

**Bills Committee on
Property Management Services Bill**

**List of follow-up actions arising from the discussion
at the meeting on 25 November 2014**

1. Regarding the 8 425 buildings which were currently managed by owners' corporations ("OCs") or other forms of owners' organizations without engaging property management companies ("PMCs"), the Administration agreed to provide supplementary information on the respective numbers of different forms of owners' organizations undertaking "self-management of property", including OCs registered under the Building Management Ordinance (Cap. 344) ("BMO"), Owners' Committees formed under a Deed of Mutual Covenant ("DMC") and Mutual Aid Committees formed by residents of a building and exempted from the Societies Ordinance (Cap. 151) etc.
2. There was a suggestion that if an OC decided to switch from engaging a PMC to manage the building to "self-management of property", the decision should be supported by the passage of a resolution at a general meeting of the OC, with a view to forestalling any possible circumvention of the licensing regime. The Administration was requested to consider the suggestion and advise on how the proposal could be brought forward under BMO and whether similar amendments would also be made to the Property Management Services Bill ("the Bill"). If the answer to the latter was negative, please provide the underlying rationale and justifications.
3. In Clause 2 of the Bill, "property management practitioner ("PMP") (物業管理人)" was defined as "an individual who assumes a managerial or supervisory role in a property management company in relation to property management services provided by the company". Concern was raised about the duties expected of a licensed PMP (Tier 1) and a licensed PMP (Tier 2). To facilitate the scrutiny of the Bill, the Administration undertook to provide its preliminary thoughts on the licensing requirements and the respective scope of duties of a licensed PMP (Tier 1) and a licensed PMP (Tier 2) at the next Bills Committee meeting, and to consider whether it was necessary for the Bill to define what constituted "a managerial or supervisory role".
4. The Administration was also requested to provide a written response to an enquiry raised by the Legal Adviser to the Bills Committee on whether licensed PMCs' in-house lawyers or compliance officers would fall within the proposed definition of PMP and be required to obtain PMP licences.

5. Regarding the seven categories of property management services set out in Schedule 1 to the Bill, concern was raised about how each defined category of services would be further subdivided. There was also concern as to whether the unlicensed provision of free advisory service or legal advice to OCs or owners' organizations on building management by professional bodies and Members' Offices etc. would constitute an offence under the Bill. The Administration was requested to provide (a) its preliminary thoughts on the types of services under each category; and (b) clarification on members' concern.

6. In relation to item 5 above, members noted that under Clause 2 of the Bill, a PMC "means a business entity (whether a company, partnership or sole proprietorship) that carries on the business of providing property management services". Clause 6 of the Bill provided that no person might, without a PMC licence, "act as a property management company". The Administration was requested to provide clarification on whether there was any difference in meaning between "providing property management services" and "acting as a property management company".

7. The Bills Committee requested the Administration to consider the following observations/comments on certain provisions raised by members and the Legal Adviser to the Bills Committee -

- (a) concern was raised as to whether the scope of definition of "owners' organization (業主組織)" under Clause 2 of the Bill was too wide. There was a suggestion that instead of defining the term as "an organization (whether or not formed under BMO or a DMC) that is authorized to act on behalf of all the owners of the property", the Administration should consider whether it would be more appropriate to list out all possible forms of owners' organizations in order to remove any uncertainty in this respect in future;
- (b) in the definition of "company (公司)", the conjunction "及" was used to link up paragraphs (a) and (b) in the Chinese version. The Administration was invited to (i) consider whether there was a need to align the English and Chinese expressions to ensure consistency in the drafting of the definition; and (ii) provide examples of other pieces of legislation where the word "及" linked up a series of paragraphs introduced by the words "包括"; and
- (c) Clause 16 provided that a licensed PMC must prepare the prescribed information and provide the information to the PMC's clients in the prescribed manner. Since the term "clients (客戶)"

was not defined in the Bill, there was concern on whether "clients" referred to OCs, owners' organizations, individual owners and/or tenants. The Administration was requested to consider the need for including a definition of "clients" in Clause 2 or Clause 16 of the Bill.

Council Business Division 2
Legislative Council Secretariat
7 January 2015