

**Business Facilitation Advisory Committee
Food Business and Related Services Task Force**

***Implementation Progress of the Recommendations of the
Review on Application for Outside Seating Accommodation Permission
of Restaurants – May 2015 Update***

Background

In October 2013, the Outside Seating Accommodation (OSA) Working Group¹ completed a review on the application for OSA permission of restaurants and put forward 10 recommendations.

2. As at February 2015, the following six recommendations were implemented :

- ***Recommendation 2*** – To strengthen the mechanism for considering objections to OSA applications from the public;
- ***Recommendation 4*** – To highlight in the OSA Application Guide that parallel processing of separate OSA and restaurant licence applications is allowed and the outcome of restaurant licence application is independent of that of the OSA application;
- ***Recommendation 5*** – To explore the feasibility of allowing OSA permission to be attached to the provisional restaurant licence;
- ***Recommendation 6*** – To convene joint departmental meetings (JDMs) with applicants at which relevant departments will discuss their concerns/objections with the applicants direct;
- ***Recommendation 7*** – To develop referral rules in order to streamline the processing procedures; and
- ***Recommendation 9*** – To streamline the application process for issue of Land Licence (LL).

This paper updates members on the progress of implementation of the remaining four recommendations since the last Food Business and Related Services Task Force meeting held on 10 February 2015.

¹ The Working Group comprises representatives from the Food and Environmental Hygiene Department, Fire Services Department, Buildings Department, Lands Department, Planning Department, Housing Department, Transport Department, Home Affairs Department and Economic Analysis and Business Facilitation Unit.

Implementation Progress

3. Implementation of the remaining four recommendations has been completed -

Recommendation 8

To include OSA in the Licence Application Tracking Facility

- The Licence Application Tracking Facility has been enhanced to include OSA applications in the system. With effect from 18 March 2015, OSA applicants can track the progress of their applications on-line. This helps increase the transparency of OSA application process.

Recommendation 10

To adopt the 'cancel and reissue' approach to shorten the Land Licence processing time in relation to the transfer of restaurant licence

- If the existing site area and the boundary of an OSA remain unchanged when the related restaurant licence is transferred, the Lands Department (LandsD) will adopt a 'cancel and reissue' approach to deal with the LL application with effect from May 2015 instead of processing it from the very beginning. The time for issuance of a new LL will be shortened from 4 to 3 weeks.
- With the adoption of the 'cancel and reissue' approach, 'one-stop' service for handling the application for transfer of restaurant licence with OSA permission involving LL can be provided for the trade.

Recommendation 1

To consider relaxing the pre-requisite for OSA application without compromising public interest

- As laid down in the existing OSA Application Guide, OSA refers to an open (i.e. non-roofed over) area used for alfresco dining. To reduce the rigidity of interpretation of suitable sites for OSA activities, the Food and Environmental Hygiene Department (FEHD), in collaboration with other relevant departments, has reviewed the pre-requisite for OSA applications. Subject to the fulfilment of relevant licensing requirements stated in the OSA Application Guide, the following specific criteria on the

acceptability of the areas underneath or partially covered by the overhanging structures for OSA applications have been clearly set out –

(a) On government land

- ✓ (i) Any area underneath authorised structures constructed by the Government such as footbridge / flyover / canopy or (ii) any area underneath authorised structures constructed by private parties such as balcony, canopy, architectural projections and signboards from the external walls of a private building; and
- ✓ The area should be attached to the restaurant concerned.

(b) On private land or within the properties / divested properties of the Hong Kong Housing Authority

- ✓ (i) Any area underneath authorised structures that has been counted in Gross Floor Area calculations or (ii) any area underneath architectural projections or wall signboards within 500mm and 600mm projection respectively from the external walls of a building on the condition that such features are approved or erected under the Minor Works Control System and the area is not within a dedicated area subject to a deed of dedication for the purposes of the Building (Planning) Regulations; and
 - ✓ The area should be attached to the restaurant concerned.
- FEHD will also consider OSA applications in backyard or open yard where there are no waste / soil pipes or manholes prejudicing the hygienic operation of the OSA.
 - The above pre-requisite will take effect from June 2015.

Recommendation 3

To enhance the OSA Application Guide to make it more informative and business-friendly

- FEHD has revised ‘A Guide to Application for Outside Seating Accommodation’ (the Guide) to provide more updated information related to OSA applications, including the following –
 - (a) LandsD’s information on right of land use and fees payable

in respect of OSA applications;

- (b) 'Open area' to include the other areas as specified above under ***Recommendation 1***;
 - (c) Updated general referral protocols to the departments concerned;
 - (d) Streamlined procedures in handling OSA application;
 - (e) Enhanced mechanism in handling local objections received through public consultation;
 - (f) Arrangement of JDMs for cases where there are concerns / objections to the OSA application raised by the departments concerned;
 - (g) Granting OSA permission to provisional restaurant licence; and
 - (h) Enhanced FAQs with (i) tips on how to shorten the processing time; (ii) common reasons for rejecting an OSA application; and (iii) the fact that separate OSA and restaurant applications can be submitted at the same time for parallel processing and the outcome of restaurant licence application is independent of that of the OSA application.
- Tentatively, the Chinese translation will be ready by June 2015. Subject to no further comments by the departments concerned, the revised Guide will be released and uploaded to the FEHD's website for the trade's reference.

Further Improvement to the Issue of LL

4. Implementation of ***Recommendation 9*** in January 2014 streamlined the processing of a LL application to reduce the time for processing a simple and straightforward OSA application from 53 to 51 working days (excluding the time taken by the applicant to comply with the licensing requirements). Following an on-going review by FEHD and LandsD on the relevant cross-departmental procedures, the processing of a LL application has been advanced since September 2014 from FEHD's issuance of the Letter of Requirements to LandsD's notification to FEHD of no objection to the OSA application concerned. As such, the time for processing a simple and straightforward OSA application has been further shortened by 5 working days to 46 working days.

Benefits

5. The implementation of all the 10 review recommendations has brought about the following benefits -

- Better understanding by the OSA applicants of the licensing requirements (including the right of land use) for compliance in making their applications [*Recommendations 3, 4 and 6*];
- Streamlined application procedures to reduce the processing time of a simple and straightforward OSA application from 53 to 46 working days [*Recommendations 7, and 9*];
- Provision of 'one-stop' service in handling the application for transfer of restaurant licence with OSA permission involving LL with the adoption of the 'cancel and reissue' approach to deal with the LL application, which shortens the LL processing time from 4 to 3 weeks [*Recommendations 10*];
- Enhancement in the transparency of the OSA application process [*Recommendations 2, 3, 4, 6 and 8*];
- Provision of flexibility for the trade to start the OSA business earlier [*Recommendation 5*]; and
- Increased potential OSA business opportunities of the trade [*Recommendation 1*].

Way Forward

6. Members are requested to note the above progress and offer comments, if any.

**Secretariat of the Food Business and Related Services Task Force
May 2015**