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Panel on Home Affairs

Updated background brief prepared by the Legislative Council Secretariat for the meeting on 4 July 2012

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. The day-to-day management and maintenance of buildings rest primarily with building owners, owners' corporations ("OCs") and property management companies ("PMCs"). As at July 2010, around 24 000 out of 40 000 private buildings (60%) were managed by some 800 PMCs while 9 000 were managed by OCs or other forms of resident organizations. The remaining 7 000 buildings were old tenement buildings that did not have PMC, OC or any form of resident organization.

3. There are currently no industry-wide basic requirements for PMCs and practitioners. The Chief Executive announced in the 2010-2011 Policy Address that the Government planned to establish a statutory licensing regime for the property management industry to monitor the operation of PMCs and ensure the quality of their services. A consultation document entitled "Putting in place a regulatory framework for property management industry" was put forward for public consultation from December 2010 to March 2011. According to the Administration, there was a general consensus in the community that a mandatory licensing system should be introduced for the property management industry. After considering the comments and views received during the public consultation, the Administration has proposed the following key parameters for the licensing regime:

- (a) both PMCs and practitioners should be regulated through mandatory licensing;
- (b) a single universal licensing regime should be introduced for PMCs but companies providing only stand-alone services, such as those providing only security or cleaning services, should be excluded from the licensing regime;
- (c) only those individuals taking a managerial role and accountable for the overall quality assurance of property management services should be subject to the licensing regime while non-managerial staff would not be regulated, and the number of licensing tiers would be subject to further deliberation by an advisory committee;
- (d) OCs or other types of owners/residents organisations managing their own properties without engaging PMCs should be excluded from the proposed licensing regime;
- (e) an independent statutory body with members drawn from the industry, related professions and the community and appointed by the Chief Executive should be established as the regulatory body of the property management industry, which will take the roles of both a disciplinary body and an industry promoter;
- (f) a transitional period of three years should be allowed before full implementation of the licensing regime; and
- (g) an advisory committee comprising members from the industry, related professions and the community would be established to work out the detailed provisions and requirements for licensing.

Members' views and concerns

4. The Panel discussed the regulation of the property management industry at a number of meetings between 2008 and 2011 and received the views of deputations at a special meeting. The deliberations and concerns of members are summarized below.

Regulatory framework for PMCs

5. Some members suggested that the new regulatory framework should prohibit PMCs established by property developers from managing their housing estates, with a view to preventing conflicts of interest. There was a suggestion that the regulatory framework for PMCs should be combined with the existing regulatory scheme for the security and guarding services industry, so that PMCs providing both security and property management services need not apply two separate licences.

Licensing regime

6. Members were supportive of the introduction of a mandatory licensing regime for PMCs to improve the service quality and increase the transparency of PMCs. Some members proposed a multi-tier licensing regime for PMCs of different sizes and expertise, thereby helping property owners to choose the appropriate PMCs according to their needs and affordability. In their view, a single-tier licensing regime might lower the standard set for all PMCs and fail to provide consumers with clear reference for making appropriate choices.

7. According to the Administration, a single-tier licensing regime would not lower or compromise the licensing standards for PMCs as all licensees would be required to meet the basic requirements. A multi-tier licensing regime, however, might create labelling effects, as the general public would tend to perceive companies possessing an upper-tier licence, which would mostly be large PMCs, to be able to provide better quality services, and the small-and-medium-sized PMCs would be disadvantaged.

8. Many members expressed dissatisfaction with the slow progress of the implementation of the licensing regime. Noting that the relevant bill would only be introduced into the Council in the first half of 2013 and there would be a transition period of three years after the passage of the bill, members considered that it would be too late to implement the regulatory regime in 2016. They called on the Administration to expedite the legislative process. There was a suggestion that a white bill should be issued before the introduction of a blue bill to facilitate in-depth discussion on the legislative proposal. Consideration should also be given to shortening the transition period from three to two years to enable early implementation of the new licensing regime.

Survival of small-and-medium-sized PMCs

9. Some members expressed worry that the introduction of a licensing regime might drive out small-and-medium-sized PMCs and lead to monopoly of

large PMCs. However, owners of old private single tenement buildings might find the services of large PMCs unaffordable. Some members were of the view 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 urged the Administration to provide sufficient flexibility in the proposed licensing regime to accommodate small-and-medium-sized PMCs. There was a suggestion that the Administration should 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.

10. According to the Administration, 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.

Regulation of OCs without PMCs

11. Noting that some OCs were managing their buildings without engaging PMCs, some members called on the Administration to assist those OCs in understanding their statutory obligations under the new licensing regime. Some members were of the view that such OCs should continue to be allowed to manage their buildings as this would facilitate mutual help among neighbours. Some other members expressed grave concern about the affordability of those OCs as additional management expenses would be incurred if they were required to engage PMCs to manage the buildings for them.

12. The Administration assured members that it had no intention of making a mandatory requirement for OCs to engage PMCs but was concerned about old tenement buildings which neither engaged PMCs nor had 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 the public. As such, the Administration would consider introducing mandatory requirements for these buildings to meet basic management and maintenance standards.

Regulatory body

Financial arrangement

13. Members noted with grave concern about the future statutory regulatory body of the property management industry which was proposed to be

self-financed with its income generated from the licensing fees and a levy of not more than 0.01% of the transaction value of property transactions. Some members expressed concern as to whether this proposed financing arrangement would provide adequate funding support to the regulatory body. Some other members considered the levy unreasonable as property management was not directly related to property transactions, and the future statutory regulatory body of the property management industry should not draw an income from a levy on the transaction value of property transactions. Since the Administration had not consulted the legal profession on the proposed levy, they called on the Administration to consult the Hong Kong Law Society about the proposal.

14. According to the Administration, it was estimated that the operation expenditure of the proposed regulatory authority was about \$20 million a year, with about two-thirds of the expenditure being financed by the levy, and the remaining one-third by the licensing fees. In the Administration's view, it was not preferable for the proposed regulatory authority to solely rely on licencing fees as the burden would eventually be shifted to owners and tenants. As property value might increase through proper management and maintenance, it would be fair and reasonable for property owners to subsidize partially the funding of the proposed authority through a very small amount of levy charged on properties.

Composition of the proposed regulatory body

15. Members expressed concern about the board membership of the proposed regulatory body. Holding the view that the regulatory body should not be in favour of large PMCs, members considered that there should be sufficient representation from small-and-medium-sized PMCs on the board of the proposed regulatory body.

Recent developments

16. Following the public consultation exercise ended in March 2011, the Advisory Committee on the Regulation of Property Management Industry ("the Advisory Committee") was set up by the Government and held its first meeting in December 2011. The Advisory Committee comprises members from various sectors including property management, surveying, facility management, accountancy and engineering. Four subcommittees have been set up under the Advisory Committee, namely the Subcommittee on PMCs, the Subcommittee on Property Management Practitioners, the Subcommittee on Administration and Finance and the Subcommittee on Publicity and Promotion, to assist the Advisory Committee to formulate a detailed design for the new licensing regime

and the regulatory body. The Administration plans to introduce relevant legislative proposals to the Council in the first half of 2013.

Relevant papers

17. A list of the relevant papers on the Legislative Council website is in the **Appendix**.

Council Business Division 2
Legislative Council Secretariat
27 June 2012

Relevant papers on the regulation of the property management industry

Committee	Date of meeting	Paper
Panel on Home Affairs	4.7.2008 (Item II)	Agenda Minutes
Panel on Home Affairs	9.7.2010 (Item IV)	Agenda Minutes
Panel on Home Affairs	10.12.2010 (Item IV)	Agenda Minutes
Panel on Home Affairs	18.2.2011 (Item I)	Agenda Minutes
Panel on Home Affairs	8.7.2011 (Item V)	Agenda Minutes

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