

HONG KONG BAR ASSOCIATION

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The Hong Kong Bar Association (HKBA) notes the statement by a Government spokesman on 31 May 2010 on the removals of June 4th Incident exhibits from the public place at Times Square, Causeway Bay on 29 and 30 May 2010, in which it was said that a Places of Public Entertainment Licence was required from the Food and Environmental Hygiene Department (FEHD) for the display of those exhibits at that public place.

The HKBA questions the correctness of the Government's statement on legal grounds, in particular as to whether or not there was a "public entertainment" at a "place of public entertainment" within the relevant statutory definitions. But, more importantly, the HKBA would urge that any use of the Places of Public Entertainment Ordinance Cap 172 (the Ordinance) - the requirements of which are mainly to ensure the safety of participants at events of public entertainment - should not undermine the Government's stated continued efforts to give effect to its commitment to promote freedom of expression.

The HKBA also notes that the exhibits have now been returned to their owners by the police force, and the circumstances of that return.

The HKBA deplors any attempt by the police force to incriminate the owners of the exhibits during the negotiation for their return. This purported act undermines the Rule of Law and must not be repeated.

While the HKBA expects those affected by the action taken by the FEHD and the police force may be able, if advised, to take any legal action thought appropriate, the HKBA considers that the content of the statement and the conduct of the police are such that it is necessary to issue this statement to avoid any misunderstanding on the part of the public on matters of law.

Dated 2 June 2010.

Hong Kong Bar Association