

For Discussion  
on 8 July 2011

**LEGISLATIVE COUNCIL  
PANEL ON HOME AFFAIRS**

**Regulation of the Property Management Industry**

**Introduction**

This paper briefs Members on the key parameters of the proposed regulatory framework for the property management industry.

**Public Consultation**

2. At the meeting of the Panel on Home Affairs (the Panel) on 10 December 2010, we informed Members that we had launched a public consultation exercise on the proposed regulatory framework for the property management industry with a view to setting the parameters of the proposed framework and addressing the concerns of stakeholders. We also briefed Members on the scope of the consultation.

3. During the consultation period from 3 December 2010 to 15 March 2011, we attended the full council or relevant committee meetings of the 18 District Councils (DCs). We also organized four regional public fora, conducted two focus group meetings with members of the management committees (MCs) of some owners' corporations (OCs), met with eight professional bodies related to property management and spoke at various seminars/briefing sessions organized by different organizations. We attended the Panel's special meeting with deputations on 18 February 2011. In addition, a total of 253 written submissions via mail, fax and email were received during the consultation period.

4. The community indicated a general consensus that a mandatory licensing system should be introduced for the property management

industry so as to set a basic benchmark of qualifications, and hence quality, of the operators and practitioners in the industry, to raise public awareness of the professionalism of the property management companies (PMCs) and to promote the concept of proper building management.

5. We have received useful comments on the key parameters of the proposed regulatory model. In considering the proposals, we have taken due regard to the following guiding principles –

- (a) the costs of property management should not increase significantly as a result of the introduction of a licensing regime;
- (b) there should not be a sudden shortfall in the supply of PMCs and practitioners; and
- (c) there should continue to be free entry to the industry and fair competition.

## **Proposals**

6. Having carefully studied the comments received and the concerns raised, we propose the following key parameters for the licensing regime –

- (a) both PMCs and practitioners 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 licensing regime;
- (c) only those individuals taking a managerial role and accountable for the overall quality assurance of property management services 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 the advisory committee referred to in paragraph 6(g) below;

- (d) OCs or other types of owners/residents organisations 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 the Chief Executive 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 be allowed before full implementation of the licensing regime; and
- (g) an advisory committee comprising members from the industry, related professions and the community be established to work out the detailed provisions and requirements for licensing.

#### Regulation at Company Level or Individual Level or Both

7. There was general support in the community that PMCs should be regulated. Regulation would raise the service quality of PMCs through the imposition of penalties and disciplinary action on those breaching the code of conduct. It would also enhance the transparency of PMCs, and hence increase the protection for building owners.

8. On the other hand, there were mixed views on whether or not individual practitioners should be regulated. Some members of the public are worried that this may lead to substantial increase in building management fees because the licenced practitioners would naturally expect higher salaries. Other people, in particular some existing property managers, are concerned that it might lead to unnecessary complexity in relation to the onus of responsibility, given the prevalent practice of team work and collective decision making process in the industry. Those who have worked in the industry for a long time but without formal qualifications are concerned that they may be unable to

obtain the licence, especially if they are required to sit for written examinations.

9. However, those supporting regulating both PMCs and practitioners consider that licensing the individuals is necessary as it would help promote professionalism in the industry and enhance service quality. Given that other key elements of building management and maintenance have already been subject to statutory regulation, such as security guards and contractors for lift maintenance<sup>1</sup>, it is unjustifiable for property management practitioners not to be subject to statutory regulation. Some owners and OCs strongly support licensing practitioners in order to prevent large-scale PMCs to transfer managers with poor performance from one housing estate to another.

10. Having weighed the pros and cons of the comments received and taking into account the policy objectives of providing owners with greater choice of quality, efficient and affordable property management services, we propose that a mandatory licensing regime at both company and individual levels should be introduced. We believe that it would provide better protection for owners and assurance of service quality when both companies and practitioners could be subject to penalties and disciplinary action if they breach professional code of conduct. It would also help enhance the recognition of professionalism in the industry.

11. As regards the concerns of some of the individual practitioners that the licensing regime might lead to unnecessary complexity and responsibility problems, such concerns could be addressed by setting out clearly the responsibilities of different parties in the future code of conduct and code of practice for PMCs and individual practitioners. The proposed regulatory body would carry out thorough investigation to ensure that each complaint case would be handled in a fair and careful manner. As for the concerns of experienced practitioners without formal qualifications, we are considering the introduction of certain grandfathering arrangements to recognise the experience and qualifications of the existing practitioners to obtain the full licence in

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<sup>1</sup> Individuals providing security work and companies offering security services to any property are regulated under a permit and licence system respectively under the Security and Guarding Services Ordinance. The regulatory control of maintenance and examination works of lifts and escalators by registered contractors and engineers are provided under the Lifts and Escalators (Safety) Ordinance.

future.

## Scope of the Regulatory Regime

### *Property Management Companies*

12. Property management requires multi-disciplinary professional knowledge. Under the Hong Kong Qualifications Framework, the Specification of Competency Standards for Property Management Industry sets out seven major functional areas of the property management industry, namely –

- (a) property management services for owners/tenants/community;
- (b) management of property environment;
- (c) building repair and maintenance/improvement and enhancement;
- (d) finance and asset management;
- (e) facility management;
- (f) human resources management; and
- (g) law in practice.

We consider that the above represents the skills and knowledge required of the practitioners and PMCs in the industry.

13. Views received during the consultation period have not shown a very clear indication as to whether all companies providing any one or more form(s) of property management related services should be regulated. However, in general, views received tend to support that companies providing only stand-alone services, such as those providing only cleansing or security services, should be excluded from regulation. We agree and propose that companies providing stand-alone services be excluded from the regulatory regime to avoid creating unnecessary entry hurdles for these companies.

14. As to whether the licensing regime for companies should be single or multi-tier, there are diverse views because consumers and operators have different interest and concerns.

15. Those supporting a multi-tier licensing regime consider that it

would provide consumers with simple and clear references for choosing PMCs according to their needs and affordability, as well as enhancing the industry professionalism by setting different standards for companies of different sizes and expertise, and encouraging companies to develop through advancing to higher tiers. The conventional professional bodies in the property management industry also support the idea of a multi-tier licensing regime for companies.

16. On the other hand, there are some concerns, in particular among the small-to-medium sized PMCs (i.e. about 60% of the total number of PMCs in Hong Kong), on the proposal of a multi-tier licensing regime at the company level. They are worried that a multi-tier licensing regime would have a strong labelling effect, since the general public tend to perceive companies possessing an upper-tier licence, which would mostly be larger PMCs, to be able to provide better quality services, and small-to-medium sized PMCs would thus be disadvantaged. Some members of the public also consider that a single-tier system would be easier to comprehend. Consumers would still be able to choose suitable companies to match their needs in a single-tier system. Small-to-medium sized PMCs also consider that presently property owners already have the capability to set their own requirements in tender documents. It would not be necessary for the Government to create a multi-tier system arbitrarily

17. Having carefully considered all the views and arguments, we propose that a single-tier licensing regime be introduced for PMCs. The justifications are –

- (a) A multi-tier licensing regime would create or reinforce a labelling effect. It would also create rigidity and restrictions on the types of buildings/estates that the small-to-medium sized PMCs could serve, which in turn may reduce the scope of business for these companies. This would run contrary to our guiding principle to facilitate the development of a healthy and competitive property management industry.
- (b) The objective of facilitating consumers in making informed choices on PMCs could be achieved by ensuring open access to

essential information on the PMCs. This may be done by requiring the PMCs, as a licensing condition, to provide regularly updated information (such as management portfolio, board of directors, number of licenced employees, registered capital, etc.) at a dedicated website to be run by the future regulatory body.

18. We consider a single-tier licensing regime supported by the availability of transparent information the best option, as it strikes an appropriate balance between providing a level playing field to PMCs of different sizes and facilitating consumer choices.

### *Practitioners*

19. As for the practitioners, there is general consensus that only those taking up a managerial role and being accountable for the overall quality assurance of property management services should be subject to licensing. This is in line with the purpose of the licensing system, which is to require those making decisions for the provision of services to ensure service quality. Some frontline staff, such as security guards and contractors for lift maintenance, are already subject to other licensing regimes. To cover them in the proposed licensing system would result in duplication of resources.

20. As regards whether the system for individuals should be single-tier or multi-tier, there are mixed views. Those advocating a multi-tier licensing in general suggest a two-tier system, namely licensed property managers and licensed property practitioners. They are worried that a considerable number of practitioners who have ample practical experience but without relevant qualifications might fail to meet the licensing criteria of a single-tier regime. They consider that a two-tier system would help encourage property management practitioners to pursue professional development so as to obtain the relevant qualifications and upgrade to the upper tier, while continuing to allow access to the job market for property managers without formal qualifications.

21. The conventional professional bodies in the property management industry support two-tier licensing for the individuals.

They suggest that the first tier is for those who have completed approved academic qualifications in property management, and the second tier is for those who have long years of experience in the industry but without formal training. The former may manage all types of buildings while the latter may manage single tenement buildings only. This would enable experienced practitioners without formal qualifications to continue to have a role in the industry. Moreover, the services and facilities of large-scale estates/complexes are substantially different from those in single tenement buildings. The relevant professional knowledge and techniques that a practitioner needs to master would hence differ greatly depending on the type of buildings/estates they are managing.

22. On the other hand, there are views supporting a single tier regime on the grounds that a multi-tier system would be too complicated. Existing practitioners are concerned that the differentiation would affect the job opportunities of those who do not possess formal qualifications.

23. At this stage, we remain open to both single-tier and multi-tier options. As the issue would have direct impact on each individual manager, it is important that more careful deliberations be made in the next stage.

24. In addition, there are strong views that it may be appropriate to introduce certain ‘grandfathering’ arrangements for existing practitioners in recognition of their experience and/or current academic qualifications, so that there will be a smooth transition. Detailed arrangements will be formulated in the next stage.

#### *Owners’ Corporations and other forms of owner/resident organisations*

25. As to whether OCs or other types of owners/residents organisations<sup>2</sup> managing their own properties without engaging PMCs should be required to obtain a company licence or have at least one of its MC members obtain a practitioner licence, the majority of views received consider that they should not be put under the regulatory framework. OCs, in particular those managing their own buildings without engaging PMCs, are strongly against the requirement for them to obtain any

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<sup>2</sup> Other forms of owner/resident organisations include owners’ committees and mutual aid committees.

licences. They opine that since their MC members serve on a pro bono basis, it would be unfair to subject them to personal liabilities under the licensing regime. Furthermore, for many OCs, nearly all their MC members are elderly and simply would not have the capability to take training courses to meet the licensing requirements.

26. Some suggest that if an OC does not engage any PMC, it should be mandated to at least hire a staff with a practitioner licence. However, many OCs opine that the buildings they are managing are usually old single tenement buildings with a small number of flats, which require only some basic knowledge to manage. They do not engage any PMCs for reasons of cost and they cannot afford to employ a qualified practitioner. Any increase in management fees would be too harsh for the owners, most of whom are elderly people.

27. We are mindful of the need to strike a proper balance between OCs' concerns and ensuring the quality of management of tenement buildings. Having carefully considered all factors, we come to the view that OCs managing their own properties without engaging PMCs should be excluded from the regulatory framework. However, we will further strengthen OCs' ability in managing their buildings. We will provide more assistance to these OCs, including the provision of structured training to their MC members and advisory services for them.

### Regulatory Body

28. The community is in general supportive of the establishment of an independent statutory regulatory body, whose board members are drawn from the industry, related professions and the community and to be appointed by the Chief Executive. A few advocate that the regulatory body should be a government department.

29. We consider that an independent statutory body would be a more effective regulator, particularly in handling complaints and issuing/revoking licences. The presence of independent non-officials from relevant professions on the board would also enhance its credibility. If it were a government department, the operation would be less flexible and it would be inappropriate for it to perform a promotional role for the

industry.

30. We propose that the regulatory body should take up the roles of both a disciplinary body and an industry promoter, which shall include the following tasks –

- (a) A disciplinary body: to establish a code of conduct and a code of practice for PMCs and practitioners respectively; to prescribe the licensing requirements; to deal with complaints and queries; to impose penalties for misconduct and malpractice, including revocation or suspension of licences.
- (b) An industry promoter: to enhance professionalism in the industry; to encourage and facilitate continuously high standards; to provide training to individuals and administer continuing professional development requirements; and to organize activities for the professional development of the property management trade and promotion of owners' education.

31. It is proposed that the independent statutory licensing authority will be self-financed. Our current inclination is that the authority will be supported by income generated from both licensing fees and a very small amount of levy imposed on property transactions in Hong Kong, say not more than 0.01% of the transaction value (for illustration, not more than \$500 for the transaction of a property value of \$5 million). This proposal is subject to further refining. The actual level of licence fees and the proposed levy will be worked out in the next stage, taking into account the licensing requirements, which will in turn affect the income and expenditure of the proposed regulatory body.

32. It is not preferable for the proposed authority to rely solely on licence fees because the licence fees will need to be raised to a very high level, which will eventually be shifted to owners and tenants. This is contrary to our guiding principle that the cost of property management should not increase significantly as a result of the introduction of a licensing regime. It is also not preferable for the proposed authority to be directly or partially subvented by the Government, because the licensing regime would mainly and primarily benefit the private property

owners whose property value will be enhanced through property building management and maintenance. Following this argument, it would be fair and reasonable for property owners to subsidise partially the funding of the proposed authority through a very small levy charged against property transaction.

#### Transitional arrangement

33. The majority of views received supports the provision of a transitional period of about three years, while some suggest five years, for the practitioners to obtain the necessary qualifications, for PMCs to gear up their operation, manpower and capital requirements, and for the Government to make necessary preparation for the establishment of the statutory regulatory body.

34. We believe that a transitional period of three years after the enactment of the legislation is necessary to prepare for the establishment of a statutory body and to allow time for the existing PMCs and practitioners to get ready to migrate to the new licensing system smoothly.

#### Establishment of an advisory committee

35. While we have proposed the above key parameters for the regulatory framework, it is necessary to work out the detailed provisions and operational set-up of the licensing regime. We propose that an advisory committee comprising members appointed by the Secretary of Home Affairs from the industry, related professions (e.g. legal, accounting and surveying) and the community be established to carry out such functions as working out the definitions of PMCs and property managers, the licensing criteria for both companies and practitioners, the number of tiers for the practitioners, the institutional arrangement for the regulatory body, draft code of conduct and code of practice for both PMCs and property managers, the proposed penalty level for any breaches, as well as grandfathering arrangement, etc.

## Way Forward

36. We shall proceed with the establishment of the advisory committee to work out the details of the licensing regime and the drafting of the new legislation. We expect to introduce the Bill to the LegCo in the first half of 2013.

## **Advice Sought**

37. Members are invited to provide views on the proposed key parameters of the regulatory framework of the property management industry.

## **Background**

38. There are currently no industry-wide basic requirements for PMCs and practitioners. The Chief Executive has announced in the Policy Address 2010-11 that the Government proposes to establish a statutory licensing regime for the property management industry to monitor the operation of PMCs and ensure the quality of property management services.

39. PMCs play an important role in helping owners to ensure early detection of wear and tear of their buildings, timely maintenance works and prompt action to comply with statutory orders. At present, only around 24 000 out of 40 000 private buildings are managed by PMCs, 9 000 are managed by OCs without engaging PMCs, and 7 000 are old tenement buildings without a PMC, OC or any form of owners/residents organizations.

Home Affairs Department  
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