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27 February 2017

To: all licensees / applicants of hotels and guesthouses

Dear Sir / Madam,

Hotel and Guesthouse Accommodation Ordinance (HAGAO) (Cap. 349)

Duration of Licences for

Guesthouses (General) and Guesthouses (Holiday Flat)

I write to inform you that, with effect from 1 March 2017, we will resume issuing licences for Guesthouses (General) and Guesthouses (Holiday Flat) for a period of not more than 36 months, if the relevant applications can comply with the requirements as set out in ensuing paragraphs.

Background

2. The Office of Licensing Authority (OLA) used to issue licences to Guesthouses (General) and Guesthouses (Holiday Flat) for a period of not more than 36 months. To prepare the trade for the future regulatory regime as set out in the Consultation Document in 2014 on "Review of the Hotel and Guesthouse Accommodation Ordinance", and to facilitate their compliance with the three administrative enhancement measures introduced on 28 December 2015, the OLA has, since 2014, adjusted the duration of the licences issued to Guesthouses (General) and Guesthouses (Holiday Flat), and fixed the duration of relevant licences to 12 months since from 28 December 2015.

Requirements for Licences with Validity Period of Not More than 36 Months

3. The OLA has reviewed the existing arrangements in relation to the duration of licences for Guesthouses (General) and Guesthouses (Holiday Flat). Taking into account the general compliance with the three administrative enhancement measures over the past year on one hand, and the changes that would be brought about by the regulatory framework after the legislative amendments to the HAGAO on the other, in order to facilitate the smooth and early implementation of the new licensing regime for hotel and guesthouse, the OLA will, with effect from 1 March 2017, resume issuing licences for Guesthouses (General) and Guesthouses (Holiday Flat) for a period exceeding 12 months, provided that the relevant applications comply with the following arrangements -

- (a) A licence for a period of not more than 36 months will be issued to an applicant if the following criteria are satisfied:
 - (i) the applicant possesses a good record (as stipulated in Section IX (c) of the Form "Application for a licence" and Section VIII (a) of the Form "Application for renewal of a licence");
 - (ii) the three administrative enhancement measures introduced by the OLA on 28 December 2015 have been complied with; and
 - (iii) regarding the building where the premises intended to be used as a guesthouse is situated -

- (1) OLA has not received any allegation, under the "Notification System" or through other channels, that guesthouse operation contravenes the Deed of Mutual Covenant (DMC) of the building concerned; or
- (2) upon such allegation, the applicant can provide documentary proof (e.g. a certificate signed by a solicitor) ascertaining that there is no explicit restrictive provision in the DMC, including stipulation that guesthouse operations or commercial activities are not allowed in the building, or the premises are for "private residential use" only.

(b) A licence for a period of not more than 12 months will be issued to an applicant if any of the following situations arises:

- (i) the applicant does not possess a good record (as stipulated in Section IX (c) of the Form "Application for a licence" and Section VIII (a) of the Form "Application for renewal of a licence");
- (ii) the applicant has not complied with the three administrative enhancement measures introduced by the OLA on 28 December 2015 but is eligible for a 1-year grace period; or
- (iii) the OLA has received, under the "Notification System" or through other channels, allegations that guesthouse operation contravenes the DMC of the building where the premises intended to be used as a guesthouse is situated, and the applicant fails to provide documentary proof certifying that the DMC concerned does not contain explicit restrictive provisions; or
- (iv) there is allegation that the premises intended to be used as a guesthouse contravenes the DMC of the building where it is situated, and the owner(s) or the Owner's Corporation of the building concerned has taken the case to the Lands Tribunal pending a court decision.

4. In the light of the above arrangements, in processing applications received on or after 1 March 2017, applicants will be required to observe paragraph (b) in Section III of the new Application Form (attached) and declare whether the building in which the premises under application for a guesthouse licence is situated has been subject to any alleged contravention of DMC due to the guesthouse operation.

Applications

5. You are reminded to use the new application form for submitting applications on/ after 1 March 2017, while applications received before 1 March 2017 will be processed according to the existing practice with the licence duration capped at 12 months.

Enquiries

6. The new application form is available on the website of the Office of Licensing Authority (<http://www.hadla.gov.hk>).

7. Should you have any enquiries, please contact the OLA staff at telephone number 3107 3021.

Yours faithfully,



(AU Wing-hung)
for Hotel and Guesthouse Accommodation Authority