conduct a review of Bakery Licence in October 2008. The objective of the review is to examine the regulatory regime of bakery licensing with a view to identifying improvement opportunities to help remove unnecessary regulatory controls.

11. The review was completed in March 2009. The FEHD reported at the last FBTF meeting on 8 October 2009 that out of the nine recommendations put forward in the review report, six had already been implemented and the significant ones are –

- (a) With effect from end-April 2009, the retail portion of a bakery sharing the common area of a supermarket, department store, shopping arcade or convenience store is not included into the licensed area of the bakery;
- (b) Regarding the requirement for the bakery operator to install a metal hood over bakery oven as to prevent accumulation of fumes, heat and smell in the premises, the FEHD considers each application for exemption from installing the metal hood on its merits; and

- (c) Licensing staff have been reminded that bakery licence applications meeting the criteria, viz. (a) gross floor area of the premises is not larger than 100 m²; (b) using only electricity as fuel; and (c) involving no open fire and deep frying, need not be referred to the FSD for comment.

12. The remaining three recommendations are either in progress or under consideration. The FBTF appreciates the efforts made by the FEHD and looks forward to early implementation of the remaining tasks.

Way forward

13. Members are invited to note the work progress of the FBTF. The FBTF will monitor the development of the issues.

Economic Analysis and Business Facilitation Unit,
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