

Legislative Council Panel on Home Affairs

Regulation of the Property Management Industry and Related Building Management Issues

PURPOSE

This paper briefs Members on the key findings of the consultancy study on the regulation of the property management industry and the Home Affairs Department's (HAD) role of assisting owners on building management issues.

BACKGROUND

2. At present, around 24 000 out of 40 000 private buildings are managed by property management companies (PMCs) in Hong Kong. There are around 800 PMCs in Hong Kong. About 10% of PMCs manage more than 50 buildings and provide comprehensive and structured property management services; about 40% of PMCs mainly manage single tenement buildings, and provide basic services such as cleaning and security services at competitive prices.

3. The property management industry is currently self-regulated by professional bodies. The Hong Kong Association of Property Management Companies (HKAPMC) has 86 corporate members with a total market share of around 70%. PMCs that fulfill HKAPMC's requirements in areas such as experience, portfolio size and financial soundness may apply for membership. HKAPMC members 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. However, currently PMCs do not need to be members of HKAPMC to practise in the industry.

4. 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), which is the statutory body in Hong Kong responsible for registration and disciplinary control of professional property and housing managers. As this a voluntary self-regulatory system, HMRB has no enforcement power on unethical acts or malpractice of some practitioners in the industry.

5. For buildings managed by PMCs and practitioners, unethical acts or malpractice of the management agent would adversely affect the safety and hygiene standards of the building. Dilapidated buildings pose hazard not only to the owners, but also the occupants and the general public. Some are of the view that PMCs and practitioners with an appropriate standard could help owners ensure early detection of wear and tear of the buildings, timely maintenance and repair works be carried out, and prompt action be taken in response to statutory orders issued by various government departments. To examine the ways of strengthening the regulation of the property management industry in Hong Kong, the Government has commissioned a consultancy study. The key findings of the study are set out below.

KEY FINDINGS OF CONSULTANCY STUDY

Possible Regulatory Models

6. We have instructed the Consultant to examine the pros and cons of different regulatory models, having regard to the following policy objectives :

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

7. The Consultant has examined the following three possible regulatory models :

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

Annex A summary of the pros and cons of these models is set out in Annex.

Proposed Regulatory Regime

8. Having weighed the pros and cons of the regulatory models above, the Consultant recommends that a mandatory licensing regime should be introduced through legislation, with a view to :

- (a) ensuring an appropriate standard of service provided by the property management industry for different types of properties through setting qualification requirements and issuing licenses;
- (b) facilitating the continuous professional development of the property management industry by issuing binding Code of Conduct and developing training programmes; and
- (c) ensuring that complaints against PMCs and practitioners will be handled by a regulatory body with statutory powers to impose penalties and take disciplinary action.

9. Having conducted consultation with some stakeholders (including PMCs of different sizes, owners and Management Committees members of Owners' Corporations (OCs)), the Consultant notes that there are some concerns about a mandatory licensing regime, namely :

- (a) whether a single universal licensing regime for PMCs only would be effective;
- (b) whether small and medium sized PMCs and experienced practitioners without proper qualifications could meet the licensing requirements; and
- (c) whether the compliance costs would result in an increase in management fees.

10. The Consultant has proposed that the Government consider the following measures to address these concerns :

- (a) introduce licensing at both company and individual levels, so that the regulatory regime would encompass all major players in the industry for effective regulation;
- (b) introduce a two-tier licensing system for both PMCs and property management managers/practitioners (i.e. individuals who play a managerial role and are accountable for the overall co-ordination and quality assurance of building management services) to ensure that companies and individuals with different qualifications and background, but meet a minimum level of requirements, would be able to continue to provide quality, efficient and affordable services for different types of buildings. It will also facilitate the development of a healthy and competitive industry; and
- (c) waive the full-cost recovery principle, if necessary, in setting the level of licence fees, with a view to encouraging owners to engage professional PMCs or experienced practitioners at a reasonable and affordable price.

Implementation

11. The Consultant recommends a transitional period of 3 years, before putting in place a mandatory licensing system, having regard to the needs :

- (a) for individuals to obtain the necessary qualifications;
- (b) for PMCs to gear up in terms of operation, manpower and capital requirements; and
- (c) for the Government to nurture a culture of building care in which PMCs play an important role.

12. The Consultant recommends that, during the transitional period, consideration be given to implementing a voluntary accreditation system administered by the Government, with the participation of the property management industry. The interim accreditation system will help pave way for the eventual mandatory licensing system in terms of gaining implementation experience which could serve as useful reference in the drafting of legislation, assisting companies and individuals in meeting the

future licensing requirements, as well as providing information on PMCs and individuals for the future licensing database.

WAY FORWARD

13. The Administration has yet to take a stance on the regulation of the property management industry. Subject to Members' views, the Administration will take forward the consultancy study by :

- (a) consulting the stakeholders concerned on the proposed regulatory regime;
- (b) examining the possible institutional arrangements for the regulatory authority (i.e. whether a regulatory office within the Government or a statutory authority); and
- (c) examining the financial and staffing implications of the proposal.

HAD'S ROLE IN BUILDING MANAGEMENT ISSUES

14. Building management issues involve various stakeholders, such as owners, tenants, OCs (or other forms of residents' associations) and PMCs. Ineffective communication among stakeholders, inadequate professional knowledge, limited organising skills, or lack of resources are possible sources of conflicts and disputes.

15. The Building Management Ordinance (BMO) provides a legal framework for owners to form OCs to jointly manage their buildings. District Offices (DOs) under the HAD render advice to owners on building management matters, including the formation and operation of OCs under BMO, as well as guidance on financial management, procurement of supplies, goods and services, etc.

16. DOs handle enquiries and complaints relating to building management and encourage owners to resolve disputes among themselves in a constructive spirit. DOs help refer owners in need to the Property Management Advisory Centres of the Hong Kong Housing Society (HKHS) for free appointments with professionals such as lawyers, surveyors and housing managers. The Lands Tribunal (LT) provides professional mediation services for building management cases. The Tribunal's Building Management Mediation Co-ordinator's Office offers free consultation services to any party interested in

seeking mediation and provides the parties concerned with a list of qualified mediators.

17. The Home Affairs Bureau and the HAD, in collaboration with the HKHS and four property management professional bodies, launched the Building Management Professional Service Scheme in April 2010. The Scheme provides one-stop service to owners of old buildings with free professional advice and follow-up services on building management and maintenance. It aims to set an example for owners of old buildings to better understand their responsibility in managing their buildings. The Scheme will serve as a useful pointer in adjusting our strategies for private building management in future.

18. The HAD will continue to work closely with the stakeholders concerned in assisting owners of private buildings to discharge their management responsibilities.

Home Affairs Department
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Summary of Pros and Cons of Possible Regulatory Models

Regulatory Model	Pros	Cons
Self-regulation by Professional Bodies	<ul style="list-style-type: none">• Lowest cost of compliance.• Greatest range of choices for owners.	<ul style="list-style-type: none">• Lack of participation from small and medium sized PMCs and individual practitioners providing basic property management services.• Without a third party's endorsement.
Voluntary Accreditation	<ul style="list-style-type: none">• The “brand name” effect gives the property management industry incentive to improve services.• Owners' choice of accredited or non-accredited companies is preserved.	<ul style="list-style-type: none">• No guarantee on the quality of services provided by non-accredited companies.• Insufficient incentives for small and medium sized PMCs and individuals providing basic property management services to be accredited voluntarily.
Mandatory Licensing	<ul style="list-style-type: none">• A minimum standard of services provided by the property management industry is ensured.• Adherence to a standard code of conduct will promote professionalism of the industry.	<ul style="list-style-type: none">• Small and medium sized PMCs and experienced individuals without proper qualifications may be driven out.• Compliance costs, if substantial, may lead to an increase in management fees.