

THE HONG KONG HOUSING AUTHORITY

Memorandum for the Commercial Properties Committee

Review of Single-Operator Lettings

PURPOSE

To inform Members of recent developments in the operation of Single Operator Markets (SOMs) and Single Operator Shopping Centre (SOSCs) and to seek Members' approval to revised arrangements for such lettings.

BACKGROUND

2. The 'single operator' concept is a single tenancy, normally for six years, to an operator who is permitted to licence out parts of the leased area, thus effectively taking over management of the premises. The first single operator letting was of Yiu On SOM in 1988. Such lettings were expected to achieve improvement in services by harnessing the specialist private sector expertise and increased flexibility with which private sector managers can respond to market trends, and restraining civil service growth, releasing Housing Department staff meet other demands.

3. Early lettings were carefully monitored and the results were largely favourable. Surveys indicated that residents rated SOMs at least as high as HD managed facilities for choice of goods and services, management of operating conditions and pricing. The number of companies submitting evidence of compliance with criteria and applying for registration steadily increased as private sector managers saw the potential, bids were competitive and lettings produced net income as high or higher than that achievable under HD operation. With this success, the single operator concept was extended to a shopping centre with the letting of Yiu Tung SOSC in 1993.

4. The continued success of SOMs encouraged expansion in the use of this form of operation and since 1997 it has been used for all new markets. At present out of the total of 130 HA markets, 25 or 19% are SOMs ([Annex A](#)). Letting of further five was approved in 2001 ([Annex B](#)) for operation within the coming months. For reasons explained below, SOSCs have been less successful and there are currently three in operation ([Annex C](#)).

EXPERIENCE IN OPERATION

Single Operator Shopping Centres

5. The SOSC arrangement has not been very successful for a number of reasons. Monitoring of performance has shown that the standard of management is no better than that under direct HD control. Although 14 companies are registered for bidding ([Annex D](#)) few actively bid for the centres offered. Even for the modest size of shopping centre put out for SOSC operation, the rent required is very substantial and adverse circumstances can represent a major commercial risk. At the same time, such small centres may not fit for the portfolio requirements of major developer/managers and offer limited potential for expansion.

6. The experience in the first SOSC at Yiu Tung was particularly instructive. The rent bid proved to be over-ambitious in the light of the volume of business at the centre and after considerable losses the operator eventually surrendered the premises back to HA in 1998, leaving a number of licensees in occupation. Modifications made by the operator were unsuitable for continued HA operation and had to be removed; the air-conditioning system was found to need replacement also.

7. Given these problems no more SOSCs have been let since late 1997. It is considered that 'long leasing' might be a more promising approach. This would involve the grant of a longer lease, which would give an operator better long-term prospects of reaping the benefits of active management and investment; at the same time as the operator would bid for a percentage of revenue rather than a fixed rent, the risk to the operator would be less. Even with the above changes, however, early indications are that major companies may not be interested in such a scheme unless the centre is of a size and location offering real potential as a district centre. The Department will continue to monitor market sentiment and explore the possibility of re-activating some form of long leasing when circumstances are more favourable.

Single Operator Markets

8. Overall, SOMs have been much more successful than SOSCs. About half of the 13 companies registered to bid ([Annex E](#)) actively compete for new opportunities; generally the net income receivable by HA from such lettings matches that obtainable under HD operation, and in some cases is higher. On the performance side, studies confirm that overall, residents assess the choice of goods, cleanliness, and pricing as being as good or better than in HD managed markets.

Problems with Single Operator Markets

9. There have been some problems, however. The most persistent of these is the tendency for the HA and HD to become embroiled in disputes between the tenant and his licensees. In fact the number of serious disputes have been few, but the situation has deteriorated since 1998. Frequently these disputes are similar to normal landlord/tenant interaction prior to tenancy renewal and should not involve HA/HD at all; this position has been restated repeatedly to licensees and their representatives who seek to get HA or HD involved to support their bargaining position.

10. More recently, however, complaints from licensees have become more numerous and investigation has confirmed that the situation in some cases is not entirely satisfactory. Licensees have complained of profiteering both by way of rent and by collection of excessive charges for air-conditioning, management, or promotion activity. Complaints have also been received of misleading representations on the business potential of stalls when offering licences, lack of professional management on control of obstruction and cleanliness or even as to the adequacy of the trade mix.

11. A more unusual problem arose recently at Tin Chak, where the SOM operator has permitted the operation of a supermarket within the SOM curtilage. The Department is pressing for rectification, by legal means if necessary. It has however highlighted the need to ensure that the tenancy agreement for such lettings is watertight.

THE FUTURE FOR SINGLE OPERATOR MARKETS

12. Despite the problems referred to above, the weight of evidence clearly demonstrates the success of SOMs. Operationally and financially performance is as good or better than direct HA management. As far as the

intended beneficiaries of HA facilities are concerned, i.e. estate residents and other local shoppers, there is almost universal support. The problems between tenants and their licensees are arguably matters in which the HA or HD should not be closely involved: the whole point of SOMs is that they operate in a more commercial way without civil service involvement. However, the political reality is that the HA is held to different standards and is perceived as having ultimate responsibility when disputes arise. It is therefore considered that the scheme needs to be tightened up to avoid abuse, and performance monitoring stepped-up. In line with arrangements for management agents, it is also proposed that performance is reflected when considering applications for renewal of tenancy or bids for new markets.

PROPOSALS

Tightening up on SOM Tenancy Agreements

13. It is proposed to include additional provisions in existing standard forms of tenancy agreement for SOMs to ensure premises are used as intended, to ensure operator remains focused on intended trades, to increase protection for licencees and to improve management responsiveness. Details are at [Annex F](#). The new form of agreement will be used for all new lettings and renewals.

Greater Flexibility at Early Intake Stage

14. In addition, it is proposed to include in information passed to operators when inviting bids for new markets an indication that the HA may, at its discretion, approve partial opening of the market for a preliminary period on terms specified by HA. This will allow greater flexibility when the early occupants of an estate are seeking services but operation of the entire market would not be viable.

Maintenance of Competition

15. To maintain healthy competition between operators it is desirable to avoid excessive dominance by any one operator, and to facilitate new entrants subject to an adequate level of competence being ensured. To avoid dominance, we propose that no single company or group of companies should hold more than 50% of the total number of SOMs in operation. As to the encouragement of new entrants, the criteria were relaxed in March 1996, and further modification will be considered if this appears beneficial.

Performance Evaluation to be Reflected in Lettings

16. At present appraisal performance reports are completed by the supervising HM at the estate concerned each quarter. The report format has been overhauled to give increased focus on compliance with tenancy conditions and the requirement that the operators work harmoniously with licensees to avoid public disputes which affect the image of the scheme and of the HA. The new appraisal format is at [Annex G](#). It is intended that this be used in future for both SOMs and SOSCs.

17. It is proposed that performance appraisal scores are used as a basis for consideration of applications for tenancy renewal or bids for new lettings. For renewal of tenancy, the tenant must have achieved an average acceptable score (60%) or better over the last twelve months and over 60% in the last two performance reports. In the event the tenant does not meet the standard, the tenancy will not be renewed and offers invited from other operators to take up the market on tenancy expiry.

New Lettings

18. For new lettings it is proposed to adopt a combined scoring system in a similar way for award of management contracts. Given the importance of performance, it is proposed that in assessing bids, financial and performance scores should be given equal weight. Details of the calculation method are given at [Annex H](#).

OPERATORS' RESPONSE

19. An outline of the proposals has been discussed with the most active SOM operators and the proposals for recognition of performance are generally accepted as reasonable. Details of the revised procedures will be implemented with care and refined in discussion with operators if necessary.

FINANCIAL IMPLICATIONS

20. The incorporation of performance appraisal in letting arrangements may have some short-term impact on income which will no longer be the sole

criteria for letting. However, improved performance may be expected to lead to enhanced business in the longer term, and the need for administrative input by HD for resolution of disputes reduced.

PUBLICITY AND PUBLIC REACTION

21. Outside of the industry it is not envisaged the matter would be of great deal of interest and no public announcement is proposed. Operators will be informed in due course when the new arrangements are finalised.

DECLASSIFICATION

22. We propose that this paper be declassified on Members' approval of the recommendations in paragraphs 13 to 18 above. Once declassified, the paper will be made available to the public on the HA home page.

DISCUSSION

23. At the meeting to be held on 31 January 2002, Members will be invited to approve the recommendations above.

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File Ref. : HD(H)CP 6/8/102 (V)

Date : 25 January 2002

Single-Operator Markets under Operation

Name of Estate	First Tenancy Commencement	Name of Single-Operator
1. Yiu On	1.6.1989	Majorluck Ltd.
2. Wah Kwai	1.3.1991	Modern Market Management Ltd.
3. Fu Heng	16.4.1991	Bright Lamp Industries Ltd.
4. Tin Shui	1.5.1993	Majorluck Ltd.
5. Hau Tak	1.5.1994	Majorluck Ltd.
6. Tin Ma Court	1.8.2000	Lee Yuen Merchant Ltd.
7. Ka Fuk	1.10.1995	Majorluck Ltd.
8. Hing Tung	1.8.1998	Modern Market Management Ltd.
9. Chung On	1.3.1997	Wang On Majorluck Ltd.
10. Kwong Tin	16.1.1997	Well Sighted Ltd.
11. Tsz Wan Shan Shopping Centre	16.9.1997	Well Sighted Ltd.
12. Fu Tung	1.9.1997	Wang On Majorluck Ltd.
13. Sheung Tak	16.7.1998	Goldrise Investment Ltd.
14. Kai Tin	16.3.1999	Wang On Majorluck Ltd.
15. Ming Tak	1.8.1999	Bright Lamp Industries Ltd.
16. Kwai Shing East	1.12.1999	Well Sighted Ltd.
17. Hing Wah	1.4.2000	Super Happy Investment Ltd.
18. Hoi Fu Court	1.2.2000	Well Sighted Ltd.
19. Chung Fu Shopping Centre	16.2.2000	Modern Market Management Ltd.
20. Tin Shing Court	1.4.2000	Wang On Majorluck Ltd.
21. Yung Shing Court	1.5.2000	Bright Lamp Industries Ltd.
22. Kam Ying Court	1.7.2000	Majorluck Ltd.
23. Homantin Plaza	16.12.2000	Goldrise Investment Ltd.
24. Fu Tai	1.3.2001	Bright Lamp Industries Ltd.
25. Tin Chak	16.9.2001	Wang On Majorluck Ltd.

Single-Operator Markets Pending for Operation

Name of Estate	Name of Single-Operator
1. Lei Yue Mun Plaza	Tai Ping Market Management Ltd.
2. Po Tin Interim Housing	Super Happy Investment Ltd.
3. Yat Tung	Well Sighted Ltd.
4. Sau Mau Ping	Goldrise Investment Ltd.
5. Choi Ming Court	Goldrise Investment Ltd.

Single-Operator Shopping Centres under Operation

Name of Estate	First Tenancy Commencement	Name of Single-Operator
1. Wah Sum Shopping Centre	1.11.1995	Pacific Commercial Management Ltd.
2. Hiu Lai Court Shopping Centre	1.3.1997	Pacific Commercial Management Ltd.
3. Ping Tin Shopping Centre	16.5.1997	Wang On Shopping Centre Management Ltd.

Listed Operators for Single Operator-Shopping Centres

Listed Operators	No. of Contracts with HA
1. A.S. Watson & Co. Ltd.	-
2. Guardian Property Management Ltd.	-
3. Hsin Chong Real Estate Management Ltd.	-
4. Hutchison Whampoa Properties Ltd.	-
5. HYFCO Estate Management & Agency Ltd.	-
6. MRT Property Management Ltd.	-
7. Pacific Commercial Management Ltd.	2
8. Paliburg Estate Agents Ltd.	-
9. Shamshuipo (Yue Tai) Plaza Ltd.	-
10. Smiling Sky Group	-
11. Tonwell Ltd.	-
12. Wang On Shopping Centre Management Ltd.	1
13. Wellcome Co. Ltd.	-
14. China Travel International Investment Hong Kong Ltd.	-

Listed Operators for Single Operator Markets

Listed Operators	No. of Contracts with HA
1. A.S. Watson Group (H.K.) Limited	-
2. Bright Lamp Industries Ltd.	4
3. Lee Yuen Market Management Ltd.	1
4. Goldrise Investment Ltd.	4 *
5. Guardian Property Management Ltd.	-
6. Hsin Sheng Services Ltd.	-
7. HYFCO Estate Management & Agency Ltd.	-
8. Modern Market Management Ltd.	3
9. Polymax Investment Ltd.	-
10. Super Happy Investment Ltd.	2 *
11. Tai Ping Market Management Ltd.	1 *
12. Wang On Majorluck Ltd. (Merged with Majorluck Ltd.)	10
13. Well Sighted Ltd.	5 *

* Pending signing-up of one new contract

New Provisions to be incorporated into Tenancy Agreements

To Ensure Premises are Used as Intended

- premises to be operated as a traditional market; operation of supermarket specifically prohibited
- licenced or trading area not to exceed stipulated total internal area
- no change to designated use of service rooms without HA's express approval
- copies of contracts with the tenant for the provision of services to be provided to HA on demand

To Ensure Focus on Intended Trades

- area of operation of 'optional' trades to be limited to one stall not exceed 20m² for each trade
- area of single stall or adjoining stalls in combination for operation of 'essential' trade to be limited to 150 m²

To Increase Protection for Licensees

- licensees to be charged no other fees than licence fees, A/C charges, rates and management fees.
- total A/C charges collected not to exceed A/C charges payable to HA (where HA plant provided by operator, A/C charges to be specified and increased only with HA agreement)
- rates collected not to exceed rates demanded by RVD
- management fees to be stated in leasing proposal and annual increases to be adjusted to movement in the CSD Nominal Wage Index
- interest payable on licence fees or other payments not to exceed interest payable to HA under tenancy agreement
- monthly return to be made of total licence fees, A/C charges, rates and management fees demanded from licensees

To Improve Management Responsiveness

- market management office to be adequately manned during market opening hours
- 24-hour security guard service to be maintained

**Appraisal Report on the Performance of
the Tenant of the Single Operator Market/Shopping Centre in
Estate
(For the Period from _____ to _____)**

PART I (To be completed by supervising HM)

A. Name of Operator : _____

B. Period of Tenancy : From _____ to _____

C. Assessment of Performance :

Aspect	Performance Standard	Points Awarded	Remarks
1. Compliance with Tenancy Conditions (20%)	Full voluntary compliance with Tenancy Conditions (16-20)		
	Minor or occasional breaches of Tenancy Conditions (7-15)		
	Serious or prolonged breaches of Tenancy Conditions (0-6)		
2. #Cleansing (15%)	Good standard (11-15)		
	Acceptable standard (6-10)		
	Poor (0-5)		
3. #Obstruction & Hawker Control (15%)	Took initiative with satisfactory results (11-15)		
	Managed to maintain orderliness (6-10)		
	Inadequate action and poor performance (0-5)		
4. Security (10%)	Frequent patrols and pro-active preventive security action (9-10)		
	Sufficient patrols and managed to provide adequate security services (6-8)		
	Inadequate patrols and failure to provide basic security services (0-5)		
5. #Maintenance & Repair (10%)	Prompt and efficient handling of routine and ad hoc maintenance and repair (8-10)		
	React to complaints only/supervision required (4-7)		
	Inadequate/poor maintenance and repair, e.g. delay, poor workmanship (0-3)		

Annex G
(P.2/4)

Aspect	Performance Standard	Points Awarded	Remarks
6. Management of Loading/ Unloading Area (5%)	Took initiative to maintain orderliness of the area (5)		
	Managed to maintain orderliness with the assistance of the estate staff (3-4)		
	Poor control and ineffective in maintaining orderliness of the area (0-2)		
7. Maintenance of Trade-mix (10%)	Fully complied with Tenancy Agreement and local needs (8-10)		
	Complied with Tenancy Agreement with input from estate staff (4-7)		
	Unable to maintain specified trades (0-3)		
8. Liaison with Stake-holders (H.A., Licensees, EMAC, etc.) (15%)	Pro-active in establishing good relationships and spirit of active cooperation, active in promotion. (11-15)		
	On reasonable terms with business partners without major or prolonged disputes (6-10)		
	Frequent or major disputes with business partners, little promotion activity. (0-5)		
	##Total Points Awarded :		

D. Assessment on Overall Performance : *Good/Satisfactory/Acceptable/Poor

80 or above Good
70-79 Satisfactory
60-69 Acceptable
below 60 Fail

- * Delete as appropriate
- # Please attach supporting photos if necessary
- ## For unsatisfactory performance of the tenant with less than 60 points, a monthly assessment report is required until an acceptable standard is attained by the tenant

E. Summary Records of Complaints Received During the Period under Report

Nature of Complaints	Source of Complaints (Tenants/Councillors, MAC/EMAC, etc.)	No. of Complaints Received (Verbal/Written)	No. of Cases Solved	No. of Cases Outstanding	Remarks
1. Staff Performance, Attitude & Manner					
2. Cleansing Service					
3. Maintenance & Repair					
4. Obstruction & Hawker Control					
5. Security Service					
6. Others (Please specify)					

F. Feedback from MAC/EMAC/Councillors, etc.

G. Feedback from HQ Monitoring Team

H. Action Taken on **Breach of Tenancy Condition/Unsatisfactory Performance** by the Operator
(Please indicate action taken, e.g. verbal/written warnings; meetings with Operator; and areas for improvement referred to Operator for follow-up if any, etc.)

I. Other Comments (if any)

()
HM/
Date :

PART II (To be completed by DSHM)

I *endorse/do not endorse the supervising HM 僱 assessment on the performance of the tenant of the single operator market.

Reasons for not endorsing HM 僱 assessment:

()
SHM/
Date :

*Delete as appropriate

**Proposed Scoring System
on Assessment of Leasing Proposals
for Single Operator Markets**

1. Financial Score

(Maximum score 50%) calculated as -

$$\frac{\text{Rental proposed by bidders}}{\text{Highest rental of all bids submitted}} \times 50\%$$

2. Performance Score

The past performance in management of SOM/SOSC of HA premises (Maximum Score 50%) calculated as -

$$\frac{\text{Bidder's average performance score over 12 months}^{(\text{Note})}}{\text{Highest performance score of bidders submitting in the exercise (over past 12 months)}} \times 50\%$$

3. Combined Percentage

Sum of financial score and performance score

Note : Bidders with no performance record will be awarded a score equivalent to the median obtained by bidders with performance records, but capped at 69 points, equivalent to the maximum awarded for an acceptable standard.