

立法會
Legislative Council

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(These minutes have been seen
by the Administration)

Panel on Home Affairs

Minutes of meeting
held on Wednesday, 4 July 2012, at 8:30 am
in Conference Room 1 of the Legislative Council Complex

- Members present** : Hon IP Kwok-him, GBS, JP (Chairman)
Hon KAM Nai-wai, MH (Deputy Chairman)
Hon CHEUNG Man-kwong
Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
Hon WONG Yung-kan, SBS, JP
Hon Miriam LAU Kin-yee, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon Timothy FOK Tsun-ting, GBS, JP
Hon CHEUNG Hok-ming, GBS, JP
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon Cyd HO Sau-lan
Dr Hon LAM Tai-fai, SBS, JP
Hon CHAN Hak-kan, JP
Hon CHEUNG Kwok-che
Hon WONG Sing-chi
Hon Paul TSE Wai-chun, JP
Hon Tanya CHAN
- Member attending** : Hon WONG Kwok-hing, MH
- Members absent** : Hon James TO Kun-sun
Dr Hon Philip WONG Yu-hong, GBS

Public Officers : Items II and III
attending

Home Affairs Bureau

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

Item II

Home Affairs Department

Mr Jack CHAN
Deputy Director of Home Affairs (2)

Miss Linda LEUNG
Assistant Director (5)

Advisory Committee on the Regulation of the Property
Management Industry

Mr CHUNG Pui-lam
Chairman

Item III

Home Affairs Bureau

Mrs Avia LAI
Deputy Secretary for Home Affairs (3)

Ms Elaine MAK
Principal Assistant Secretary (Culture) 1

Clerk in : Ms Elyssa WONG
attendance Chief Council Secretary (2) 5

Staff in : Ms Maisie LAM
attendance Senior Council Secretary (2) 5

Ms Priscilla LAU
Council Secretary (2) 5

Ms Sandy HAU
Legislative Assistant (2) 5

Miss Liza LAM
Clerical Assistant (2) 5

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I. Information paper(s) issued since the last meeting

[LC Paper Nos. CB(2)2142/11-12(01) and (02), CB(2)2314/11-12(01), CB(2)2365/11-12(01), CB(2)2482/11-12(01) and (02) and CB(2)2510/11-12(01)]

Members noted the following information papers issued since the last meeting -

- (a) Leisure and Cultural Services Department's reply letter dated 21 May 2012 to an email dated 7 May 2012 from a member of the public on computer system of public library (LC Paper No. CB(2)2142/11-12(01));
- (b) further submission dated 18 May 2012 from a member of the public on computer system of public library and Leisure and Cultural Services Department's reply letter dated 6 June 2012 to the submission (LC Paper Nos. CB(2)2142/11-12(02) and CB(2)2314/11-12(01));
- (c) referral dated 7 June 2012 regarding the concerns raised at the meeting between the Legislative Council ("LegCo") Members and Sai Kung District Council members on 31 May 2012 on the progress of constructing district-based leisure and cultural facilities (LC Paper No. CB(2)2365/11-12(01));
- (d) further submissions dated 25 and 28 June 2012 from a member of the public on computer system of public library (LC Paper Nos. CB(2)2482/11-12(01) & (02)); and
- (e) referral dated 26 June 2012 regarding the concerns raised at the meeting between the LegCo Members and Tai Po District Council members on 7 June 2012 on the land resumption for Rural Public Works (LC Paper No. CB(2)2510/11-12(01)).

2. The Chairman informed the meeting that the discussion of the subject on "Development of public library services" scheduled for the meeting on 19 June 2012 had been deferred. The information paper

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providing an update on the development of public library services provided by the Administration (LC Paper No. CB(2)2272/11-12(01)) had been circulated to members on 5 June 2012.

II. Regulation of the property management industry
[LC Paper Nos. CB(2)2372/11-12 (01) and (02)]

3. Under Secretary for Home Affairs ("USHA") briefed members on the progress of work of the Advisory Committee on the Regulation of the Property Management Industry ("the Advisory Committee") (LC Paper No. CB(2)2372/11-12 (01)).

Implementation timetable

4. Mr WONG Kwok-hing welcomed the introduction of the regulatory regime for property management companies ("PMCs") which he had long called for. Noting that a transitional period of three years would be provided before the full implementation of the licensing regime for PMCs and property management practitioners ("PMPs"), Mr CHEUNG Kwok-che sought details of the implementation timetable of the regulatory regime. The Chairman asked about the timetable for the establishment of the Property Management Services Authority ("PMSA") to take up the role of both a licensing body and an industry promoter.

5. USHA advised that the Advisory Committee would continue to work out the details of the licensing regime with the aim of submitting a draft bill to LegCo in mid-2013. PMSA would be established immediately after the enactment of the legislation. To allow time for the existing PMCs and PMPs to get ready to migrate to the licensing regime smoothly, it was proposed that a transitional period of three years would 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.

6. Mr WONG Kwok-hing urged the Administration to step up its efforts to enhance PMCs and PMPs' understanding of the proposed regulatory regime before introduction of the legislation so as to ensure a smooth transition to the new licensing system. USHA advised that the Administration would maintain close liaison with the industry. In addition, efforts would continue to be made to promote professional development of the property management industry and to enhance the owners' knowledge in building management.

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Regulatory regime for PMPs

7. Mr CHEUNG Kwok-che enquired about the estimated number of PMPs who could meet the licensing requirements, and the required number of licensed PMPs to meet the anticipated rise in manpower demand. He considered that where necessary, the Administration should make use of the lead time of around five years before full implementation of the licensing regime to increase the number of relevant training places in the local tertiary institutions.

8. USHA advised that to prepare for the full implementation of the licensing regime, PMSA, upon established, would liaise with the professional bodies in relation to the property management industry and the local tertiary institutions to ensure that sufficient training would be provided to PMPs to meet the licensing requirements. Chairman, Advisory Committee assured members that PMSA would keep under review the manpower requirement with a view to ensuring that there would be an adequate supply of licensed PMPs in the market.

9. Mr WONG Kwok-hing enquired whether the PMPs' knowledge, skills and experience that were acquired at the workplace would be recognized under the two-tier licensing system for PMPs without the need to require the existing PMPs, in particular those with lower educational attainment, to start learning from scratch.

10. Chairman, Advisory Committee replied in the positive, adding that 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 would be lower, for example, completion of specified diploma/sub-degree courses on property management would suffice.

11. In response to the Deputy Chairman's enquiry about whether security guards would be subject to the licensing regime for PMPs, USHA advised that individuals providing security work and companies offering security services to any property were currently regulated under a permit and licence system respectively under the Security and Guarding Services Ordinance (Cap. 460).

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Regulatory regime for PMCs

12. Mr CHEUNG Kwok-che urged the Administration to ensure that small and medium PMCs would have room for survival after the implementation of the licensing regime. USHA responded that 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 companies. To ensure the provision of a level playing field to PMCs of different sizes, a single-tier licensing regime would be introduced for PMCs so as to avoid creating labelling effects. Given that the general public tended to perceive companies possessing an upper-tier licence to be able to provide better quality services, small and medium PMCs would be disadvantaged under a multi-tier system.

13. The Chairman remarked that the adoption of a single-tier or multi-tier licensing regime for PMCs was not without controversy. For instance, there was a view that a multi-tier licensing regime could provide consumers with simple and clear references for choosing PMCs according to their needs and affordability. Chairman, Advisory Committee responded that to enable consumers to make informed choices, licensed PMCs would be required to provide certain essential information (for example, names of its controlling shareholders, the number of staff of the company, the number of 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.

14. Noting that companies providing only stand-alone services, such as those providing only security or cleaning services, would be excluded from the licensing regime, Mr CHEUNG Kwok-che was concerned that this might create a loophole in the proposed regime as PMC providing various services relating to property management might claim to provide services in the name of a company which merely provided stand-alone services, or it might register each business under separate company names.

15. USHA responded that the Advisory Committee was of the view that there was no cause for such concern, as any unusual arrangement between PMCs and the owners' corporations ("OCs") or owners'/residents' organizations concerned would likely arouse suspicion and concern of other property owners. Chairman, Advisory Committee supplemented that the legislation would provide a clear definition of 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.

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The licensing body

16. Mr WONG Kwok-hing noted that under the proposed regulatory regime for PMCs, breach of the requirements in the legislation, the code of conduct and the code of practice might result in criminal sanction or disciplinary action to be taken by the future licensing body, depending on the seriousness of the contravention. He sought details of the penalty and sanction. USHA quoted an example that a PMC or PMP would commit an offence if the company/the 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.

17. The Deputy Chairman pointed out that at present, complaints relating to building management, which mostly arising from disputes among the owners, OCs and PMCs, accounted for the highest proportion in the total number of private sector corruption reports of the Independent Commission Against Corruption ("ICAC"). He was concerned about the possible heavy caseload of the complaints and investigation division of PMSA.

18. Chairman, Advisory Committee 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 by PMSA. It should be noted that where any matter substantially or closely related to the complaint was being investigated by other law enforcement agencies, say, ICAC, 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 over so as not to prejudice such parallel investigation or judicial proceedings. An appeal mechanism was also in place to allow the licensee concerned to lodge an appeal application with the Secretary for Home Affairs within a specified period, say within 21 days, after receiving notice of the decision.

19. Mr WONG Kwok-hing urged the Administration to ensure that PMCs and PMPs would not shift the cost of the licensing fees to property owners. USHA assured members that in setting the licensing fees, due regard would be given to the existing licensing fees for other industries as well as the views of PMCs and PMPs to ensure that the charges would not go beyond their affordability. USHA further pointed out that PMSA would be funded by its income generated not only from the licensing fees, but also

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a small levy imposed on property transactions in Hong Kong, say, not more than 0.01% of the transaction value. The Chairman suggested setting up a seed fund to support the initial operation of PMSA.

Consultation with the industry

20. Mr WONG Kwok-hing enquired whether the Advisory Committee would conduct another round of public consultation exercise on the proposed licensing requirements for PMPs. While welcoming the introduction of the regulatory regime, the Deputy Chairman considered it necessary for the Administration to solicit the views of the industry and the public on the proposed regime, in particular the code of conduct and the code of practice to be promulgated by PMSA to govern the conduct and practice of PMCs and PMPs respectively, before drafting the legislation. The Chairman also urged the Advisory Committee to consult the industry when working out the details of the framework.

21. USHA responded that since its establishment in December 2011, the Advisory Committee had worked closely with the property management industry to work out details of the regulatory framework. As regards the drafting of the code of conduct and the code of practice, reference would be made to the existing codes drawn up by the relevant professional bodies in the property management industry to govern their members. Chairman, Advisory Committee supplemented that the Advisory Committee comprised members from the industry, related professions and the community appointed in their personal capacities. Views of the industry would be taken into account when working out the details of the regulatory framework.

Assistance to building owners

22. Mr CHEUNG Kwok-che pointed out that owners of single tenement buildings without any form of management might not possess adequate knowledge or financial ability to appoint building professionals to carry out periodic inspections and repair works for the regular maintenance of their buildings in order to fulfill the statutory requirements under the Mandatory Building Inspection Scheme and Mandatory Window Inspection Scheme. He enquired about the technical and financial assistance in place to assist these owners.

23. USHA 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. Having taken into account the positive outcome of the one-year pilot project on "Building

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Management Professional Service Scheme" launched in April 2010 to provide one-stop service to owners of old buildings, the Home Affairs Department had rolled out the Building Management Professional Advisory Service Scheme in November 2011 to further enhance 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 property management companies were commissioned to provide professional advisory services to owners of 1 200 old buildings in the territory on the basis of clusters of buildings. The Scheme would last for more than two years until 31 March 2014.

III. Review of the funding mechanism for major performing arts groups

[LC Paper Nos. CB(2)2272/11-12 (03) and (04) and CB(2)2401/11-12(01)]

24. USHA briefed members on the key findings and recommendations of the Research Study on the Funding Mechanism for Performing Arts Groups in Hong Kong ("the Study") (LC Paper No. CB(2)2272/11-12(03)).

Sustainable development of the performing arts groups

25. Miss Tanya CHAN enquired how the Culture Bureau ("CB") proposed to be set up in the fourth-term Government could address the current difficulties encountered by the nine major performing arts groups ("MPAGs") as well as the small and medium-sized performing arts groups and take forward the recommendations of the Study to facilitate their sustainable development in the long term. Ms Cyd HO said that she did not support the proposal of setting up a CB at this stage when there was a lack of a clear policy to foster the development of arts and culture in Hong Kong. She was concerned about the types of support, apart from financial support, could be provided by the Administration to the performing arts groups. Mr Paul TSE urged the Administration to provide other forms of venue support for the small and medium-sized performing arts groups, such as lifting the restrictions on public or street performance, to address the problem of the lack of performing arts venues in Hong Kong.

26. Mr Timothy FOK considered that the setting up of the proposed CB would be conducive to the formulation of a long-term cultural policy, improving the existing funding mechanism for the performing arts groups, and addressing the problem of the lack of performing arts venues. Mrs Sophie LEUNG considered that performing arts groups needed to demonstrate their ability to develop both financially and artistically in order

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to sustain their development in the long term. Exchange sessions among board members of different performing arts groups should also be held on an annual basis.

27. USHA responded that the Administration saw merits in the recommendation of the Study for the establishment of a contestable fund to facilitate continuing organizational development of MPAGs and support specific Government priorities. With the advice of the Advisory Committee on Arts Development, a contestable funding pilot scheme ("the pilot scheme") aimed at encouraging MPAGs to come up with new initiatives that would help promote their sustainable development financially and artistically, as well as benefit the long term development of the arts and culture in Hong Kong had been launched recently with a budget of around \$14 million in 2012-2013.

28. As regards support to small and medium-sized performing arts groups, USHA advised that the Hong Kong Arts Development Council had been providing subsidies to hundreds of arts groups or arts practitioners for their creative pursuits. The arts portion of the Arts and Sport Development Fund also provided new funding opportunities to enhance the capacity development for promising arts groups and practitioners. These apart, the Leisure and Cultural Services Department ("LCSD") had been providing support and performing opportunities for small and medium-sized performing arts groups through various channels such as year-round cultural presentations and district arts and cultural activities, with a view to facilitating their artistic creation and outreach activities. At the same time, LCSD had launched a Venue Partnership Scheme at its performance venues, which fostered a partnership between venues and arts groups with the objectives of building up the artistic image and characters of the venues and its partners, as well as enlarging the audience base. USHA highlighted that the Administration would continue to step up its efforts in arts programme development, audience building and promotion of arts education, as well as encourage the business sector to participate in supporting cultural and arts activities.

29. Ms Cyd HO opined that the lack of funding sources other than public funding would hinder the promotion of diversity in cultural development. She asked whether apart from the introduction of a contestable fund to facilitate continuing organizational development of MPAGs, the Administration would take forward other recommendations put forth in the Study. USHA advised that the Administration would also proceed with the recommendations for improving the performance evaluation system for MPAGs and developing a performing arts sector plan as set out in paragraphs 16 and 18 of the Administration's paper. The Administration

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would then review the progress in due course before examining whether and how the other recommendations including those relating to longer term funding levels and scope of the funding system for MPAGs should be taken forward.

30. In response to Mrs Sophie LEUNG's concern about the development of Chinese opera which was an emblem of the local culture, USHA advised that efforts had been and would continuously be made by the Administration to foster the preservation and continuing development of Chinese opera through the Cantonese Opera Advisory Committee and the Cantonese Opera Development Fund. A major focus was the nurturing of budding artists and supporting those Cantonese opera performances which were creative or highly worthy of preservation, and the provision of time slots and venues for staging Cantonese opera performances. Mr Timothy FOK commended the efforts made by the Administration in the past few years to develop performance venues of different sizes, such as the redevelopment of the Yau Ma Tei Theatre and the construction of an annex building at the Ko Shan Theatre, to meet the long-term development needs of Cantonese opera.

Funding for MPAGs

31. Ms Emily LAU sought clarification on whether applications for the pilot scheme would be on an invitation basis and the criteria for vetting the applications. USHA advised that in the first round of the funding exercise, the nine MPAGs would be invited to submit proposals on the following themes: (a) promoting art-form development, including nurturing local arts talents and collaborating with other local artists and arts organizations on creation of new works; (b) enhancing the group's long-term fundraising capacity with a view to strengthening its financial sustainability; and (c) conducting research on and analysis of as well as promoting good practices in audience building and collaboration with the local arts community. Each application would be considered on its own merits, and the amount of grants to be disbursed to each successful application would depend on the scale of the proposed project.

32. Ms Emily LAU noted with concern that on the design of the future funding system, the Study pointed out that there was a desire for funding to be more clearly linked to the vision and mission of the arts organizations, with specific outputs and outcomes agreed for each organization in line with the Government's policy. She asked whether the performing arts groups had to refrain from criticizing the Government in order to secure public funding support, which, in her view, ran contrary to the call of the community for upholding the freedom of expression in culture and arts.

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33. USHA clarified that it was the Government's arts and cultural policy to create an environment which was conducive to the freedom of artistic expression and creation, promotion of diversity in cultural development, and a wider public participation in cultural activities.

34. Mrs Sophie LEUNG pointed to the need for the Administration to address the present problem that in many cases, the funder had a close relationship with the funded. She also suggested capping the number of years that a MPAG could continue to receive subvention from the Government to support its operation, so as to encourage MPAGs to become financially independent in the long term.

35. Expressing support for Mrs LEUNG's suggestion, Mr Paul TSE further suggested that as an alternative, reference could be made to the funding conditions of the Mega Events Fund whereby funding for "renewed applications" (i.e. applications which had received funding in the previous year and would wish to receive funding support again) would only be approved with a reduced level of funding support, so as to encourage MPAGs to become self-sustainable in the long run. Mr TSE also expressed concern that the existing funding mechanism for performing arts groups was tilting towards MPAGs and not addressing the needs of the small and medium-sized arts groups or budding artists.

36. Ms Emily LAU considered the consultant's recommendation of adopting a clear description of the criteria for inclusion within MPAGs and making the entry into MPAGs available to other potential groups under a clear process worth pursuing. The Chairman expressed a similar view.

37. USHA stressed that under the pilot scheme, MPAGs were encouraged to collaborate with other local artists and arts organizations to develop new work that utilized the strengths and characteristics of different arts groups and arts forms, as well as provide professional development opportunities to local artists and creative practitioners through employment, training, internship, mentoring and commissioning their work. To complement the existing public funding sources for local arts groups, the Arts Capacity Development Funding Scheme, which was newly established in June 2011, sought to enhance the development of local artistic talents by providing funding support to promising artists and small to medium-sized performing arts groups. The matching grant element of the Scheme also sought to cultivate a supportive culture for the arts in the community and to foster a tripartite partnership among the Government, arts groups and the private sector to promote arts and cultural development in Hong Kong.

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38. Referring to Chart 2 in the Administration's paper which set out the income ratio of performing arts groups in different jurisdictions, Ms Miriam LAU was concerned about the significant reliance of the performing arts groups in Hong Kong on Government funding (i.e. over 60%) and their poor ability to earn income through box office and fees when compared to their overseas counterparts. She urged the Administration to step up its efforts in building the audience base and promoting public arts education, in order to enable MPAGs to expand their earned income base, thus taking a positive step towards financial independence in the long run. USHA responded that further efforts would be made by the Administration to actively bring the arts and culture to the community, and enhance the knowledge and interest of members of the public in the appreciation of the arts.

Artistic self-assessment and evaluation procedures for MPAGs

39. Referring to the recommendation put forth in the Study that MPAGs should establish artistic self-assessment and evaluation procedures and submit the results of such procedures to the Government as part of their annual reporting process, Ms Emily LAU sought details of the proposed key performance indicators ("KPIs") for monitoring of the MPAGs' performance.

40. USHA advised that it was recommended that each MPAG should propose a set of KPIs by which the company believed its artistic and organizational progress should be measured. Having made reference to overseas experience, the proposed KPIs would cover areas such as achieving artistic excellence of programmes/activities; contributing to the grooming of local artistic talents; promoting industry development; actively engaging in audience building; actively supporting arts education; promoting cultural exchange and cooperation. In response to Ms Emily LAU's further enquiry on how the Administration could ensure the objectivity of the self-assessment, USHA advised that the Home Affairs Bureau would consult the Arts Development Advisory Committee in considering KPIs proposed by MPAGs.

IV. Any other business

41. This being the last meeting of the Panel in the current term, the Chairman thanked Panel members and the Clerk for their support to the work of the Panel in the past years.

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42. There being no other business, the meeting ended at 10:28 am.

Council Business Division 2
Legislative Council Secretariat
25 September 2012