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Panel on Home Affairs

**Background brief prepared by the Legislative Council Secretariat
for the meeting on 13 December 2013**

Proposed regulatory framework for the property management industry

Purpose

This paper summarizes the deliberations of the Panel on Home Affairs ("the Panel") on the proposed framework for regulating the property management industry.

Background

2. The day-to-day management and maintenance of buildings rest primarily with property owners, owners' corporations ("OCs") and property management companies ("PMCs"). As of July 2010, around 24 000 out of 40 000 private buildings (i.e. 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 which did not have PMC, OC or any form of resident organization.

3. There are currently no industry-wide basic requirements for PMCs and property management practitioners ("PMPs"). In the 2010-2011 Policy Address, it was announced that a statutory licensing regime would be established for the property management industry to regulate PMCs and PMPs, so as to ensure their service quality. A consultation document entitled "Putting in place a regulatory framework for property management industry" was issued for public consultation from December 2010 to March 2011. After considering the comments and views received during the public consultation, the Administration proposed the following key parameters for the licensing regime -

- (a) both PMCs and PMPs be regulated through mandatory licensing;
- (b) a single universal licensing regime be introduced for PMCs but companies providing only stand-alone services, such as those providing only security or cleaning services, be excluded from the regime;
- (c) only practitioners taking a managerial role and accountable for the overall quality assurance of property management services be subject to the licensing regime while non-managerial practitioners would not be regulated, and the number of licensing tiers would be subject to further deliberation;
- (d) OCs or other types of owners/residents organizations managing their own properties without engaging PMCs 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 CE, be established as the regulatory body of the property management industry, which would take the roles of both a disciplinary body and an industry promoter; and
- (f) a transitional period of three years be allowed before full implementation of the licensing regime.

4. In December 2011, the Government established the Advisory Committee on the Regulation of the Property Management Industry ("the Advisory Committee"), comprising members from the industry, related professions and the community, to work out the details of the regulatory regime. At the meeting on 4 July 2012, the Administration consulted the Panel on proposals put forward by the Advisory Committee for the regulation of the property management industry, which covered the scope of the regulatory regime, requirements to be imposed on PMCs/PMPs and the proposed composition, functions, structure and operation of the future licensing body.

Deliberations of the Panel

5. The Panel has held a total of six meetings since 2008 to discuss issues relating to the subject of the regulation of the property management industry, and received the views of deputations at one of the meetings. Major views and concerns expressed by the Panel members are summarized below.

Proposed licensing regime and its implementation timetable

6. Members in general welcomed the introduction of the licensing regime for PMCs and PMPs. They asked about the Administration's timetable for establishing the Property Management Services Authority ("PMSA") which was the future body taking up both the roles of a licensing body and an industry promoter.

7. The Administration advised that PMSA would be established immediately after the enactment of the relevant legislation. To allow time for the existing PMCs and PMPs to get ready to migrate to the licensing regime, it was proposed that a transitional period of three years be provided. During the transitional period, provisional licences might be granted to some existing practitioners in recognition of their experience and/or current academic/professional qualifications.

8. There was a suggestion that the Administration should step up its efforts to enhance PMCs' and PMPs' understanding of the proposed regulatory regime before its introduction, so as to ensure a smooth transition to the new licensing system. The Administration advised that while it would maintain close liaison with the industry, efforts would continue to be made to promote professional development of the property management industry and to enhance the owners' knowledge in building management.

9. In response to an enquiry about the proposed penalty and sanction for PMCs which breached the relevant licensing requirements, the Administration advised that a PMC or PMP would commit an offence if the company/person provided any misleading or false information in connection with the application for the grant or renewal of a licence or if the company/person operated/practised without a licence.

10. As regards the mechanism for handling complaints, the Administration advised that when handling various types of complaints, PMSA would first make a preliminary assessment of all materials provided by the complainant. If the complaint revealed a *prima facie* case of breach of the provisions of the legislation or breach of the licence conditions or ineligibility to hold a licence, a complaint file would be opened. Should there be sufficient evidence to substantiate the allegation, PMSA or its disciplinary committee would conduct an inquiry hearing, and make recommendations on the appropriate disciplinary actions to be taken. Where any matter substantially or closely related to the complaint was being investigated by other law enforcement agencies, or was being or about to be tried or litigated, PMSA might defer the investigation of the complaint until the parallel investigation or judicial proceedings were completed

so as not to prejudice such parallel investigation or judicial proceedings. An appeal mechanism would also be put in place to allow the licensee concerned to lodge an appeal application with the Secretary for Home Affairs within a specified period after receiving notice of PMSA's decision.

11. Some members were concerned that the burden of bearing the cost of licensing fees might be shifted to property owners. There was a suggestion that a seed fund be set up to support the initial operation of PMSA. The Administration responded that PMSA would be funded by its income not only generated from the licensing fees, but also a small levy imposed on property transactions in Hong Kong, say, not more than 0.01% of the transaction value.

Licensing requirements for PMPs

12. In view of the anticipated increase in manpower demand, members were concerned about the number of PMPs who could meet the licensing requirements. Members considered that the Administration should, where necessary, make use of the lead time before the full implementation of the licensing regime to increase the number of relevant training places offered by local tertiary institutions.

13. The Administration advised that to prepare for the full implementation of the licensing regime, PMSA, upon its establishment, would liaise with the relevant professional bodies and local tertiary institutions to ensure that sufficient training would be provided to PMPs, so as to enable them to meet the licensing requirements. In addition, PMSA would keep under review the overall manpower requirement with a view to ensuring that there would be an adequate supply of licensed PMPs in the market.

14. In response to members' concern, the Administration confirmed that PMPs' knowledge, skills and experience acquired at the workplace would be recognized under the two-tier licensing system for PMPs. The Advisory Committee would work out the detailed licensing criteria. A general principle was that while both tiers of PMPs would need to have a minimum number of years of working experience in property management, the first tier of PMPs should have completed a higher level of approved academic and/or professional qualifications. The academic qualification requirement for the second tier of PMPs could be lower, for example, the completion of specified diploma/sub-degree courses on property management.

Licensing requirements for PMCs

15. Grave concern was raised about the survival of small and medium sized

PMCs which had ample property management experience but would only be qualified to obtain a low-tier licence under the proposed licensing regime. The Administration was urged to put in place measures to ensure that small and medium sized PMCs would not be driven out of the market after the implementation of the licensing regime, resulting in the monopoly of the market by large PMCs.

16. According to the Administration, among the 800-odd existing PMCs in Hong Kong, around 300 (i.e. about 40%) were large companies and the remaining 500-odd (i.e. about 60%) were small or medium sized companies. As the general public tended to perceive companies possessing an upper-tier licence, which would mostly be large PMCs, to be more able to provide better quality services, small and medium sized PMCs would be disadvantaged under a multi-tier system. To ensure the provision of a level playing field for PMCs of different sizes, a single-tier licensing regime would be introduced for PMCs so as to avoid creating labelling effects. The Administration further advised that to facilitate consumers in making informed choices, licensed PMCs would be required to provide certain essential information (such as names of its controlling shareholders, the numbers of staff and licensed PMPs employed by the company, the range of number and types of premises being served by the company) to PMSA for uploading onto its website for public access.

17. Noting that companies providing only stand-alone services, such as those providing only security or cleaning services, would be excluded from the licensing regime, some members expressed concern that this might create a loophole in the proposed licensing regime. They pointed out that a PMC providing various services relating to property management could register each business under separate company names and claim that it merely provided stand-alone services. The Administration responded that there was no cause for such concern, as any unusual arrangement between PMCs and OCs or owners'/residents' organizations would likely arouse suspicion and concern of other property owners. The proposed legislation would provide a clear definition on the term "property management services" to ensure that all entities providing multi-disciplinary services relating to property management to third party for the generation of income would be subject to the mandatory licensing system.

Assistance to property owners

18. Members were advised that OCs or other types of owners'/residents' organizations managing their own properties without engaging PMCs would be excluded from the proposed licensing regime. To provide one-stop service to owners of old buildings, the Home Affairs Department ("HAD") launched a

one-year pilot project "Building Management Professional Service Scheme" in April 2010. In view of the positive outcome of the pilot project, HAD had rolled out the Building Management Professional Advisory Service Scheme in November 2011 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 enhanced Scheme, two property management companies were commissioned to provide professional advisory services to owners of some 1 200 old buildings in the territory on the basis of clusters of buildings.

Recent developments

19. At the Panel meeting on 4 July 2012, members were advised that the Advisory Committee would continue to work out the other details of the licensing regime including the detailed licensing and transitional arrangements, the code of conduct, the code of practice and the financial arrangement of PMSA.

20. The Panel will discuss with the Administration the subject of regulation of the property management industry at its meeting on 13 December 2013.

Relevant papers

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

**Relevant papers on the proposed regulatory framework for
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
Panel on Home Affairs	4.7.2012 (Item II)	Agenda Minutes