

Report No. 47 of the Director of Audit – Chapter 8

LICENSING OF HOTELS AND GUESTHOUSES

Summary

1. In May 1991, the Hotel and Guesthouse Accommodation Ordinance (HAGAO – Cap. 349) was enacted to provide for a statutory licensing scheme for hotels and guesthouses. The HAGAO designates the Secretary for Home Affairs as the Hotel and Guesthouse Accommodation Authority (the Licensing Authority). The Office of the Licensing Authority (OLA) of the Home Affairs Department is responsible for operating the licensing scheme, including the implementation and enforcement of the HAGAO. As at 30 June 2006, there were 1,142 establishments licensed under the HAGAO. The Audit Commission (Audit) has recently conducted a review to examine the economy, efficiency and effectiveness of the OLA in operating the licensing scheme.

Processing of licence applications

2. Audit reviewed a sample of 40 licence applications (Sample A) to ascertain whether there is room for improvement in processing licence applications.

3. ***Need to ensure completion of improvement works.*** Audit noted that in four cases in Sample A, the OLA approved the licence renewal applications despite the fact that the required improvement works had not yet been completed. *Audit has recommended that the Director of Home Affairs should ensure that the required improvement works are completed before approving licence renewals.*

4. ***Need to provide additional information about special requirements.*** In 11 new licence applications in Sample A, the long time span to complete the improvement works was due to the unsatisfactory completion of work items. Ten of these cases involved special requirements (e.g. removing solid walls). *Audit has recommended that the Director of Home Affairs should consider ways of providing additional information to applicants about the requirements of improvement works to facilitate compliance.*

5. **Review of long outstanding cases.** The OLA's Vetting Committee holds monthly meetings to review new licence applications which have not been finalised within 12 months from the date of application. Audit noted that one such new licence application in Sample A had not been referred to the Vetting Committee. *Audit has recommended that the Director of Home Affairs should: (a) ensure that the review requirement is complied with; and (b) consider including long outstanding licence renewal applications in the review requirement.*

6. **Need to observe application deadline for licence renewal.** Under section 9(1) of the HAGAO, applicants have to submit their renewal applications before the requisite deadline (i.e. not less than three months before the expiry date of the current licence). Audit noted that, of the 634 licence renewal applications approved in 2005-06, 349 (55%) were submitted after the requisite deadline. *Audit has recommended that the Director of Home Affairs should: (a) ensure that applicants submit their licence renewal applications before the requisite deadline; and (b) seek legal advice as to whether the Licensing Authority has the power to approve renewal applications which are not submitted before the requisite deadline.*

Enforcement of licensing requirements

7. **Establishments holding scheduled licences.** Some hotels were not able to meet the full licensing requirements. Since September 1993, these hotels (referred to as scheduled hotels) had been issued with licences (referred to as scheduled licences) to which a schedule of works was attached, specifying the building and fire safety improvement works which had to be completed within a specified period. The target completion date of improvement works for scheduled hotels was August 2002. As at June 2006, there were still 18 hotels and 2 holiday camps holding scheduled licences.

8. **Need to closely monitor progress of outstanding works.** The scheduled hotels were required to submit to the OLA bi-monthly works programmes and quarterly progress reports. However, Audit noted that the scheduled hotels submitted their works programmes and progress reports at irregular intervals (and often with substantial delay) and in different formats showing varying work details. *Audit has recommended that the Director of Home Affairs should closely monitor the progress of outstanding works, including requiring the scheduled licensees to submit works programmes and progress reports in accordance with the agreed time interval and in a standard format.*

Enforcement action against unlicensed establishments

9. The Enforcement Unit of the OLA is responsible for taking enforcement action against unlicensed establishments. Audit reviewed a sample of 40 cases of suspected unlicensed establishments (Sample B) to ascertain whether there is room for improvement in taking enforcement action.

10. ***Need to closely monitor the progress of enforcement action.*** Audit noted that the enforcement action was not carried out in a timely manner in some cases. In three cases in Sample B, the Enforcement Unit conducted the first preliminary inspection more than 100 days after receiving the referral case. In seven cases, the time span for the Enforcement Unit to complete preliminary inspections was more than 200 days. In four cases, the time span to complete in-depth inspections was more than 300 days. *Audit has recommended that the Director of Home Affairs should closely monitor the action of the Enforcement Unit with a view to ensuring that there is no undue delay.*

11. ***Need to conduct inspections at appropriate times.*** According to a standing instruction of the OLA, if initial inspections of suspected unlicensed establishments are not successful, further inspections should be conducted at a time of the day which coincides with the mode of operation of the establishment's business (e.g. at night for unlicensed guesthouses). In seven cases of unlicensed guesthouses in Sample B, further inspections were not conducted at night. *Audit has recommended that the Director of Home Affairs should ensure that inspections are conducted at times when there is business operation inside suspected unlicensed establishments.*

12. ***Need to devise guidelines for invoking sections 19(1) and 20(1).*** Section 19(1) of the HAGAO provides that the Secretary for Home Affairs may give directions to any hotel or guesthouse to ensure, among other things, that the provisions of the HAGAO are complied with. Section 20(1) further provides that the District Court shall make an order directing that a hotel or guesthouse shall close if: (a) there is any danger or risk of danger to guests; or (b) the requirements of a direction given under section 19(1) have not been complied with. *Audit has recommended that the Director of Home Affairs should consider drawing up guidelines, in consultation with the Department of Justice, setting out the circumstances under which the OLA would invoke sections 19(1) and 20(1) of the HAGAO.*

Cost recovery

13. ***Full-cost recovery objective not yet achieved.*** Fees charged by the Government should in general be set at levels adequate to recover the full cost of providing the goods or services. Audit noted that the objective of full-cost recovery had not been achieved for the issue of licences under the HAGAO. *Audit has recommended that the Director of Home Affairs should ensure that the licence fees under the HAGAO are periodically revised to achieve full-cost recovery.*

Promotion of licensed establishments

14. ***Logos of licensed establishments.*** There are logos for identifying guesthouses for tourists, guesthouses for local people and holiday flats. The OLA asks operators to display logos in a prominent position at licensed premises. Audit noted that the OLA did not have information about the number of licensed establishments displaying the logos. *Audit has recommended that the Director of Home Affairs should consider: (a) assessing the effectiveness of the logos; and (b) including in the standard licence conditions guidelines on the proper display of logos at licensed premises.*

15. ***Promotion through the Internet.*** The OLA provides information about licensed establishments at its website on the Internet. Audit considers that accessibility to the OLA website can be enhanced if other travel/tourist websites are linked to it. *Audit has recommended that the Director of Home Affairs should consider: (a) regularly assessing the popularity of the OLA website; and (b) ways of enhancing accessibility to the OLA website.*

Performance management

16. ***Development of performance measures.*** In accordance with the Financial Services and the Treasury Bureau's guidelines, the OLA needs to consider setting performance targets on its licensing and enforcement activities. *Audit has recommended that the Director of Home Affairs should: (a) develop more meaningful performance measures, such as the number of enforcement actions taken; and (b) consider setting performance targets on the various licensing and enforcement activities carried out under the HAGAO, including targets that measure the effectiveness of the licensing programme.*

Response from the Administration

17. The Administration accepts that there is room for improvement in the OLA's licensing work, and generally agrees with all the audit recommendations.

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