

**Minutes of the 10th Meeting of
Housing and Building Management Committee
Yau Tsim Mong District Council (2012-2015)**

Date: 6 February 2014 (Thursday)
Time: 2:30 p.m.
Venue: Yau Tsim Mong District Council Conference Room
4/F., Mong Kok Government Offices
30 Luen Wan Street
Mong Kok, Kowloon

Present:

Chairman

Mr CHONG Wing-charn, Francis

Vice-chairman

Ms Kwan Sau-ling

District Council Members

Mr CHUNG Kong-mo, JP	Mr LAU Pak-kei
Ms KO Po-ling, BBS, MH, JP	Mr WONG Chung, John
Mr CHAN Wai-keung	Mr WONG Kin-san
Mr CHOI Siu-fung, Benjamin	Ms WONG Shu-ming

Co-opted Members

Mr CHIN Chun-wing
Mr LEE Chung-ming

Representatives of the Government

Mr TAM A-ray, Albert	Senior Structural Engineer/F1	Buildings Department
Mr CHAN Chi-ching, Thomas	Senior Liaison Officer (Building Management) Yau Tsim Mong District Office	Home Affairs Department

Secretary

Ms KWAN Ming-wai, Vivian	Executive Officer (District Council) 2 Yau Tsim Mong District Office	Home Affairs Department
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In Attendance:

Mr WONG Wai-on, Duncan	Representative of Public Relations Committee and Secretariat	Hong Kong Institution of Engineers
Ms Mandy LEUNG	Representative of Public Relations Committee and Secretariat	Hong Kong Institution of Engineers
Mr CHOW Lap-man	Representative of Public Relations Committee and Secretariat	Hong Kong Institution of Engineers
Mr YUEN Ngau-yin, Andrew	Representative of Public Relations Committee and Secretariat	Hong Kong Institution of Engineers
Mr CHAN Chun-fai,	Representative of Public Relations	Hong Kong Institution of

Terence Ms Sara CHEUNG	Committee and Secretariat Representative of Public Relations Committee and Secretariat	Engineers Hong Kong Institution of Engineers
Miss Polly CHAN	Representative of Public Relations Committee and Secretariat	Hong Kong Institution of Engineers
Mr POON Yui-chau, William	Senior Professional Officer/Signboard Control	Buildings Department
Mr Winston SK LEUNG	Chief Officer (Licensing Authority)	Home Affairs Department
Mr CHAN Wai-ho	Senior Divisional Officer (LA) (Atg.)	Home Affairs Department
Mr CHAN Sui-hong	Senior Divisional Officer/Kowloon South Division	Fire Services Department

Absent:

Mr HAU Wing-cheong, BBS, MH	District Council Member	
Mr HO Fei-chi, Stephen	Co-opted Member	
Mr CHING Man-tai, Benny, MH	Co-opted Member	
Mr LEUNG Hang-fai	Co-opted Member	
Ms TSO Pui-hing, Tammy	Housing Manager/Kowloon West 3	Housing Department

Opening Remarks

The Chairman welcomed participants to the 10th meeting of the Housing and Building Management Committee (“HBMC”). He reported that Mr HAU Wing-cheong, Mr Stephen HO, Mr Benny CHING and Mr LEUNG Hang-fai were absent due to other commitments.

2. The Chairman proposed that Members with documents to present be given two minutes to make additional remarks on the contents, and that each Member be allowed to speak twice on each item: three minutes for the first time and two minutes for the second time. There was no objection.

Item 1: Visit of Hong Kong Institution of Engineers to Housing and Building Management Committee

3. The Chairman welcomed the representatives of the Public Relations Committee and Secretariat of the Hong Kong Institution of Engineers (“HKIE”) to join the discussion on this item.

4. The Chairman briefly introduced the terms of reference of the HBMC.

5. Mr Duncan WONG and Ms Mandy LEUNG introduced the work of the HKIE and its Public Relations Committee respectively (Annex 1).

(Mr CHUNG Kong-mo joined the meeting at 3:00 p.m.)

6. Mr Benjamin CHOI would like to know the requirements for being qualified as an engineer and the registration procedures. He also enquired whether there were various engineer organisations in Hong Kong, and what kinds of consultancy services a registered engineer was authorised to provide. Moreover, he enquired whether the Government had, in the past, consulted the HKIE on matters concerning removal of dangerous signboards and licensing, etc.

7. Mr Duncan WONG responded as follows:

- (i) Passed in 1975, the Hong Kong Institution of Engineers Ordinance duly endowed the HKIE with legal status. Since then, the HKIE had become the only statutory professional engineer institution in Hong Kong.
- (ii) The corporate members of the HKIE were authorised to sign the documents relating to works projects.
- (iii) The Government had consulted the HKIE in the past. Apart from the written responses to the enquiries raised by the Government, the HKIE had also sent representatives at the Government's request to attend Legislative Council meetings to give oral responses.
- (iv) If engineering graduates from universities wished to become registered engineers, they might receive training for two years and work for four years in companies which ran the HKIE Scheme "A" training programme. Having passed the professional accreditation, they would become members of the HKIE and registered professional engineers.

8. Ms KO Po-ling said that the HBMC and the HKIE were equally concerned about building maintenance. She was glad to know that the HKIE often gave professional advice on the safety problem of old buildings in Yau Tsim Mong ("YTM") District. In addition, she enquired whether the qualifications of registered engineers in Hong Kong were recognised overseas and on the mainland. She also enquired about the responses of the HKIE to the consultation by the Government during implementation of the legislation, and the standpoint of the HKIE regarding the implementation of the Fire Safety (Buildings) Ordinance.

9. Mr Duncan WONG responded as follows:

- (i) The HKIE was a member of the Washington Accord ("Accord"). The engineering degrees accredited by the HKIE were recognised by other members of the Accord. Last year, the HKIE assisted mainland engineering bodies in entering into the Accord as "Organisations holding provisional status". The HKIE had also entered into agreements on mutual recognition of professional qualifications with engineering accreditation bodies from all over the world.
- (ii) If the Government consulted the HKIE on a certain ordinance, the Institution

was willing to give professional advice from an engineering point of view. The HKIE wished to make use of its professional knowledge to promote the concept of environmental protection and sustainable development among the local community.

10. The Vice-chairman remarked that members of the HKIE were equipped with professional engineering knowledge. It would be more acceptable to members of the public when they explained building problems. As such, she hoped that the HKIE would give professional advice to the public and owners' corporations ("OCs") more often.

11. Mr Duncan WONG said that the representatives of the HKIE would answer enquiries about engineering matters from 18 districts throughout the territory. He suggested that the HKIE and the Yau Tsim Mong District Council ("YTMDC") should jointly organise or co-organise events to promote building safety in YTM District together.

12. Mr LAU Pak-kei said that he was a District Council ("DC") Member of the constituency in the vicinity of the construction site of Express Rail Link ("XRL"). Since commencement of the XRL project, the residents nearby often reflected to him that the works had caused noise nuisance to them. He enquired whether the noise insulation equipment installed at the XRL site could effectively minimise the noise impact on the nearby residents. Moreover, he asked whether it was true that piling works were not allowed to be conducted within an area of 20 metres away from the railway protection zone. If that was the case, he worried that the progress of the reconstruction works in the vicinity of the XRL site would be seriously affected. He continued to say that some residents living near the XRL site pointed out that upon commencement of the XRL project, cracks appeared on the walls of their premises. He considered that the XRL project did pose great adverse impact on the nearby residents.

13. Mr Duncan WONG pointed out that new technology was adopted in the XRL underground tunnelling excavation works. The impact on the structure of buildings and the noise generated were minimised. However, the engineers would, having regard to the individual case of respective districts, determine whether the technology concerned was applicable to the tunnelling excavation works in the district.

14. Mr CHOW Lap-man welcomed Councillors to reflect their views on individual cases to the HKIE. He said that the HKIE's structural engineers welcomed enquiries.

15. Mr WONG Kin-san thanked the HKIE for its long-term support for the work of the YTM District Building Management Promotion Campaign Organising Committee ("Organising Committee") and its valuable advice given to the Organising Committee. He pointed out that as there were many old-style buildings in YTM District, housing problems such as dangerous signboards and unlicensed guesthouses existed, he hoped that the YTMDC would enhance co-operation and communication with the HKIE, so that the DC would be able to reflect residents' concerns to the Government more effectively with the help of professional advice given by members of the HKIE. Regarding the noise problem, he hoped that the Government would install noise barriers along railways, roads and flyovers. However, the Government stated that it was difficult to install noise barriers for these facilities due to the limitations of structure and designed load. He asked the HKIE whether the Government's saying was true.

16. Mr Duncan WONG said that the HKIE had all along been proactively giving advice on legislation relating to engineering to the Government. For installation of noise insulation equipment on roads, consideration should be given to the year of completion of the roads and their structure. Studies should be conducted for the roads individually instead of considering the matter as a whole.

17. Mr CHUNG Kong-mo thanked the HKIE for visiting the YTMDC. He said that Councillors often received enquiries from OCs, pointing out that the Government requested OCs to carry out specific improvement works, but they came across difficulties in compliance. He hoped that the HKIE would provide advisory service to OCs in respect of building improvement works and the Fire Safety (Buildings) Ordinance, and requested the HKIE to negotiate with the Fire Services Department (“FSD”) to identify the feasible improvement works. Moreover, he suggested the HBMC explore the possibility of co-operation with the HKIE, such as co-organisation of publicity campaigns. He also requested the HKIE to provide a name list of its YTM District representatives in both Chinese and English, so that Councillors could enquire of these representatives about matters relating to works projects.

(Post-meeting note: the Secretariat received the name list of engineers representing YTM District submitted by the HKIE (English version only). It was distributed on 7 March 2014 for Councillors’ information.)

18. Mr Duncan WONG remarked that for the issues about the Fire Safety (Buildings) Ordinance, Councillors might approach the HKIE Fire Division. He continued to say that he would relay to the Division the YTMDC’s wish to co-organise events with the HKIE. He also said that, for instance, the YTMDC could co-organise events with the HKIE Environmental Division with a view to enhancing local residents’ awareness of environmental developments.

19. Mr Benjamin CHOI stated that the residents in the vicinity of the XRL site reflected that since commencement of the XRL project, cracks had appeared on the walls of their premises. He enquired whether those cracks were caused by the XRL project. In addition, he would like to know whether it was not suitable to install noise barriers along those flyovers which were constructed a long time ago.

20. Mr Terence CHAN said that the foundation of old-style buildings was shallower. Underground excavation works conducted nearby would bring about adverse impact on the buildings. To what extent the buildings would be affected was determined by several factors such as the depth of the foundation, the excavation method and precautionary measures. Therefore, it was difficult for him to judge whether the cracks on the premises were caused by underground excavation works without any information. He continued to say that noise barriers had to bear great wind force owing to their height. As such, the structural safety of flyovers had to be given consideration before installation of noise barriers. The design plan of a particular flyover had to be studied first before deciding whether it was possible to install noise barriers on it.

21. The Chairman commented that under the “Minor Works Control System”, “prescribed registered contractors” were permitted to carry out minor works. However, the service quality of registered contractors varied to a considerable extent. Some of the registered contractors even took up unauthorised works such as subdivision of flats into the commonly-known

“subdivided units”, while the OCs and the occupants of the buildings had to bear the consequences resulted from such works. He enquired whether the HKIE would consider taking up parts of the works procedures permitted under the “Minor Works Control System”. In addition, he hoped that the HKIE would play a more important role in “Operation Building Bright”.

22. Mr Duncan WONG responded that any works that involved structural alterations had to be approved by registered engineers. This requirement was also applicable to the works under the “Minor Works Control System” and “Operation Building Bright”.

23. The Chairman enquired whether the HKIE had established a penalty system to severely punish the contractors and consultants for carrying out unauthorised works.

24. Mr Duncan WONG replied that the HKIE attached great importance to the professional conduct of its members. The HKIE had an established mechanism to enquire into the issues involving professional conduct of members. A member might be punished for non-compliance.

25. The Chairman considered that professional registered engineers should take part in monitoring the structural works under the “Minor Works Control System” and “Operation Building Bright”.

26. Mr Duncan WONG said that the HKIE would keep an eye on non-compliance by contractors and consultants in the industry.

27. Mr CHOW Lap-man stated that the objective of setting up the HKIE was to gather together the registered engineers to foster exchange of views.

28. The Chairman represented the HBMC to thank the HKIE representatives for their visit, and he closed the discussion on this item.

(Ms WONG Shu-ming left the meeting at 3:30 p.m.)

Item 2: Confirmation of Minutes of Last Meeting

29. Minutes of the last meeting were confirmed without amendment.

Item 3: Progress Report on Handling of Signboards in Yau Tsim Mong District by Buildings Department (YTMHBMC Paper No. 1/2014)

30. The Chairman said that the progress report submitted by the Buildings Department (“BD”) had been faxed to Members for perusal before the meeting, and the written response (Annex 2) of the department was also placed on the table for Members’ reference. He then welcomed Mr William POON, Senior Professional Officer/Signboard Control of the BD to the meeting.

31. Mr William POON briefly introduced the contents of the paper.

32. The Vice-chairman remarked that owing to the effort made by the BD, the number of dangerous and abandoned signboards in the district had dropped obviously. She continued to say that the safety of newly installed signboards had aroused public concern. She had repeatedly requested the BD to exercise control over large-sized signboards in the district, but it seemed that the department had not taken any follow-up action so far.

33. Mr John WONG enquired how many signboards among some 28 000 signboards in the district were identified as dangerous ones. He said that according to the BD's target number of problematic signboards to be removed, it would take over 20 years to remove all the problematic signboards throughout the territory. It was such a slow progress.

34. Mr WONG Kin-san said that as this item was discussed at the meeting every time, he hoped that clearer figures would be listed in the report submitted by the BD so that Councillors could further discuss this issue. In addition, he requested the BD to provide the number of dangerous or abandoned signboards identified during inspections conducted in the district. He continued to say that the BD representative had said at the last meeting that the target number of notices issued by the BD to signboard owners requiring them to dispose of unauthorised or abandoned signboards was 1 600. The Signboard Control Unit would issue 250 removal orders every year and it was their target to dispose of 125 large-sized signboards of this kind annually. He would like to know how many of these signboards were located in YTM District.

35. Ms KO Po-ling remarked that the figures submitted by the BD were not clear enough. She stated that the HBMC always placed an importance on the problem of dangerous signboards. It had advised the BD that contractors should submit to the OCs a consent to the commencement of works issued by the department before fixing large-sized signboards to the external walls of buildings. She enquired whether the BD had adopted this proposal.

36. Mr CHUNG Kong-mo commented that when fixing signboards to the external walls of buildings, signboard owners should notify the OCs, but once these signboards were abandoned, the BD would require the OCs to take follow-up action. This practice was unfair to the OCs. Moreover, he considered that the BD should not just list out the number of abandoned/dangerous signboards removed or maintained every year, but should also state in which year the case took place.

37. Mr William POON responded as follows:

- (i) If Councillors found any large-sized unauthorised signboards in the district, they might notify the BD so that the department could consider including the signboards in the large-scale operation against large-sized unauthorised signboards.
- (ii) The 66 removal orders that the progress report referred to all involved large-sized unauthorised signboards.
- (iii) According to the preliminary results obtained from a stock-taking exercise conducted by the BD on the numbers and types of unauthorised structures and signboards at the exterior of private buildings, there were a total of some 28 000 unauthorised signboards in YTM District. However, most of these signboards were relatively small in size and posed less potential risk.

- (iv) If unauthorised signboards were eligible for being included in the Validation Scheme for unauthorised signboards, the signboard owners might submit to the BD certification for safety inspection and relevant information, including the signboard owners' information. Validated unauthorised signboards could still be used, but would have to undergo a safety inspection once every five years.

38. The Chairman enquired whether the BD had the responsibility to confirm the number of dangerous signboards which required immediate removal among the 28 000 unauthorised signboards in the district with a view to reducing their immediate or potential risk posed to the public.

39. Mr William POON said that the BD identified the locations of dangerous or abandoned signboards mainly through regular inspections and reports by the public.

40. The Chairman requested the BD to state how many signboards among those 28 000 unauthorised signboards were classified as dangerous, and requested the department to expedite immediate removal of dangerous signboards.

41. Ms KO Po-ling hoped that the BD would put forward an effective proposal to remove dangerous signboards and exercise control over newly erected signboards.

42. Mr William POON said that he would revise the presentation of information in the report and provide more detailed information to the HBMC.

43. Mr CHUNG Kong-mo remarked that Councillors were very concerned about the safety of road users. As compared to wall signboards, projecting signboards might easily be loose and fall down, and thus resulting in accidents. He hoped that the statistics of these two types of signboards would be separately listed out in the BD's report.

44. There being no further comments, the Chairman closed the discussion on this item.

(Mr CHAN Wai-keung joined the meeting at 4:40 p.m.)

**Item 4: How Can Owners' Corporations Take Action Without Government's Support?
(YTMHBMC Paper No. 2/2014)**

**Item 5: Request for Full Review on Consultation Work and Procedures Pertaining to
Licensing of Guesthouses
(YTMHBMC Paper No. 3/2014)**

45. The Chairman said that as the contents of the papers for items 4 and 5 were related to licensing of guesthouses and unlicensed guesthouses, he proposed that the two items be discussed together. There was no objection.

46. The Chairman said that the written response (Annex 3) of the Home Affairs Department ("HAD") had been faxed to Members for perusal before the meeting. He then welcomed the following representatives to the meeting:

- (i) Mr Winston LEUNG, Chief Officer (Licensing Authority) and Mr CHAN Wai-ho, Senior Divisional Officer (LA) (Atg.) of the HAD;

- (ii) Mr Albert TAM, Senior Structural Engineer/F1 of the BD; and
- (iii) Mr CHAN Sui-hong, Senior Divisional Officer/Kowloon South Division of the FSD.

47. Mr WONG Kin-san and the Vice-chairman briefly introduced the contents of the papers.

48. Mr Winston LEUNG responded as follows:

- (i) The Office of the Licensing Authority (“OLA”) under the HAD processed applications for hotel and guesthouse licences and took enforcement action under the power conferred by the Hotel and Guesthouse Accommodation Ordinance (“the Ordinance”). The OLA would ensure that the hotels and guesthouses complied with the stipulated fire and building safety requirements before issue of a licence.
- (ii) Under the current licensing regime, premises intended to be used as a hotel or a guesthouse must be approved by the Building Authority (i.e. the Director of Buildings) for “domestic purposes” before the OLA processed the concerned applications.
- (iii) Upon receipt of an application for a guesthouse licence, the OLA would send staff to inspect the concerned premises within 26 working days, and as the case might be, issue a letter of upgrading requirements to the applicant. Having completed the upgrading works of the premises, the applicant was required to submit a “Report of Completion” and relevant documents, including all certifications to the OLA. Upon receipt of the documents, the OLA would send staff to conduct a compliance inspection to ensure that the premises complied with all safety requirements before issuing a licence.
- (iv) The OLA would also send staff to inspect the licensed hotels and guesthouses from time to time to ensure that they complied with the licensing requirements.
- (v) In processing applications for renewal of hotel and guesthouse licences, the OLA would send staff to inspect the concerned premises to ensure that they complied with all safety requirements before approving renewal of licences. If a licensed hotel or guesthouse was found to have irregularities, the OLA staff would immediately request the person who was in charge of the premises to rectify the problem, or as the case might be, would take appropriate enforcement actions.
- (vi) The OLA combated and eradicated unlicensed hotels and guesthouses vigorously on all fronts, including proactive enforcement actions, enhanced deterrent measures and comprehensive publicity.
- (vii) To combat the problem that a licence holder made use of other premises for unlicensed hotel and guesthouse operation (i.e. shadow guesthouses), the OLA had already taken corresponding measures. For instance, if a hotel and

guesthouse licence holder was convicted of operating an unlicensed hotel or guesthouse by the court, the OLA would consider, by virtue of the Ordinance, cancellation of all hotel and guesthouse licences held by the licence holder or rejection of his applications for renewal of licences. Up till now, a total of 13 licensed hotels and guesthouses had had their licences cancelled or their applications for renewal of licences rejected, and among which 10 were located in Yau Tsim Mong District.

- (viii) The deed of mutual covenant of a building was not a licensing consideration. It was a private covenant jointly signed by the property owner, property management practitioner and developer. As the Government was not a convenantor, it did not have the power or responsibility to interpret the content of the deed of mutual covenant.
- (ix) Hotel and guesthouse licences issued by the OLA would neither waive any conditions set out in the land leases, tenancy agreements or licences granted by the Government, nor affect or alter the deed of mutual covenant of the premises in which the hotels and guesthouses were located.
- (x) The OLA was planning to make a new arrangement. Upon receipt of applications for hotel and guesthouse licences (including applications for renewal of licences), or when hotel and guesthouse licences were about to be issued, the OLA would take the initiative to notify the OCs, resident associations and property management agencies of the concerned buildings and upload all the relevant information to the web page of the OLA, so that the OCs and the owners would have enough time to study the provisions of the deeds of mutual covenant and take appropriate action.
- (xi) The HAD had undertaken to review the Ordinance so that OLA would be able to take more effective enforcement action to combat and eradicate unlicensed hotels and guesthouses.

49. The Chairman would like to know about the progress of the OLA's review on the Ordinance.

50. Mr Thomas CHAN said that the OLA had planned to make a new arrangement. Upon receipt of applications for renewal of hotel and guesthouse licences or when hotel and guesthouse licences were about to be issued, the OLA would take the initiative to notify the OCs of the buildings concerned. However, both the OCs and the owners considered that it was inadequate for the OLA to notify the owners and the OCs of the buildings concerned only in the process of licensing. They hoped that the OLA would follow the practice of processing liquor licence applications by conducting an official consultation with Councillors of the district and the resident associations, OCs and property management agencies of the concerned buildings before issuing a licence.

51. The Chairman considered that before issuing a licence to an applicant, the OLA should seek approval from the OC of the building concerned and ensure that the application did not breach the deed of mutual covenant of the building.

52. Mr WONG Kin-san opined that it was necessary for the OLA to face up to the problems of unlicensed guesthouses and licensing process of hotels and guesthouses. He enquired whether the OLA had any information indicating how many unauthorised guesthouse operators were tenants instead of owners, and whether owners could take measures to prevent tenants from operating unlicensed guesthouses in the premises. He reiterated that in respect of licensing of hotels and guesthouses, apart from requesting the OCs to refer to the deeds of mutual covenant, the most important point was to seek approval from the OCs and the owners before issuing the licences.

53. The Vice-chairman said that the OCs and owners had reflected to the OLA many times that it was not enough to notify the OCs only before issuing hotel and guesthouse licences. The OLA had all along stated that they were reviewing the licensing process, but without taking any substantial responsive action. She would like to know the definition of “unlicensed guesthouses”, and asked usually how long it took for the OLA to issue a licence upon receipt of an application for a licence. She pointed out that, for many guesthouse licence applications, the processing time took as long as two to three years. During this period, the applicants had to pay the rent of the premises and other expenses as well. As such, some applicants had already started their business without a licence before it was officially issued.

54. Mr CHUNG Kong-mo said that the licensing process of the OLA was complicated and time-consuming. He suggested streamlining the process. He continued to say that the OLA had stated that if the OCs considered that an application for a licence was in breach of the deed of mutual covenant, they might consider initiating a lawsuit against the applicant. However, he commented that this would largely increase the expenses of the OCs, and it would be a waste of time as well. The OLA could follow the practice of processing liquor licence applications by conducting an official consultation with Councillors of the district and the resident associations, property management agencies and OCs before issuing a licence. Moreover, he indicated that some owners of “subdivided units” not only rented out their units for operation of unlicensed guesthouses, but also took up the posts of OC chairmen. He welcomed the OLA’s enhanced enforcement action against unlicensed guesthouses, but considered that the existing penalties were too moderate, and thus could hardly achieve any deterrent effect. He suggested that the OLA should take the initiative to notify the OCs which guesthouses in their buildings had already been licensed, so that the OCs could post up notices in their buildings for tourists’ information.

55. Mr John WONG said that Councillors were discontented with the existing hotel and guesthouse licensing process and the effectiveness of the OLA’s control over unlicensed guesthouses. He hoped that the OLA would propose enhancement initiatives as soon as possible, such as streamlining the guesthouse licensing process on the basis of the liquor licensing process. Moreover, he opined that it was not cost-effective to initiate lawsuits against unlicensed guesthouse operators by the OCs themselves.

56. Mr CHAN Wai-keung enquired whether the OLA implemented any measures to exercise control over “capsule-like” unlicensed guesthouses. He said that as this type of unlicensed guesthouses attracted people of all kinds to the buildings, the public order became worse. Therefore, complaints were often received from the residents of the buildings. He pointed out that if too many people lived in the buildings, the consequences might be very serious when an accident happened.

57. Mr Winston LEUNG responded as follows:

- (i) The OLA had an established mechanism to relay to the OCs and the owners information about successful prosecutions against unlicensed guesthouses.
- (ii) The OLA was reviewing the licensing mechanism and would conduct a comprehensive consultation to gauge views from various sectors with a view to further studying the feasibility of the proposals.
- (iii) It was an offence for any person to operate a hotel or a guesthouse in his premises prior to issue of a hotel and guesthouse licence by the Hotel and Guesthouse Authority even though an application had been submitted to the OLA for processing. Regarding some individual cases in which it took a longer time to issue a licence upon submission of an application, the main reason was those applicants were unable to duly carry out and complete the designated upgrading works according to the letter of upgrading requirements. A licence would be issued only after the OLA had confirmed that the premises complied with all the stipulated safety requirements.
- (iv) A person who operated an unlicensed guesthouse was liable on conviction to imprisonment and to a fine (a maximum of \$200,000). The OLA was seeking advice from the Department of Justice (“DOJ”) on the judgements of individual cases and would apply to the court for judicial review to enhance the deterrent effect.
- (v) The OLA had implemented the Licensed Guesthouse Logo Scheme, requiring licensed guesthouses to display guesthouse logos at the entrances of the guesthouses and the door of each room to facilitate tourists in identifying a licensed guesthouse.
- (vi) Capsules were similar to “caged men hostels” or “bedspaces”. Under the Bedspace Apartments Ordinance, “bedspace” meant any floor space, bed, bunk or sleeping facility of any other type used or intended to be used as sleeping accommodation for one person. If 12 or more “bedspaces” in the premises were used as sleeping accommodation under rental agreements, a valid bedspace apartment licence must be available for business operations. Currently, there were a total of 12 licensed bedspace apartments in Hong Kong. The law enforcement officers of the OLA had stepped up intelligence collection and inspection. If they had sufficient evidence to prove that a person was operating a guesthouse or a bedspace apartment without a licence, they would take immediate prosecution action.

58. Ms KO Po-ling said that the problem of unlicensed guesthouses had existed for many years in YTM District. She had discussed this problem with the industry, and the practitioners all supported enforcement actions against unlicensed guesthouses. Moreover, she pointed out that in case accidents happened to tourists during their stay in the guesthouses, they would not receive any compensation from insurers. She reiterated that industry practitioners agreed to enhancing control over guesthouses, but they considered that the OLA should provide clear guidelines to facilitate their compliance.

59. The Chairman said that if the Administration vigorously combated “shadow guesthouses” and permanently cancelled the guesthouse licences held by shadow owners of the “shadow guesthouses”, this would achieve a deterrent effect on the unlicensed guesthouse operators. Meanwhile, the Government should clearly convey the message of its vigorous efforts against unlicensed guesthouses to the industry, and take forward the implementation of the relevant legislation. He continued to say that offenders would be liable to a fine. As such, he suggested that the OLA should, before issuing a licence, conduct an assets test on applicants so as to make sure that the applicants were able to pay the fine in case they violated the relevant legislation. He indicated that the business practices of unlicensed guesthouses changed rapidly. The OLA should keep pace with such changes and put in place some control measures which were applicable to various types of unlicensed guesthouses. In addition, he doubted the effectiveness of requiring licensed guesthouses to display “Licensed Guesthouse Logos” at the entrances of the guesthouses and the door of each room, as tourists might not be able to identify the logo.

60. Mr WONG Kin-san said that the OCs and the owners were mainly concerned about the impacts on the buildings brought by operation of guesthouses, including fire safety, complicated backgrounds of tourists, inspection and maintenance of lifts and increase in management fees. He reiterated that while processing an application for a licence, the OLA should fully consult the OCs, owners and resident associations concerned for their opinions. He suggested that the issue of guesthouse licensing consultation should be included as a regularly reported item at the HBMC meetings, so that the Committee could follow up the work progress on a half-yearly or yearly basis.

61. The Chairman remarked that rather than include the captioned item as a regularly reported item, it would be more appropriate to let Councillors submit papers for discussion of the item when necessary.

62. Mr Winston LEUNG said that the HAD would adopt an open attitude in listening to the views widely gauged from the community, and would carefully consider various proposals. The outcome of the review on licensing process would be released when appropriate.

63. The Vice-chairman would like to know the FSD’s role in processing applications for hotel and guesthouse licences. She considered that besides the Hotel and Guesthouse Accommodation Ordinance, the Fire Services Ordinance would also achieve a deterrent effect on unlicensed guesthouses.

64. Mr CHAN Sui-hong said that no matter whether there were unlicensed guesthouses in a building, officers of the Operational Commands of the FSD would, during inspection of the building, check and confirm whether the escape route was obstructed, the rooftop and ground floor exits were unlocked, the smoke control doors of all floors were closed and unlocked, and the fire service equipment in the building was in normal operating conditions. If any violations of the Fire Services Ordinance were found, officers of the FSD would take appropriate enforcement action, including direct issue of the Fire Hazard Abatement Notice to the person-in-charge of the concerned premises or direct prosecution. For guesthouse licensing, it was not under the purview of the FSD, but a team of officers of the FSD were on secondment to the Enforcement Team of the OLA to provide assistance. The details would be reported by Mr Chan Wai-ho, Senior Divisional Officer (LA) (Atg.), who was seconded to the OLA.

65. Mr Chan Wai-ho said that officers of the Enforcement Team would conduct special action during the peak travel season, such as disguising as travellers to inspect the targeted premises. If they suspected that someone was operating an unlicensed guesthouse, they would conduct further investigations. He continued to say that during the last Chinese New Year holiday, officers of the Enforcement Team had inspected 114 premises in YTM District, among which 7 of them were suspected as unlicensed guesthouses. The officers were compiling the evidence collected and would initiate prosecutions against the offenders. They would also co-operate with the Hong Kong Police Force (“HKPF”) and the Immigration Department. If any person was found in breach of the conditions of stay, the case would be referred to the HKPF for follow-up action.

66. The Chairman enquired whether the officers of the Enforcement Team would notify the tourists staying in the guesthouses immediately as soon as they found the guesthouses unlicensed during inspection, and would post up notices outside the guesthouses to inform members of the public that the guesthouses were unlicensed.

67. Mr Chan Wai-ho replied that as soon as the officers of the Enforcement Team found an unlicensed guesthouse, they would take statements from the tourists and hoped that they would appear before the court as witnesses. However, as many tourists stayed in Hong Kong for a short period of time only, they might not be able to return to Hong Kong to serve as a witness. Nevertheless, the statements given by these tourists would also facilitate follow-up on the case. Moreover, the Enforcement Team would target the concerned premises and initiate prosecutions once sufficient evidence was collected.

68. The Chairman enquired whether the Enforcement Team wished to have greater inspection power conferred on it, such as immediate seizure of the premises when unlicensed guesthouses were found there.

69. Mr Winston LEUNG said that the existing Ordinance did not confer such power on the OLA. Moreover, seizure of the premises would involve the impact on the owners’ exercise of their right of ownership. The OLA was currently exploring the feasibility of this matter and seeking advice from the DOJ.

70. The Chairman opined that the OLA should strive for the Enforcement Team officers’ right to immediate seizure of unlicensed guesthouses during inspection of premises, so as to prevent tourists from patronising these guesthouses in future.

71. The Vice-chairman hoped that the OLA would inform the OCs of the results of inspections. If suspected unlicensed guesthouses were found in the premises, the OCs could notify the tourists staying in those guesthouses as soon as possible.

72. There being no further comments, the Chairman thanked the representatives from government departments for attending the meeting and closed the discussion on this item.

Item 6: Any Other Business

73. There being no other business, the Chairman closed the meeting at 5:35 p.m. The next meeting would be held at 2:30 p.m. on 27 March 2014.

Yau Tsim Mong District Council Secretariat
March 2014

香港工程師學會 到訪油尖旺區議會 房屋事務及大廈管理委員會 2014年2月6日

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香港工程師學會之簡介

黃維安工程師
公共關係事務委員會主席

HKIE

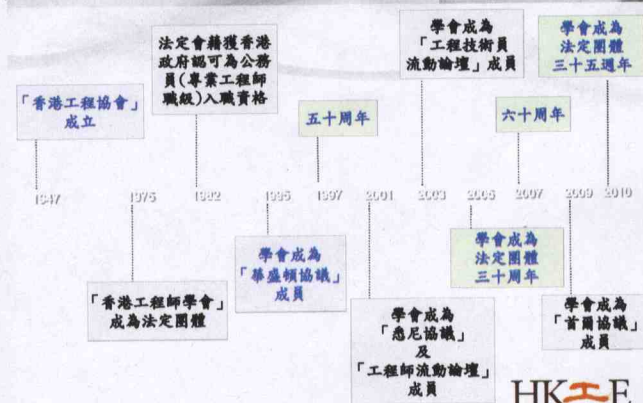
宗旨、使命與核心價值

宗旨
<ul style="list-style-type: none"> 持續發揮優質工程專業
使命
<ul style="list-style-type: none"> 帶領工程界邁步向前，促進知識與理念的交流 為會員提供多元化的服務，幫助他們發展事業，服務社會 維持工程界的專業水平，並提高工程師的地位及聲望
核心價值
<ul style="list-style-type: none"> 持續發展 專業精神 廉潔正直 精益求精 力臻完善

香港工程師學會

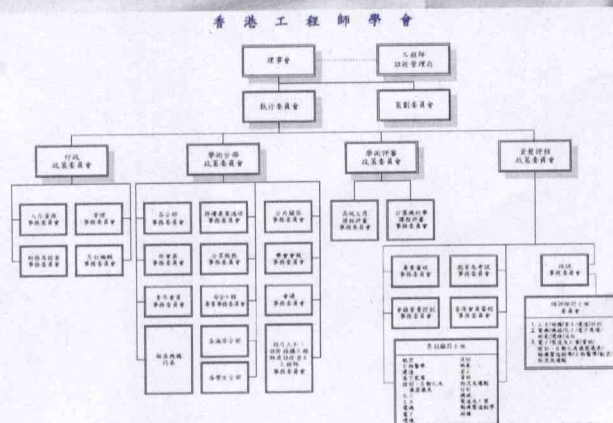
The Hong Kong Institution of Engineers

歷史簡介



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學會架構



會員統計



HKIE

主要功能

評審團體

制定工程教育、培訓及專業資格評審標準

包括二十一個專業界別

- | | | |
|---------------|------|----------|
| ■ 航空 | ■ 電機 | ■ 資訊 |
| ■ 生物醫學 | ■ 電子 | ■ 物流及運輸 |
| ■ 建造 | ■ 能源 | ■ 製造及工業 |
| ■ 屋宇裝備 | ■ 環境 | ■ 輪機暨造船學 |
| ■ 化工 | ■ 消防 | ■ 材料 |
| ■ 土木 | ■ 燃氣 | ■ 機械 |
| ■ 控制、自動化及儀器儀表 | ■ 岩土 | ■ 結構 |

HKIE

主要功能

學術團體

積極協助會員了解工程界的最新發展

學術活動由十八個分部統籌：

- | | | |
|---------------|---------|---------------|
| ■ 航空 | ■ 電機 | ■ 資訊科技 |
| ■ 生物醫學 | ■ 電子 | ■ 製造及工業 |
| ■ 建造 | ■ 環境 | ■ 材料 |
| ■ 屋宇裝備 | ■ 消防 | ■ 機械、輪機、造船及化工 |
| ■ 土木 | ■ 燃氣及能源 | ■ 核子 |
| ■ 控制、自動化及儀器儀表 | ■ 岩土 | ■ 結構 |

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學術分部政策委員會

社會服務



就政府有關工程專業的諮詢文件提供專業意見

出席立法會有關工程法案的委員會會議並發表意見



提名會員出任各政府部門及高等教育機構諮詢委員會委員

HKIE

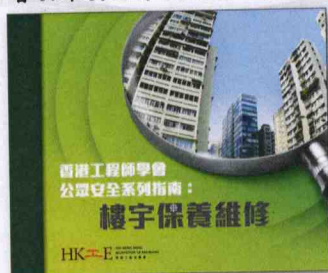
社會服務/向傳媒提供專業意見



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社會服務

香港工程師學會公眾安全系列指南：樓宇保養維修

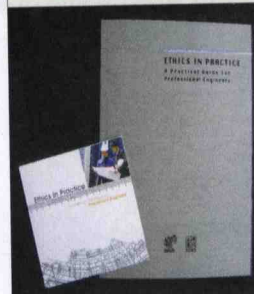


http://www.hkie.org.hk/eng/html/publications/others_sgbm.asp

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會員服務

推廣專業操守



舉辦持續專業進修課程



HKIE

會員服務

舉辦訪問團、研討會及大型國際會議



執委會北京訪問團



資訊及通訊科技研討會



國際電機工程會議(日本)

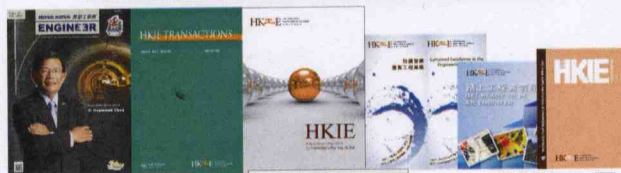


參觀上海世博2010

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會員服務

會長就職演說及晚宴



印刷刊物

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其他活動

頒發獎項

香港工程師學會榮譽大獎
2013



榮譽資深會員2013



會長特設成就獎2012



青年會員創意獎2013



傑出青年工程師獎2013

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其他活動

「師傅蒼」計劃 -



HKIE

工程師註冊管理局

宗旨

- 制訂專業工程師名冊，讓公眾及政府能夠聘用勝任法定職責的合資格工程師

與香港工程師學會的關係

- 局方成員除了一名政府代表以外，其餘均由香港工程師學會委任

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國際聯繫

學會先後與內地及海外多個工程專業團體簽署專業資格互認及合作協議，現時學會為以下組織的會員：



亞洲及太平洋工程師協會聯盟(AFPE)



世界工程組織聯盟(WFEO)

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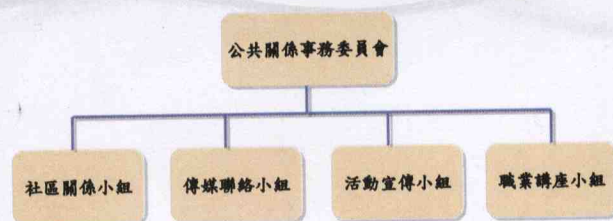
香港工程師學會

公共關係事務委員會

梁敏儀工程師
公共關係事務委員會副主席

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學會架構



HKIE

社區關係小組

區議會訪問 2006 - 2013



中西區區議會

屯門區議會

觀塘區議會

西貢區議會

九龍城區議會

黃大仙區議會

油尖旺區議會

灣仔區議會

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傳媒聯絡小組

傳媒聚會



新聞發佈會

傳媒午餐

HKIE

傳媒聯絡小組

香港工程寶庫



<http://www.hkie.org.hk/engarchive/>

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活動宣傳小組

展覽



2007年3月16-18日
奧海城二期

2012年2月至3月
香港科學館

2013年4月20-28日
香港科學館及奧海城二期

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活動宣傳小組

講座及參觀



2013年4月
卓越工程巡禮2013 - 卓越工程講座



2013年4月
卓越工程巡禮2013 - 工程項目半日遊

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活動宣傳小組

Career as an ENGINEER



我們——香港的工程師

香港工程師學會為推廣工程專業，推動香港成為國際基建巨擘，

特設「工程師」專頁，

介紹工程師的專業及工作，

並提供有關工程專業的資訊。

一、工程師的專業及工作

建築

土木

電力

電子

機械

材料

測量

交通

環境

其他

http://www.hkie.org.hk/sap/index_chi.html

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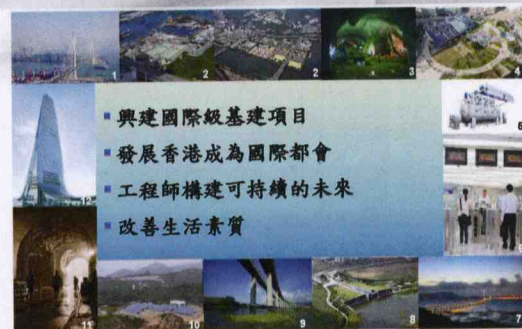
職業講座工作小組

學校大使計劃及職業展覽



HKIE

工程專業 貢獻社會



- 興建國際級基建項目
- 發展香港成為國際都會
- 工程師構建可持續的未來
- 改善生活素質

相片來源

- | | | |
|--------------------------|--------------|----------------------|
| 1 路政署 | 5 志信建築機械有限公司 | 9 九廣鐵路公司 |
| 2 渠務署 | 6 入境事務處 | 10 中華電力有限公司 |
| 3 港威公司 | 7 廣聯利 | 11 Mr Perry H W WONG |
| 4 Marcel Lam Photography | 8 香港湿地公园 | 12 新鴻基地產 |

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謝謝

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Only Chinese version is available



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(傳真: 2722 7696)

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旺角政府合署四樓

油尖旺區議會

房屋事務及大廈管理委員會主席

莊永燦議員

Annex 2

莊先生:

要求增派人手處理清拆危險招牌工作

多謝貴會於 2013 年 12 月 12 日的來信就處理危險招牌提出寶貴意見，本署現謹覆如下:

屋宇署一直十分關注招牌安全問題，並於 2011 年成立「招牌監管小組」處理清拆違例招牌。於 2014 年，本署會增配人手至「招牌監管小組」，以專責去處理監管招牌及執行違例招牌檢核計劃。除了在接獲市民對違建招牌的舉報後採取所需的行動外，屋宇署每年均訂下目標，清拆棄置或危險招牌。同時，本署亦會進行大規模行動，清拆現存的違例招牌。

本署於 2013 年 9 月 2 日實施的「違例招牌檢核計劃」，目標是檢核現存的違例招牌，以加強這些招牌的安全。在此計劃下，經訂明建築專業人士及／或訂明註冊承建商檢查、鞏固（如有需要）及向屋宇署核證其結構安全後，可以繼續保留使用。違例招牌通過檢核的有效期為 5 年，有效期屆滿後，招牌擁有人須重新進行檢核。通過檢核的違例招牌，由於在豎設工程前並未獲屋宇署批准，所以在檢核後仍然屬於違例建築工程。如通過檢核的招牌在後來變得危險或被棄置，或在檢核後超過五年尚未重新進行檢核，屋宇署會採取執法行動，規定招牌擁有人拆除有關招牌或進行工程使招牌回復安全，以保障公眾安全，此舉亦將大大減低招牌被棄置的機會。

就有關處理油尖旺區危險招牌的事宜，本署高級屋宇測量師潘銳秋先生將會出席貴會於 2014 年 2 月 6 日舉行的會議，向委員匯報有關進度及回應委員的提問。

如對上述內容有任何疑問，請聯絡本署高級屋宇測量師潘銳秋先生(電話2626 1627)。

建築事務監督

(助理署長/機構事務 梁少文



代行)

2014年1月17日

油尖旺區議議會轄下 房屋事務及大廈管理委員會

《旅館業條例》

在香港經營旅館，是受《旅館業條例》（第349章）（《條例》）所監管。《條例》的目的是通過發牌制度，確保用作旅館的處所在樓宇結構和消防安全方面，達至《建築物條例》（第123章）及《消防條例》（第95章）指定的標準，以保障旅客及公眾安全。

2. 根據《條例》，任何處所提供收費住宿，必須領取旅館牌照，除非有關處所內提供的所有住宿每次出租期均為連續28天或以上，則可獲豁免。民政事務總署（民政署）轄下牌照事務處（牌照處）是執行《條例》的部門，負責處理牌照簽發及相關的規管和執法工作。

旅館牌照的發牌程序

3. 牌照處在處理旅館牌照申請時，會按《條例》所賦予的權限處理和審批。按照現行的發牌機制，擬用作旅館的處所必須是經建築事務監督¹批准可用作「住用用途」。根據《建築物條例》，「住用」就建築物而言，指為供居住而建或擬供居住的部分；而「居住」就建築物的使用而言，包括將其作為旅館、賓館、公寓等。申請牌照的處所屬大廈的「住用用途」部分，才能符合有關發牌的基本規定。牌照處會在確保有關處所符合《建

¹ 根據《建築物條例》，建築事務監督為屋宇署署長。

建築物條例》及《消防條例》訂明的樓宇結構及消防安全標準後，才會發出牌照；而每間賓館的牌照，均會訂明可容納的最高人數。

4. 獲發牌照的賓館，必須根據牌照條件，在賓館的入口及每一間客房的房門，貼上「持牌賓館標誌」。牌照處已將所有持牌旅館的名單上載於牌照處的網頁 (www.hadla.gov.hk)，方便業主立案法團或大廈管理人將大廈內持牌旅館的名單列印及張貼於大堂，讓旅客易於識別，避免對其他單位的住客造成滋擾。

持牌旅館的規管

5. 如上文所述，牌照處會在確保有關處所符合《建築物條例》及《消防條例》訂明的樓宇結構及消防安全標準後，才會發出牌照，以保障旅客及公眾的安全。牌照處在接獲牌照申請後，會在4個工作天內向申請人發出確認通知書。在發出確認通知書後22個工作天內，牌照處會派員進行實地視察及發出改善工程通知書。在完成所有改善工程後，申請人必須填妥「完工報告表」，並連同所有證明書和有關文件交回牌照處。牌照處在收到完工報告表後，便會派員前往該處所進行最後視察，以確定處所已符合所有安全規定。在所有工程經已圓滿完成及所有規定的證明書及文件已獲審核後，牌照處才會發出牌照。

6. 牌照處十分重視持牌旅館的樓宇結構及消防安全，不時派員巡查有關處所，確保持牌人經營的旅館符

合發牌條件。此外，牌照處處理牌照的續期申請時，亦會派員進行實地視察，在確定有關處所仍然符合相關的安全標準及發牌規定後，才會為有關牌照續期。巡查期間如發現持牌旅館有違規的情況，牌照處人員會即時要求該處所負責人作出糾正，或視乎情況採取適當的執法行動。

7. 任何人違反牌照條件均屬犯法，一經定罪可被判監禁及留有案底，最高罰款100,000元及監禁兩年，並可就罪行持續期間的每一天另處罰款10,000元。

打擊無牌經營旅館

8. 牌照處已採取多管齊下的策略，透過大力執法、加強阻嚇、廣泛宣傳等，致力打擊和掃蕩無牌旅館。近年牌照處更增加人手和聘請具執法經驗的前線人員，調整執法策略和靈活採用不同的執法模式，大幅增加巡查的次數，全力搜集涉嫌無牌經營旅館的證據。

9. 在執法方面，牌照處在發現涉嫌無牌經營旅館活動或接獲舉報時，會於8個工作天內作出巡查，視乎每宗個案的具體情況，採用最適當和最有效的方式跟進搜證，例如在不同時間進行突擊巡查、展開針對性的大規模跨部門聯合行動、或喬裝顧客，即俗稱「放蛇」，搜集證據等。如有足夠證據證明有關處所涉及無牌經營旅館，牌照處會立即採取檢控行動。

10. 牌照處亦已強化情報收集工作，派員到各區搜集有關懷疑無牌旅館的宣傳資料，更特別成立專責網絡執

法小隊，負責瀏覽互聯網網頁、討論區、博客專欄等，一方面搜尋懷疑無牌旅館的資訊和情報，另一方面呼籲旅客選擇入住持牌旅館。

11. 無牌經營旅館屬刑事罪行，一經定罪可被判監禁並會留有案底，最高罰款200,000元及監禁兩年，並可就罪行持續期間的每一天另處罰款20,000元。為了增加阻嚇作用，牌照處會將成功檢控的定罪紀錄及詳細資料，轉介差餉物業估價署、稅務局、按揭銀行或金融機構、物業業主、有關大廈業主立案法團及管理處等，以便他們就其各自規管範疇或權益作出跟進。假如有地產代理從業員或保險代理從業員被判罪，牌照處亦會將有關定罪紀錄轉介地產代理監管局或保險業監理處跟進。

12. 針對旅館牌照持有人在其他處所經營無牌旅館，一般稱為「影子賓館」，牌照處已實施了一項措施：如旅館牌照持有人被法庭裁定經營無牌旅館，牌照處會考慮援引《條例》，撤銷其名下所有旅館牌照，或拒絕其牌照續期。至今，共有13間持牌旅館因此而被撤銷牌照或拒絕牌照續期申請。

13. 在宣傳方面，牌照處已把持牌旅館的名單上載至網頁（www.hadla.gov.hk），並推出「持牌賓館標誌」計劃，方便旅客識別。牌照處亦與旅遊事務署、香港旅遊發展局、旅遊業議會和消費者委員會等合作，呼籲旅客選擇光顧持牌旅館，並向內地旅遊當局傳達相關信息。牌照處會於農曆新年假期前推出新一輪宣傳活動，及在今年稍後時間推出智能手機流動應用程式，方便旅客隨時隨地查閱持牌旅館的資料。

14. 過去三年，牌照處針對位於油尖旺區懷疑無牌經營旅館的執法和檢控數字載於附表一。在2011年至2013年期間，牌照處巡查油尖旺區懷疑無牌旅館的次數，由1,842宗增逾兩倍至5,631宗；檢控數目，由29宗大幅增加三倍至116宗；定罪數目亦由20宗增加逾四倍半至111宗，足見加強打擊的力度和成效。

15. 牌照處會不時檢討及靈活地調整執法及宣傳策略，繼續全力打擊和取締無牌旅館。

大廈公契

16. 根據《條例》，大廈公契並非發牌的考慮因素之一。大廈公契是一份由各業主、物業管理人和發展商所簽訂的私人契約。各方均可根據公契賦予的權力，執行公契載明有關建築物的控制、管理、行政事宜的責任，和向違反公契條文的業主採取適當的行動及措施，以取締任何違反公契條文的行為。由於政府並非公契的契約方，因此無權詮釋公契內容，亦不能代替任何一方執行公契的條文。如有關人士對公契的內容有不同詮釋，可根據《建築物管理條例》（第344章）向土地審裁處尋求裁決。

17. 牌照申請指引，申請表等都清楚列明由牌照處簽發的旅館牌照，並不會免除任何由政府所批出的地契、租約或牌照內所載的任何條件，亦不會影響或改變旅館所在樓宇的大廈公契或其他私人契約的條文。旅館持牌人作為大廈的佔用人，是有責任遵守大廈公契，絕對不

會因為獲發旅館牌照而得到任何豁免。

18. 為了讓有關大廈的居民盡早知悉該大廈內是否有單位申請旅館牌照，牌照處正計劃實施一項新安排：當接獲旅館牌照申請(包括續期申請)及即將簽發牌照時，牌照處會主動通知該大廈的法團，居民組織及物管公司，以及將有關資料上載於牌照處網頁，以便法團和業主能有足夠的時間，研究公契的相關條文，以及考慮是否引用公契賦予的權力，採取適當的行動。

《條例》檢討

19. 民政署會不時檢討《條例》的實施情況和研究可行的改善方案。在參考了這幾年的執法經驗，民政署已着手檢討《條例》，讓牌照處更有效執法、打擊和取締無牌旅館。我們亦會檢視現行的發牌制度和安排。民政署計劃稍後就《條例》的檢討作出諮詢。

民政事務總署

二零一四年一月

附表一

油尖旺區懷疑無牌經營旅館的執法和檢控數字
(2011-2013年)

	投訴 ^{註1}	巡查	檢控 ^{註2}	定罪 ^{註2}
2011	285	1,842	29	20
2012	426	3,333	85	70
2013	587	5,631	116	111

註1：包括針對同一處所的投訴。經調查後，牌照處發現部份被投訴的處所是以月租形式出租，並非《條例》所規管的範圍。

註2：顯示於該年份所提出的檢控及經定罪數字，由於部分檢控於翌年審理，因此兩者數字於同一年份略有不同。

The 10th Meeting of the Housing & Building Management Committee (HBMC) of Yau Tsim Mong District Council (YTMDC)

Hotel and Guesthouse Accommodation Ordinance

Operation of guesthouses in Hong Kong is regulated by the Hotel and Guesthouse Accommodation Ordinance (the Ordinance). The purpose of the Ordinance is, through a licensing regime, to ensure that premises used as guesthouses meet the building structure and fire safety standards specified in the Buildings Ordinance (Cap. 123) (BO) and the Fire Services Ordinance (Cap. 95) (FSO) to safeguard the lodgers and public.

2. In accordance with the Ordinance, any premises providing sleeping accommodation at a fee shall obtain a guesthouse licence unless all accommodation in the premises is provided with a tenancy period of 28 consecutive days or more for each letting. The Office of the Licensing Authority (OLA) is responsible for the implementation of the Ordinance, including issuing licences and performing relevant regulation and enforcement duties.

Licensing Procedures

3. In processing and approving the applications for guesthouse licences, the OLA shall act under the power conferred by the Ordinance. Under the current licensing regime, premises intended to be used as a guesthouse must obtain the approval of the Building Authority¹ for "domestic purposes". Under the BO, "domestic", in relation to a building, refers to a part that is constructed or intended for habitation whereas "habitation", in relation to the use of building, includes use of it for hotel, guesthouse, boarding-house, etc. If the subject premises of the application are situated in the part of the building which is for "domestic purpose", the basic licensing requirements are met. The OLA will only issue a licence when it is satisfied that the premises have met the building structure and fire safety standards as stipulated in the BO and FSO. The licence will specify the maximum number of persons to be accommodated in the respective guesthouse.

¹ Under the Buildings Ordinance, the Building Authority is the Director of Buildings.

4. Moreover, licensed guesthouses are required to display the licensed guesthouse logo at the main entrance and on the doors of all guestrooms, in accordance with the licence conditions. The OLA has uploaded the full list of licensed hotels and guesthouses onto its website (www.hadla.gov.hk). This facilitates owners' corporations (OCs) or managers of the buildings to print out the list of licensed guesthouses in their buildings and post it in the lobby for easy identification by tourists and avoidance of nuisance to other residents.

Regulation of Licensed Guesthouses

5. As mentioned above, the OLA will ensure that premises concerned meet the building structure and fire safety standards as stipulated in the BO and the FSO to safeguard the lodgers and public before issuing a license. Upon receipt of an application for hotel/guesthouse licence, the OLA will issue an acknowledgement of receipt of the application within four working days. Upon issue of the acknowledgment receipt, the OLA will conduct a site inspection and issue a letter of upgrading requirements to the applicant within 22 working days. The requirements are referred to the standards as stipulated under the BO and the FSO. The OLA will arrange compliance inspection to the premises concerned upon receiving report of completion of the upgrading works by the applicant. A licence will only be issued under the Ordinance after building and fire safety of the premises intended to be used as a hotel/guesthouse are in compliance with the statutory standards.

6. The OLA attaches great importance to the building and fires safety of the licensed guesthouses. To ensure the licensed guesthouses continue to meet the safety standards, the OLA arranges inspections on the licenced premises regularly. For renewal application, OLA will inspect the subject premises to ensure that they continue to meet the relevant safety standards before the licence is renewed. If there is any suspected breach of licensing conditions or irregularities noted during the inspection, the OLA will take immediate follow up and enforcement actions as deemed appropriate.

7. Any person who contravenes any licensing condition commits an offence and is liable to imprisonment upon conviction and will lead to a criminal record. The maximum penalty is a fine of \$100,000 and imprisonment for two years, and a fine of \$10,000 for each day during which the offence continues.

Combating Unlicensed Guesthouse

8. OLA has spared no effort and adopted a multi-pronged approach to combat and raid unlicensed guesthouses, including strengthening law enforcement action, enhancing deterrent effect and stepping up publicity, etc. In recent years, OLA has increased manpower resources and recruited frontline officers with law enforcement experience. It has also adjusted its enforcement strategies and employed different enforcement tactics flexibly so as to increase significantly the number of inspections, and make every effort to collect evidence of suspected unlicensed guesthouse operation.

9. As for law enforcement action, when suspected unlicensed guesthouse operation is identified or such a report is received, OLA will conduct an inspection within eight working days. Having regard to the circumstances of individual cases, OLA will follow up and collect evidence by employing the most appropriate and effective means, such as conducting surprise inspections at different times, launching large-scale and targeted inter-departmental operations, or posing as clients (commonly known as "snaking"). Prosecution will be instituted by OLA immediately if there is sufficient evidence that the premises concerned are involved in unlicensed guesthouse operation.

10. OLA has also strengthened its intelligence gathering work by deploying staff to collect the publicity materials of suspected unlicensed guesthouses. Moreover, it has set up a dedicated Internet Enforcement Team to browse webpages, discussion forums and blogs to search information and intelligence about suspected unlicensed guesthouses on the one hand, and appeal to tourists to choose patronising licensed guesthouses on the other.

11. Operating an unlicensed guesthouse is a criminal offence. Any person who is convicted of operating an unlicensed guesthouse is liable to imprisonment and will lead to a criminal record. The maximum penalty upon conviction is a fine of \$200,000 and imprisonment for two years, and a fine of \$20,000 for each day during which the offence continues. For a greater deterrent effect, OLA will pass information on convicted records of successful prosecution cases and their relevant details to the Rating and Valuation Department, the Inland Revenue Department, mortgage banks or monetary institutions, property owners, and the OCs and management offices of the

buildings concerned, so that they can take follow-up action under their purview or out of their rights and interests. Should any property or insurance agent be convicted, OLA will also pass the conviction records to the Estate Agents Authority or the Office of the Commissioner of Insurance for follow-up action.

12. OLA has also implemented a measure targeting at those guesthouse licensees who operate unlicensed guesthouses at other premises (commonly known "shadow guesthouses"). If a guesthouse licensee is convicted of operating an unlicensed guesthouse by the court, OLA will consider cancelling all the licences held by the licensee concerned or refusing to renew the licences pursuant to the Ordinance. So far, OLA has cancelled or refused to renew the licences of 13 guesthouses for this reason.

13. As regards publicity, OLA has already uploaded a list of licensed guesthouses onto its webpage (www.hadla.gov.hk) and launched the Licensed Guesthouse Logo Scheme for tourists' easy identification of licensed guesthouses. In collaboration with the Tourism Commission, Hong Kong Tourism Board, Travel Industry Council and Consumer Council, the OLA also appeals to tourists to choose patronising licensed guesthouses and conveys the message to the tourism authorities of the Mainland. In addition, the OLA will launch a new round of publicity before the Lunar New Year holidays and, later this year, roll out a mobile application for tourists' search of information on licensed guesthouses anytime and anywhere.

14. The figures of enforcement and prosecution against suspected unlicensed guesthouse operation in Yau Tsim Mong District in 2011-2013 are enclosed in Annex I. During the period from 2011 to 2013, the number of inspection of suspected unlicensed guesthouses in Yau Tsim Mong District by the OLA has increased by more than twofold from 1,842 to 5,631. The number of prosecutions has also risen significantly by more than threefold from 29 to 116, whereas the number of conviction has also grown by over 4 times from 20 to 111. These demonstrate the efforts and effectiveness of the enhanced measures against unlicensed guesthouse operation.

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

Deed of Mutual Covenant

16. The existing Ordinance does not empower the Hotel and Guesthouse Accommodation Authority (the Authority) to refuse an application because of other considerations, including terms of land leases, deeds of mutual covenant (DMC) and residents' views. The DMC is a private covenant among the owners, the property manager and the developer of a building. Engaged parties are empowered to act under the power conferred by the DMC to enforce the DMC provisions in relation to the control, management and administration of the building. They may also take appropriate actions and measures against any owner who does not comply with the DMC. Provisions vary among DMCs. The Government, which is not a party to the DMC, has no power or obligation to interpret the provisions. Where the parties concerned have different interpretation of the DMC, they may seek a ruling from the Lands Tribunal in accordance with the Building Management Ordinance (BMO) (Cap. 344).

17. OLA clearly reminds the licensees in the guidelines on licence application and licence application forms etc that guesthouse licences issued by the OLA do not act as a waiver of any terms in any lease, tenancy agreement or licence granted by the Government, nor do they affect or change the provisions of the DMC or other covenants relating to the building in which the guesthouse is situated. As one of the occupiers, the licensee of a guesthouse has the responsibility to comply with the DMC of the building concerned and a guesthouse licence issued by OLA is by no means a waiver of any DMC provisions.

18. To let residents know as early as possible that a guesthouse licence application involving a premises of their building is submitted, OLA will put in place a new arrangement under which it will, upon receipt of an application for a guesthouse licence (including a renewal application), take the initiative to inform the OCs, residents' organisation or property management company of the building concerned and upload such information onto its website. The OCs and the owners will therefore have sufficient time to examine the relevant provisions in DMC and consider exercising their power conferred by the DMC to take appropriate action.

Review of the Ordinance

19. The Home Affairs Department (HAD) reviews from time to time the implementation of the Ordinance and explore feasible options for improvement. The primary consideration is to facilitate OLA to take enforcement action more effectively to combat and eradicate unlicensed guesthouses. In fact, in the light of the law enforcement experience gathered in the past few years, we have already kicked start a preliminary review of the Ordinance. The HAD will consult the public on the review of the Ordinance in due course.

Home Affairs Department
January 2014

Annex I**Enforcement figures on complaints, inspection, prosecution and conviction against unlicensed guesthouses in Yau Tsim Mong District (2011-2013)**

	Complaint ^(Note1)	Inspection	Prosecution ^(Note2)	Conviction ^(Note2)
2011	285	1,842	29	20
2012	426	3,333	85	70
2013	587	5,631	116	111

Note 1: Including repeated complaints against the same premises. Some cases may eventually be found unsubstantial as the investigations reveal that the premises concerned are let out on a monthly basis, thereby falling outside the ambit of the Ordinance.

Note 2: The figures of prosecution and those of conviction in the same year are slightly different because trials of some prosecution cases were/will be conducted in the following/next year.