

LCQ21: Short-term accommodation

Following is a question by the Hon Charles Mok and a written reply by the Secretary for Home Affairs, Mr Lau Kong-wah, in the Legislative Council today (June 6):

Question:

In recent years, home-stay lodgings and short-term rental sleeping accommodation provided through the use of idle resources (collectively known as "short-term accommodation") have been in the ascendant around the world. Such type of accommodation offers a travel experience different from that offered by hotels and helps drive the local economy. Some members of the tourism sector have pointed out that many cities around the globe (e.g. Paris, London, Tokyo and Singapore) have formulated policies and regimes to regulate short-term accommodation. However, Hong Kong plans to amend the Hotel and Guesthouse Accommodation Ordinance (HAGAO) (Cap. 349) to step up efforts to combat unlicensed guesthouses and throttle the room for survival of short-term accommodation. Such members have also pointed out that the demand for short-term accommodation from in-bound visitors has continued to increase in recent years, and they therefore have proposed that the Government should introduce a licensing regime to legalise the operation of short-term accommodation. They have proposed that the following should be prescribed under the licensing regime: (i) the upper limits on the number of letting days and the number of licences, (ii) the types of premises which may be used for short-term accommodation, and (iii) the respective conditions applicable to short-term accommodation for guests staying, and that for guests not staying, with hosts (such as the requirement that there must be a trained property manager to oversee the premises). In this connection, will the Government inform this Council:

(1) whether the authorities explored, when conducting studies for amending HAGAO, the introduction of a licensing regime for short-term accommodation and made reference to the relevant experience and policies in other places; if so, of the details; if not, the reasons for that;

(2) whether it will consider formulating a licensing regime to regulate short-term accommodation in accordance with the aforesaid proposals, and implement the regime by expanding the proposed scope of the amendments to HAGAO, so as to facilitate the development of sharing economy; if so, of the details; if not, the reasons for that; and

(3) whether the Policy Innovation and Co-ordination Office will commission a consultancy study on the impacts and potentials of sharing economy and short-term accommodation on the economy, consult the relevant stakeholders and put forth a comprehensive proposal on a licensing regime for short-term accommodation; if so, of the details; if not, the reasons for that?

Reply:

President,

Operation of hotels and guesthouses in Hong Kong is regulated by the Hotel and Guesthouse Accommodation Ordinance (Cap. 349) (HAGAO). The purpose of the HAGAO is to ensure that premises intended to be used as hotels/guesthouses comply with the statutory standards in respect of building and fire safety in order to safeguard lodgers and members of the public. According to the HAGAO, "hotel" and "guesthouse" mean any premises whose occupier, proprietor or tenant holds out that, to the extent of his available accommodation, he will provide sleeping accommodation at a fee for any person presenting himself at the premises. Any premises providing short-term sleeping accommodation at a fee, including home-stay lodgings or short-term rental sleeping accommodation provided through the use of idle resources as mentioned in the question, if the mode of operation falls within the definition of "hotel" and "guesthouse" under the HAGAO, a hotel or a guesthouse licence must be obtained before lawful operation. However, premises in which all accommodation is provided for a period of 28 continuous days or more for each letting are excluded from the application of the HAGAO, as stipulated in the Hotel and Guesthouse Accommodation (Exclusion) Order (Cap. 349C). The Office of the Licensing Authority (OLA) under the Home Affairs Department (HAD) is responsible for administering the HAGAO, including issuing licences and performing enforcement duties.

My reply to the Hon Charles Mok's question is as follows:

(1) The main purposes of the Government's plan to amend the HAGAO are to improve the licensing regime, minimise nuisance caused by licensed hotels and guesthouses to nearby residents, facilitate enforcement actions against unlicensed hotels and guesthouses, and increase deterrent effect against operation of unlicensed hotels and guesthouses. This was in response to public concerns over the safety problems posed by operation of guesthouses inside multi-storey buildings, in particular having regard to a serious fire outbreak at a multi-storey building in 2013, causing death and injury of tourists accommodating in guesthouses operating at the building concerned.

Currently, the HAGAO does not preclude licence applications for home-stay lodgings or other forms of short-term rental sleeping accommodation. Any premises may apply for a licence for lawful operation provided that they comply with the fire and building safety requirements. As the current HAGAO has already included regulation for short-term rental sleeping accommodation as mentioned in the question, we consider it unnecessary to introduce another licensing regime to regulate the relevant premises.

The proposed amendments to the HAGAO have already been discussed for years. Further to the consultation exercise conducted in 2014, the Panel on Home Affairs, the trade, relevant stakeholders and the public generally support relevant legislative proposals. We hope to implement the proposed amendments to the HAGAO as soon as possible to address public concerns.

(2) As mentioned above, the current HAGAO does not preclude licence

applications for home-stay lodgings or other forms of short-term rental sleeping accommodation. In fact, the OLA has all along been issuing guesthouse (holiday flat) licences to village-type houses in the New Territories operating in the mode of home-stay lodging with reference to "A Guide to Licence Application for Holiday Flat" (the Guide). Having considered the general scale and design of holiday flats, the fire and building safety requirements set out in the Guide are generally more relaxed than those for guesthouses (general). The OLA will continue to adopt a flexible and pragmatic approach as usual in processing relevant licence applications.

We have noted that regulation of hotels and guesthouses, home-stay lodging or other forms of short-term rental sleeping accommodation varies in different jurisdictions depending on the overall environment and living conditions, without any uniform standard. Therefore, if other proposals are to be further considered, we have to take full account of the views from different stakeholders and the actual circumstances, such as the proliferation of densely populated multi-storey buildings in Hong Kong, to ensure that the regulation of hotel and guesthouse accommodation suits the needs of Hong Kong.

(3) According to information provided by the Policy Innovation and Co-ordination Office (PICO), since its establishment on April 1 this year, the PICO has been meeting relevant government departments and stakeholders to gather their views on issues relating to sharing economy. Insofar as home-stay lodgings or other forms of short-term rental sleeping accommodation are concerned, PICO is conducting research on the regulatory regimes adopted by various cities with a view to examining their implications under different social environments and providing evidenced-based input for consideration by the policy bureaux concerned.