

LCQ9: Installation of electric vehicle charging facilities in private residential buildings

Following is a question by the Hon Wilson Or and a written reply by the Secretary for the Environment, Mr Wong Kam-sing, in the Legislative Council today (June 10):

Question:

Some suppliers of electric vehicle (EV) charging facilities (suppliers) install for private residential buildings EV charging-enabling infrastructure (the infrastructure) in their common parts, as well as install chargers at the public parking spaces and private parking spaces of interested owners of such buildings. Such suppliers charge the owners' corporations (OCs) concerned a fee for installation of the infrastructure and enter into a five-year service contract with the owner of each of such private parking spaces. Under such contracts, the owners of the parking spaces concerned, after making a lump-sum payment and a monthly fee, may charge their EVs for unlimited number of times. Given that the Building Management Ordinance (Cap. 344) provides that any goods or services the value of which exceeds or is likely to exceed the sum of \$200,000, or a sum which is equivalent to 20 per cent of the annual budget of the OC concerned, must be procured by the corporation by way of invitation to tender, such suppliers pass on part of the installation cost of the infrastructure to the owners of private parking spaces when such cost exceeds the said sum, so as to avoid the situation that OC is obliged to invite tenders. In this connection, will the Government inform this Council:

(1) given that the aforesaid works on installation of the infrastructure are not approved at a general meeting of an OC, but the OC (i.e. all owners) concerned need to bear the costs for such infrastructure's repair and maintenance as well as insurance premiums in future, whether the Government has assessed if the aforesaid arrangements are fair to the various types of owners (especially those owners who own parking spaces but do not intend to use the charging facilities or those who do not have a parking space);

(2) as the Government has not regulated the contents of the contracts on charging services signed between the suppliers and the owners of private parking spaces, whether the Government received any relevant complaints in the past three years and whether it will regulate such contracts, so as to prevent the occurrence of a situation similar to the proliferation of telecommunication services-related complaints in the past; and

(3) whether it has assessed if the practice of the suppliers to pass on part of the cost for installation of the infrastructure to the owners of private parking spaces in order to avoid competition has violated the principle of

fair competition, and how it will follow up the matter?

Reply:

President,

Having consulted the Commerce and Economic Development Bureau (CEDB) and the Home Affairs Department (HAD), the consolidated reply to the question raised by the Hon Wilson Or is as follows:

(1) and (3) When procuring supplies, goods or services required in the exercise of its powers and the performance of its duties under the Deed of Mutual Covenant or the Building Management Ordinance (Cap. 344) (BMO), an owners' corporation (OC) shall comply with the requirements under the BMO, including:

(a) for any supplies, goods or services the value of which exceeds or is likely to exceed the sum of \$200,000, they shall be procured by invitation to tender by the OC; and

(b) for any supplies, goods or services the value of which exceeds or is likely to exceed 20 per cent of the annual budget of the OC:

(i) they shall be procured by invitation to tender by the OC; and

(ii) whether a tender is accepted or not shall be decided by a resolution passed by a majority of votes at a general meeting of the OC.

According to the BMO, in any legal proceedings in relation to a contract for the procurement of any supplies, goods or services, the court may make such orders (including whether the contract is void or voidable) and give such directions in respect of the rights and obligations of the contractual parties as the court thinks fit, having regard to all the circumstances of the case, including whether the contract has been split from a contract which should have been made for the procurement of supplies, goods or services of greater value for the sole purpose of avoiding the compliance of the above requirements.

If the procurement involves works on the installation of infrastructure, in general, the parties bearing the costs for the repair and maintenance as well as insurance premiums in future will depend on the relevant provisions under the Deed of Mutual Covenant of the building of the specific case. There are no such requirements under the BMO.

Furthermore, the procurement and payment arrangement for installation of charging facilities for the private residential buildings concerned are purely decisions made by the relevant OC as a consumer, and do not involve the issue of compliance with the Competition Ordinance.

(2) In the past three years, the Environmental Protection Department, the CEDB and the HAD have not received any complaint related to the contents of the contracts on charging services signed between suppliers and owners of private parking spaces.