

Notes of the 17th Business Liaison Group Meeting With the Hotel Trade

Date : 5 March 2014
Time : 2:30 p.m. – 5:25 p.m.
Venue : Library, EABFU, 25/F, Tamar Central Government Offices

Convenor: Mr CHAN Wah-chan Head, Business Facilitation Division,
Economic Analysis and Business Facilitation Unit

Trade Participants

Federation of Hong Kong Hotel Owners

Mr Michael LI Executive Director
Miss Fanny CHAN Association Manager

Hong Kong Hotels Association

Mr Nicholas YIM Executive Committee Member (Executive Director & Group
General Manager, Sino Group of Hotels)

Chinachem Group

Mr Chris CHAN Licensing Manager

Oriental Lander Hotel

Mr K. C. LAI Managing Director

Kings De Nathan Hotel

Mr Ken KWAN Director
Ms Yvonne KWAN Manager
Ms Molly CHAN Administrative Secretary

Government Representatives

Customs and Excise Department (C&ED)

Mr Guy FONG Superintendent (Acting), Intellectual Property Investigation
(Operations) Group

Home Affairs Department (HAD)

Mr Winston LEUNG Chief Officer (Licensing Authority)
Mr Timothy LEE Building Surveyor (LA)

Buildings Department (BD)

Ms MOK Sim-ping Senior Building Surveyor / HKE1
Mr LAM Sui-pui Senior Building Surveyor / K1

Fire Services Department (FSD)

Mr CHAN Kam-fai Senior Divisional Officer / New Projects Division

Food and Environmental Hygiene Department (FEHD)

Mr WU Chun-tong Chief Health Inspector (Other Licensing)HQ

Economic Analysis and Business Facilitation Unit (EABFU)

Mr Peter FUNG Chief Management Services Officer (*Secretary*)
Miss Jenny YEUNG Business Facilitation Officer

Action

The **Convenor** welcomed all to the meeting. He said that the notes of the last Business Liaison Group (BLG) meeting had been posted to the Business Facilitation Initiatives website (http://www.gov.hk/en/theme/bf/pdf/H_BLG_16_Notes.pdf) for the trade's reference.

2. The **Convenor** reiterated that the Terms of Reference of BLG were -
- a) to enhance communication between the trade and the stakeholding bureaux and departments to exchange views on licensing and regulatory matters;
 - b) to solicit trade's views on the licensing regime so as to identify possible improvement opportunities; and
 - c) to serve as a platform to brief the trade about the related regulatory requirements and business compliance facilitation measures, and consult the trade on regulatory proposals.

The BLG meeting was open for enrolment and participation by members of the trade. Individual cases would not be discussed at the BLG meetings.

Briefing on “copyright infringement of playing musical works at hotels” by Customs and Excise Department

3. **Mr Guy FONG** gave a briefing on “copyright infringement of playing musical works at hotels” to the hotel trade with the presentation slides at Annex 1. He explained to the trade that under the Copyright Ordinance (Cap. 528), copyright was an automatic right. Copyright subsisted when a work was created and recorded, viz., all the musical works were with copyright automatically on the day they were created and recorded. Under the Copyright Ordinance, there were end user liability provisions. In essence, if a business establishment used a pirated copyright work in the course of business, it committed a criminal offence; and the proprietors/ owners/ directors/ managers of the business establishment might be liable to prosecution.

4. **Mr Michael LI** opined that it was difficult for the hotel trade to comply with the Copyright Ordinance because there was no central copyright registration system for musical works and multiple parties were allowed to claim copyright ownership for one single piece of musical work. It was impractical for the hotel trade to ensure that the songs they purchased from a supplier were properly licensed by the legitimate copyright owners given there were several companies in the market. Regarding payment of royalty to the copyright owners, **Mr LI** said that it would be better if there would be only one party representing all the copyright owners for each piece of musical work to collect royalty from the trade. **Mr Ken KWAN** shared with **Mr LI**'s views. Moreover, he opined that the copyright owner should keep a list of songs which they owned so that the trade could ask them to provide the list before paying royalty to them.

5. **Mr FONG** responded that C&ED was aware of the situation but it was important to balance the interest of both the copyright owners and the end users of the musical works. Under the Copyright Ordinance, some infringements were civil and some were criminal, and C&ED was responsible for the enforcement of criminal copyright infringements. C&ED would take enforcement actions upon complaint. Before taking action C&ED would ask the concerned copyright owners of the musical works to provide document proofs that they were the legitimate copyright owners. **Mr FONG** advised the trade to be vigilant to request the suppliers of musical works to provide documentary proofs that they were the legitimate copyright owners before purchasing any musical works from them. **Mr FONG** further advised the trade to properly record and document their efforts and endeavours made in a bid to comply with the licensing requirement of the music industry. Such records and documentations could serve as proofs that the trade had exercised due diligence to comply with the law which was important defence if C&ED launched investigation on the trade upon receiving complaint.

Matters arising

Waiving referees' signature of application for liquor licence

6. **Mr WU Chun-tong** reported to the meeting that the views of the trade on requesting the Food and Health Bureau (FHB) to appoint a representative from the hotel

industry to the Liquor Licensing Board had been conveyed to FHB for consideration in October 2013. **Mr LI** enquired about the status of the proposed scheme on “reserve licensee” for liquor licence. **Mr WU** said that FEHD was currently working out the operational details of the scheme with the relevant Government bureaux/departments. **BLG Secretary** added that relevant Government bureaux/departments would be invited to brief the trade when they were ready to do.

New issues

Submissions of building plan and structural plan to Buildings Department in one go for conversion of existing commercial buildings into hotel use

7. **Ms MOK Sim-ping** advised that BD had no objection for the Authorised Person /Registered Structural Engineer (AP/ RSE) to submit the building plan and structural plan in one go for approval. The building plan showed the design principle of the proposed works including floor layout, its use, fire safety and means of escape arrangement....etc. Any changes in the building design might result in corresponding amendment or redesign of structural aspect of the proposed works. As such, the design principle of the proposed works should have to be confirmed first. **Ms MOK** advised that in practice, the AP would consider various factors such as the complexity of the proposed building works before deciding to submit both plans in one go for BD’s approval.

8. **Mr KWAN** opined that BD should be flexible in handling the approval of the structural plans of which the associated building plans had not been approved. According to his own experience, BD sometimes disapproved the structural plans simply because the building plans had been disapproved i.e., there was no contraventions identified on structural aspects. He enquired whether BD could withhold the disapproval of the structural plans even when the associated building plans had been disapproved so that the AP/RSE would not need to resubmit the same set of structural plans again. **Mr LAM Sui-pui** advised that BD need to process the plans submitted by the AP/RSE within the statutory period as stipulated under the Buildings Ordinance and allied regulations.

9. **Mr KWAN** opined that it would be very time consuming for the trade to resubmit the plans again and again if they could not meet the requirements stipulated by different Government departments concerned. **Ms MOK** advised that it is the AP’s responsibility to comply with the Buildings Ordinance and the allied regulations as well as all other relevant regulations and the requirements from other Government departments. For special cases involving uncommon engineering design, proposals involving applications for modification of the prescriptive requirements in the building regulations...etc, the AP/RSE could make a pre-submission enquiry in writing before formal submissions of plans. This could facilitate early clearance of basic design principles and thus the AP/RSE can proceed with confidence and avoid any abortive works later on. **Ms Molly CHAN** enquired whether the pre-submission conference was available before the first round of plan submission only. **Ms MOK** clarified that the above enquiry service is not restricted to first submission of plan **Mr LAM**

supplemented that BD may hold pre-submission conferences with AP/RSE to discuss the issues involved.

10. **Ms CHAN** enquired whether the trade could contact BD officers direct by phone to track the application progress. **Ms MOK** replied that AP was the representative of the owner under the Buildings Ordinance and was legally responsible for the application. **Mr KWAN** enquired whether FSD would accept phone enquiry from the owners. **Mr CHAN Kam-fai** advised that as FSD was not given the information of the building owners, FSD officers could not verify the identity of the owners on phone. Similar to BD, FSD officers would respond to enquiries from appointed APs.

Role of Fire Services Department in processing plan submission for conversion of existing commercial buildings into hotel use

11. **Mr CHAN Kam-fai** briefed the meeting on “Building Plan Processing by the Fire Services Department” under the Buildings Ordinance, Cap 123 with the presentation slides at Annex 2. Under the centralized processing system, BD would refer the building plans of such applications to FSD for verifying if fire safety requirements for fire service installations and equipment were proposed in accordance with the Code of Practice for Minimum Fire Service Installations and Equipment (Code of Practice). To facilitate the plan approval process, FSD would invite AP to FSD office to make minor plan amendments if there were no structural change or major fire service installations involved.

12. **Mr LI** enquired whether FSD would impose the same statutory requirements on both purpose-built hotels and hotels converted from commercial buildings. He was concerned about the fire safety standards for hotels converted from commercial buildings, especially the smaller ones, if FSD did not impose the same standards on them. **Mr CHAN Kam-fai** advised that the AP responsible for the submission of building plans should indicate on the building plans the intended use of the building. If a building under application was intended for hotel use, FSD would impose the same set of prescriptive fire safety requirements for fire service installations and equipment stipulated in the Code of Practice on it regardless whether it was a purpose-built hotel or a hotel converted from an existing commercial building. **Mr Winston LEUNG** supplemented that upon receiving an application for a licence under the Hotels and Guesthouses Accommodation Ordinance (HAGO) (Cap.349), the Office of the Licensing Authority (OLA) would issue a Letter of Requirement (LoR) imposing necessary upgrading works to be carried out and completed by the applicant to meet the required building and fire safety standards before a licence could be issued. For the requirements on fire safety, OLA would draw reference to the prescriptive requirements under the Fire Services Ordinance and guidelines promulgated by FSD in its Code of Practice and circular letters. Pursuant to the guidelines set out by FSD in its circular letter, the requirements on the fire services installation for hotels/guesthouses of a size smaller than 230 square meters would be slightly different from that of hotels/guesthouses exceeding 230 square meters.

13. **Mr LI** said that there were quite often false alarms in hotels because the smoke detectors were easily actuated by various factors other than a real fire break-out. When a smoke detector was actuated, FSD would be informed directly and immediately by the Fire Detection System, and within a short period of time, firefighters and ambulancemen would arrive at the hotel premises which caused great disturbances to the hotel guests. In order to allow sufficient time for hotels to investigate whether there was a genuine fire incident before informing FSD, it was agreed between the trade and HAD in the Policy Guideline promulgated in the 90's that FSD would allow delayed reporting by the Fire Detection System. He opined that it was important for FSD to honour the agreement so as to avoid causing unnecessary disturbance to the hotel guests.

14. **Mr Chan Kam-fai** replied that FSD was aware of the situation and there were several measures that the trade could consider to put in place, in descending order of priority below -

- i. Relocate the smoke detectors so that they would not be in close proximity of sources of humidity;
- ii. Use of more technically reliable detectors, e.g. multi-sensor detectors which would be actuated when smoke, heat and infra-red were all detected simultaneously;
- iii. Replace smoke detectors with heat detectors in places such as plant rooms and pantries;
- iv. Install a Time Related System which delayed the fire detection signal to FSD after the actuation of the detection system for local investigation.

Mr CHAN Kam-fai advised that the hotel trade should put in place the first three measures and see if they were effective in eliminating false alarms. The trade could consider making an application for the installation of the Time Related System only if the first three measures were ineffective. FSD would take into account the level of staffing of fire safety / security personnel, the supervision of control panels, the provision of emergency procedures, the means of communication for alerting responsible personnel for investigation of automatic alarm signals, etc. before granting an approval for the installation of the Time Related System.

15. **Mr LI** said that the above suggested measures were not practical to the hotel trade because, to reallocate the smoke detectors, the trade would need to apply for approval from the HAD. Despite the fact that most of the hotels were already using the most advanced smoke detectors, there were still a lot of false alarms going on. Furthermore, the one-minute delay implemented in the Time Related System was too short to be practicable because there were usually many floors in a purpose-built hotel. He suggested FSD should discuss with the engineering staff of the hotel trade to come up with a realistic and practical time delay standard while not compromising the safety of the hotel guests. **Mr CHAN Kam-fai** reiterated that the trade should implement the above recommended measures and they should be effective in eliminating false alarms. For big hotels with genuine needs, the hotel management could discuss with FSD on the application for the installation of a Time Related System with a delay of more than one minute after the actuation of the smoke detectors. FSD would consider each

application on merits of individual cases.

A.O.B

16. **Mr LI** said that according to a recent report from a FHKHO member for a specific case in Kowloon, BD had imposed restrictions on the percentage of suite-type hotel rooms and kitchenette etc. on a purpose-built hotel during the application for plans approval and he opined that BD should consult the hotel trade before making any policy change in the regulation of suite type hotel rooms.

Date of next meeting

17. The Secretary would inform members of the date of the next meeting in due course.

Economic Analysis and Business Facilitation Unit

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