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Panel on Home Affairs

**Updated background brief prepared by the Legislative Council Secretariat
for the meeting on 8 July 2011**

Regulation of the property management industry

Purpose

This paper summarizes the views and concerns of members of the Panel on Home Affairs ("the Panel") on the regulation of property management industry.

Background

2. According to the Administration, about 24 000 out of 40 000 private buildings are currently managed by property management companies ("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 or 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. The Administration conducted public consultation from December 2010 to 15 March 2011. According to the consultation document entitled "Putting in place a regulatory framework for property management industry", the policy objectives of regulation are to ensure that owners will 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 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 discussed the regulation of the property management industry. The Panel also held a special meeting to receive deputations on 18 February 2011. Members' views and concerns are highlighted in the ensuing paragraphs.

Licensing regime

7. Most members supported the adoption of a multi-tier licensing regime for the property management industry, while some members considered that a single-tier licensing system should be introduced. Some other 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. Members enquired whether PMCs' technical personnel would also be required to meet certain qualification requirements. According to the Administration, 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

8. Some members were worried that the introduction of a 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 other members were of the view that a multi-tier licensing regime might create a labelling effect on small-and-medium-sized PMCs with a lower-tier licence that they could only provide a lower quality of service. Members also 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-and-medium-sized PMCs. There was also a view that too stringent licensing requirements for PMCs might result in an increase in management fees for owners, particularly those of old tenement buildings. There was a suggestion 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.

9. In the Administration's view, 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 and enhance the quality of services, without increasing the management fees significantly.

Regulation of OCs without PMCs

10. 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. Whether the proposed licensing regime would result in a requirement for such OCs to engage PMCs was of concern to members. Some members 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 other members were worried that if such OCs would be mandatorily required to engage PMCs, the management of their buildings might be affected and additional management expenses incurred.

11. The Administration assured members 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 also posed hazards to the residents and public. As such, the Administration would consider introducing mandatory requirements for these buildings to meet basic management and maintenance standards. The Administration also advised that it would make reference to the seven-level Qualification Framework under the purview of the Education Bureau, consider what constituted the basic competence requirements for property management and gauge the public expectations of OCs which did not engage PMCs.

Transition period

12. There was a view that before the introduction of any mandatory licensing regime for PMCs, a transition period should be allowed for the property management industry. According to the Administration, 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.

Review on the Building Management Ordinance (Cap. 344)

13. As building management problems involved various stakeholders, notably OCs and their management committees, which were regulated by Cap. 344, some members considered that such problems could not be resolved by the regulation of PMCs alone, and urged the Administration to conduct a review on the implementation of Cap. 344.

Relevant papers

14. A list of the relevant papers with their hyperlinks at the Legislative Council's website is in the **Appendix**.

Council Business Division 2
Legislative Council Secretariat
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Panel on Home Affairs

Relevant documents on
Regulation of the property management industry

Committee	Date of meeting	Papers
Panel on Home Affairs	2003.11.28	Minutes
	2004.10.12	Minutes
	2005.04.08 (Item IV)	Agenda Minutes
Bills Committee on Building Management (Amendment) Bill 2005	2006.09.21	Minutes
	2006.12.18	Minutes
Council	2006.11.08	Official record of proceedings (Page 123)
		Progress report from Administration
	2007.04.25	Report of the Bills Committee on Building Management (Amendment) Bill 2005
		Report of the Bills Committee on Building Management (Amendment) Bill 2005 (Page 202)
Panel on Home Affairs	2008.07.04 (Item II)	Agenda Minutes

Committee	Date of meeting	Papers
Panel on Home Affairs	2010.07.09 (Item IV)	Agenda Minutes
	2010.07.09	Minutes
Council meeting	2010.11.03	Oral question
Panel on Home Affairs	2010.12.10 (Item IV)	Agenda
	2011.2.18	Agenda

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