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Bills Committee on the Property Management Services Bill

Background brief prepared by the Legislative Council Secretariat

Purpose

This paper provides background information on the Administration's legislative proposals to establish a regulatory regime for the property management industry and to set up a Property Management Services Authority ("PMSA") for the licensing of property management companies ("PMCs") and property management practitioners ("PMPs"), and summarizes the deliberations of the Panel on Home Affairs ("the Panel") on the legislative proposals.

Background

2. PMCs and PMPs play an important role in assisting property owners in the proper management of their buildings. Property management requires multi-disciplinary professional input, such as general management services, management of property environment, building repair and maintenance, finance and asset management, facility management, human resources management and legal service.

3. There are currently no industry-wide basic requirements for PMCs and PMPs. As announced in the 2010-2011 Policy Address by the Chief Executive ("CE"), a statutory licensing regime would be established for the property management industry to regulate PMCs and PMPs, so as to ensure their service quality. Following the public consultation exercise on the proposed regulatory regime conducted from December 2010 to March 2011, the Administration established in December 2011 the Advisory Committee on the Regulation of the Property Management Industry ("the Advisory Committee"), comprising members from the industry, related professions and the community, to work out the details of the proposed regime.

The Property Management Services Bill ("the Bill")

4. According to the Legislative Council ("LegCo") Brief (File Ref.: HAD HQ CR/20/3/5(C)) issued by the Home Affairs Department on 23 April 2014, the Bill will provide for the establishment of PMSA, which will be a self-financing independent body responsible for the licensing of PMCs and PMPs and the promotion of the industry. The key elements of the Bill are set out in the ensuing paragraphs.

Licensing of PMCs

5. The Bill proposes that a single-tier licensing regime be introduced for PMCs. Except for companies providing only stand-alone services (such as those providing only cleansing or security services), all PMCs providing property management services as defined in Schedule 1 to the Bill relating to a property will be required to obtain licences. Owners' corporations or other forms of owners' organizations managing their own properties will not be required to obtain PMC licences. Similarly, the provision of property management services to properties by some or all of the owners themselves will not be subject to the licensing regime, provided that they are individuals and do not provide any property management services to another property for profit. The Government and the Housing Authority will also not be subject to the licensing regime.

Licensing of PMPs

6. It is proposed that a two-tier licensing regime be introduced for PMPs and only those individuals who assume a managerial or supervisory role in the provision of property management services be subject to licensing. Frontline staff will not be required to obtain PMP licences. The provision of the services by public officers acting in their official capacities will not be subject to the PMP licensing regime. The qualification requirements for the first tier of PMPs, who may describe themselves as "registered professional property manager" will be higher than that for the second tier of PMPs, who may describe themselves as "licensed property management officer". Breach of the requirements stipulated in the legislation and the code of conduct to be issued by PMSA may result in disciplinary actions to be taken by PMSA.

PMSA

7. The proposed PMSA will assume the dual functions of a licensing body and an industry promoter. PMSA will consist of a Chairperson, a

Vice-chairperson and not more than 18 members to be appointed by CE from the following categories of individuals -

- (a) individuals who are engaged in property management services;
- (b) individuals with experience in property management, general administration or consumer affairs; and
- (c) other individuals who appear to CE to be suitable for appointment as members.

8. PMSA will maintain registers of PMCs and PMPs which will be made available for public inspection. It will be empowered to undertake self-initiated investigation as well as to conduct investigation upon receipt of complaints. An appeal panel will be established to deal with appeals lodged by persons who are aggrieved by the decisions of PMSA.

9. PMSA will be a self-financing body supported by income generated from both licence fees and a very small amount of fixed levy (around \$200-\$350) to be imposed on each conveyance on sale of immovable property. The transferee under a leviable instrument is liable to pay the levy payable for the instrument. The Stamp Office of the Inland Revenue Department ("IRD") will collect the levy on behalf of PMSA when the conveyance on sale is submitted to IRD for stamping.

Transitional Arrangements

10. It is proposed to allow a three-year transitional period for PMPs and PMCs to prepare themselves to migrate to the new licensing system. Experienced PMPs meeting certain basic requirements will be granted provisional licences during the transitional period. They will be allowed three years after they have obtained the provisional licences to complete continuing professional development courses so that they can be granted formal licences by PMSA upon expiry of the provisional licences. PMPs who already meet the licensing criteria of formal licences may apply for formal licences directly during the transitional period.

Deliberations by the Panel

11. The Panel was briefed on the legislative proposals at its meeting on 13 December 2013. The views and concerns expressed by members are summarized below.

The proposed three-year transitional period

12. While members in general welcomed and supported the legislative proposals, some members considered that the transitional period should be shortened to two years. Some members suggested that the Government should launch pilot training programmes before the enactment of the legislation to assist existing PMPs who had no formal training to acquire the necessary academic qualifications for obtaining PMP licences, thereby enabling the smooth implementation of the proposed licensing system. There was a suggestion that once PMPs met the necessary licensing requirements, PMSA should grant licences to these PMPs without requiring them to attend examinations which sought to assess their skills and knowledge.

13. As explained by the Administration, the three-year transitional period was proposed for existing PMPs and PMCs to prepare themselves to migrate to the new licensing system. During the public consultation on the proposed regulatory regime, the majority view was in support of the proposed three-year transitional period.

14. In response to members' enquiry about the arrangements for handling complaints against PMCs/PMPs during the three-year transitional period, the Administration advised that PMSA would, after the passage of the Bill, come into operation upon commencement of the relevant provisions. PMSA would be entrusted with the statutory power to undertake self-initiated investigation as well as to conduct investigation upon receipt of complaints against licensed PMPs/PMCs.

Licensing requirements for PMPs

15. Some members pointed out that many PMPs currently employed by small-sized PMCs providing services to owners of old buildings or single tenement buildings were generally older in age. Concern was raised about the impact of the proposed licensing regime on the employment prospects of these serving PMPs, as it might not be easy for them to complete continuing professional education courses and meet the licensing criteria of formal licences.

16. According to the Administration, there was general consensus that only those PMPs who took up a supervisory or managerial role and were accountable for the overall quality assurance of property management services should be subject to licensing. Since a two-tier licensing regime would be introduced for PMPs, it would help encourage PMPs to pursue professional development and upgrade to the upper tier while continuing to allow PMPs with a lower level of

academic qualifications to have access to the job market.

17. Some members were concerned about whether the proposed requirements for PMPs would impact on the overall manpower supply for the property management industry. Information was sought, among others, on the estimated number as well as qualifications of existing in-service PMPs who would be subject to the proposed licensing system, and the relevant vocational education and training provided for PMPs who had practical experience but without formal training.

18. In its supplementary information paper provided to the Panel on 8 January 2014 (LC Paper No. CB(2)629/13-14(01)), the Administration advised that as there was currently no mandatory registration system for PMPs, it was unable to provide an accurate estimation of the number of PMPs and detailed breakdown on their qualifications at this stage. According to a recent survey conducted by the Hong Kong Institute of Housing, it was estimated that there were around 4 000 tier one PMPs and 7 500 tier two PMPs. PMSA would liaise with industry organizations and local tertiary institutions to ensure that sufficient training would be provided to PMPs to meet the licensing requirements.

Licensing requirements for PMCs

19. Noting that a single-tier licensing regime would be introduced for PMCs, members expressed concern about the survival of small and medium-sized PMCs after the full implementation of the licensing regime. The Administration was urged to put in place measures to ensure that small and medium-sized PMCs would not be driven out of the market, resulting in the monopoly of the market by large PMCs.

20. According to the Administration, the Advisory Committee had considered the option of creating a multi-tier system for PMCs but found that it would work to the disadvantage of small and medium-sized PMCs. To ensure the provision of a level playing field for PMCs of different sizes and to avoid creating labelling effects, the Administration proposed that a single-tier licensing regime be introduced. To facilitate consumers in making informed choices on PMCs under the proposed single-tier licensing regime, licensed PMCs would be required to provide certain essential information (e.g. their management portfolio, the number of licensed PMPs employed by the company, etc.) to PMSA for uploading onto its website for public access.

Establishment of PMSA

21. Members had sought information on the proposed recurrent expenditure

and staffing provision for the future operation of PMSA; and whether PMSA's income would be sufficient to support its operation. According to the Administration, it envisaged that the new PMSA would have a staff size of around 60 persons. It was estimated that the recurrent expenditure of PMSA would be around \$30 million a year, with salaries to be paid to staff members taking up approximately 80% of PMSA's annual expenditure, and the remaining 20% to be used for paying office rentals and other items of expenditure.

22. Concern was expressed on the estimated impact on PMSA's financial position in the event that there were significant changes in transaction volume of residential properties. As advised by the Administration, it was estimated that PMSA would have to generate a levy income of around \$20 million per year in order to maintain a balanced budget. In arriving at the estimated amount of levy per property transaction (i.e. around \$200-\$350), the Administration had made reference to the number of conveyances on sale in the past 15 years. Even if the number of conveyances on sale dropped to its lowest level during the past 15 years (i.e. around 110 000 in 2003), the imposition of a fixed levy of around \$200 per conveyance on sale would still be able to generate a total levy income of around \$22 million a year.

23. An enquiry was raised on whether measures would be in place under the new regime to avoid cost transfer from PMCs to property owners in an attempt to recover the licence fees paid to PMSA. The Administration advised that although the actual level of the licence fees had yet to be decided, it would not be high and hence should not pose a potential for PMCs to transfer the cost to property owners.

Relevant papers

24. A list of the relevant papers on the LegCo website is in the **Appendix**.

Relevant papers on the Property Management Services Bill

Committee	Date of meeting	Paper
Panel on Home Affairs	13.12.2013 (Item V)	Agenda Minutes
Panel on Home Affairs	---	Administration's paper entitled "Supplementary Information on Regulation of the Property Management Industry"

Council Business Division 2
Legislative Council Secretariat
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