

Guidelines on Local Consultation and Advisory Panel for Hotel/Guesthouse Operators and the General Public

Introduction

Operation of hotels and guesthouses in Hong Kong is regulated by the Hotel and Guesthouse Accommodation Ordinance (Cap. 349) (“the Ordinance”). The Hotel and Guesthouse Accommodation Authority (“the Authority”) may, on application, issue a hotel licence or guesthouse licence if it is satisfied that the eligibility criteria for the licence are met.

2. The Hotel and Guesthouse Accommodation Ordinance 2020 was gazetted on 19 June 2020 and has come into operation on 1 December 2020. The amended Ordinance empowers the Authority to take into account local residents’ views before making a decision on the licence applications. Other factors to be considered in the licensing process include the suitability requirement specified in the Buildings Ordinance (Cap. 123) and the Fire Services Ordinance (Cap. 95), “no-use restriction requirement”¹, “fit and proper requirement”² and operation requirement³.

3. Under the Notification System introduced in April 2014, the Authority will inform relevant Incorporated Owners (IOs) or Owners Corporation (OCs), Property Management Company (PMCs) and the occupants if there is no IO/OC or PMC of a building upon the receipt of licence application for a premises therein. Notwithstanding this, the occupants do not have a proper channel to express their views during the entire licensing process.

¹ The Authority is empowered to require the applicant to provide a written legal advice given by a legal practitioner on whether there is a restrictive provision in the Deed of Mutual Covenant (“DMC”) of the premises concerned which prohibits the site from being used (i) as a hotel or guesthouse, (ii) for commercial purpose or (iii) otherwise than for private residential purpose. The Authority will refuse to issue or renew a licence if not satisfied that there is no restrictive provision in the DMC. In case the hotel or guesthouse is situated at premises without DMC, the applicant will be required to provide written legal advice given by a legal practitioner that the land leases concerned do not contain any restrictive provision.

² The Authority may refuse to issue, renew a licence or permit the transfer of a licence respectively if it appears to the Authority that the applicant is not a fit and proper person to operate, keep, manage or otherwise have control of a hotel or guesthouse.

³ Operation requirement is applicable to licence renewal only.

Local Consultation

4. The new section 12N of the Ordinance empowers the Authority to appoint a panel of persons (advisory panel) for advising the Authority on matters that relate to a licence application under the Ordinance, including –

- (a) the views of affected persons [see paragraph 6 below] in respect of a licence application; and
- (b) having regard to those views and any response from the applicant, recommendations on the application, including –
 - (i) whether to approve or refuse the application; and
 - (ii) whether to impose any conditions on the licence.

5. However, no local consultation will be conducted if the use of the premises as a hotel or guesthouse is permitted according to (i) a draft plan or an approved plan within the meaning of the Town Planning Ordinance (Cap. 131) (“TPO”); or (ii) a permission granted in respect of such a use under the TPO. Under both situations, such use has already been covered by the relevant statutory consultation under the TPO.

6. Affected person, in relation to a licence application for any premises, means –

- (a) if the premises form part but not the whole of a building – (i) an owner or occupier of any part of the building; and (ii) if the Authority considers appropriate – an owner or occupier of any other premises situated within 30m from the boundary of the building specified by the Authority for the application;
- (b) if the premises form the whole of a building - an owner or occupier of any other premises situated within 30m from the boundary of the building specified by the Authority for the application.

7. To strike a fair and reasonable balance between efficiency and impartiality, the Authority does not conduct the consultation exercises. An independent advisory panel comprising representatives from various professions,

local communities and the hotel and guesthouse sector is set up to consider the views of the applicant and affected persons. The Office of the Licensing Authority provides secretariat support to the advisory panel.

8. The affected persons will be invited to submit their views on the licence application by returning the completed reply form through mail, fax or e-mail.

9. The relevant information about the licence applications under local consultation will be available on OLA's website. In general, anonymous views or views from non-affected persons will not be considered.

10. The applicant will be invited to respond to the views collected. Identities of the relevant affected persons will not be disclosed to the applicants unless it is unavoidable because the identity could be detected directly or indirectly from the views themselves.

11. The views of both affected persons and applicants will be passed to the advisory panel for consideration and making recommendation to the Authority. Before making advice or recommendation to the Authority, the advisory panel will consider the special circumstances of each application and may conduct hearings to listen to representations from the applicants and affected persons who gave views.

12. The Authority will take into account the advice or recommendation given by the advisory panel but will make a final decision on each application.

13. The applicant and affected persons who gave views and provided contact information will be informed of the Authority's decision at the appropriate time.

Transitional Arrangements

14. The amended Ordinance provides for the transitional arrangements under which the Authority may renew the existing licences once, for a period of 12 months, after the commencement of the Ordinance on the basis of the licensing requirements under the old regime. The Authority may approve such applications in the absence of local consultation.

Enquiries

15. For enquiries, please contact the Office of the Licensing Authority through either of the following means –

Telephone	3107 3021
E-mail	hadlaapu@had.gov.hk
Postal address	Office of the Licensing Authority Home Affairs Department 10 th Floor, 14 Taikoo Wan Road Taikoo Shing Hong Kong

Office of the Licensing Authority
Home Affairs Department
December 2020