

LCQ7: Regulation of guesthouse licences

Following is a question by the Hon Vincent Cheng and a written reply by the Secretary for Home and Youth Affairs, Miss Alice Mak, in the Legislative Council today (June 19):

Question:

There are views pointing out that at present, there are many unlicensed or shadow guesthouses (i.e. unlicensed guesthouses operated by guesthouse licensees at other premises) operating in old commercial/residential buildings across the territory, which pose safety risks to residents and tourists. The existence of unlicensed guesthouses also affects the reputation of the guesthouse industry and tourism industry of Hong Kong. In this connection, will the Government inform this Council:

(1) given that the Hotel and Guesthouse Accommodation (Amendment) Ordinance 2020 explicitly empowers the Hotel and Guesthouse Accommodation Authority to take into account in the licensing process the relevant restrictive provisions in land documents, of the number of cases of renewal of guesthouse licences being refused due to violation of the Deeds of Mutual Covenant after the Ordinance came into effect and, among them, the number of cases in which the applicants have lodged appeals and the decision to refuse licence renewal has been suspended;

(2) of the number of complaints about suspected operation of unlicensed guesthouses received by the Office of the Licensing Authority (OLA) under the Home Affairs Department and, among them, the respective numbers of cases completed, successfully prosecuted and convicted in each of the past three years;

(3) of the following information on the law enforcement actions taken by OLA in respect of suspected operation of unlicensed guesthouses in each of the past three years: (i) the number of inspections, (ii) the districts inspected, (iii) the number of cases where prosecutions were instituted, (iv) cases still under investigation, and (v) the number of convicted cases and the respective amounts of fines or terms of imprisonment;

(4) as some members of the guesthouse industry have pointed out that unlicensed guesthouses often accept room reservations through online hotel booking platforms, how OLA will step up law enforcement efforts; in addition to carrying out decoy operations to gather evidence, whether the Government has conducted joint-departmental enforcement operations or adopted other investigation approaches to combat unlicensed guesthouses soliciting tourists on online platforms; if so, of the details; if not, the reasons for that; what measures the Government has put in place to remind tourists to avoid mistakenly choosing to stay in unlicensed hotels;

(5) whether it has, when processing applications for grant or renewal of guesthouse licence, considered checking the capacity and fire service equipment of the common area of the buildings concerned, including whether the buildings have complied with the Mandatory Building Inspection Scheme notices or Fire Safety Directions, etc.; and

(6) whether it has considered reviewing the existing guesthouse licensing regime and legislation to stipulate the number of guesthouse rooms allowed in a commercial/residential building; if so, of the details; if not, the reasons for that?

Reply:

President,

Operation of guesthouses in Hong Kong is regulated by the Hotel and Guesthouse Accommodation Ordinance (Cap. 349) (the Ordinance). The Ordinance aims to ensure that premises intended to be used as guesthouses are suitable for such a purpose, including compliance with statutory standards in respect of building and fire safety. The Office of the Licensing Authority (OLA) under the Home Affairs Department (HAD) is responsible for administering the Ordinance, including issuing licences and performing enforcement duties.

Our reply to the question raised by the Hon Cheng is as follows:

(1) The Hotel and Guesthouse Accommodation (Amendment) Ordinance 2020 (the Amendment Ordinance) took effect on December 1, 2020, with a transitional period of 12 months. After the end of the transitional period (i.e. after November 30, 2021), all licence renewal applications must comply with the enhanced statutory requirements under the Ordinance.

As of end-April 2024, there are 1 410 premises licensed with Guesthouse (General) Licences. Since the implementation of the Amendment Ordinance, 60 renewal applications for Guesthouse (General) Licence were rejected due to restrictive provision in the deed of mutual covenant (DMC) or land lease (if there is no DMC). Amongst those, 15 licensees lodged appeals to the Appeal Board (Hotel and Guesthouse Accommodation). Appeal procedures were completed for five cases and the Appeal Board (Hotel and Guesthouse Accommodation) decided to uphold the decisions of refusal to renew licences for all five cases; one licensee finally decided to withdraw the appeal; and the remaining nine appeal cases are currently being processed. Pursuant to section 17A of the Ordinance, the decisions to reject the licence renewal applications for the nine concerned cases are currently being suspended, until the processing of the appeals have been completed.

(2) and (3) The number of complaints related to suspected unlicensed hotels or guesthouses received by the OLA and the enforcement statistics# in the last three years (from 2021 to end-April 2024) are provided below:

| | 2021 | 2022 | 2023 | 2024 (as of end-April) | Total |
|-------------------------|-------|-------|-------|------------------------|--------|
| Number of Complaints | 668 | 242 | 1 084 | 480 | 2 474 |
| Number of Inspections | 7 498 | 4 297 | 5 588 | 3 048 | 20 431 |
| Number of Prosecutions* | 9 | 42 | 120 | 68 | 239 |
| Number of Convictions* | 9 | 25 | 91 | 42 | 167 |

The case record system of the OLA does not maintain the breakdown on the number of complaints of which the investigation is completed / is ongoing.
 * The number of prosecutions and convictions for operating unlicensed hotels or guesthouses usually relate to incidents happened before that particular year. In the last three years, the amount of fines imposed on offenders who operated unlicensed hotels or guesthouses ranged from \$1,500 to \$30,000.

The statistics of inspections to suspected unlicensed hotels or guesthouses carried out by the OLA in each of the 18 districts in the last three years are provided below:

| District | 2021 | 2022 | 2023 | 2024 (as of end-April) | Total |
|---------------------|------|------|------|------------------------|-------|
| Islands | 510 | 384 | 637 | 209 | 1 740 |
| North | 39 | 32 | 54 | 43 | 168 |
| Sai Kung | 197 | 148 | 233 | 77 | 655 |
| Sha Tin | 79 | 53 | 39 | 44 | 215 |
| Tai Po | 35 | 24 | 40 | 17 | 116 |
| Tsuen Wan | 83 | 35 | 115 | 57 | 290 |
| Tuen Mun | 98 | 33 | 69 | 56 | 256 |
| Yuen Long | 207 | 204 | 191 | 90 | 692 |
| Kwai Tsing | 20 | 13 | 26 | 30 | 89 |
| Central and Western | 356 | 187 | 337 | 211 | 1 091 |
| Wan Chai | 722 | 548 | 977 | 702 | 2 949 |
| Eastern | 84 | 102 | 175 | 58 | 419 |
| Southern | 11 | 16 | 23 | 12 | 62 |
| Kowloon City | 143 | 78 | 102 | 53 | 376 |
| Kwun Tong | 40 | 29 | 64 | 25 | 158 |
| Sham Shui Po | 242 | 121 | 169 | 53 | 585 |

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|---------------|-------|-------|-------|-------|--------|
| Wong Tai Sin | 20 | 17 | 19 | 9 | 65 |
| Yau Tsim Mong | 4 612 | 2 273 | 2 318 | 1 302 | 10 505 |
| Total | 7 498 | 4 297 | 5 588 | 3 048 | 20 431 |

(4) The OLA has spared no effort and adopted a multi-pronged approach to combat unlicensed guesthouses, including enhancing deterrent effect, strengthening law enforcement action, stepping up publicity, etc.

To strengthen law enforcement action, the Amendment Ordinance has introduced new provision that the owners and tenants of the premises (which refer to persons given exclusive possession of the premises concerned under a tenancy and do not include guests patronising the premises) being used as unlicensed guesthouses will also be held criminally liable. The maximum penalty is a fine of \$500,000 and three years' imprisonment. The court may also issue a six-month closure order to the premises involved in a repeated offence. In addition, the Amendment Ordinance also empowers the OLA to apply to the court for a search warrant to enter into the concerned premises to inspect and search for evidence to combat unlicensed guesthouses.

To strengthen the deterrent effect, the OLA will pass information on conviction records of successful prosecution cases and their relevant details to the Rating and Valuation Department, the Inland Revenue Department, mortgage banks or monetary institutions, owners' corporations of the buildings, etc, so that they can take follow-up actions under their respective purviews. Should an estate agent be convicted, the OLA will also pass the conviction record to the Estate Agents Authority for follow-up actions.

As for law enforcement action, when a suspected unlicensed guesthouse operation is identified or such a report is received, the OLA will inspect the premises concerned within a short period of time. Having regard to the circumstances of individual cases, the OLA will follow up and collect evidence by employing the most appropriate and effective means, such as conducting surprise inspections at different times, launching inter-departmental joint operations with other relevant departments, or adopting "snaking" to collect evidence. In addition, the OLA will also step up its enforcement actions to combat unlicensed guesthouses during festive holidays (e.g Lunar New Year, Labour Day and Christmas holidays).

As regards publicity, the OLA has uploaded a list of licensed guesthouses onto its webpage (www.hadla.gov.hk) and launched a mobile application "Hong Kong Licensed Hotels and Guesthouses" to help tourists search for the latest details, licence numbers and addresses of licensed guesthouses. Tourists and members of the public may also use this mobile application to report suspected unlicensed guesthouses to the OLA. In order to facilitate tourists in identifying whether the guesthouses they are staying in are licensed, the OLA requires all licensed guesthouses to display guesthouse logos at main entrances as well as the door of each of the rooms of the guesthouses. The OLA has also conducted publicity work on internet

search engine outside Hong Kong to help tourists access information about licensed guesthouses.

The OLA will review and flexibly adjust its enforcement and publicity strategies and continue to combat and eradicate unlicensed guesthouses vigorously.

(5) and (6) The OLA has been strictly adhering to the Ordinance in processing all applications for guesthouse licences and licence renewal. When considering whether a premises shall be issued with a licence, the OLA will consider the floor area of the building where the premises is located and the overall discharge value of emergency staircases of the building, in order to assess the capacity of guests the premises can accommodate. The concerned premises must also comply with statutory standards in respect of building and fire safety. During the validity period of the licence, the OLA will conduct spot checks to the premises and require all licensees to submit a valid Certificate of Fire Service Installation and Equipment every year, to ensure that the concerned premises itself complies with the relevant building and fire safety requirements. When applying for licence renewal, the licensees shall ensure the concerned premises comply with the appropriate building and fire safety standards, as well as all licensing conditions. For areas outside the licenced premises (e.g. common areas of the buildings), building and fire safety are regulated by other relevant ordinances and law enforcement departments.

As for whether there is a need to review the licensing regime and requirements for licensed guesthouses, the HAD will fully consider views of the public and stakeholders.