

**The Administration's response to the matters raised
at the meeting of the Bills Committee
on the Property Management Services Bill
held on 4 November 2014**

Purpose

This paper provides the supplementary information requested by Members at the meeting of the Bills Committee on 4 November 2014.

Breakdown of the Figures on the Profile of Buildings

2. The breakdown of the figures on the profile of buildings which are currently managed by owners' corporations (OC) or other forms of owners' organisations without engaging property management companies (PMCs) is set out in the table below –

<u>No. of units</u>	<u>No. of single tenement buildings</u>		<u>OCs or owners' organisations managing more than one block of building</u>		<u>Total</u>
	(%)	Approximate No. of buildings [Note]	Proportion of OCs / owners' organisations managing property units in the range defined (%)	Approximate No. of buildings/block of building managed by the OCs/owners organisations concerned #	
Less than 50 units	82%	4 744	57%	1 307 (242)	6 051 (72%)
Less than 100 units	94%	5 442	72%	1 651 (305)	7 093 (84%)
101 - 200 units	5%	267	15%	363 (65)	630 (8%)
201 - 300	1%	69	4%	185	254

<u>No. of units</u>	<u>No. of single tenement buildings</u>		<u>OCs or owners' organisations managing more than one block of building</u>		<u>Total</u>
	(%)	Approximate No. of buildings [Note]	Proportion of OCs / owners' organisations managing property units in the range defined (%)	Approximate No. of buildings/block of building managed by the OCs/owners organisations concerned #	
units				(18)	(3%)
301 - 400 units		15	4%	331 (15)	346 (4%)
401 - 500 units		14	2%	21 (8)	102 (1%)
500 - 1000 units		6	2%	49 (10)	
More than 1 000 units	0	0	1%	12 (3)	
Total	-	5 813	-	2 612 (424)	8 425

The figures in bracket refer to the number of estates involved.

Note: The figures in this column have been rectified after further checking subsequent to the Bills Committee meeting held on 4 November 2014.

Detailed Information on the Existing Buildings/Estates

3. OCs and property owners are not obliged under the Building Management Ordinance (Cap. 344) (BMO) to inform the Authority of the form of management of their buildings. Therefore, the Home Affairs Department (HAD) does not have the required information such as the forms of management being adopted by those self-managed buildings and the date when they started to be self-managed by the OCs. As for other information including the names, age and number of units of the buildings, etc., it is collected either by HAD staff in their regular contacts with the owners or is provided by the owners voluntarily. We consider it not appropriate to disclose information of individual building without the owners' consent. Nevertheless, we attempt to provide an analysis of those self-managed buildings/estates with more than 500 units for members' reference. Details are set out in the tables below –

Single Tenement Buildings

<u>Districts</u>	<u>No. of Buildings</u>	<u>Age</u>	<u>No. of Storeys</u>	<u>No. of Units</u>
Central and Western	1	40 years	23	1 000
Eastern	3	42-43 years	18-23	502-679
Yau Tsim Mong	2	49-55 years	15-17	522-754
Total	6	-	-	-

Estates

<u>Districts</u>	<u>No. of Estates</u>	<u>Age</u>	<u>No. of Blocks</u>	<u>No. of Storeys</u>	<u>No. of Units</u>
Central and Western	2	36-37 years	2-4	21-25	768-850
Eastern	2	38-40 years	3-6	22-27	972-1 716
Kowloon City	3	40-42 years	4-9	14-17	754-1 080
Kwun Tong	1	37 years	3	27	648
Yau Tsim Mong	1	53 years	5	17	1 049
Kwai Tsing	2	33-35 years	2-5	26-33	608-837
Sai Kung	1	39 years	10	5	510
Sha Tin	1	32 years	2	17	690
Total	13	-	-	-	-

4. “Self-management” does not necessarily mean poor or even below average management. We observe that the majority of the above-mentioned “self-managed” buildings/estates are properly managed and the building conditions are generally satisfactory. Owners and residents are also satisfied with the current forms of management. For example, an estate in To Kwa Wan, aged more than 40 years with nine blocks of 900 domestic units, car parks and more than 50 shops, was well managed by the OC concerned and was able to complete recently a large-scale building maintenance works effectively. There are very few residents’ complaints on those buildings generally.

New Targetted Support Scheme

5. HAD will introduce a new targetted support scheme to those “self-managed” buildings and estates with more than 500 units to ensure that they are properly managed. These include –

- (i) assigning a dedicated Liaison Officer (LO) to maintain close contacts with the OCs and owners of these buildings/estates;
- (ii) the dedicated LO will give frequent telephone calls to the OCs, pay more regular building visits (at least quarterly visits), and attend their OC or owners’ meetings;
- (iii) enhancing the capabilities of OC members in building management by giving them priority to participate in HAD’s structured training programmes for OC members and thematic workshops/seminars. The dedicated LOs will proactively invite them to join the programmes, workshops and seminars through appeal letters, phone calls and personal contacts;
- (iv) introducing to eligible OCs various advisory and financial assistance schemes launched by HAD or other relevant bodies, such as “AP Easy”, Community Care Fund Subsidy for OCs of Old Buildings, the Integrated Building Maintenance Assistance Scheme administered by the Urban Renewal Authority/Hong Kong Housing Society, etc.;
- (v) providing neutral and impartial advice to OCs and owners on the pros and cons of engaging PMCs to manage their properties; and
- (vi) referring cases to relevant government departments concerned (e.g. Buildings Department, Fire Services Department, etc.) for advice and necessary follow-up actions.

Alarm Mechanism on OCs' Contemplation to Opt for "Self-management"

6. PMCs providing property management services to properties are either deed of mutual covenant (DMC) managers or contract managers.

7. Under paragraph 7(1) of Schedule 7 to the BMO, at a general meeting convened for the purpose, an OC may, by a resolution passed by a majority of the votes of the owners and supported by the owners of not less than 50% of the shares in aggregate, terminate by notice the DMC manager's appointment without compensation.

8. As for contract managers, the BMO regulates the procurement of supplies, goods and services by OCs and hence their appointment and termination of appointment. Section 20A(2) of the BMO requires that any supplies, goods or services the value of which exceeds or is likely to exceed the sum of \$200,000 or a sum which is equivalent to 20% of the annual budget of the OC, whichever is lesser, shall be procured by tenders. For the latter category of procurement (i.e. of an amount exceeding 20% of the annual budget of the OC), the decision on whether a tender is accepted or not require the passage of a resolution of the owners passed at a general meeting of the OC. The appointment of contract manager would generally take up a significant portion of the OC's annual budget and hence fall under the latter category of procurement.

9. As explained above, the appointment of contract managers generally requires a resolution to be passed at a general meeting of the OC. Therefore, a decision to alter the previous resolution to terminate the appointment of the contract manager before the contract ends should be decided by a resolution of the owners passed at a general meeting of the OC.

10. We understand that there is possibility that the resolution appointing the contract manager may also authorise the management committee (MC) alone has the power to terminate the appointment of the contract manager. It is also possible that if the MC decides not to appoint any PMC upon expiry of the existing contract term, no resolution would be required. However, such an unilateral action of the MC will soon be noticed by the owners. If the owners are not satisfied with the decision made by the MC, they may request calling an owners' meeting to discuss

the matter by not less than 5% of owners and pass a resolution to overrule the MC's decision.

11. Although it is very rare and uncommon, HAD frontline LOs will remain vigilant, through their regular contacts with the OCs, of any potential cases where OCs are going to opt for "self-management". If such case is identified, they will immediately render necessary advice to the OCs and owners concerned, including setting out to them the pros and cons of engaging PMCs, the legal and financial responsibilities to be borne by the OCs and MCs, etc. In view of its importance to the management of the building and its significant implications, our staff will strongly advise the OCs concerned to discuss the matter thoroughly at the owners' meeting and seek a formal endorsement by passing a resolution even though it is not a statutory requirement.

What Constitute "Self-management of Property" by an OC, an Owners' Organisation or Individual Owners

12. Clause 7(3) of the Bill provides that the Bill does not prohibit the owners' organisation of a property from providing the property with management services if no PMC is engaged. Clause 7(4) of the Bill provides that the Bill does not prohibit one or more of the owners of a property from providing the property with management services if no PMC is engaged, and that the owner(s) providing the property management services are individuals. The definitions of "owners' organisation", "property management services" and "owner" are provided for in clauses 2 and 3 of the Bill.

13. "Owner" is defined in the Bill to mean a person who for the time being appears from the records at the Land Registry to be the owner of an undivided share in land on which there is a building, and a registered mortgagee in possession of such share. The exception in clause 7(4) applies to owners only and does not apply to tenants and/or agents.

14. As for the exception for owners' organisation under clause 7(3), "owners' organisation", in relation to a property, means an organisation (whether or not formed under the BMO or a DMC) that is authorised to act on behalf of all the owners of the property. The composition of "owners' organisation" may vary among buildings but is usually consist of owners only except for specified circumstances. For example,

paragraph 2(1)(c)(ii) and (iii) of Schedule 2 to the BMO provides that the posts of MC Secretary and MC Treasurer may be taken up by persons others than owners. Paragraph 1(4) of Schedule 2 to the BMO provides that an MC may include tenants' representative (if any) appointed under section 15(1) of the BMO.

Course Content and Detailed Arrangement of CPD Courses

15. The Property Management Services Authority (PMSA) will assume the dual functions of a licensing body and an industry promoter. On promoting the development of the industry, the PMSA will, amongst others, collaborate with the relevant professional bodies and tertiary institutions to ensure that there is adequate training provided for property management practitioners (PMPs) to meet the licensing requirements. Upon establishment, the PMSA will engage the professional bodies and tertiary institutions to discuss the details. Some of the courses, for example, seminars, talks and workshops may be conducted in collaboration with the professional bodies and be held outside office hours. The PMSA will ensure that the course fees will be set at a level that is affordable to the PMPs. The PMSA will also liaise and collaborate with the property management services industry and relevant sectors (e.g. Consumer Council, Equal Opportunities Commission) in promoting the property management services in Hong Kong.

**Home Affairs Department
November 2014**