

LCQ4: Relaxing restrictions on using outdoor or public spaces

Following is a question by the Hon Vincent Cheng and a reply by the Secretary for Development, Ms Bernadette Linn, in the Legislative Council today (November 27):

Question:

Some organisations and business operators have pointed out that at present, they encounter many restrictions when applying for using outdoor or public spaces. On the contrary, there are many successful cases of making good use of outdoor spaces to attract customers in Mainland shopping malls which can serve as valuable reference. In this connection, will the Government inform this Council:

(1) whether it will plan to relax the restrictions on the land use, such as allowing business operators to set up small stalls or leisure benches outside their shops or in outdoor spaces to create a vibrant atmosphere, thereby attracting more people to stay for consumption; if so, of the details; if not, the reasons for that;

(2) as there are views that at present, many activities require the application for a Temporary Places of Public Entertainment Licence which must be made 42 days prior to the commencement of the activity, and the procedures are lengthy, whether the Government will consider streamlining the application process and improving the co-ordination mechanism among various departments, as well as introducing new measures, such as allowing an application in respect of the same venue to remain valid for similar activities for three months up to one year, so as to motivate businessmen to organise more activities to create business opportunities; if so, of the details; if not, the reasons for that; and

(3) as the Government has introduced in recent years the management mode of Public Open Space in Private Development under which private organisations are required to construct and manage waterfront promenades for public use on their private harbourfront lots, whether the Government will allow greater flexibility in the consumption activities taking place on such lots to make management more flexible for the private organisations; if so, of the details; if not, the reasons for that?

Reply:

President,

The Government agrees with the Hon Mr Cheng's suggestion that utilising outdoor or public spaces will help creating an amiable atmosphere, attract people, promote spending and meet the Government's objective to promote

economic development. Whether it is the space at storefront, outdoor area of other places, or public open space within private developments, as long as the proposed commercial or other activities will not cause issues relating to passage, safety or hygiene, and will not obstruct the enjoyment of the public space by other users, relevant government departments will seek to facilitate as much as possible. We will also consider further streamlining the approval procedures, taking into account suggestions from the trade and Members.

Regarding various parts of the question, having consulted the Home and Youth Affairs Bureau, the Lands Department (LandsD) and the Food and Environmental Hygiene Department (FEHD), the Development Bureau (DEVB)'s reply is as follows –

(1) We understand that some lot owners wish to utilise space at storefront, outdoor or other places for activities, or to place furniture or installations, so as to enhance dining and shopping experience and attract visitors. If such uses are not allowed under the lease conditions or involve the use of unleased Government land, lot owners have to apply for relevant approvals for the land use from the LandsD.

To simplify approval procedures, the LandsD will adopt a streamlined approach when handling straightforward cases, such as activities of a non-commercial nature (including activities hosted by non-government organisations or community activities relating to festive celebrations). The LandsD has recently adopted such streamlined procedures to approve two non-commercial activities at the harbourfront in Cheung Sha Wan since September this year. In celebration of the 75th anniversary of the founding of the People's Republic of China, one event arranged for photo spots installations and booths set up, while the other placed installations of pandas to showcase the element of our intangible cultural heritage. For both, the applicant provided the main activities and nature of the event via a simple email, and the LandsD gave a no-objection within a short time (around 10 days).

To facilitate shopping malls in holding events at public spaces specified under lease within the mall, the DEVB and the LandsD are exploring a pilot scheme applicable to such situation that puts in place a simplified procedure for waiver approval and Government internal consultation, and allows similar activities to be held more than once within a specified period through a single waiver application, obviating the need for applicants to make applications each and every time.

(2) The aforementioned was about the application relating to land use. Having regard to the type and nature of the activity, activity organisers shall also apply for a licence separately in accordance with the relevant legislation. For example, if an activity involves holding a concert or playing of movies in an area that may accommodate members of the public, an application for a Temporary Places of Public Entertainment Licence (TPPEL) from the Food and Environmental Hygiene Department (FEHD) under the Places of Public Entertainment Ordinance (Cap. 172) and its subsidiary legislation will be required. According to the current requirements, if such application does not involve the erection of temporary structure, the application shall generally

be submitted 18 days before the activity commences, and the licence can be valid for up to a year; if the proposed activity requires the erection of temporary structure, the application shall be submitted 42 days before the activity commences, and the licence will be valid for no longer than a month. To simplify the application procedures, the FEHD offers one-stop services for the handling of TPPEL applications. The FEHD will, having regard to the nature and venue of the activity, pass the information to the relevant departments for processing in parallel so as to shorten the processing time.

Moreover, to enhance efficiency and make it more convenient for the trade, the FEHD has put in place a facilitation arrangement for the renewal of TPPEL. Under the arrangement, if an event lasts for a period not exceeding three months, and the venue layout, temporary structure and other details involved all remain unchanged throughout the event, the applicant is no longer required to submit a Fire Services Certificate and a certification by an authorised person/registered structural engineer upon the monthly renewal of the licence. Such arrangement provides more convenience for the licence applicants. The Government will continue to monitor and review the operation of the TPPEL regime.

(3) The DEVB promulgated in 2011 a set of guidelines relating to public open space in private developments, which provides relevant design and management arrangements, and specifically raised that commercial or non-commercial activities should be reasonably and flexibly allowed in public open space of private developments. To implement this policy, the streamlined arrangements mentioned in part (1) of the reply will also be applicable to non-commercial activities held in the public open space of private developments. For lot owners who wish to hold commercial activities, if the activity is acceptable from considerations like passage, safety and hygiene, etc; will not obstruct the enjoyment of public space by other users; and that the area occupied by the commercial activity within the public space is reasonable, we will positively consider the application received. The DEVB will work with the LandsD to explore ways to streamline applications for activities of a commercial nature, such as suitably relaxing the limit of area to be occupied and putting forward standard rates for waiver applications.