

立法會

Legislative Council

LC Paper No. CB(2)837/13-14

(These minutes have been seen
by the Administration)

Ref : CB2/PL/HA

Panel on Home Affairs

Minutes of meeting held on Friday, 13 December 2013, at 8:30 am in Conference Room 3 of the Legislative Council Complex

Members present : Hon MA Fung-kwok, SBS, JP (Chairman)
Dr Hon Kenneth CHAN Ka-lok (Deputy Chairman)
Hon Cyd HO Sau-lan
Hon Starry LEE Wai-king, JP
Dr Hon LAM Tai-fai, SBS, JP
Hon IP Kwok-him, GBS, JP
Hon Claudia MO
Hon Steven HO Chun-yin
Hon Frankie YICK Chi-ming
Hon WU Chi-wai, MH
Hon YIU Si-wing
Hon CHAN Chi-chuen
Hon LEUNG Che-cheung, BBS, MH, JP
Hon Alice MAK Mei-kuen, JP
Dr Hon Helena WONG Pik-wan
Hon IP Kin-yuen
Dr Hon CHIANG Lai-wan, JP
Hon Christopher CHUNG Shu-kun, BBS, MH, JP
Hon Tony TSE Wai-chuen

Members attending : Hon LEE Cheuk-yan
Hon James TO Kun-sun
Hon WONG Kwok-hing, BBS, MH
Dr Hon Fernando CHEUNG Chiu-hung

Member absent : Hon CHEUNG Kwok-che

**Public Officers : Item IV
attending**

Mr TSANG Tak-sing, GBS, JP
Secretary for Home Affairs

Mrs Avia LAI, JP
Deputy Secretary for Home Affairs (3)

Ms Randa WAN
Senior Manager (Culture)
Home Affairs Bureau

Item V

Mr TSANG Tak-sing, GBS, JP
Secretary for Home Affairs

Mrs Pamela TAN KAM Mi-wah, JP
Director of Home Affairs

Mr Jack CHAN Jick-chi, JP
Deputy Director of Home Affairs (2)

Miss Linda LEUNG Ka-ying
Assistant Director of Home Affairs (5)

Item VI

Ms Florence HUI Hiu-fai, SBS, JP
Under Secretary for Home Affairs

Miss WONG Yuet-wah
Principal Assistant Secretary for Home Affairs (Culture) 2

Ms Winsome CHOW
Assistant Director (Performing Arts)
Leisure and Cultural Services Department

Mr FAN Yung-kai
Assistant Director (Operations) 2
Food and Environmental Hygiene Department

Mr FUNG Man-chung
Assistant Director (Family and Child Welfare)
Social Welfare Department

Mrs Alice YU NG Ka-chun
Project Director/3
Architectural Services Department

Clerk in attendance : Ms Alice LEUNG
Chief Council Secretary (2) 2

Staff in attendance : Mr Bonny LOO
Assistant Legal Adviser 3

Miss Josephine SO
Senior Council Secretary (2) 6

Miss Emma CHEUNG
Legislative Assistant (2) 2

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I. Confirmation of minutes

(LC Paper No. CB(2)455/13-14)

The minutes of the meeting held on 8 November 2013 were confirmed.

II. Information papers issued since the last meeting

(LC Paper Nos. CB(2)333/13-14(01), CB(2)375/13-14(01), CB(2)435/13-14(01), CB(2)440/13-14(01) and CB(2)508/13-14(01))

2. Members noted that the following papers had been issued since the last meeting -

- (a) Referral memorandum from the Public Complaints Office of the Legislative Council ("LegCo") Secretariat concerning the problem of street sleeping in the Eastern District;
- (b) Letter dated 22 November 2013 from Hon Claudia MO regarding the decision of Yau Tsim Mong District Council ("YTMD") to shorten the opening hours of the pedestrian precinct at Sai Yeung Choi Street South;
- (c) Referral memorandum from the Public Complaints Office of the LegCo Secretariat on issues relating to regulation of guesthouse operation in residential buildings;

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- (d) Referral memorandum from the Clerk to the Panel on Development concerning building management and maintenance; and
- (e) Administration's response to the letter dated 22 November 2013 from Hon Claudia MO regarding the decision of YTMDC to shorten the opening hours of the pedestrian precinct at Sai Yeung Choi Street South.

3. Regarding item 2(d) above, the Chairman said that issues concerning building management had been included in the Panel's list of outstanding items for discussion ("the outstanding items list") under the two items "Review of the Building Management Ordinance" and "Matters relating to building management". Members might refer to items 9 and 22 of the outstanding items list (LC Paper No. CB(2)457/13-14(01)) for details.

4. As regards item 2(b) and (e) above in which matters concerning street performance were raised, the Chairman said that the issue of "Government's policy and measures on street performance" had also been included in the outstanding items list under item 13 and it was tentatively scheduled for discussion in May 2014. Ms Claudia MO noted from the Administration's response to her letter dated 22 November 2013 regarding the decision of YTMDC to shorten the opening hours of the pedestrian precinct at Sai Yeung Choi Street South (LC Paper No. CB(2)508/13-14(01)) that the effectiveness of the new implementation days/hours of the Mong Kok Pedestrian Precinct would be reviewed in six to nine months' time. She hoped that when the item on promoting street performance was discussed at the Panel meeting in May 2014, deputations could be invited to give views on the subject.

III. Date of next meeting and items for discussion

(LC Paper Nos. CB(2)457/13-14(01) and (02))

5. Members agreed to discuss the following two items at the next regular meeting to be held on Friday, 10 January 2014, at 8:30 am -

- (a) The Planning of the Multi-purpose Sports Complex and related staffing proposal; and
- (b) Signature project of Kwai Tsing District Council.

(Post-meeting note: Seven Members (namely Hon Alice MAK, Hon KWOK Wai-keung, Dr Hon Kenneth CHAN, Hon IP Kwok-him, Hon Starry LEE, Dr Hon CHIANG Lai-wan and Hon Christopher

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CHUNG) had written to the Chairman (LC Paper Nos. CB(2)601/13-14(01) to (05)) following the No. 3 alarm fire that broke out at Continental Mansion, North Point in the morning of 29 December 2013, expressing concerns about the regulation, control and safety of guesthouse operation. These Members suggested the Panel to discuss issues relating to the licensing and monitoring of guesthouse operation at the earliest opportunity. In view of Members' and the public's grave concerns over the matter, the Chairman, after liaison with the Administration, decided that the item "The licensing and enforcement matters under the Hotel and Guesthouse Accommodation Ordinance" be discussed at the meeting on 10 January 2014. Members were informed of the meeting arrangements vide LC Paper No. CB(2)601/13-14 on 2 January 2014.)

IV. Promoting artistic creation and autonomy of arts groups

(LC Paper Nos. CB(2)457/13-14(03) to (05), CB(2)475/13-14(01) to (04), CB(2)509/13-14(01), CB(2)361/13-14(01), CB(2)201/13-14(01), CB(2)201/13-14(02) and CB(2)239/13-14(01))

6. The Chairman said that the nine major performing arts groups ("MPAGs") receiving subvention from the Government had been invited to give written views on this agenda item. He invited Members to note the five submissions respectively from Hong Kong Repertory Theatre ("HKRT"), Chung Ying Theatre Company, Hong Kong Chinese Orchestra ("HKCO"), City Contemporary Dance Company and Hong Kong Ballet ("HKB"). HKB had, in its submission, explained and clarified certain issues relating to its recent production *"The Dream of the Red Chamber"*.

7. The Chairman also said that he had received requests from two other deputations for attending the meeting to present views on the matter. Taking into consideration that a decision had been taken to accept written views only and the number of items to be discussed at this meeting, he suggested to those two deputations to give views in writing. One of them, namely Arts3plus1, had subsequently provided the Panel with a written submission.

Administration's response to written submissions received

8. At the invitation of the Chairman, Secretary for Home Affairs ("SHA") briefed Members on the Government's policy concerning MPAGs as set out in the Administration's paper and gave a brief response to the views as presented in the written submissions of the five MPAGs and Arts3plus1. In gist, the Administration noted that MPAGs cherished and respected freedom of artistic creation and artistic autonomy. Some of them stated in

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their submissions that they had all along been enjoying a high degree of freedom in artistic expression and creation and were grateful for the support from both their governing boards and the Government. As regards Arts3plus1's recommendation that MPAGs should abide by a set of code of practice for enhancing their governance, the Administration considered that, should MPAGs consider it worth pursuing, it would be up to the governing boards of individual MPAGs to work out their own set of code of practice and the Administration was not in a position to impose it on MPAGs.

Discussion

Management and governance of arts groups

9. The Chairman said that complaints had been received from time to time about mismanagement of some arts groups, and the performing arts sector was gravely concerned about the management and governance of arts groups, especially MPAGs. While agreeing that the Government should not interfere with either the executive decisions or the artistic directions of arts groups, he wondered whether further mechanism could be built in the Administration's monitoring of MPAGs to ensure that public money would be put to good use and the governing boards of MPAGs would adhere to the principles of transparency and accountability in their management. In his view, the Administration should actively promote MPAGs to formulate their own appropriate codes of practice for the practicing of self regulation and ensure an understanding of important corporate governance principles among board/Council members, especially new members, through briefings before their appointment.

10. In response, Deputy Secretary for Home Affairs (3) ("DSHA(3)") made the following points -

- (a) to ensure proper management and control of public funding and at the same time without micro-managing MPAGs on a day-to-day basis, the Home Affairs Bureau ("HAB") had entered into a Funding and Services Agreement ("FSA") with each of the nine MPAGs. In these FSAs, the nature of service to be provided and the obligations expected to be fulfilled by the groups were defined, apart from setting out systems of cost control and procedures for monitoring various personnel and financial matters;
- (b) HAB's representatives would attend meetings of the respective governing board of MPAGs as observers. The Government was aware of the internal monitoring systems of the nine MPAGs;

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- (c) as a measure to enhance the transparency of the nine MPAGs, they were required to submit to the Government at the end of the year of subvention their self-evaluation and assessment report, annual audited financial statement, annual financial report, as well as the annual report which would also be uploaded onto their websites;
- (d) to avoid any possible conflict of interest, MPAGs were required to comply with the FSA clauses in relation to declarations of interests; and
- (e) each of the nine MPAGs had formulated their own sets of Comprehensive Performance Portfolio Framework covering various aspects to facilitate self-enhancement.

11. Mr Christopher CHUNG declared that he had been member of the governing boards of HKRT and Hong Kong Sinfonietta for more than 10 years. According to his experience, the nine MPAGs had been working well, with members of their governing boards having high respect for artistic autonomy. He expressed regret that some members insisted on requesting HKB to attend this Panel meeting to explain the recent issues surrounding its production "*The Dream of the Red Chamber*", which in his view, was tantamount to interfering with the autonomy of HKB in artistic creation and innovation. He said that he objected to the Administration's issuing of any rules or guidelines for MPAGs' compliance.

12. Mr Christopher CHUNG further said that he was more concerned about the Government's support for local arts groups in respect of opening up overseas or the Mainland markets and fostering external cultural co-operation/exchanges. Sharing a similar concern, Dr CHIANG Lai-wan pointed out that the Cultural Revolution was not a taboo subject in the Mainland. She opined that Members should not be over-sensitive to the issues surrounding HKB's recent production. While agreeing that freedom of artistic creation and artistic autonomy should be respected, she hoped that the Government could increase the resources allocated to arts groups, so as to facilitate the diversified and balanced development of local arts groups.

13. On the measures taken by the Administration to help local arts groups open up overseas or the Mainland markets, SHA advised that the Government was committed to strengthening cultural exchange and collaboration with overseas countries and neighbouring regions, in particular the Mainland, Taiwan and other countries in Southeast Asia having regard to Hong Kong's heritage. The Office of the Government of the Hong Kong Special Administrative Region ("HKSAR") in Beijing and the Office of the Hong

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Kong Economic, Trade and Cultural Office in Taipei would continue to work in partnership with the relevant authorities to organize various cultural and arts activities with a view to promoting local arts and culture outside Hong Kong.

14. DSHA(3) further advised that the Government's annual expenditure on cultural and arts affairs had continued to increase over the past few years, from around \$280 million in 2009-2010 to about \$330 million in 2013-2014. To tie in with the implementation of the West Kowloon Cultural District Project, the Administration would step up its efforts on various fronts, including programme development, audience building, arts education as well as grooming of artistic talents.

15. The Deputy Chairman said that in view of the widespread concern in the cultural and art sector over various issues arising from HKB's new production *"The Dream of the Red Chamber"* including alleged political interference with the performance of and self-censorship exercised by HKB, it was incumbent upon the Government and Members to look into the matter. Referring to Arts3plus1's submission, he pointed out that a number of issues relating to governance and monitoring of MPAGs had been raised. In his view, these issues were of significant importance and warranted the Panel's discussion with the Administration, Arts3plus1 and the nine MPAGs. He and Dr Helena WONG hoped that the Administration would give serious consideration to Arts3plus1's suggestion of implementing a set of centrally formulated code of practice for compliance by all arts groups, including the nine MPAGs, in order to enhance their governance.

16. SHA responded that HAB, as the policy bureau responsible for cultural policy and affairs, was more than willing to discuss with Members and the parties concerned on ways to improve the management and governance of arts groups, including resource allocation and funding of the arts sector. As regards the suggestion of drawing up code of practices for compliance by arts groups, SHA reiterated that the decision should be left to individual arts groups.

17. Ms Claudia MO held the view that the Government should respect the artistic autonomy of arts groups and should not interfere with or take any part in the artistic decisions of the arts groups. While she supported the Administration's stance in not imposing any rules and regulations on arts groups by way of administrative directives, she asked whether it would, for the sake of public interest, encourage arts groups to work out and agree on their own set of code of practice for practicing self regulation.

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18. SHA replied that the Administration was open on the issue and it would be up to arts groups to decide on the need of formulating the suggested code of practice.

19. Mr YIU Si-wing noted that the Government had the power to appoint members of the respective governing board of HKCO, HKRT, Hong Kong Dance Company and Hong Kong Philharmonic Orchestra, as provided under their respective Memorandum and Articles of Association ("M&AA"). For the other MPAGs whose M&AAs did not provide the Government with such a power of appointment, it was stipulated in their FSAs that the groups were to give due consideration to the inclusion in their governing bodies an appropriate number of professionals of various disciplines to give advice and business support to the groups. He asked whether the Government-appointed members on the governing boards of the said MPAGs had ever, at the request of the Administration, interfered with the executive or the artistic decisions of the arts groups. He also asked how monitoring of the compliance of the other MPAGs with the requirements stipulated in their FSAs could be carried out in an effective manner.

20. In response, DSHA(3) stressed that the appointments to the governing boards of MPAGs were made on the basis of the expertise, professional knowledge and experience of individuals. While it was the aim of the Government to let professionals of various disciplines to give advice and support to the groups on governance matters, they were appointed in their personal capacities and would in no way represent the Government. DSHA(3) reiterated that representatives of HAB would attend meetings of the respective governing board/Council of the nine MPAGs as observers. Hence, the Administration was well aware of corporate governance systems put in place by MPAGs regardless of whether their M&AAs contained a provision for the Government to appoint members to their governing bodies.

21. In response to Mr YIU Si-wing's further enquiry, DSHA(3) said that the existing framework for monitoring MPAGs had been working smoothly and would continue in the future. SHA and DSHA(3) further said that the Administration had, so far, not received any complaint about interference of artistic expression and creation.

22. Mr LEE Cheuk-yan strongly considered that the Government should support artistic creation and respect autonomy of arts groups and at the same time enhance their governance. He, Mr WU Chi-wai and Dr Helena WONG were concerned whether the Chairman or the Board of Governors of HKB had second guessed the will of the authorities, leading to HKB's self-censorship in its performance. Mr WU and Dr WONG queried whether it was due to an erroneous application of professional judgment that caused

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concerns about the allegations against HKB's production "*The Dream of the Red Chamber*". They asked whether the Administration had taken the initiative to investigate or understand from HKB's Board of Governors the suspected interference.

23. SHA responded that the Administration had understood from HKB the reasons for the suspension of the projected background and extras in Act III used to support the performance "*The Dream of the Red Chamber*". The explanations given to the Government were the same as those set out in HKB's submission to the Panel as well as its joint press release with Ballet Dortmund issued on 31 October 2013. As allegations of interference with HKB's production were unsubstantiated, the Administration did not consider it appropriate or fair to conduct an inquiry on the matter. SHA stressed that the nine MPAGs had all along been committed to achieving excellence in their respective arts forms. They were the key partners of the Government in promoting arts and culture in Hong Kong through developing quality programmes, strengthening audience building and supporting arts education, cultivating artistic and arts administrative talents as well as promoting Hong Kong's arts and culture to the international community through cultural exchange activities.

Funding mechanism for major performing arts groups

24. Mr Tony TSE noted from the Administration's paper that the total funding earmarked by HAB in 2013-2014 as annual subvention to the nine MPAGs amounted to \$304 million. He enquired about the criteria for resource allocation to each MPAG and the channels through which other small and medium-sized arts groups could apply for funding support from the Government.

25. DSHA(3) responded that in 2013-2014, HAB had earmarked a sum of \$304 million (representing around 10% of its total expenditure on cultural and arts activities) for subvention to MPAGs. At present, all the nine MPAGs received consolidated grants from HAB. The determination of the size of the consolidated grant was based on MPAGs' submissions on their staff costs (artistic and otherwise), administration costs, programme production as well as venue rental, ticketing, publicity and related costs, funding availability from other sources as well as their past performance. Apart from this, MPAGs might seek additional funding from other sources such as the overseas offices of the HKSAR Government for supporting their overseas cultural exchange activities and programmes.

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26. Regarding the funding support for other arts groups, DSHA(3) advised that the Government provided funding to local small and medium arts groups through the Hong Kong Arts Development Council ("HKADC") to support their development. In this context, HKADC subsidized a substantial number of arts groups or arts practitioners in their creative pursuits through its One/Two/Three-year Grant Scheme and Project Grant Schemes. It also provided special funding to support cultural exchange projects of local artists/arts groups and organized proactive projects which involved promotion of local artists/arts groups overseas. HKADC had also launched the Internship Schemes and the Cultural Internship Scheme, which respectively sponsored the engagement of budding and promising art workers by arts groups to take up internships/attachments at local arts groups and overseas institutions.

V. Regulation of the property management industry
(LC Paper Nos. CB(2)457/13-14(06) and (07))

27. At the invitation of the Chairman, SHA briefed Members on the legislative proposals to establish a regulatory regime for the property management industry and to set up the Property Management Services Authority ("PMSA") for the licensing of property management companies ("PMCs") and property management practitioners ("PMPs") as well as the promotion of the industry, as detailed in the Administration's paper.

The proposed three-year transitional period

28. Members, including Mr WONG Kwok-hing, Miss Alice MAK, Mr YIU Si-wing, Mr LEUNG Che-cheung, Ms Starry LEE and Mr Tony TSE welcomed and expressed support for the legislative proposals as a move to raise the standards of and enhance professionalism in the property management industry for the protection of owners' interests. Mr WONG and Mr YIU, however, considered a three-year transitional period too long and urged the Administration to shorten it to two years. Mr WONG also suggested the Government to launch pilot training programmes before the enactment of the legislation, so as to assist existing PMPs who had practical experience but without formal training to acquire as early as possible the necessary academic qualifications for obtaining PMP licences, thereby enabling the smooth implementation of the proposed licensing system.

29. In response, Director of Home Affairs ("DHA") explained that the three-year transitional period was for existing PMPs and PMCs to prepare themselves to migrate to the new licensing system. During the public consultation on the proposed regulatory regime held in 2011, the majority

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view was in support of the proposed three-year transitional period. SHA said that the Administration was aware of the concern expressed by property owners about the need to introduce regulation on PMCs and PMPs as early as possible, in order to ensure their service quality. The Administration noted Members' views and indicated that the Administration would consider how to strike a proper balance between the interests of the property management industry and the property owners when determining the length of the transitional period.

30. On the suggestion of launching pilot training programmes before the enactment of the legislation, Deputy Director of Home Affairs (2) ("DDHA(2)") said that while the Administration noted the suggestion, in view of the expectation of and the call from the property management sector and other stakeholders for the early finalization of the licensing requirements for PMPs and granting of the necessary licences, it would be more desirable to introduce the licensing regime earlier.

31. In response to Mr YIU Si-wing's enquiry about the arrangements for handling complaints against PMCs/PMPs during the three-year transitional period, DHA advised that PMSA would come into operation upon commencement of the relevant provisions of the future Ordinance after the passage of the Property Management Services Bill ("the Bill"). PMSA would be entrusted with the statutory power to undertake self-initiated investigation as well as to conduct investigation upon receipt of complaints against licensed PMPs/PMCs.

Licensing requirements for PMPs

32. Miss Alice MAK pointed out that many PMPs currently employed by small-sized PMCs providing services to owners of old buildings or single tenement buildings were generally older in age. She expressed concern about the impact of the proposed licensing regime on the employment prospects of these serving PMPs, as it might not be easy for them to complete continuing professional education courses and meet the licensing criteria of formal licences.

33. In response, SHA and DHA advised that -

- (a) under the present proposal, companies providing multi-disciplinary property management services would be subject to the mandatory licensing system. Companies providing only stand-alone services, such as those providing only security or cleaning services, would be excluded from the regime;

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- (b) there was general consensus that only those PMPs who took up a supervisory or managerial role and were accountable for the overall quality assurance of property management services should be subject to licensing; and
- (c) the Administration proposed that a two-tier licensing regime be introduced for PMPs, as this would help encourage PMPs to pursue professional development and upgrade to the upper tier while continuing to allow PMPs with a lower level of academic qualifications to have access to the job market. The Administration would, in determining the licensing criteria for the two tiers of PMPs, ensure a balance of interests of all affected PMPs.

34. Mr YIU Si-wing asked whether the issuing of security personnel permits, which was currently handled by the Commissioner of Police ("CP"), would in future be taken over by PMSA after its establishment. DHA responded in the negative and said that PMSA would be responsible for the granting of formal licences and provisional licences to PMPs, and the issuing of security personnel permits would continue to remain in the hands of CP.

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35. Mr WU Chi-wai expressed concern about the number of PMPs who could meet the licensing requirements and whether the proposed licensing requirements for PMPs would impact on the overall manpower supply for the property management industry. He requested the Administration to provide information on -

- (a) the estimated total number as well as academic and professional qualifications of existing in-service PMPs who would be subject to the proposed licensing system, and the respective numbers of these serving PMPs who had already fulfilled the licensing criteria for either the upper or the lower tier licences and could apply for formal licences direct during the transitional period; and
- (b) the future manpower training plans of local tertiary institutions in terms of the provision of vocational education and training places for PMPs who had practical experience but without formal training to prepare them for the full implementation of the licensing system after the proposed three-year transitional period.

DHA undertook to provide the requested information and advised that as a

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preliminary estimate, the respective numbers of the upper and the lower PMPs were around 4 000 and 7 500 respectively.

(Post-meeting note: The Administration's response was circulated to members vide LC Paper No. CB(2)629/13-14 on 8 January 2014.)

36. Ms Starry LEE held the view that appropriate training should be provided for front-liners in the industry to help improve their work and performance, even though they might not be required to make decisions for the provision of property management services for owners/tenants and would be excluded from the mandatory licensing system. In response, DHA reiterated that only those personnel engaged in the provision of property management services who took up a supervisory or managerial role and were accountable for ensuring the quality of the services would be subject to the two-tier licensing regime to be introduced for PMPs. PMPs would be encouraged to pursue professional development under the new regime.

37. Mr Tony TSE suggested that vocational training for serving PMPs should, as far as possible, be offered by industry organizations and local tertiary institutions. Once PMPs met the necessary licensing requirements, PMSA should grant licences to them without requiring them to attend examinations which sought to assess their skills and knowledge.

38. Mr James TO considered it necessary to define whether supporting staff involved in the day-to-day operation of PMCs, such as accounting clerk, administrative assistant and/or IT officer were subject to the licensing regime and hoped that the term "PMPs" would be clearly defined in the proposed Bill.

Licensing requirements for PMCs

39. Noting that a single-tier licensing regime would be introduced for PMCs, Miss Alice MAK and Mr LEUNG Che-cheung expressed concern about the survival of small and medium-sized PMCs after the full implementation of the licensing regime. They urged the Administration to put in place measures to ensure that small and medium-sized PMCs would not be driven out of the market, resulting in the monopoly of the market by large PMCs.

40. SHA and DHA responded that the Advisory Committee on the Regulation of Property Management Industry had considered the option of creating a multi-tier system for PMCs, but found that it would work to the disadvantage of small and medium-sized PMCs. To ensure the provision of a

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level playing field for PMCs of different sizes and to avoid creating labelling effects, the Administration proposed that a single-tier licensing regime be introduced for PMCs. Under the proposed regulatory regime, all licensed PMCs would be required to comply with the requirements stipulated in the legislation, which would be reasonable and in line with the purpose of the licensing system. The licensing criteria would be set in terms of the minimum number of staff and directors holding PMP licences, the fitness and propriety of the company (e.g. whether the company was in liquidation or subject to a winding-up order, whether there were past conviction records on relevant offences, the fitness and propriety of the directors), etc. The detailed licensing criteria would be set out in the subsidiary legislation.

41. DHA further advised that to facilitate consumers in making informed choices on PMCs under a single-tier licensing regime, the Administration proposed that licensed PMCs be required to provide certain essential information (e.g. their management portfolio, the number of licensed PMPs employed by the company, etc.) to the future licensing body, PMSA, for uploading onto its website for public access.

42. Mr Tony TSE said that the aim of introducing a licensing regime for PMCs was to enhance the overall service quality of all PMCs. The licensing requirements for PMCs might need to be raised in future for continual improvements to the standard of practice and quality of service of the industry. As PMCs were regulated under a single-tier licensing regime, the raising of the licensing requirements might make it difficult for small and medium-sized companies to enter the market of property management services.

43. In response to Dr Helena WONG's concern about corrupt practices in building management and maintenance works of large-scale housing estates as complained by some property owners, DDHA(2) advised that the proposed licensing regime of PMCs and PMPs would help reduce the number of disputes and improper practices, as breach of the licensing requirements might result in disciplinary actions to be taken by PMSA against the licensed PMPs and PMCs such as revocation or suspension of licences and other sanctions. He also clarified that -

- (a) under the legislative proposal, owners' corporations ("OCs") or other owners' organizations managing their own properties without engaging PMCs would not be required to obtain PMC licences. Similarly, the provision of property management services to properties by some or all of the owners themselves without charge would also not be subject to the proposed licensing regime;

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- (b) the purpose of the licensing system was to regulate only those making decisions for the provision of property management services to ensure service quality; and
- (c) the issue and renewal of security personnel permits was governed by the Security and Guarding Services Ordinance (Cap. 460), instead of the proposed framework for regulating the property management industry under discussion.

Establishment of PMSA

44. Miss Alice MAK enquired about the composition of PMSA and hoped that representatives of PMPs would be invited to become its members. In response, DHA advised that the Chairperson and members of PMSA would be appointed by the Chief Executive ("CE"), and PMSA would consist of the Chairperson, the Vice-chairperson and not more than 18 members from the following three categories of individuals -

- (a) individuals who were engaged in property management services;
- (b) individuals who had experience in the relevant fields related to property management, general administration or consumer affairs; and
- (c) other individuals who appeared to CE to be suitable for appointment as members.

45. The Deputy Chairman, Mr LEUNG Che-cheung and Mr Tony TSE were concerned about the workload and pressure on PMSA in the course of fulfilling its roles to, among others, handle complaints, conduct investigations and deal with appeals. The Deputy Chairman and Ms Claudia MO sought information on the proposed recurrent expenditure and staffing provision for the future operation of PMSA; and whether PMSA's income, which would be generated from both licence fees and a very small amount of levy to be imposed on each property transaction, would be sufficient to support its operation.

46. DHA responded that the Administration had commissioned a consultancy study and made reference to other regulatory bodies of different professions in Hong Kong. As a preliminary estimate, the recurrent expenditure to be incurred by PMSA was around \$30 million a year. The future PMSA would need around 60 staff members to discharge its statutory duties, and the salaries to be paid to staff members would take up approximately 80% of PMSA's annual expenditure, with the remaining 20%

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being used for paying office rentals and other items of expenditure.

Admin

47. Mr WU Chi-wai requested the Administration to advise in more detail after the meeting on the estimated impact on PMSA's financial position if there were significant changes in transaction volume of residential properties, given that PMSA would be a self-financing statutory body supported by income generated from both licence fees and levies to be imposed on property transactions.

(Post-meeting note: The Administration's response was circulated to members vide LC Paper No. CB(2)629/13-14 on 8 January 2014.)

48. Responding to Ms Claudia MO's further enquiry, SHA advised that upon the passage of the Bill, PMSA would be set up as an independent and self-financing statutory body. It would be required to furnish to him (i.e. SHA) annually its statement of accounts, auditor's report and annual report.

49. The Deputy Chairman asked whether measures would be in place under the new regime to avoid cost transfer from PMCs/PMPs to property owners in an attempt to recover the licence fees paid to PMSA. In response, DHA advised that according to the Administration's estimate, the licence fees on PMCs/PMPs would make up about 40% of the income of PMSA. Although the actual level of the licence fees had yet to be decided, it would not be high and hence should not pose a potential for PMCs/PMPs to transfer the cost to property owners.

50. While expressing support for the legislative proposal, the Chairman was concerned about the level of license fee to be payable by PMPs which, according to media reports, would be set in the range of \$700 to \$1,000. Pointing out that quite a number of serving PMPs were already members of and paying an annual subscription fee to the Hong Kong Institute of Housing, he hoped that the license fee would be set at a reasonable and affordable level.

Assistance to property owners

51. Ms Claudia MO enquired about the assistance provided by the Administration to owners of single tenement buildings without any form of management. DHA responded that to provide one-stop service to owners of old buildings without engaging a PMC, the Home Affairs Department had launched the Building Management Professional Advisory Service Scheme to enhance the support to owners of old buildings, in particular old single blocks known as "three nil" buildings (i.e. those without OCs, residents' organizations or PMCs). Under the Scheme, two PMCs were engaged to

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provide professional advisory services to target buildings to establish OCs, assist OCs in taking forward maintenance works and to follow up on tender matters.

VI. Reprovisioning of Shanghai Street refuse collection point and street sleepers' services units to the site at Hau Cheung Street, Yau Ma Tei for the phase II development of the Yau Ma Tei Theatre project

(LC Paper Nos. CB(2)457/13-14(08)&(09) and CB(2)515/13-14(01))

52. The Chairman reminded Members to declare any interest in the matter under discussion which involved a financial proposal, pursuant to Rule 83A of the Rules of Procedure.

53. At the invitation of the Chairman, Under Secretary for Home Affairs ("USHA") took Members through the Administration's paper (LC Paper No. CB(2)457/13-14(08)) which set out the follow-up work undertaken by the Administration in response to the comments raised by Members at the Panel meeting on 15 April 2013 on its proposal to reprovise Shanghai Street refuse collection point ("RCP") and street sleepers' services units ("SSSU") to a site at Hau Cheung Street, Yau Ma Tei to facilitate the development of the Yau Ma Tei Theatre ("YMTT") phase II project, as well as the refinements made to the original reproviseing proposal ("the refined proposal") after due consideration of Members' suggestions for the reproviseing of the existing RCP and SSSU.

Refinements in the design of the building for reproviseing RCP and SSSU

54. Dr Helena WONG, Mr LEE Cheuk-yan and Dr Fernando CHEUNG expressed disappointment that another site could not be identified in the district in addition to the one at Hau Cheung Street for reproviseing RCP and SSSU to separate sites. In Dr WONG's view, although refinements had been made to the design of the new facilities, it remained unsatisfactory for the entrances of the reproviseed RCP and SSSU to be located on the same side of the building facing the pavement on Hau Cheung Street. Expressing concern about the hygiene problem arising from the loading and storage of refuse in RCP, she suggested changing the orientation of the entrance of SSSU as it would help minimize the possible odour and noise nuisance as well as environmental impact to be brought about by the reproviseed RCP on SSSU.

55. Dr Fernando CHEUNG expressed great regret about the Administration's proposal and said that he would not support the proposal as

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the Government's decision to co-locate the reprovisioned RCP and SSSU at the same site was totally unacceptable.

56. Mr LEUNG Che-cheung, Mr Frankie YICK and Mr Christopher CHUNG said that given the scarcity of land and high population density in Hong Kong, many other people were also living in close vicinity of waste facilities. While it was not easy to come up with a proposal acceptable to all, it would be unwise to dwell on the co-location arrangement as this would cause further delay in the implementation of the reprovisioning project. They enquired whether it was possible to change the orientation of the entrance of SSSU.

57. USHA advised that the Administration had, in response to Members' comments raised at the Panel meeting on 15 April 2013, endeavoured to identify an additional site in the district for reprovisioning RCP and SSSU to separate sites. However, since the area surrounding YMTT was densely developed and given the need to provide each of the two facilities with means of escape and means of access for firefighting and rescue, identifying another suitable site was extremely difficult. In the process, the Administration had reviewed more than 10 sites in the district but found none of them suitable for the purpose in terms of size and location. The Administration thus proposed to refine the design of the new building for the proposed reprovisioning project, in a bid to avoid causing nuisance to the users of SSSU as far as possible. On the suggestion of changing the orientation of the entrance of SSSU, USHA pointed out that the sites adjacent to the identified site at Hau Cheung Street were the storage area of Yau Ma Tei Wholesale Fruit Market and the Highways Department's material store. It was therefore not feasible to pursue the suggestion.

58. Mr Frankie YICK surmised that the site currently occupied by Yau Ma Tei Wholesale Fruit Market as a storage area was under short-term tenancy. He and Mr Christopher CHUNG both suggested that the Administration should consider resuming part of the land nearby to facilitate the re-location of the entrance of SSSU after the expiry of the short-term tenancy. USHA noted the views and suggestions of Mr YICK and Mr CHUNG.

59. The Chairman, Mr LEE Cheuk-yan and Mr Tony TSE noted that the site at Hau Cheung Street was not subject to any specific height restriction. They suggested that consideration should be given to adding more storeys to the new building, so as to make the optimal use of the site and to maximize the vertical distance of the reprovisioned SSSU from RCP. In Mr TSE's view, the additional floor area could be used as storage by various Government departments, relieving the shortage of land/space for such purposes.

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60. In response, USHA made the following points -

- (a) under the new design for the reprovisioning project, the dormitory for street sleepers would be located at the top floor of the new building to ensure that RCP and SSSU were kept at sufficient distance. Albeit connected, the two facilities were segregated with no physical space connection within the building;
- (b) the conceptual scheme of the new building for the proposed reprovisioning project was formulated in 2008, followed by detailed technical feasibility study and approval as well as the preparation of detailed design. The Government would need to conduct another round of detailed technical feasibility study in order to determine the viability of the proposal of adding more storeys to the building. This would lead to further delay in the implementation of the reprovisioning project; and
- (c) to control the emission of odour and avoid causing nuisance as far as possible to the users of the new SSSU, the scope of the reprovisioning project included equipping the reprovisioned RCP at Hau Cheung Street with modern deodorization systems (e.g. water scrubber system and active-ion generator) which had been adopted in the more recently built RCPs. The hygiene of RCP at Hau Cheung Street would be a step up from the existing facility at Shanghai Street. The gate to RCP would be closed at all times except for the passage of refuse collection vehicles, which were approximately six to seven trips a day. These apart, the exhaust air outlet of the ventilation system of the reprovisioned RCP would be installed far away from and higher than the level of the windows/air-intakes of the reprovisioned SSSU block.

61. Responding to the Deputy Chairman's enquiry on the possibility of adjusting the orientation of windows of the SSSU block so that they would face another direction to avoid the possible odour arising from the RCP, USHA explained that the layout and building design as reflected in the refined proposal would help achieve better cross ventilation.

62. Referring to the submission from the Society for Community Organization ("SOCO") (LC Paper No. CB(2)515/13-14(01)), Ms Claudia MO and Mr LEE Cheuk-yan both opined that the Government had not given enough thought to address Members' concerns and take the interest of street sleepers as one of its top priorities. Ms MO questioned

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whether the new building for reprovisioning the SSSU and RCP was faulty in design.

63. USHA responded that due to the lack of available site in the district, the Administration had no choice but to co-locate the reprovisioned RCP and SSSU at the same site identified at Hau Cheung Street. She stressed that, as she had explained earlier, the Administration had endeavoured to make refinements to the design of the building for reprovisioning SSSU and RCP in an attempt to make a clear distinction between the two facilities and to ensure that the building as well as the facilities therein conformed to the environmental regulations for air quality, waste and noise.

64. Mr Frankie YICK and Mr IP Kwok-him said that if no other alternative could be identified, they would support the refined proposal. Mr IP further said that he could not subscribe to the views of SOCO as presented in its submission, which in his view carried the element of incitement. He considered it most important that street sleepers in need of assistance were provided with the required accommodation services, and hoped that the Food and Environmental Hygiene Department ("FEHD") would continue to play its gate-keeping role to make sure that the reprovisioned RCP would conform to the environmental regulations for air quality, waste and noise after its commissioning. Mr YICK also called on the Administration to work in collaboration with the Electrical and Mechanical Services Department to ensure that the ventilation system design for the reprovisioned SSSU would be able to meet the air quality standard.

65. In response, Assistant Director (Operations) 2 of FEHD stressed that the hygiene of the reprovisioned RCP would be a step up from the existing facility at Shanghai Street. As part of the measures to safeguard the hygiene standard of RCP, its main gate would be closed at all times except for the passage of refuse collection vehicles. To ensure hygiene of RCP, regular cleansing would be carried out after each refuse collection by the vehicles throughout the day in addition to thorough cleansing and disinfection undertaken at the end of each day to prevent odour from the facility. These apart, staff of the Pest Control Section under FEHD would visit and conduct regular inspections once every two days to ensure proper pest control measures at RCP and in the proximity.

(Members agreed to extend the meeting by 15 minutes.)

Implementation of the reprovisioning project

66. The Chairman expressed concern about the delay caused to the reprovisioning project, which in turn affected the development of the YMTT

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phase II project. He said that the Cantonese opera sector and the Chinese Artists Association of Hong Kong had requested the early implementation of the reprovisioning project in order to kick start the phase II development of the YMTT project. He asked about the Administration's proposed measures for expediting the relevant construction and demolition works.

67. USHA responded that should the reprovisioning project be supported by the Panel, the Administration aimed to submit it to the Public Works Subcommittee ("PWSC") and the Finance Committee ("FC") in January and February 2014 respectively for consideration and approval. Subject to funding approval by FC, the construction works were expected to commence in the third quarter of 2014 for completion in the third quarter of 2016. The demolition of the cleared premises on the site at Shanghai Street was expected to commence in the fourth quarter of 2016 for completion in the second quarter of 2017.

68. Mr YIU Si-wing considered the refined proposal acceptable and urged for its early implementation to facilitate the phase II development of YMTT. Noting that the site vacated after the relocation of RCP and SSSU adjoining YMTT would be used for the purposes of expanding the foyer and side stage of the theatre and providing rehearsal facilities at the venue, he suggested that consideration should be given to enhancing attractions in the vicinity of YMTT, such as the Yau Ma Tei Wholesale Fruit Market. This could help rejuvenate the surrounding area and attract more tourists and local visitors to YMTT. He requested the Administration to consult the tourism sector in this regard.

69. USHA responded that the Administration shared Members' views that YMTT could further help foster a better cultural ambience in the surrounding area. To enable YMTT to serve its functions as a centre for nurturing new talents for Cantonese opera more effectively, it was necessary to relocate the existing RCP and SSSU adjoining YMTT to provide space for expanding the foyer and the side stage of the theatre and providing rehearsal facilities at the venue. On the tourism front, it should be noted that the Hong Kong Tourism Board had been promoting Cantonese Opera and YMTT as major cultural and heritage attractions in Hong Kong. The guided tours offered to tourists were also well-received. The Administration would relay Mr YIU's suggestions on improving YMTT's appeal to tourists and other visitors to the relevant policy bureau.

70. Dr CHIANG Lai-wan said that according to her knowledge, various stakeholders, including the two operators of the Shanghai Street SSSU, local residents, YTMDC and the Cantonese opera sector, all supported the reprovisioning project. She appealed to Members to support the proposal and

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called on the Administration to expedite the relevant construction/demolition works, to facilitate the early implementation of the phase II development of the YMTT project.

71. Mr James TO said that despite the delay that might be caused to the delivery of the YMTT project, the Administration should give due regard to the aspiration of the street sleepers concerned and examine the feasibility of options proposed by SOCO and some Members, including adding more storeys to the new building.

Conclusion

72. Concluding the discussion, the Chairman urged the Administration to take into account Members' views and concerns. He reminded Members that the Administration intended to submit the proposal to PWSC and FC for consideration in January and February 2014.

73. Dr Helena WONG said that Members belonging to the Democratic Party would vote against the funding proposal if no further improvements were made to it. She reiterated her view that the windows of SSSU should not be set on the same side of the entrance of RCP.

VII. Any other business

74. Dr Helena WONG referred to item 17 of the outstanding items list and hoped that the Chairman would fix a date for the Panel meeting to discuss the item "Promotion of arts, culture and sports education in schools".

75. There being no other business, the meeting ended at 11:15 am.