

## LCQ6: Guesthouses and bedspace apartments

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Following is a question by the Hon Starry Lee and a reply by the Secretary for Home Affairs, Mr Tsang Tak-sing, in the Legislative Council today (June 22):

Question:

It has been reported that in the old buildings in Sham Shui Po, there are "coffin-sized units", which are separate units of the size of a coffin converted from further dividing the original "sub-divided units" into six smaller units for leasing purpose. "Coffin-sized units" are stacks of three levels and the occupants of the uppermost level have to climb up and down ladders, the conditions are appalling, and the occupants can neither stand up nor sit inside the units, but have to crawl like animals when going into or out of the units. It has been reported that the monthly rental per square foot for each "coffin-sized unit" can reach as much as \$300, which is more expensive than that of the International Finance Centre in Central; and that while lease advertisements for "coffin-sized units" can be seen everywhere, the persons in charge of such units do not sign any formal tenancy agreements with tenants so as to evade monitoring and investigation by the Government. Moreover, I have learnt that some estate agents in the district are proactively providing one-stop services by paying fixed monthly rentals to flat owners and converting the flats into "sub-divided units" or "coffin-sized units" for lease, thereby reaping profits by charging hefty rentals. In this connection, will the Government inform this Council:

(a) in each of the past three years, of the respective numbers of complaints, broken down by District Council district, involving the breaches of the Bedspace Apartments Ordinance and the Hotel and Guesthouse Accommodation Ordinance received by the Home Affairs Department (HAD), as well as the number of substantiated cases, the penalties imposed and what follow-up actions were taken, and among these complaints, the situation of those involving "coffin-sized units"; what other legislation is currently in place to regulate the mode of operation of "coffin-sized units"; whether HAD has initiated investigations using "undercover" operations to ascertain if these "coffin-sized units" comply with the relevant legislation; if it has, of the investigation results; if not, the reasons for that;

(b) whether the Buildings Department has investigated if the aforesaid persons in charge of "coffin-sized units" are involved in erecting unauthorised building works or making unauthorised alterations, or in breach of the Buildings Ordinance because of

non-compliance with the relevant safety and sanitation requirements; if it has, of the investigation results; if not, the reasons for that; and

(c) regarding some estate agents proactively providing one-stop services, whether it knows if the Estate Agents Authority has initiated investigations to ascertain if such practices are in breach of their professional codes; if it has, of the investigation results; if not, the reasons for that?

Reply:

Acting Madam President,

(a) The Office of the Licensing Authority (OLA) under the Home Affairs Department is responsible for the enforcement of the Hotel and Guesthouse Accommodation Ordinance (Cap.349) and the Bedspace Apartments Ordinance (Cap.447). It is tasked with the issue of licences and enforcement work. Upon receipt of an application for licence, the OLA shall ascertain that the premises concerned comply with the standard of structural and fire safety as provided in the relevant ordinances before issuing a licence, so as to ensure the safety of occupants and other users of the building.

According to the existing legislation, the operation of hotels and guesthouses is under the regulation of the Hotel and Guesthouse Accommodation Ordinance, which stipulates that any premises providing sleeping accommodation at a fee with a tenancy term of less than 28 consecutive days shall obtain a licence before commencing operation. Any person who operates hotels or guesthouses illegally is liable on conviction to a fine of \$200,000 and to imprisonment for two years and to a fine of \$20,000 for each day during which the offence continues.

In addition, the Bedspace Apartments Ordinance provides that any flat in which there are 12 or more bedspaces used as sleeping accommodation for individuals under rental agreements must obtain a licence before commencing operation. Any person who is involved in operating bedspace apartments illegally commits an offence and is liable on conviction to a fine of \$100,000 and to imprisonment for two years and to a fine of \$20,000 for each day during which the offence continues.

In case of breaches of the above ordinances in any premises, the OLA will conduct an investigation and institute prosecution actions. The OLA will re-inspect the premises which have been prosecuted and convicted to see if there are repeated

offences and will follow up according to law.

Regarding the first part of the question, in the past three years, the highest fine imposed by the court for breach of the Hotel and Guesthouse Accommodation Ordinance was \$30,000. Among the 11 persons who had been sentenced to imprisonments of two weeks to four months, eight received suspension for one to two years.

Not all buildings and premises are covered by the Bedspace Apartments Ordinance and the Hotel and Guesthouse Accommodation Ordinance. As with other premises for self occupation or for lease, premises beyond the regulation of the two ordinances are regulated by and subject to other relevant legislation such as the Buildings Ordinance, Fire Services Ordinance, Fire Safety (Buildings) Ordinance, Electricity Ordinance and Gas Safety Ordinance. Government departments conduct law enforcement in accordance with the existing legislation concerned to ensure the safety of such premises.

The OLA has spared no efforts in combating illegal operation of guesthouses and bedspace apartments. Upon receipt of a complaint about illegal operation, it will conduct an inspection within eight working days, and, having regard to the circumstances of each case, will also collect evidence through various means, including conducting inspections during and outside office hours (e.g. at nights and during holidays) and posing as clients (commonly known as "snaking") to collect evidence when necessary. Upon investigation, if it shows that there is sufficient evidence indicating illegal operation in the premises, prosecution shall be instituted. Moreover, the OLA will conduct inter-departmental operations with other departments concerned. The staff of the OLA also read newspapers and browse web pages on a regular basis and conduct proactive district inspections to collate information about illegal operation of guesthouses and bedspace apartments.

As regards the Sham Shui Po case in question, the staff of the OLA had inspected and investigated the premises to see if there was any contravention of the Hotel and Guesthouse Accommodation Ordinance and the Bedspace Apartments Ordinance. But so far, there has not been sufficient evidence for unlicensed guesthouse or bedspace apartment operation in the premises. The OLA will continue to take proactive actions to follow up the matter and keep watch of the premises in question. Once sufficient evidence for suspected contravention of the above ordinances in the premises is available, actions for prosecution shall be taken.

The figures of complaints about suspected illegal operation of guesthouses and bedspace apartments received by the OLA, the figures of prosecutions and those of convictions in the past three years are set out in the table attached. The OLA has not instituted any prosecution under the Bedspace Apartments Ordinance.

Regarding the discrepancies between the number of complaints received and prosecutions made, one of the reasons is that some complaints involve the same premises. Besides, upon investigation, the OLA has found out that the premises in some complaint cases were beyond the purview of the Hotel and Guesthouse Accommodation Ordinance as they were let out on a monthly basis. In some other cases, the premises involved fell outside the purview of the Bedspace Apartments Ordinance. The OLA will also continue to follow up on some of the unsubstantiated cases. Upon investigation, if there is evidence for illegal operation in the premises, the OLA will institute prosecution actions.

(b) The Buildings Department, upon noting the incident, has already commenced investigation but could not enter the premises concerned for inspection for the time being. If it is found after investigation that in the premises there are unauthorised building works (UBWs) and such UBWs are posing obvious threat or imminent danger to life or property, or constituting a serious health hazard or a serious environmental nuisance, such as building partitions obstructing or affecting the means of escape or structures leading to overloading, the Buildings Department will take enforcement action under the Buildings Ordinance (Cap. 123) requiring removal or rectification of the UBWs to ensure public safety.

(c) The Estate Agents Authority (EAA) has not received any complaints or enquiries related to the leasing of "sub-divided flat units" or "bed spaces" by estate agents. That said, having noted the media reports, EAA took the initiative to conduct inspections at estate agency firms in Sham Shui Po. So far, no estate agency firm is found to be involved in the leasing of "sub-divided flat units" or "bed spaces". During the inspections, EAA reminded the estate agents and salespersons not to engage in activities which may infringe the law. EAA will continue to closely monitor the situation and will take appropriate actions when necessary.

Ends/Wednesday, June 22, 2011

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