

For discussion on
4 July 2008

LC Paper No. CB(2)2454/07-08(02)

Legislative Council Panel on Home Affairs

Regulation of Property Management Companies

PURPOSE

This paper briefs Members on the findings of the first phase of a consultancy study on the regulation of property management companies.

BACKGROUND

2. The Government undertook to conduct a two-phase consultancy study on how the regulation of property management companies in Hong Kong should be strengthened and to brief Members on the outcome of the first phase study before proceeding to the next phase of detailed study on the subject. The first phase of the consultancy study is a fact-finding exercise on the property management industry in Hong Kong, practices in other regions and other regulatory systems in Hong Kong, while the second phase will examine the pros and cons of the different models and their operational arrangements. The key findings of the first phase of study are set out below.

KEY FINDINGS OF FIRST PHASE STUDY

Property Management Industry in Hong Kong

3. At present, around 23,400 out of 39,300 private buildings are managed by property management companies in Hong Kong. There are around 760 property management companies in Hong Kong. About 8% of the property management companies manage more than 50 buildings

each, providing relatively sophisticated and comprehensive property management services. On the other hand, around 40% of the property management companies manage only one building each. These small companies often provide basic services such as cleaning and security services to single-tenement buildings at competitive prices.

4. The industry is currently self-regulated by professional bodies. The Hong Kong Association of Property Management Companies (HKAPMC) has 85 corporate members with a total market share of about 74%. To become a member of the HKAPMC, a property management company is required to have over 2 years' experience in managing properties in Hong Kong, meet the minimum size of management portfolio, and submit 2 years' audit reports. Members of the HKAPMC have to comply with a set of code of conduct on professional standards and ethical business practices. Non-compliance with the code may lead to suspension or termination of membership. The full set of code of conduct is listed in Annex A.

5. Individual property managers may obtain professional qualifications from various professional bodies such as the Chartered Institute of Housing – Asian Pacific Branch, the Hong Kong Institute of Housing, the Hong Kong Institute of Real Estate Administration and the Hong Kong Institute of Surveyors. Qualified professionals can register at the Housing Managers Registration Board (HMRB), the statutory body in Hong Kong responsible for registration and disciplinary control of the professional activities of professional property/housing managers.

6. According to a survey conducted by our consultant and other relevant surveys, owners are generally satisfied with the quality of services provided by property management companies. The following areas, in particular, achieve a high degree of satisfaction – (a) efficiency in delivery of service, (b) cooperation and communication with owners, and (c) impartiality in resolving disputes among owners. On the other hand, some areas which can be further improved include (a) financial transparency in handling management funds, (b) procedure for procurement of goods and services, and (c) performance in building maintenance.

Regulation of Property Management Industry in Other Regions

7. We have studied the practices of regulating property management companies in the United Kingdom (UK), Singapore and the Mainland. The study findings indicate that there are three broad approaches in the regulation of the industry, namely :

- (a) self-regulation by the professional bodies concerned;
- (b) a voluntary accreditation scheme; and
- (c) a mandatory licensing scheme.

8. Property management companies in the UK engage in a wider scope of business than companies in Hong Kong, including strategic asset management, rent collection and letting services. However, there is no government regulation of the property management industry. Like Hong Kong, the industry is self-regulated by professional organisations. At the corporate level, national professional organisations such as the Association of Residential Managing Agents regulate members by codes of practice. At the individual level, practitioners may obtain qualifications from professional institutes after passing qualifying examinations and obtaining relevant experiences. The professional institutes also provide relevant training to practitioners.

9. In Singapore, there is an accreditation scheme administered by the Association of Property and Facility Managers (APFM) and the Singapore Institute of Surveyors and Valuers (SISV) for the property management industry at the corporate level. There are two tiers of accreditation based on the scale of property management companies. Criteria for accreditation include minimum capital, qualification of key staff and procurement of Professional Indemnity Insurance. Disciplinary actions are taken by a disciplinary board. An accredited firm which falls short of the standard of accreditation will have its accreditation status withdrawn until the deficiencies are rectified. Other types of disciplinary actions include issue of warning or reprimand. In return for subjecting to the accreditation standards, an accredited firm can identify itself by using the credential “SISV-APFM Accredited Managing Agents” to promote its business. Details of the accreditation criteria are set out at Annex B.

10. In the Mainland, corporate and individual licensing were introduced to the property management market in 2004 and 2005 respectively. Corporate licensing in the Mainland is divided into three tiers based on the company's capital, number of relevant professionals working in the company and the company's experience in managing relevant types of buildings. Property management companies of all three tiers are required to maintain certain standards of service quality. The eligibility criteria for applying for certification are set out at Annex C. Individual property management personnel who wish to obtain a licence to practice would have to meet relevant requirements on academic qualifications and experience and to pass a qualifying examination.

Regulation of Other Industries in Hong Kong

11. We have also studied the regulatory systems of the estate agency industry and travel agency industry in Hong Kong. The nature of both industries is similar to that of the property management industry in that the relevant transactions involve a considerable amount of money, and malpractice may lead to huge financial loss by customers. Nonetheless, the two industries differ from property management industry in that their services are often one-off in nature while those offered by the latter are usually of a continuous nature. In other words, market force could play a greater role in protecting consumer interests in the property management market as customers could change to other companies if they are dissatisfied with the services offered.

12. The estate agency industry practises a licensing system at both corporate and individual levels. The Estate Agents Authority is a self-financing statutory body responsible for licensing, regulating and handling complaints and is independent of the government and the industry. All practitioners have to obtain licences to practise in the industry. Thus, through the licensing system, entry requirements to the industry are established and professional competence and proper conduct of practitioners are ensured.

13. The licensing and regulatory system of the travel agents industry is a two-tier system incorporating a self-regulatory mechanism. Under

the system, the Travel Industry Council of Hong Kong (TIC) is responsible for the trade's self-regulation whereas the Government's Travel Agents Registry is responsible for the licensing of travel agents. Under the Travel Agents Ordinance, TIC membership is one of the requirements for granting of travel agents licence by the Registrar of Travel Agents.

POSSIBLE MODELS

14. In the light of the findings of the first phase of study, we will undertake a more detailed examination of the pros and cons of each of the three possible models, and their operational arrangements. Our aim is to find a model which would fulfill the following criteria :

- (a) provide owners' with more choices of quality, efficient and affordable property management services;
- (b) facilitate the development of a healthy and competitive property management industry; and
- (c) continue the partnership between the Government and the stakeholders concerned in achieving effective building management.

15. There are some salient questions we would need to address when we undertake the detailed study in the second phase:

- (a) Industry self-regulation system – Self-regulation is currently practiced in Hong Kong and it could be further strengthened, particularly on aspects which are of concern to the owners. Further strengthening may take different forms, for example, compulsory training for property managers to raise their professional standards, enhancing the existing entry criteria and amending the code of conduct to cater for small property management companies. While this model should pose the least cost of compliance and allow the greatest choice to owners, we would need to ascertain :

- Whether this model can effectively improve the standard of services of property management companies, particularly those small and medium sized ones?
 - Without the participation or endorsement of a third party, will the standard of services of the property management companies be able to gain general recognition and acceptance by building owners?
- (b) Voluntary accreditation system – A voluntary accreditation system allows property management companies and professionals to gain accreditation and be subject to the control therein. While the “brand name” effect of accreditation should provide an incentive for property companies to improve their services, we need to know :
- Whether this model can achieve the effect of providing some owners with a choice of engaging an accredited company for the assurance of competent services (probably at a relatively higher fee), while preserving the choice of others in engaging non-accredited ones if what they need are basic services such as cleaning and security services ?
 - How should the accreditation system be designed so as to attract the property management companies to apply for accreditation? Which authority should decide the accreditation criteria?
- (c) Mandatory licensing system – Under a mandatory licensing system, all property management companies must obtain a licence before they can provide services. While this model may be able to ensure the “minimum standard” of services provided by property management companies through the licensing conditions, we need to ascertain :
- Whether this model will drive out the small and medium sized property management companies which are currently offering basic services at relatively competitive prices? Would a tiered

system help minimize this possibility?

- Whether this model would pose substantial cost of compliance, hence leaving owners with increased management fees as a result of less competition?

WAY FORWARD

16. We will conduct the second phase of the consultancy study which seeks to examine the detailed arrangements under different possible models for regulation of property management companies, the pros and cons of each model, and the way forward. We aim to commence the second phase of study in the latter half of 2008.

Home Affairs Department
June 2008

Code of Conduct of the HKAPMC

Introduction

Members of the Hong Kong Association of Property Management Companies Limited (HKAPMC) are governed by its Memorandum and Articles of Association and this Code of Conduct, the object of the latter being to promote high professional standards and ethical business practices.

2. This code represents the minimum standards to which the HKAPMC subscribes. Members are advised to read it in conjunction with all relevant Ordinances, any Deeds of Mutual Covenant under which they operate and any related Management Agreements.

3. A member shall be required to answer questions, if so directed by the HKAPMC, concerning his conduct in accordance with the Code. A member is liable to reprimand, suspension or expulsion if his conduct is found to be in contravention of the Code or otherwise inconsistent with the aims of the Association.

Principles of Conduct

4. To maintain a high standard of professional practice, a member of the Association should observe the following rules:

- a) A member shall faithfully carry out the duties which he undertakes, and shall have proper regard for the interests both of those who commission him, and of those who may be expected to use or enjoy his services.
- b) A member shall endeavour to contribute through his work to the advancement of good property management.
- c) A member shall not knowingly undertake any work beyond his resources or beyond his ability.

- d) A member shall not subcommission work for which he has been commissioned without the agreement of his client, or without defining the respective responsibilities of all concerned.
- e) A member shall not disclose confidential information imparted by actual or potential clients without their express consent.
- f) A member shall avoid actions and situations inconsistent with his legal or contractual obligations or likely to raise doubts about his integrity.
- g) A member shall not have such an interest in, or be associated with, any business as would, or might, breach these rules.
- h) Should a member find that his interests, whether contractual or personal, conflicts so as to risk a breach of this Code, he shall as the circumstances may require, either declare it and obtain the agreement of the parties concerned to the continuance of his engagement, or withdraw from the situation or remove the source of conflict.
- i) A member shall inform his client in advance of the conditions of engagement and the scale of charges, agree with his client that those conditions shall form the basis of his appointment, and shall not demand or accept any other payment or consideration for the duties entrusted to him, whether from the client or any other person or entity.
- j) A member shall not maliciously endeavour to discredit other members of the HKAPMC.
- k) A member shall abide by the Practice Notes on professional conduct issued from time to time by the Council of the HKAPMC.

5. The HKAPMC upholds the principle of fair play in business and an honourable standard of professional ethics. The framework for a standard of business ethics is provided by Section 9 of the Prevention of

Bribery Ordinance. Members of the HKAPMC should ensure that they, as well as their employees, fully understand and comply with these legal provisions.

(Information from the website of HKAPMC, <http://www.hkapmc.org.hk/>)

**Standards of Accreditation of
The Association of Property and Facility Managers and
The Singapore Institute of Surveyors and Valuers**

Accreditation is granted to firms whose key decision-making management staff are qualified professionals as well as members of the SISV or APFM. Firms whose directors or management are not SISV or APFM members may also apply for accreditation on a case by case basis.

2. There are two categories of accreditation, Category A and Category B in order of the complexity of the strata titled developments.

Category (A)

3. This category of accreditation is applicable to applicants who are preferably managing large commercial properties i.e. industrial, office, shop or mixed developments with predominantly commercial content and community/institutional buildings, and large-scale residential property developments i.e. those with more than 150 units.

4. The requirements are :

- (a) The applicant should be at least either a partnership or company with limited liability with a minimum paid-up capital of S\$100,000.
- (b) The applicant must have at least one key management staff holding at least a bachelor degree (or equivalent professional qualification) in the relevant field of estate or building management, and has direct/proven work experience for at least 5 years on a full-time basis and demonstrated competence in property management; AND
 - (i) at least one employee holding other relevant degree (or equivalent professional qualification); OR
 - (ii) at least 2 employees holding a recognized diploma in

estate or building management

with similar experience of at least 5 years as the key management staff.

- (c) The staff of the applicant are required to satisfactorily pass an interview with tests knowledge in strata titled management and related topics.
- (d) The applicant shall ensure he has a valid Professional Indemnity Insurance policy with a minimum amount of S\$500,000. The policy must be in force for at last 3 months at the time of application. If not available, the applicant shall furnish same within 30 days upon approval of accreditation.

Category (B)

5. This category of accreditation is applicable to applicants who are preferably managing small-scaled residential and commercial property developments i.e. those with 150 and fewer units.

6. The requirements are :

- (a) The applicant should at least be a sole proprietor.
- (b) The applicant must have at least one of its key management staff holding a diploma in the relevant field of estate or building management.
- (c) The key staff must have been engaged in practice for a period of at least 3 years on a full-time basis and demonstrated competence in the field of property management.
- (d) The key staff is required to satisfactorily pass an interview which tests knowledge in strata titled management and related topics.
- (e) The applicant shall ensure he has a valid Professional

Indemnity Insurance policy with a minimum amount of S\$100,000. The policy must be in force for at least 3 months at the time of application. If not available, the applicant shall furnish same within 30 days upon approval of accreditation.

7. Firms in Category A are allowed to manage those in “(B)” category. However, those firms in Category B will not be allowed to offer services in the “(A)” category until they are upgraded to Category A.

(Information from the website of The Singapore Institute of Surveyors and Valuers, <http://www.sisv.org.sg/>)

(Translation)

Measures for the Administration of Qualifications of Realty Service Enterprises (Order No. 125 of the Ministry of Construction)

Grades of Realty Service Enterprises

(I) First Grade Qualifications:

1. The enterprise shall have a registered capital of over RMB 5 million Yuan;
2. The enterprise shall have at least 30 realty management professionals and full-time management and technical personnel in the relevant disciplines of engineering, management or economics, of which no less than 20 shall have middle rank title or above, and the persons-in-charge of engineering or finance shall have middle rank title or above of the relevant professions;
3. The realty management professionals shall obtain the professional qualifications certificate pursuant to the relevant provisions of the state;
4. The enterprise shall have more than two categories of realties under its management. The sum of the percentage of building areas of each category of realty over the following respective basis for calculation shall be no less than 100%:
 - (1) 2 million m² for multi-storey residential developments;
 - (2) 1 million m² for high-rise residential developments;
 - (3) 150 000 m² for detached residential developments (villas);

- (4) 500 000 m² for office, industrial and other property developments.
5. The enterprise shall establish and strictly enforce an enterprise management system and set of standards on service quality and scale of charges, etc., and shall establish an enterprise credit record system and with satisfactory management performance record.

(II) Second Grade Qualifications:

1. The enterprise shall have a registered capital of over RMB 3 million Yuan;
2. The enterprise shall have at least 20 realty management professionals and full-time management and technical personnel in the relevant disciplines of engineering, management or economics, of which no less than 10 shall have middle rank title or above, and the persons-in-charge of engineering or finance shall have middle rank title or above of the relevant professions;
3. The realty management professionals shall obtain the professional qualifications certificate pursuant to the relevant provisions of the state;
4. The enterprise shall have more than two categories of realties under its management. The sum of the percentage of building areas of each category of realty over the following respective basis for calculation shall be no less than 100%:
 - (1) 1 million m² for multi-storey residential developments;
 - (2) 500 000 m² for high-rise residential developments;
 - (3) 80 000 m² for detached residential developments (villas);
 - (4) 200 000 m² for office, industrial and other property

developments.

5. The enterprise shall establish and strictly enforce an enterprise management system and set of standards on service quality and scale of charges, etc., and shall establish an enterprise credit record system and with satisfactory management performance record.

(III) Third Grade Qualifications:

1. The enterprise shall have a registered capital of over RMB 500,000 Yuan;
2. The enterprise shall have at least 10 realty management professionals and full-time management and technical personnel in the relevant disciplines of engineering, management or economics, of which no less than 5 shall have middle rank title or above, and the persons-in-charge of engineering or finance shall have middle rank title or above of the relevant professions;
3. The realty management professionals shall obtain the professional qualifications certificate pursuant to the relevant provisions of the state;
4. The enterprise shall have been commissioned with realty management projects;
5. The enterprise shall establish and strictly enforce an enterprise management system and set of standards on service quality and scale of charges, etc., and shall establish an enterprise credit record system.