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Submission

Hon IP Kwok-him, GBS, JP
Panel on Home Affairs of the Legislative Council
Legislative Council Secretariat
Legislative Council Building
8 Jackson Road
Central
Hong Kong

11 February 2011

Dear Chairman

**RICS Asia Submission to the Panel on Home Affairs of the Legislative Council:
Regulation of the Property Management Industry 11.02.11**

The consultation paper, published by the Home Affairs Department, discusses the model of self-regulation by professional bodies within the UK (page 9). By way of background, RICS is recognized by the UK Government as a regulator of professionals within both the residential and commercial sectors. Drawing on our international experience, however, we accept the difference in scale and coverage of the industry, as well as the argument that the Hong Kong public is less well versed in recognizing the standard that a professional qualification confers, and therefore carry fewer expectations when dealing with non-chartered property managers.

RICS supports statutory regulation in Hong Kong, with the proviso that any regulatory scheme must be open and transparent; its scope and reach must also be easily understood by both its intended audience and the wider public. RICS maintains that any professional body able to demonstrate **effective self-regulation** of its members should be granted recognition under the new regulatory regime.

Regulation of the property management industry is crucial to protect the public as well as private tenants. Mandatory regulation will ensure all those who fall under the definition of a "property manager" is aware of his/her responsibilities, given sufficient training to be able to carry these out and fully understands the liabilities involved with non-compliance.

Definition of property management

Property management is a broad term and covers a vast arena of activities, including security, maintenance, cleansing, financial, landscaping, customer relationship, communal activities and others. Property managers practice in both the residential and commercial sectors and in other public areas such as hospitals and airports, therefore it is important that in any public discourse the impact of regulating these areas is also considered.

Regulating companies

A tiered system may not adequately address different requirements and scale of operations. RICS advocates a simplified system, without any exemptions. This should help to minimize any attempt to circumvent the regulatory scheme and ensure blanket legislative coverage.

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RICS maintains it would not be prudent to categorise property management companies by tiers; however if Government decides to pursue this route it should consider whether to calculate this by numbers of staff, by size of turnover or units managed.

RICS' concern with a tiered system is that it is likely that some smaller companies may employ proportionately more professionals or surveyors, but may not enjoy the financial clout of larger institutions. Anecdotal evidence suggests that independent property management agents may be crowded out of the market by larger developers – effectively creating a monopoly. Smaller property management companies should not be disadvantaged or barred from bidding for contracts as size does not preclude high quality management and service.

Regulating individuals

RICS supports regulating individual practitioners; however we have concerns over the way the consultation paper is drafted. The definition of building management practitioners appears vague and ambiguous. As drafted, the proposals appear to include everyone working in the industry, as they would directly or indirectly affect the quality of property management services provided to private owners and tenants.

The difficulty arises when the role of a property manager is not clearly defined. Unlike estate agents, who have a clear scope of work, it is likely that these proposals will include individuals such as caretakers who also perform security duties. Under these proposals it is likely that these caretakers will have to apply for and be subject to two different licenses, one under the new property management licensing scheme and another under the SGSO.

In theory mandatory regulation will result in a higher level of professionalism amongst property managers: a statutory scheme will ensure that managers must consider the safety of their tenants, and are effectively given Government backing to refuse requests by owner's corporations if they deem any activity to be unsafe or harmful to the public in any way.

A key consideration for introducing an individual licensing scheme is whether Government is willing to commit public finance to ensure a robust administration. Any successful regulatory scheme will require a code of practice, education and training, manpower, a complaints handling procedure and a disciplinary system.

Scope of regulation

The consultation paper does not currently address the issue of third party service providers and the potential impact of a licensing scheme on these; therefore it is important for Government to define the activities associated with property management and ensure all parties are conversant with the scheme.

Currently, a license/registration scheme exists for lift, security, plumbing, electrical and other service providers. Under a new regulatory regime property managers will be required to conduct due diligence and opt for licensed third party providers. This should ensure that the third party

provider and not the property manager is liable for losses, and minimize any additional costs of imposing two licensing schemes on the same provider.

As a global professional body operating in the public interest, RICS is well equipped to offer expert, impartial advice on best practice in regulating the profession and we welcome the opportunity to present our views to the Panel on Home Affairs of the Legislative Council.

Sincerely yours,

Frankie So
Chairman
Chair of RICS HK Facilities Management Committee &
RICS Working Group on Property Management Regulation

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