

立法會
Legislative Council

LC Paper No. CB(2)367/14-15
(These minutes have been seen
by the Administration)

Ref : CB2/BC/7/13

Bills Committee on Property Management Services Bill

Minutes of the 4th meeting
held on Tuesday, 4 November 2014, at 10:45 am
in Conference Room 3 of the Legislative Council Complex

Members present : Hon Tony TSE Wai-chuen, BBS (Chairman)
Hon WU Chi-wai, MH (Deputy Chairman)
Hon James TO Kun-sun
Hon Abraham SHEK Lai-him, GBS, JP
Hon WONG Kwok-hing, BBS, MH
Hon Cyd HO Sau-lan, JP
Hon Starry LEE Wai-king, JP
Hon CHAN Kin-por, BBS, JP
Hon IP Kwok-him, GBS, JP
Hon Paul TSE Wai-chun, JP
Hon Claudia MO
Hon Frankie YICK Chi-ming
Hon Christopher CHUNG Shu-kun, BBS, MH, JP

Members absent : Hon CHEUNG Kwok-che
Hon Alan LEONG Kah-kit, SC
Hon WONG Yuk-man
Hon Steven HO Chun-yin
Hon LEUNG Che-cheung, BBS, MH, JP
Hon Alice MAK Mei-kuen, JP
Hon KWOK Wai-keung

Public Officers attending : Item I
Mr Jack CHAN Jick-chi, JP
Deputy Director of Home Affairs (2)

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

Mr Michael LAM Siu-chung
Senior Assistant Law Draftsman
Department of Justice

Miss Cindy CHEUK Chi-wing
Government Counsel
Department of Justice

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

Action

I. Meeting with the Administration

(HAD HQ CR/20/3/5(C), LC Paper Nos. CB(3)583/13-14, LS53/13-14, CB(2)1761/13-14(02) to (04), CB(2)2014/13-14(01), CB(2)2189/13-14(01), CB(2)22/14-15(03) & (04), CB(2)82/14-15(02) and CB(2)191/14-15(01) to (03))

The Bills Committee deliberated (index of proceedings attached at **Annex**).

Follow-up actions arising from the discussion

2. Members noted the Administration's response to issues raised at the Bills Committee meeting on 15 October 2014 (LC Paper No. CB(2)191/14-15(02)), including the profile of buildings which were managed by owners' corporations ("OCs") or other forms of owners' organizations without engaging property management companies ("PMCs") as set out in paragraph 2 of the paper. In response to a member's enquiry, the Administration provided, as follows, the exact

Action

number of the 6% of single tenement buildings which fell into the category of having "101 units or more" in different ranges (by increments of 100 units per step) -

<u>No. of units</u>	<u>No. of single tenement buildings</u>
101 - 200 units	282
201 - 300 units	70
301 - 400 units	18
401 - 500 units	15
501 units or more	9

The Administration also advised that in the past 10 years, among all the private buildings newly developed in Hong Kong, only one of them was "self-managed" by an OC without engaging any PMC.

Admin

3. The Administration was requested to provide, in tabular form, a further breakdown of the figures given in paragraph 2 of the Administration's paper (LC Paper No. CB(2)191/14-15(02)) which provided information on the profile of buildings which were currently managed by OCs or other forms of owners' organizations without engaging PMCs.

Admin

4. The Administration was also requested to provide more detailed information on the existing nine single tenement buildings which comprised more than 500 units and were managed by OCs or owners' organizations without engaging PMCs, including names of these buildings, their location and age, number of storeys/blocks involved, the exact number of flats/property units in the buildings, the dates when the respective buildings started to be managed by OCs or other forms of owners' organizations without engaging PMCs and the forms of management adopted etc.

5. Regarding Clause 7 of the Property Management Services Bill ("the Bill") about exceptions to Clause 6 which sought to prohibit unlicensed activities, members remained concerned that it might create loopholes for owners, OCs or other forms of owners' organizations to circumvent the legislation. In some members' view, in order to plug the loopholes, the Administration should require that OCs' decision to opt for "self-management" without engaging any PMCs had to be made by passing a resolution at an owners' meeting. There was a suggestion that amendments be made either to the Building Management Ordinance (Cap. 344) or the Bill to provide for such a requirement. The Administration was requested to respond to the above suggestion.

Admin

Action

Admin

6. Concern was raised that there was no elaboration on what constituted "self-management of property" by an OC, an owners' organization or individual owners as contemplated by Clause 7(3) or (4) of the Bill. For example, it was not specified clearly as to whether "self-management" could involve tenants and/or agents managing the property on behalf of the owners. The Administration was requested to consider the need to clearly define in the Bill the relevant circumstances of the exceptions.

Admin

7. An enquiry was raised about the course content and detailed arrangement (e.g. evening or weekend classes) of continuing professional development ("CPD") courses designed for in-service property management practitioners ("PMPs") to meet the future licensing requirements as well as the fees to be charged on the CPD courses. There was a suggestion that existing PMPs should be provided with paid training leave or training subsidy to attend the CPD courses. The Administration was requested to consider and provide a written response to this suggestion.

8. Members also noted that the Administration had responded in writing to the issues of concern/questions raised in the submission dated 14 October 2014 from Mayer Brown JSM. The Chairman suggested and members agreed that the Bills Committee would discuss the submission (LC Paper No. CB(2)82/14-15(02)) and the Administration's responses (LC Paper No. CB(2)191/14-15(03)) during the course of the clause-by-clause examination of the Bill.

Clause-by-clause examination

9. The Bills Committee commenced clause-by-clause examination of the Bill. At the invitation of the Chairman, the Administration took members through the Bill (LC Paper No. CB(3)583/13-14). The Bills Committee examined up to the definition of "property" in clause 2 of the Bill.

II. Any other business

Date of next meeting

10. The Chairman reminded members that the next meeting of the Bills Committee would be held on Tuesday, 25 November 2014, at 10:45 am to continue clause-by-clause examination of the Bill.

Action

11. There being no other business, the meeting ended at 12:47 pm.

Council Business Division 2
Legislative Council Secretariat
28 November 2014

**Proceedings of the 4th meeting of the
Bills Committee on Property Management Services Bill
on Tuesday, 4 November 2014, at 10:45 am
in Conference Room 3 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action Required												
000845 - 001130	Chairman	The Chairman's opening remarks													
001131 - 001844	Admin	Briefing on the Administration's response to issues raised by members at the meeting on 15 October 2014 (LC Paper No. CB(2)191/14-15(02)).													
001845 - 002417	Chairman Mr CHAN Kin-por Admin	<p>Regarding the profile of buildings which were managed by owners' corporations ("OCs") or other forms of owners' organizations without engaging property management companies ("PMCs") as provided in paragraph 2 of LC Paper No. CB(2)191/14-15(02), Mr CHAN Kin-por's enquiry and the Administration's elaboration on the distribution/further breakdown of the 6% of single tenement buildings which fell into the category of having "101 units or more". Members noted the exact number of single tenement buildings in different ranges (by increments of 100 units per step), as follows -</p> <table style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th style="text-align: center;"><u>No. of units</u></th> <th style="text-align: center;"><u>No. of single tenement buildings</u></th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">101 - 200 units</td> <td style="text-align: center;">282</td> </tr> <tr> <td style="text-align: center;">201 - 300 units</td> <td style="text-align: center;">70</td> </tr> <tr> <td style="text-align: center;">301 - 400 units</td> <td style="text-align: center;">18</td> </tr> <tr> <td style="text-align: center;">401 - 500 units</td> <td style="text-align: center;">15</td> </tr> <tr> <td style="text-align: center;">501 units or more</td> <td style="text-align: center;">9</td> </tr> </tbody> </table> <p>Mr CHAN reiterated his concern about Clause 7 of the Property Management Services Bill ("the Bill") about exceptions to Clause 6 which sought to prohibit unlicensed activities, stressing that it might create loopholes for owners, OCs or other forms of owners' organizations to circumvent the legislation. He requested the Administration to provide a further breakdown of the figures given in paragraph 2 of the Administration's paper (LC Paper No. CB(2)191/14-15(02)).</p> <p>The Administration's advice that in the past 10 years, among all the private buildings newly developed in Hong Kong, only one of them was "self-managed" by an OC without engaging any PMC.</p>	<u>No. of units</u>	<u>No. of single tenement buildings</u>	101 - 200 units	282	201 - 300 units	70	301 - 400 units	18	401 - 500 units	15	501 units or more	9	Admin to provide the requested information (Para. 3 of the minutes refers)
<u>No. of units</u>	<u>No. of single tenement buildings</u>														
101 - 200 units	282														
201 - 300 units	70														
301 - 400 units	18														
401 - 500 units	15														
501 units or more	9														

Time marker	Speaker	Subject(s)	Action Required
002418 - 003111	Chairman Mr WONG Kwok-hing Admin	<p>Mr WONG Kwok-hing's view that property management practitioners ("PMPs") should have representation on the proposed Property Management Services Authority ("PMSA") and the Administration's confirmation that different categories of stakeholders, including PMPs, would be suitably represented in PMSA so as to strike a balance between protecting the interest of the industry, the practitioners, and the property owners as well as the public at large.</p> <p>The Chairman's and Mr WONG's enquiries about the course content and detailed arrangement (e.g. evening or weekend classes) of the continuing professional development ("CPD") courses designed for in-service PMPs to meet the future licensing requirements as well as the fees to be charged on the CPD courses. Mr WONG's suggestion that existing PMPs should be provided with paid training leave or training subsidy to attend the CPD courses.</p>	<p>Admin to consider and provide a written response (Para. 7 of the minutes refers)</p>
003112 - 003742	Chairman Mr IP Kwok-him Admin	<p>Mr IP Kwok-him's expression of concern about the Administration's proposal of not applying the licensing regime to OCs, owners' organizations or individual owners who provided their own properties with property management services without engaging any PMCs or PMPs. Noting that there were nine single tenement buildings comprising more than 500 units being managed by OCs or owners' organizations without engaging PMCs, Mr IP requested the Administration to provide more detailed information on these buildings, including the names of the buildings, their location and age, number of storeys/blocks involved, the exact number of flats/property units in the buildings, the dates when the respective buildings started to be managed by OCs or other forms of owners' organizations without engaging PMCs and the forms of management adopted etc.</p>	<p>Admin to provide the requested information (Para. 4 of the minutes refers)</p>
003743 - 004355	Chairman Deputy Chairman Admin	<p>The Deputy Chairman's views/enquiries and the Administration's responses on -</p> <p>(a) the need to plug the potential loopholes that might arise from the proposed exceptions to Clause 6 of the Bill which sought to prohibit unlicensed activities;</p> <p>(b) the Administration's proposed timing for introducing the subsidiary legislation which</p>	

Time marker	Speaker	Subject(s)	Action Required
		<p>stipulated the detailed licensing criteria for PMPs and PMCs; and</p> <p>(c) the enhanced support services/measures under contemplation to be provided by the Administration to property owners of old single tenement buildings or buildings managed by OCs or other forms of owners' organizations without engaging PMCs for raising their standard of property management services.</p>	
004356 - 005017	Chairman Mr CHAN Kin-por Admin	<p>Mr CHAN Kin-por's reiteration of concern about the potential loopholes that might arise from the proposed exceptions to Clause 6 of the Bill which, in his view, would create an incentive for property owners and OCs to opt for "self-management" instead of engaging PMCs to undertake the property management work. Mr CHAN considered that the Administration should set a limit on the maximum number of units for the property that could be managed by an OC or owners' organization. His indication of intention to move Committee Stage amendments to this effect if the Administration refused to accept his suggestion.</p> <p>The Administration's advice that it was not the legislative intent of the Bill to regulate owners or OCs, and that the conduct and operation of OCs and their MCs were regulated by the relevant provisions of the Building Management Ordinance (Cap. 344) ("BMO").</p>	
005018 - 005240	Chairman Mr Christopher CHUNG Admin	<p>Mr Christopher CHUNG's view that it was essential for the Administration to draw up and promulgate codes of conduct for licensed PMCs and PMPs to follow. The Administration's response that all licensed PMCs and PMPs would be required to comply with the requirements stipulated in the legislation and the relevant codes of conduct to be issued by PMSA. Breach of the requirements might result in disciplinary actions to be taken by PMSA such as revocation or suspension of licences, and other sanctions such as reprimands, warnings, imposition of fine, etc.</p>	
005241 - 005733	Chairman Mr IP Kwok-him Admin	<p>Echoing the view of Mr CHAN Kin-por, Mr IP Kwok-him's expression of concern about the difficulties for owners, OCs or other forms of owners' organizations to manage their own</p>	

Time marker	Speaker	Subject(s)	Action Required
		<p>properties without engaging PMCs if the number of flats/property units in the buildings/estates managed by them was huge. There might be a need to consider imposing some measures to ensure proper building management by these owners, OCs or other forms of owners' organizations.</p>	
005734 - 010252	<p>Chairman Deputy Chairman Admin</p>	<p>The Deputy Chairman's view that, in order to plug the loopholes, the Administration should require that OCs' decision to opt for "self-management" without engaging any PMCs had to be made by passing a resolution at an owners' meeting. His suggestion that amendments be made either to BMO or the Bill to provide for such a requirement.</p> <p>The Administration's explanation on the statutory procedures for forming OCs and the termination of the appointment of Deed of Mutual Covenants ("DMC") manager.</p>	<p>Admin to respond to the suggestion (Para. 5 of the minutes refers)</p>
010253 - 011643	<p>Chairman Mr CHAN Kin-por Admin Deputy Chairman Mr IP Kwok-him</p>	<p>Mr CHAN Kin-por's request for provision of a further breakdown (by increments of 100 units per step) of the figures given in paragraph 2 of the Administration's paper (LC Paper No. CB(2)191/14-15(02)) which provided information on the profile of buildings currently managed by OCs or other forms of owners' organizations without engaging PMCs.</p> <p>Members (including the Deputy Chairman, Mr CHAN Kin-por and Mr IP Kwok-him) reiterated their concern over the potential loopholes that might arise from the proposed exceptions to Clause 6 of the Bill which might create an incentive for property owners and OCs to opt for "self-management" instead of engaging PMCs to undertake the property management work.</p> <p>The Administration's advice that the object of the Bill was to, inter alia, introduce a statutory licensing regime to regulate and control the provision of property management services by PMCs. The Administration in introducing this Bill had no intention to mandatorily require property owners and OCs to engage PMCs or to subject them to the licensing regime. The Administration reiterated that the conduct and operation of OCs and their MCs were regulated by the relevant provisions of BMO.</p>	<p>Admin to provide the requested information (Para. 3 of the minutes refers)</p>

Time marker	Speaker	Subject(s)	Action Required
011644 - 012522	Chairman Ms Cyd HO Admin Deputy Chairman	<p>Ms Cyd HO's concern that there was no elaboration on what constituted "self-management of property" by an OC, an owners' organization or individual owners as contemplated by Clause 7(3) or (4) of the Bill. For example, it was not specified clearly as to whether "self-management" could involve tenants and/or agents managing the property on behalf of the owners. She requested the Administration to consider the need to clearly define in the Bill the relevant circumstances of the exceptions.</p> <p>The Deputy Chairman's reiteration of his earlier suggestion of requiring OCs' decision to opt for "self-management" without engaging any PMCs to be made by passing a resolution at an owners' meeting, and that amendments be proposed to the Bill to this effect.</p> <p>The Administration's explanation on the statutory procedures for forming OCs and the existing mechanism for terminating the appointment of the DMC managers. The Administration was reviewing BMO and examining the proposal of lowering the threshold for terminating the appointment of the DMC managers, with a view to bringing more flexibility into the mechanism.</p>	Admin to provide a written response (Para. 6 of the minutes refers)
012523 - 013320	Chairman Mr Frankie YICK Admin Mr CHAN Kin-por	<p>Mr Frankie YICK's enquiry and the Administration's response on the licensing requirements and transitional arrangements for PMPs.</p> <p>Mr CHAN Kin-por's enquiry and the Administration's clarification that companies providing only stand-alone services, such as those providing only cleansing or security services, would not be subject to the regulation of the Bill and hence not required to obtain PMC licences. Mr CHAN's concern as to whether PMCs would split their businesses in order to avoid regulation by the Bill.</p> <p>The Administration's response that during the public consultation on the proposed regulatory regime held in 2011, the majority of the respondents supported the introduction of a licensing regime for PMCs to regulate their various areas of work in order to enhance the professionalism of the industry. The Administration did not see any incentive for PMCs to split their businesses.</p>	

Time marker	Speaker	Subject(s)	Action Required
<i>Clause-by-clause examination of the Bill</i>			
013321 - 013702	Chairman Admin	Clause-by-clause examination of the Bill, with the aid of the Blue Bill (LC Paper No. CB(3)583/13-14)	
013703 - 014224	Chairman Admin Ms Starry LEE ALA3	<u>Long Title of the Bill</u> Ms Starry LEE's enquiry and the Administration's response on whether PMSA's dual functions of a licensing body and an industry promoter should be set out clearly in the long title of the Bill. The Administration's advice that Part 7 of the Bill (Clause 41) (page C2805 of the Blue Bill) had set out in detail PMSA's principal functions which included, among others, promoting the professionalism and maintaining and enhancing the status of the profession of property management services.	
014225 - 014519	Chairman Admin Ms Starry LEE	<u>Part 1 of the Bill</u> <u>Clause 1 - Short title and commencement</u>	
014520 - 020214	Chairman Admin Ms Cyd HO Ms Starry LEE Mr IP Kwok-him	<u>Clause 2 - Interpretation</u> <i>The definition for the term "property"</i> The Administration's advice that the purpose of defining "property" as "building" under BMO was to delineate the scope of application of the Bill. The Administration's policy intent was to subject only those multi-storey buildings involving shared ownership of common parts and with DMC in effect to the licensing regime. Ms Cyd HO's view that it was more user friendly to set out in the Bill the full text of the definition for the term "property", instead of making reference to the term "building" as defined under section 2 of BMO. The Administration's response that as the Bill, if enacted as an ordinance, would have a close interplay with BMO, it was considered more appropriate to make cross reference to the definition of "building" as provided in BMO to ensure clarity, precision and accuracy when using the term. It was consistent with current drafting practice which had been adopted in a number of other legislative instruments. The Administration's advice to Ms Starry LEE's enquiry that a building which did not involve	

Time marker	Speaker	Subject(s)	Action Required
		shared ownership of common parts and without a DMC was not within the definition of "property" in the Bill.	
020215 - 020255	Chairman	Date of next meeting and closing remarks.	

Council Business Division 2
Legislative Council Secretariat
28 November 2014