

立法會

Legislative Council

LC Paper No. CB(2)1015/10-11(02)

Ref : CB2/PL/HA

Panel on Home Affairs

Background brief prepared by the Legislative Council Secretariat for the special meeting on 18 February 2011

Regulation of the property management industry

Purpose

This paper provides background information on the Administration's proposed regulatory framework for property management companies ("PMCs") and practitioners, and highlights the relevant views and concerns expressed by members of the Panel on Home Affairs ("the Panel") at the meeting on 10 December 2010. The past discussions by the Panel and Legislative Council ("LegCo") Members on the subject before the aforesaid meeting are set out in LC Paper No. CB(2)465/10-11(03).

Background

2. According to the Administration, out of 40 000 private buildings, about 24 000 are currently managed by PMCs, while 9 000 are managed by owners' corporations ("OCs") or other forms of resident organizations. The remaining 7 000 buildings are mainly old tenement buildings which do not employ a PMC nor do they have an OC or any form of resident organisation.

Objectives of regulation

3. At present, there are no industry-wide basic requirements for PMCs and practitioners. In the 2010-2011 Policy Address, the Chief Executive proposed the establishment of a statutory licensing regime for the property management industry to ensure the quality of its services. The Administration would consult the public and make a decision within the first half of 2011.

4. On 3 December 2010, the Administration issued a public consultation document on "Putting in place a regulatory framework for property management industry". According to the Administration, the policy objectives of regulation

are to ensure that owners would have more choices of quality, effective and affordable property management services. The regulatory framework will be designed having regard to the following guiding principles:

- (a) the costs of property management should not be increased significantly;
- (b) there should not be a shortfall in the supply of PMCs/practitioners to meet the public's needs; and
- (c) there should continue to be free entry to the industry without any monopoly.

Key parameters of the proposed regulatory framework

5. The public consultation document sets out a number of key parameters of the proposed regulatory framework, namely -

- (a) whether to regulate the property management industry at the company level or the individual level or both; and if there should be regulation at the individual level, who should be regulated and the qualifications required of the regulatees;
- (b) whether to adopt a multi-tier licensing regime under which small and medium sized PMCs/practitioners who meet basic requirements will be eligible for a lower-tier licence, while a upper-tier licence will be granted to those PMCs/practitioners who can meet higher requirements; and if such a regime is adopted, the threshold of each tier;
- (c) whether a transition period is required before full implementation of the licensing regime, and if so, the length of the period; and
- (d) the nature, functions and powers of the regulatory body, such as whether it will be a government department or a statutory authority, and whether it will be empowered to establish a code of conduct/practice, prescribe licensing requirements, deal with complaints, prescribe penalties for breach of conduct/practice, and revoke or suspend licences.

Members' views and concerns

6. At its meeting on 10 December 2010, the Panel had a discussion with the Administration on the regulation of the property management industry. Members' views and concerns are highlighted in the ensuing paragraphs.

Licensing regime

7. Members generally supported the adoption of a multi-tier licensing regime for the property management industry. Some members suggested that not only PMCs but also their property managers and staff of an equivalent grade should be licensed, as they usually represented PMCs and were given powers to manage buildings. Some members enquired whether PMCs' technical personnel would also be required to meet certain qualification requirements.

8. The Administration responded that it was considering the need to license not only PMCs but also their staff at the managerial level. A penalty (such as downgrading or revoke of licence) would be imposed on PMCs/practitioners which failed to meet the required standards. PMCs' technical personnel, such as registered contractors and engineers for the maintenance of lifts and escalators, were already subject to statutory regulation.

Survival of small and medium sized PMCs

9. Some members were worried that the proposed licensing regime might drive out small and medium sized PMCs and lead to monopoly of big PMCs. In particular, owners of old private single tenement buildings might find it unaffordable to engage a big PMC. Some members opined that it would be impossible for small PMCs to have a full complement of staff equipped with the expertise and experience in every aspect of property management services. They considered that the proposed licensing regime should provide flexibility to accommodate small PMCs.

10. Some members considered that too stringent licensing requirements for PMCs might result in an increase in management fees for owners, in particular those of old tenement buildings. A member suggested that the Administration could make reference to certain regulatory schemes such as that for security guards as well as the registration system for money changers, which were only required to comply with certain rules after notifying the Administration within one month of commencing business.

11. The Administration responded that safeguarding the interests of small and medium sized PMCs would be key to maintaining the market vibrant and the services affordable to owners. Due regard would be given to their interests in

the design of the regulatory framework. A multi-tier licensing regime for different types of PMCs should help avoid market monopoly. This would enhance the quality of services, without increasing the management fees significantly.

Regulation of OCs without PMCs

12. Some members suggested that as some OCs managed their buildings without engaging PMCs, the Administration should advise such OCs how they could fulfill their statutory obligations on the one hand and comply with requirements which were only advisory in nature on the other.

13. A member sought clarification on whether the proposed licensing regime would result in a requirement for such OCs to engage PMCs. He opined that subject to their capability, such OCs should continue to be allowed to manage their buildings as this would facilitate mutual help among neighbours. Some members were worried that if such OCs would be mandatorily required to engage PMCs, the management of their buildings might be affected and extra management expenses incurred.

14. The Administration responded that it had no intention of requiring OCs to engage PMCs but was concerned about old tenement buildings which did not engage PMCs and did not have OCs or any form of resident organizations. The lack of management of these buildings had not only brought about hygiene problems but had also posed hazards to the residents and public. As such, the Administration might consider introducing mandatory requirements for these buildings to meet basic management and maintenance standards.

15. In addition, the Administration advised that it would make reference to the seven-level Qualification Framework under the purview of the Education Bureau, and consider what constituted the basic competence requirements for property management and gauge the public expectations of OCs which did not engage PMCs.

Transition period

16. Some members suggested that before the introduction of any mandatory licensing regime, a transition period should be allowed for the property management industry. The Administration advised that as small and medium sized PMCs might not have adequate qualified housing management personnel, the Administration would consider providing a transition period for them to adapt to the new regulatory framework.

Relevant papers

17. A list of relevant papers with their hyperlinks at LegCo's website is in the **Appendix**.

Council Business Division 2
Legislative Council Secretariat
16 February 2011

Appendix

Panel on Home Affairs

Relevant documents on Regulation of the property management industry

Committee	Date of meeting	Motions/Minutes/Papers	LC Paper No.
Panel on Home Affairs	2003.11.28	Minutes of meeting	CB(2)912/03-04 http://www.legco.gov.hk/yr03-04/english/panels/ha/minutes/ha031128.pdf
	2004.10.12	Minutes of meeting	CB(2)84/04-05 http://www.legco.gov.hk/yr04-05/english/panels/ha/minutes/ha041012.pdf
	2005.04.08	Administration's paper on regulating property management companies by legislation	CB(2)1179/04-05(01) http://www.legco.gov.hk/yr04-05/english/panels/ha/papers/ha0408cb2-1179-1e.pdf
		Minutes of meeting	CB(2)1489/04-05 http://www.legco.gov.hk/yr04-05/english/panels/ha/minutes/ha050408.pdf
Bills Committee on Building Management (Amendment) Bill 2005	2006.09.21	Minutes of Meeting	CB(2)198/06-07 http://www.legco.gov.hk/yr04-05/english/bc/bc58/minutes/bc580921.pdf
	2006.12.18	Minutes of Meeting	CB(2)956/06-07 http://www.legco.gov.hk/yr04-05/english/bc/bc58/minutes/bc581218.pdf

Committee	Date of meeting	Motions/Minutes/Papers	LC Paper No.
Council	2006.11.08	Motion on implementing a licensing regime for property management companies and establishing a building affairs tribunal	Official record of proceedings http://www.legco.gov.hk/yr06-07/english/counmtg/hansard/cm1108-translate-e.pdf (page 123)
		Progress report from Administration	http://www.legco.gov.hk/yr06-07/english/counmtg/motion/cm1108-m2-prpt-e.pdf
	2007.04.25	Report of the Bills Committee on Building Management (Amendment) Bill 2005	CB(2)1603/06-07 http://www.legco.gov.hk/yr04-05/english/bc/bc58/reports/bc580425cb2-1603-e.pdf
		Report of the Bills Committee on Building Management (Amendment) Bill 2005	http://www.legco.gov.hk/yr06-07/english/counmtg/hansard/cm0425-translate-e.pdf (page 202)
Panel on Home Affairs	2008.07.04	Administration's paper on regulation of property management companies.	CB(2)2454/07-08(02) http://www.legco.gov.hk/yr07-08/english/panels/ha/papers/ha0704cb2-2454-2-e.pdf
		Minutes of meeting	CB(2)2850/07-08 http://www.legco.gov.hk/yr07-08/english/panels/ha/minutes/ha080704.pdf
	2010.07.09	Administration's paper on regulation of the property management industry and related building management issues.	CB(2)1980/09-10(03) http://library.legco.gov.hk:1080/record=b1126786

Committee	Date of meeting	Motions/Minutes/Papers	LC Paper No.
Panel on Home Affairs	2010.07.09	Background brief on the role of Home Affairs Department in dealing with disputes under the Building Management Ordinance (Cap. 344) and regulation of property management companies	CB(2)1980/09-10(04) http://library.legco.gov.hk:1080/record=b1126787
		Minutes of meeting	CB(2)153/10-11 http://www.legco.gov.hk/yr09-10/english/panels/ha/minutes/ha20100709.pdf
Council	2010.11.03	Oral question raised by Hon CHAN Kin-por on enhancing private building management	http://www.info.gov.hk/gia/general/201011/03/P201011030209.htm
Panel on Home Affairs	2010.12.10	Consultation paper on putting in place a regulatory framework for property management industry (December 2010)	http://www.legco.gov.hk/yr10-11/english/panels/ha/papers/ha1210-cppr20101203-e.pdf
		Administration's paper on regulation of the property management Industry and other building management Initiatives	CB(2)465/10-11(01) http://www.legco.gov.hk/yr10-11/english/panels/ha/papers/ha1210cb2-465-1-e.pdf
		Background brief prepared by the Legislative Council Secretariat on regulation of property management companies	CB(2)465/10-11(03) http://www.legco.gov.hk/yr10-11/english/panels/ha/papers/ha1210cb2-465-3-e.pdf