

**The Administration's response to the matters raised  
at the meeting of the Bills Committee  
on the Property Management Services Bill  
held on 12 January 2015**

**Purpose**

This paper provides the supplementary information requested by Members at the meeting of the Bills Committee on 12 January 2015.

**“Self-Managed” Buildings/Estates**

2. Given the importance and significant implications to the management of the building if an owners' corporation (OC) decides to switch from engaging a property management company (PMC) to “self-management”, we have undertaken to the Bills Committee that we will propose to amend the Building Management Ordinance (Cap. 344) (BMO) to require such a decision be supported by the passage of a resolution at a general meeting of the OC.

3. In view of Members' concern that the “gap” between the enactment of the Property Management Services Bill (the Bill) and the passage of the proposed amendments to the BMO should be narrowed, we will, in consultation with the Department of Justice (DoJ), consider the feasibility of taking forward the proposed amendment by introducing suitable committee stage amendments (CSAs) to the Bill.

4. We fully appreciate Members' concern on the management standard of “self-managed” buildings/estates with a large number of property units. However, we consider it not practicable to require such OCs to obtain the PMC licence under the Bill. For instance, a PMC has to fulfil stringent licensing criteria such as the minimum number of directors and employees holding property management practitioner (PMP) licences. OC will not be able to fulfil those stringent licensing conditions.

5. At the last meeting of the Bills Committee, we undertook to consider other feasible solutions, including introducing CSAs to the Bill, to fully address Members' concern, for example, disallowing OC of building with certain number of units or above from “self-management”. We are

actively working with DoJ and will revert to the Bills Committee on the detailed proposals in due course.

### **Mechanism for PMC to Report OCs' Decisions/Acts Affecting Its Compliance with Statutory Requirements**

6. There is concern that OCs might instruct PMCs to perform tasks which might not be in compliance with the requirements under the BMO or the Bill, or the codes of conduct to be issued by the Property Management Services Authority (PMSA).

7. The concerted efforts and earnest cooperation of PMCs, OCs and owners is of paramount importance to proper building management. We strongly encourage PMCs, OCs and owners to resolve disputes through communication. Sometimes, OCs or owners may inadvertently ask the PMC to perform certain tasks which may not be in compliance with the BMO, the Bill, or the codes of conduct. Licensed PMCs, being professional in the provision of property management services, should advise OCs and owners concerned of the proper practice under the BMO and the Bill. We believe that most of the OCs and owners will take the PMC's professional advice.

8. If the OCs or owners insist, there are effective ways for PMCs to inform other owners in a timely manner, such as posting a notice at a prominent place of the buildings or depositing letters in the owners' letter boxes, such that the owners may take appropriate action in accordance with the BMO. The PMCs may also try to report any malpractice of the OCs concerned at the next owners' meeting.

9. We agree that licensed PMCs may report to the PMSA of any suspected violating acts (including any unreasonable requests by the OC involving contravention of the requirements under the BMO, the Bill and the codes of conduct) for record purpose. We propose to cover it in the codes of conduct and the PMSA shall take such report into account in considering any complaints against the licensed PMC concerned.

### **Clauses 4 and 5**

10. We agree that the scope of clause 4(d) should be expanded to include failure to comply with the requirements under clauses 21(2)(a), (b),

(c), 24(1)(b)(ii), (iii) and 36(1)(b)(i), (ii) and (iii). We also agree that the scope of clause 5(1) should be expanded to deal with matters such as offences that might bring the profession into disrepute and licensee's duties. We will consider introducing the necessary CSAs to the Bill.

### **Subsidiary Legislation and Codes of Conduct**

11. Our initial view is that three sets of subsidiary legislation specifying the following issues will need to be made after the passage of the Bill –

- (i) the service(s) within a category of services set out in Schedule 1 to the Bill as a property management service, the licensing criteria for PMCs and PMPs, the prescribed information to be provided by a licensed PMC to its clients and the relevant fees under the Bill;
- (ii) the procedures for the hearing of appeals; and
- (iii) the amount of levy and related matters.

12. Taking into account the importance and complexity of the subsidiary legislation, we will submit the subsidiary legislation relating to the Bill in batches. The draft subsidiary legislation will also be made available to the relevant Panel for information as early as practicable.

13. On the codes of conduct, the PMSA is empowered under clause 5(1) of the Bill to issue codes of conduct for PMCs and PMPs. With reference to the existing codes of conduct/practice of relevant professional bodies, we are preparing the framework of the codes of conduct for the reference of the future PMSA. We will make the draft framework available to the Bills Committee for information when it is ready.

**Home Affairs Department**  
**February 2015**