

Bills Committee on Property Management Services Bill

**Summary of views and concerns expressed by deputations/individual
for the meeting on 23 July 2014**

| Deputation/individual | Major views and concerns | Administration's response |
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| (a) General view on the Bill | | |
| <ul style="list-style-type: none"> ● Chartered Institute of Housing Asian Pacific Branch ● Civic Party ● The Democratic Party ● Greater China Institute of Property Management ● Housing Managers Registration Board ● Liberal Party Youth Committee ● Mr YEUNG Wai-sing, Eastern District Council Member ● The Hong Kong Association of Property Management Companies ● The Hong Kong | <ul style="list-style-type: none"> ● The deputations supported the proposed establishment of a licensing regime to regulate property management companies ("PMCs") and property management practitioners ("PMPs"), and considered that a mandatory licensing regime for PMCs and PMPs could raise professional standards and protect the interests of property owners. ● There was a concern about the impact of the proposed licensing regime on the employment prospects of experienced in-service PMPs with lower level of educational attainment. It was suggested that flexibility should be allowed for those PMPs who were approaching retirement age to complete continuing professional education courses and to obtain a formal PMP licence. | <ul style="list-style-type: none"> ● We welcome the views of the deputations. ● Experienced PMPs meeting certain basic requirements will be granted provisional licences during the transitional period. They will be allowed three years to complete the continuing professional education courses so that they can be granted formal licences upon expiry of the provisional licences. In addition, the Property Management Services Authority ("PMSA") will also consider accepting PMPs to submit dissertations or reports (similar to the practice of relevant professional bodies) in lieu |

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| <p>Institute of Facility Management Ltd.</p> <ul style="list-style-type: none"> ● The Hong Kong Institute of Surveyors ● The Incorporated Owners of Fu Tor Loy Sun Chuen (Phase 1) ● The Incorporated Owners of Fung Wah Estate ● The Property Owners Anti-Bid Rigging Alliance | <ul style="list-style-type: none"> ● There was a view that PMCs only acted in the capacity of the agent of the property owners or owners' organizations, so property owners, owners' organizations, and related persons should also be subject to the regulation of the Bill. ● There was a suggestion that the Government should require licensed PMCs and PMPs to observe and follow the relevant Codes of Practice issued under the Building Management Ordinance (Cap. 344) ("BMO") for achieving effective building management and maintenance. PMSA should punish those PMCs which intentionally acted against BMO. It was also suggested that in the tendering process, PMCs should be required to disclose information on whether they had any associated companies or | <p>of completion of continuing professional education courses.</p> <ul style="list-style-type: none"> ● The operation of OCs is regulated by the Building Management Ordinance (Cap. 344) ("BMO"). Implementation of the licensing regime for PMCs will not exempt owners from their responsibilities under the relevant ordinances such as the Buildings Ordinance (Cap. 123), which empowers enforcement against unauthorised building works, and the Lifts and Escalators (Safety) Ordinance (Cap. 618), which regulates lift safety. ● The purpose of the Bill is to establish the PMSA for the implementation of a mandatory licensing regime for PMCs and PMPs in order to regulate the property management industry. Owners engage PMCs to obtain assistance in discharging their responsibilities under the relevant ordinances, such as Buildings Ordinance (Cap. 123) and Lifts and Escalators Ordinance (Cap. 618). We share the view that it is the duty of PMCs and PMPs to remind owners to comply with the legislative requirements. Therefore, failure of PMCs and PMPs to assist owners in discharging their |

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| | <p>directors/senior management of the company participating in the tender in order to avoid any conflict of interest.</p> | <p>responsibilities may constitute a professional misconduct or neglect. The Bill will empower the PMSA to issue codes of conduct to specify the requirements that PMCs should comply with in daily operation, include requiring PMCs and PMPs to remind owners to comply with legislative requirements related to building management.</p> <ul style="list-style-type: none"> ● Clause 16 of the Bill stipulates that PMCs have the duty to provide clients with information on any conflict of interest between the PMC and its clients. |
| (b) Licensing of PMC | | |
| <ul style="list-style-type: none"> ● The Federation of Hong Kong Property Management Industry Limited ● The Incorporated Owners of Fu Tor Loy Sun Chuen (Phase 1) ● The Hong Kong Association of Property Management Companies ● Mr YEUNG Wai- | <ul style="list-style-type: none"> ● The deputations concurred with the view that a single-tier mandatory licensing regime for PMCs could avoid creating labelling effects. They also supported that the licensing requirement would not apply to the provision of property management services to a property by the owners' organization of a property which provided the property with property management services without engaging a PMC or PMPs. | <ul style="list-style-type: none"> ● We welcome the views of the deputations. |

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| <p>ing, Eastern District Council Member</p> | <ul style="list-style-type: none"> ● There was a view that to promote and support building management services, the Government should set up a fund to assist those owners' organizations which managed their own buildings and also those property owners who did not engage a PMC to provide property management services to their property. ● There was a suggestion that the staff employed by the owners' organization of a property, which provided the property with property management services without engaging a PMC or PMPs, to take up a | <ul style="list-style-type: none"> ● The Government has all along been playing the role of a “facilitator” in building management and providing appropriate support to assist owners in discharging their building management responsibilities. Such appropriate assistance and support rendered by the staff of the Home Affairs Department (“HAD”) include visiting the owners of those buildings which have not yet formed their OCs so as to encourage them to set up OCs, attending OC meetings upon invitation and handling enquiries on building management matters. To foster a good building management culture, various initiatives such as the Resident Liaison Ambassador Scheme, the Building Management Professional Advisory Service Scheme, the Panel of Advisors on Building Management Disputes and the “AP Easy” Building Maintenance Advisory Service Scheme have been implemented by HAD in recent years to provide all-round support to owners and OCs. ● According to the Bill, PMP means an individual who assumes a managerial or supervisory role in a PMC in relation to property management services. As OCs managing their own buildings will not be required to obtain a PMC |

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| | <p>supervisory role in the provision of property management services should not be required to obtain a licence.</p> | <p>licence, the definition of PMP does not include their employees. Thus, these employees will not be required to obtain a licence.</p> |
| <ul style="list-style-type: none"> ● The Federation of Hong Kong Property Management Industry Limited ● The Hong Kong Association of Property Management Companies ● The Hong Kong Institute of Surveyors | <ul style="list-style-type: none"> ● The deputations noted that the Property Management Services Authority ("PMSA") had the power to prescribe the criteria for holding a PMC licence and the criteria might include a criterion that the person had a sufficient number of directors and employees who were licensed PMPs. It was considered that the respective number of staff holding a PMP (Tier 1) licence and a PMP (Tier 2) licence employed by a PMC should be proportionate to the number of property units it managed. ● There was a view that a PMC should be required to appoint a licensed PMP (Tier 1) as its full time director or senior management staff. The PMC should designate at least one employee holding either a PMP (Tier 1) licence or a PMP (Tier 2) licence responsible for the building management of a property which was managed by the PMC. | <ul style="list-style-type: none"> ● We agree with the suggestion and will follow up when drafting the codes of conduct. ● Regarding the requirement in respect of the minimum number of directors holding PMP licences in PMCs, our initial proposal is that each licensed PMC is required to have at least one director holding a PMP (Tier 1) licence or PMP (Tier 2) licence. The number of PMCs which a director with PMP licence may serve will not be restricted. ● Regarding the suggestion that a PMC should |

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| | | <p>designate employee(s) holding PMP licence(s) to each property it manages, our initial thinking is that the PMSA will specify in the codes of conduct the suggested ratio of the number of Tier 1 and Tier 2 licensed PMPs to the number of flats or area being managed. PMCs should engage the number of Tier 1 and Tier 2 licensed PMPs corresponding to the number of flats and area they manage.</p> <ul style="list-style-type: none"> • We will give due consideration to the views of the Advisory Committee on the Regulation of Property Management Industry (the Advisory Committee) and other stakeholders in drafting the subsidiary legislation stipulating the detailed licensing criteria. |
| <ul style="list-style-type: none"> • Civic Party | <ul style="list-style-type: none"> • The deputation considered that the PMC should be required to disclose its company information such as its company background, company size and its associated companies, etc. so as to enable property owners to make an informed choice of the PMCs. | <ul style="list-style-type: none"> • To enable the public to choose the PMC that suits the needs of their housing estates or buildings, one of the licensing requirements is that licensed PMCs must provide updated information to the PMSA on a regular basis, such as the portfolios managed, the number of licensed PMPs employed. The PMSA will upload the information to its future dedicated website for public reference. |

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| <ul style="list-style-type: none"> Mr MAN Chi-wah | <ul style="list-style-type: none"> The deputation suggested that the Administration should specify the circumstances under which the licensing requirement would not apply to the provision of property management services to a property by the owners organization of a property which provided the property with property management services without engaging a PMC or PMP and set a limit on the maximum number of property units (e.g. no more than 40 units) that could be managed by the owners' organization concerned. | <ul style="list-style-type: none"> The majority of views received during the public consultation period opined that OCs managing their own properties should not be put under the regulatory framework because: <ul style="list-style-type: none"> (i) it would be unfair to the MC members who serve on a pro bono basis to hold personal legal liability under the licensing regime; (ii) the buildings they managed were just old single tenement buildings with a small number of flats which only required some basic knowledge to manage and do not need the high qualification requirements for PMCs. When considering whether to set a limit on the maximum number of units for the property that can be managed by an owners' organisation, in addition to the above-mentioned factors, the possible impacts brought about by imposing an upper limit will also need to be examined in details, for instance, whether it will discourage owners from taking up OC duties, whether some OCs or owners originally intended to manage their own properties due to low cost will be mandated to engage PMCs, thereby increasing their financial burden. |

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| | | <ul style="list-style-type: none"> Through a mandatory licensing regime for PMCs, a benchmark on the minimum requirement can be set, thereby ensuring the service level and enhancing the quality of PMCs. In the long run, we believe that this will encourage more owners to engage PMCs. |
| (c) Licensing criteria for a PMC (Tier 1) licence | | |
| <ul style="list-style-type: none"> Chartered Institute of Housing Asian Pacific Branch Greater China Institute of Property Management Hong Kong Institute of Real Estate Administrators Housing Managers Registration Board The Hong Kong Institute of Housing The Hong Kong Institute of Surveyors | <ul style="list-style-type: none"> Some deputations agreed that the holders of PMP (Tier 1) licence should possess: (a) academic qualifications - holder of a degree or equivalent professional diploma qualification; (b) professional qualifications - holder of professional membership granted by recognized professional housing management institute; and (c) relevant working experience - with not less than 5 years' relevant working experience in housing management. It was suggested that the definition of professional qualifications should be clearly spelled out. It was also suggested that to avoid any adverse impacts on the in-service practitioners, there should be exemption for PMPs from meeting the academic qualification | <ul style="list-style-type: none"> The licensing requirements for PMP licences will be stipulated in the subsidiary legislation. Our initial proposal is that the licensing requirements for PMP (Tier 1) licence should include - <ol style="list-style-type: none"> holding a bachelor's degree in a property management related subject with at least three years of working experience in property management in Hong Kong; holding a bachelor's degree in other subjects with at least five years of working experience in property management in Hong Kong; being a member of the property management related professional bodies specified by the PMSA; possessing qualifications of other relevant |

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| | <p>requirements provided that they had met certain conditions.</p> <ul style="list-style-type: none"> There was a view that the licensing criteria for PMPs should be compatible with the general market requirement of a professional property manager. In most of the Government tenders for property and facility management services, the minimum requirement of estate/property manager was a certain number of years of post-qualification experience. In line with this benchmark, it was considered that a PMP (Tier 1) licence holder should have similar professional status that was commensurate with the Government's tender requirement. | <p>professional institutes and passing the assessment of PMSA for those who are not a member of the specified property management bodies;</p> <p>(v) whether the applicant is a suitable person (considerations: criminal records, bankruptcy, etc.)</p> <ul style="list-style-type: none"> We will give due consideration to the views of the Advisory Committee and other stakeholders when drafting the subsidiary legislation. Experienced PMPs meeting certain basic requirements will be granted provisional licences during the transitional period. They will be allowed three years to complete continuing professional education courses so that they can be granted formal licence upon expiry of the provisional licences. In addition, PMSA will also consider accepting PMPs to submit dissertations or reports (similar to the practice of relevant professional bodies) in lieu of completion of continuing professional education courses. |
| <ul style="list-style-type: none"> The Federation of Hong Kong Property Management Industry Limited | <ul style="list-style-type: none"> The deputation suggested that the person who had operated a PMC for at least five years before the enactment of the Bill should be qualified for applying for a PMP (Tier 1) licence and should be exempted from the requirements on academic qualifications and examinations. If the person did not hold a degree in relevant disciplines of property management, he/she should be required to attend | |

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| | relevant courses for a certain number of hours and no examination should be required. | |
| <ul style="list-style-type: none"> ● Chartered Institute of Housing Asian Pacific Branch ● Hong Kong Institute of Real Estate Administrators ● The Hong Kong Institute of Housing | <ul style="list-style-type: none"> ● The deputations considered that for those PMPs at senior level who had rich working experience in the property management industry but without the required academic qualifications, the future PMSA should grant them permanent PMP (Tier 1) licences in order to retain the experienced practitioners in the industry. | |
| (d) Licensing criteria for a PMP (Tier 2) licence | | |
| <ul style="list-style-type: none"> ● The Federation of Hong Kong Property Management Industry Limited ● The Hong Kong Institute of Facility Management Ltd. ● The Hong Kong Institute of Housing | <ul style="list-style-type: none"> ● There was a suggestion that PMPs who had newly joined the property management industry with less than three years of working experience should not be required to obtain a PMP licence as they were less involved in supervisory work. ● There was another suggestion that if a PMP had the relevant certificate or equivalent academic qualifications and had completed relevant continuing professional development ("CPD") courses for a certain number of hours, he/she should be granted | <ul style="list-style-type: none"> ● The licensing requirements for PMP licences will be stipulated in the subsidiary legislation. Our initial proposal is that the licensing requirements for PMP (Tier 2) licence should include - <ul style="list-style-type: none"> (i) holding a diploma or sub-degree in a property management related subject specified by the PMSA or equivalent; (ii) having at least two years of relevant working experience in property management in Hong Kong; or having at least one year of relevant working |

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| | <p>a PMP (Tier 2) licence, without the need to take any examinations. For those PMPs who had supervisory experience but did not have the required academic attainment, they should be granted PMP (Tier 2) licences after completing CPD courses for a certain number of hours depending on their years of service in the industry and should not be required to take any examinations.</p> <ul style="list-style-type: none"> ● It was also suggested that a class of Probationary Licence should be created and issued to those people who did not possess the necessary qualifications to obtain a PMP (Tier 2) licence so as to give them the opportunity to join the industry. The initial period for the Probationary Licence should be three years and could be extended to a maximum of another three years subject to PMSA's discretion. | <p>experience in property management in Hong Kong if the applicant has worked under the supervision of a PMP (Tier 1) licence holder;</p> <p>(iii) whether the applicant is a suitable person (considerations: criminal records, bankruptcy, etc.)</p> <ul style="list-style-type: none"> ● We will give due consideration to the views of the Advisory Committee and other stakeholders when drafting the subsidiary legislation. ● We consider that the academic qualifications proposed are the least requirements for obtaining PMP licences. We will give due consideration to the views of the Advisory Committee and other stakeholders in stipulating the detailed licensing requirements when drafting the subsidiary legislation. ● Besides, in general, fresh graduates would not normally be appointed as property management managers or officers upon joining PMCs. After working as assistants to experienced property management managers for some time, they will accumulate the relevant experience required for applying PMP licence. They can also acquire the necessary academic qualifications in the |

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| | | meantime. |
| (e) Composition and functions of PMSA | | |
| <ul style="list-style-type: none"> ● Chartered Institute of Housing Asian Pacific Branch ● Hong Kong Institute of Real Estate Administrators ● Housing Managers Registration Board ● Mr YEUNG Wai-sing, Eastern District Council Member ● The Hong Kong Association of Property Management Companies ● The Hong Kong Institute of Housing ● The Hong Kong Institute of Surveyors | <ul style="list-style-type: none"> ● The deputations suggested that the proportion of representatives of PMPs or members of the relevant professional bodies in PMSA and its disciplinary panel (including investigating committee, appeal panel and appeal tribunal) be increased. They considered that this would help PMSA to have a clearer insight of the operation of the industry and assist the disciplinary panel in handling the complaint cases received in a fair and proper manner. The deputations had raised various suggestions on the proportion of representatives of PMPs/ members of the relevant professional bodies in PMSA and its disciplinary panel, ranging from one third of the membership to 50% of the membership. | <ul style="list-style-type: none"> ● The PMSA will include members representing different categories of stakeholders to strike a balance between protecting the interests of the industry and those of owners and the general public. ● In appointing the Chairman and members of the appeal panel, the Secretary for Home Affairs (SHA) will appoint individuals with relevant background to ensure all cases are handled in a fair, impartial and independent manner. |
| <ul style="list-style-type: none"> ● The Federation of Hong Kong Property Management Industry | <ul style="list-style-type: none"> ● The deputation noted that PMSA would consist of the Chairperson, the Vice-chairperson and not more than 18 ordinary | |

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| Limited | <p>members from the following three categories of individuals - (a) individuals who were engaged in property management services, taking up about one-fourth of the ordinary members of PMSA; (b) individuals who had experience in the relevant fields related to property management, general administration or consumer affairs, taking up also about one-fourth of the ordinary members of PMSA; and (c) other individuals who appeared to the Chief Executive to be suitable for appointment as members, taking up at least 50% of the ordinary members. The deputation suggested that at least 50% of the members of PMSA should be persons belonging to category (a); and persons belonging to categories (b) and (c) would each take up about 25% of the members of PMSA.</p> | |
| <ul style="list-style-type: none"> ● Hong Kong Institute of Real Estate Administrators ● The Hong Kong Institute of Housing ● The Hong Kong Institute of Surveyors | <ul style="list-style-type: none"> ● Some deputations suggested that a mediation mechanism should be introduced during the appeal process. There was another suggestion that a referral mechanism should be established by which PMSA would refer individual cases to other Government departments | <ul style="list-style-type: none"> ● As regards matters involving criminal offences and professional misconduct or negligence on the part of the PMCs and PMPs set out in the Bill, we consider it inappropriate to resolve the conflicts through mediation. |

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| | (e.g. the Independent Commission Against Corruption and the Hong Kong Police) to follow up where necessary. | |
| <ul style="list-style-type: none"> Greater China Institute of Property Management | <ul style="list-style-type: none"> The deputation suggested that PMCs and PMPs could lodge complaints against owners' organizations and property owners with PMSA. | <ul style="list-style-type: none"> Since owners' organisations and owners are not regulated by the Bill, we do not recommend the PMSA to handle complaints against owners' organisations and owners lodged by PMCs and PMPs. |
| <ul style="list-style-type: none"> The Democratic Party | <ul style="list-style-type: none"> The deputation suggested that the Administration should consider whether PMSA would provide support services to assist owners' corporations ("OCs") and management committees of OCs in discharging their building management responsibilities. | <ul style="list-style-type: none"> The Government has all along been playing the role of a "facilitator" in building management and providing appropriate support to assist owners in discharging their building management responsibilities. Such assistance and support rendered by the staff of HAD include visiting the owners of those buildings which have not yet established their OCs so as to encourage them to set up OCs, attending OC meetings upon invitation and handling enquiries on building management matters. To foster a good building management culture, various initiatives such as the Resident Liaison Ambassador Scheme, the Building Management Professional Advisory Service Scheme, the Panel of Advisors on Building Management Disputes and the "AP Easy" Building Maintenance Advisory Service |

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| | | Scheme have been implemented by HAD in recent years to provide all-round support to owners and OCs. |
| (f) Transitional Period | | |
| <ul style="list-style-type: none"> ● The Federation of Hong Kong Property Management Industry Limited ● The Hong Kong Institute of Facility Management Ltd. | <ul style="list-style-type: none"> ● While there was a view that a transitional period of six years should be provided, there was another view that a transitional period of 36 months proposed in the Bill was reasonable. | <ul style="list-style-type: none"> ● There will be a three-year transitional period after the enactment of the principal ordinance and subsidiary legislation to allow time for the existing PMCs and PMPs to prepare themselves to migrate to the new licensing regime smoothly. Experienced PMPs meeting certain basic requirements will be granted provisional licences during the transitional period. They will be allowed three years to complete continuing professional education courses so that they can be granted formal licences by the PMSA upon expiry of the provisional licences. ● If a PMP applies to PMSA for a provisional licence near the end of the three-year transitional period, there will be about six years' preparation time. |
| (g) Provisional Licence | | |
| <ul style="list-style-type: none"> ● The Hong Kong Institute of Facility | <ul style="list-style-type: none"> ● There was a view that if PMCs which were currently in operation and the in-service | <ul style="list-style-type: none"> ● PMPs meeting the criteria may apply for formal licences after the commencement of the |

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| Management Ltd. <ul style="list-style-type: none"> The Hong Kong Institute of Surveyors | PMPs could meet the licensing criteria, they should be granted the formal licences, instead of provisional licences. | legislation. For PMC licences, there is no distinction between provisional licences and formal licences. |
| (h) Penalty | | |
| <ul style="list-style-type: none"> The Property Owners Anti-Bid Rigging Alliance | <ul style="list-style-type: none"> The deputation suggested PMSA to consider introducing a demerit points system and to seriously punish those PMCs and PMPs which/who had participated in bid-rigging practices by making orders to revoke their licences. | <ul style="list-style-type: none"> The PMSA will take disciplinary action against PMCs and PMPs breaching the legislative requirements or the codes of conduct according to the gravity of the breach. The level of punishment ranges from verbal/written warning, suspension/revocation of licence to a fine. |
| <ul style="list-style-type: none"> The Federation of Hong Kong Property Management Industry Limited | <ul style="list-style-type: none"> The deputation suggested that if PMSA had made an order revoking the licence of a PMC, there should be a three-month period for the PMC concerned to lodge an appeal. During the appeal period, the licence of the PMC concerned was still valid for operation so as to ensure that there was no disruption of services to its clients. | <ul style="list-style-type: none"> Clause 33(2) of the Bill stipulates that a notice of appeal can be lodged within 21 days after receiving notice of the decision from the PMSA. Under clause 38 of the Bill, SHA may prescribe by regulation the procedures for the hearing of appeals. We will formulate the details when drafting the regulation. Under clause 25(4) of the Bill, disciplinary orders made by the PMSA (including verbal warning, written reprimand, and suspension and revocation of licence) take effect on the date the order is made or on a later date specified by the PMSA. According to clause 25(5) of the Bill, |

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| | | <p>the arrangement provided under clause 25(4) applies even if the licensee has lodged a notice of appeal or the time for lodging the notice of appeal has not expired. We believe that the PMSA will consider carefully when deciding the effective date of disciplinary orders for suspension or revocation of licences.</p> <ul style="list-style-type: none"> ● In making a decision to revoke, suspend or not to renew a PMC licence, the PMSA will allow sufficient notification time for the PMC concerned and the owners affected. |
| (i) Licence fees | | |
| <ul style="list-style-type: none"> ● The Hong Kong Institute of Surveyors ● Hong Kong Institute of Real Estate Administrators ● The Hong Kong Institute of Housing | <ul style="list-style-type: none"> ● The deputations had raised various views on the level of licence fees. There was a view that the licence fees should not be higher than that of the membership fees of the relevant professional bodies. ● There was a suggestion that the annual licence fees for a licensed PMC, a licensed PMP (Tier 1) and a licensed PM (Tier 2) should be \$2,200, \$400 and \$200 respectively. | <ul style="list-style-type: none"> ● We consider that the acceptable level of annual licence fee for a PMC should be around \$6,000 while that for a PMP should be around \$400 (Tier 2) to \$1,200 (Tier 1). |

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| (j) Provision of training to practitioners | | |
| <ul style="list-style-type: none"> ● Chartered Institute of Housing Asian Pacific Branch ● Housing Managers Registration Board ● Royal Institution of Chartered Surveyors Hong Kong ● The Hong Kong Association of Property Management Companies ● The Hong Kong Institute of Facility Management Ltd. ● The Hong Kong Institute of Housing ● The Hong Kong Institute of Surveyors | <ul style="list-style-type: none"> ● The deputations recommended that the Government should provide more subsidies to academic institutions for the provision of more property management related courses. Direct subsidies for PMPs or potential PMPs could encourage them to elevate their academic qualifications in managing buildings with safety and quality. ● There was a view that the early announcement of the training/bridging arrangements could alleviate the concerns of the in-service PMPs, in particular those who were worried about their eligibility for obtaining the PMP licences. | <ul style="list-style-type: none"> ● On promoting the development of the industry, the PMSA will: <ul style="list-style-type: none"> (i) collaborate with the relevant professional bodies and tertiary institutions to ensure that there is adequate training provided for PMPs to meet the licensing requirements; and (ii) organise publicity and education programmes to facilitate the industry's understanding of the requirements of the licensing regime and to promote the regime to the public. ● Upon establishment, the PMSA will discuss the details with the professional bodies and tertiary institutions. ● There will be a three-year transitional period after the enactment of the principal ordinance and subsidiary legislation to allow time for the existing PMPs and PMCs to prepare themselves to migrate to the new licensing regime smoothly. Experienced PMPs meeting certain |

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| | | <p>basic requirements will be granted provisional licences during the transitional period. They will be allowed three years to complete continuing professional education courses so that they can be granted formal licences by the PMSA upon expiry of the provisional licences.</p> <ul style="list-style-type: none"> ● We will make reference to the prevailing requirements of the relevant professional bodies on continuing professional development for their members, such as attending seminars and short courses in the form of talks. The PMSA will maintain close communication with the relevant professional bodies and tertiary institutions in future to ensure that adequate courses are offered to PMPs. |
| <ul style="list-style-type: none"> ● The Federation of Hong Kong Property Management Industry Limited | <ul style="list-style-type: none"> ● The deputation suggested that the Government should set up a fund to provide subsidies to practitioners and compensation to companies to cover their financial loss due to the enactment of the Bill. Its initial suggestion was that the Government should subsidize 100% of the CPD course fees paid by PMPs, out of which 60% would be paid to employees and 40% to the employers. | <ul style="list-style-type: none"> ● On promoting the development of the industry, the PMSA will - <ul style="list-style-type: none"> (i) collaborate with relevant professional bodies and tertiary institutions to ensure that there is adequate training provided for PMPs to meet the licensing requirements; and (ii) organise publicity and educational programmes to facilitate the industry's |

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| | | <p>understanding of the requirements of the licensing regime and to promote the regime to the public.</p> <ul style="list-style-type: none"> ● Upon establishment, the PMSA will discuss the details with the professional bodies and tertiary institutions. |
| (k) Consultation with the stakeholders | | |
| <ul style="list-style-type: none"> ● Chartered Institute of Housing Asian Pacific Branch ● The Democratic Party ● Housing Managers Registration Board ● Royal Institution of Chartered Surveyors Hong Kong ● The Federation of Hong Kong Property Management Industry Limited ● The Hong Kong Association of Property Management Companies | <ul style="list-style-type: none"> ● The deputations noted that many details of the licensing regime, such as licensing criteria and specific requirements on preparation of budget, keeping of financial statements, etc. were to be addressed in subsidiary legislation. They considered that an early and thorough consultation with stakeholders should be conducted when the subsidiary legislation and the relevant Code of Conduct were drafted. | <ul style="list-style-type: none"> ● We will give due consideration to the views of the Advisory Committee and other stakeholders when drafting the subsidiary legislation. |

| Deputation/individual | Major views and concerns | Administration's response |
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| <ul style="list-style-type: none"> ● The Hong Kong Institute of Facility Management Ltd. ● The Hong Kong Institute of Housing ● The Hong Kong Institute of Surveyors | | |
| (I) Other issues | | |
| <ul style="list-style-type: none"> ● MTR Corporation Limited | <ul style="list-style-type: none"> ● The deputation had raised a number of concerns relating to the Bill and sought clarifications on some scenarios as detailed in its submission (see LC Paper No. CB(2)2060/13-14(10)). | <ul style="list-style-type: none"> ● Please see the <u>Annex</u> for our response to the concerns of the MTR Corporation Limited. |

| <u>Name of Organization / individual</u> | <u>Submission (LC Paper No.)</u> |
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| Chartered Institute of Housing Asian Pacific Branch | LC Paper No. CB(2)2060/13-14(08); and LC Paper No. CB(2)2060/13-14(03) |
| Civic Party | LC Paper No. CB(2)2116/13-14(01) |
| Greater China Institute of Property Management | LC Paper No. CB(2)2060/13-14(06) |
| Hong Kong Institute of Real Estate Administrators | LC Paper No. CB(2)2060/13-14(12) |
| Housing Managers Registration Board | LC Paper No. CB(2)2060/13-14(04); and LC Paper No. CB(2)2060/13-14(03) |
| Mr YEUNG Wai-sing, Eastern District Council Member | LC Paper No. CB(2)2089/13-14(04) |
| MTR Corporation Limited | LC Paper No. CB(2)2060/13-14(10) |
| Royal Institution of Chartered Surveyors Hong Kong | LC Paper No. CB(2)2060/13-14(03) |
| The Federation of Hong Kong Property Management Industry Limited | LC Paper No. CB(2)2060/13-14(11) |
| The Hong Kong Association of Property Management Companies | LC Paper No. CB(2)2060/13-14(05); and LC Paper No. CB(2)2060/13-14(03) |
| The Hong Kong Institute of Facility Management Ltd. | LC Paper No. CB(2)2060/13-14(03); and LC Paper No. CB(2)2089/13-14(02) |
| The Hong Kong Institute of Housing | LC Paper No. CB(2)2060/13-14(02); and LC Paper No. CB(2)2060/13-14(03) |
| The Hong Kong Institute of Surveyors | LC Paper No. CB(2)2060/13-14(09); and LC Paper No. CB(2)2060/13-14(03) |
| The Incorporated Owners of Fung Wah Estate | LC Paper No. CB(2)2060/13-14(07) |
| The Incorporated Owners of Fu Tor Loy Sun Chuen (Phase 1) | LC Paper No. CB(2)2089/13-14(01) |
| The Property Owners Anti-Bid Rigging Alliance | LC Paper No. CB(2)2116/13-14(03) |

Response to Concerns of MTR Corporation Limited

| Concerns of MTR Corporation Limited | Response |
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| <ul style="list-style-type: none"> ● Is a deed of mutual covenant (DMC) manager who is not responsible for the actual management and commissions another PMC for the work required to obtain a PMC licence? ● Is a PMC undertaking the actual management but is not the DMC manager required to obtain a PMC licence? ● Will the shareholding structure of the company affect the response to the above questions? ● Is the DMC manager liable for fault of the PMC it commissioned? | <ul style="list-style-type: none"> ● Under the Bill, “property management company” means the business entity of a company, partnership or sole proprietorship that carries on the business of providing property management services, while “property management service” means any service prescribed by the PMSA according to the categories of services set out in Schedule 1. Clause 7 of the Bill stipulates that PMCs which provide a single type of service will not be required to obtain a licence. ● In view of the above, DMC managers falling within the definition of “property management company” in the Bill will be required to obtain a PMC licence. ● In determining whether a PMC has contravened the law or the codes of conduct, the court and/or PMSA will consider the actual circumstances of each case. |
| <ul style="list-style-type: none"> ● If Company A is the parent company of Company X, can Company X be deemed to have met the PMC licence requirement in respect of the number of licensed PMPs through secondment of licensed PMPs from Company A? ● If such secondment is allowed, how is the actual number of licensed PMPs engaged by each company calculated? | <ul style="list-style-type: none"> ● Under clause 2 of the Bill, “property management practitioner” is defined as an individual who assumes a managerial or supervisory role <u>in a PMC</u> in relation to property management services provided by the company. ● Regarding the requirement in respect of the minimum number of practitioners holding PMP licences under PMCs, our initial proposal is that each licensed PMC is required to engage at least three practitioners holding |

| Concerns of MTR Corporation Limited | Response |
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| | <p>either a PMP (Tier 1) licence or PMP (Tier 2) licence. The PMP holding Tier 1 licence may be engaged by the PMC on a part-time basis, but the other two PMPs must be engaged by the PMC on a full-time basis.</p> |
| <ul style="list-style-type: none"> ● If the commercial portion of a development is solely owned and managed by Company A, will Company A and its employees be required to obtain the relevant licences under the Bill? ● Regarding the above-mentioned commercial portion: <ul style="list-style-type: none"> (i) if Company A shares the revenue with other entities, will Company A and its employees be required to obtain the relevant licences under the Bill? (ii) if Company A commissions Company B for property management services, will both companies be required to obtain the relevant licences under the Bill? (iii) if the commercial portion is jointly owned by Company A and Company B, will the response to the question in part (ii) be different? | <ul style="list-style-type: none"> ● Under the Bill, a PMC providing property management services to a building with “shared ownership” will be required to obtain a licence. ● The definition of a building with “shared ownership” will be the same as that of “building” under the BMO. Such building will have a DMC because multiple ownership is involved. ● If the property is owned by a single owner and multiple ownership is not involved and that the building does not have a DMC, the PMC responsible for management is not required to obtain a licence. ● On the other hand, if the building is of “shared ownership”, according to clause 7(4) of the Bill, owners who are individuals managing the buildings on their own will be exempted from obtaining a licence while owners which are companies will not be exempted. ● Whether a company is required to obtain a licence does not hinge on its shareholding relationship with other companies or whether it has shared revenue with other |

| Concerns of MTR Corporation Limited | Response |
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| | <p>companies, rather it depends on whether the company falls within the definition of PMC under clause 2 of the Bill, i.e. “a business entity (whether a company, partnership or sole proprietorship) that carries on the business of providing property management services”.</p> |
| <ul style="list-style-type: none"> ● Company X is a corporation operating various businesses in Hong Kong and overseas. It is also the DMC manager of Development I. <ul style="list-style-type: none"> (i) If Company X is required to obtain a PMC licence, will the revocation of the PMC licence affect its other businesses? (ii) Company X is the DMC manager of ten developments. If it contravenes the regulation in one development and its PMC licence is suspended, will this affect its provision of property management services to the other nine developments? (iii) If Company X has commissioned ten different PMCs to provide property management services to the developments, will this affect the response to part (ii)? (iv) Regarding part (ii), if Company X cannot continue to act as the DMC manager, what will be the consequences? | <ul style="list-style-type: none"> ● If Company X holds a PMC licence and provides property management services to more than one development, it cannot continue to provide such services when its PMC licence is revoked. ● In making a decision to revoke, suspend or not to renew a PMC licence, PMSA will allow sufficient notification time for the PMC concerned and the owners affected. ● Under normal circumstances, the revocation of PMC licence only means that the company cannot continue to provide property management services. The provision of other services is not affected. |

| Concerns of MTR Corporation Limited | Response |
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| <ul style="list-style-type: none"> ● If the PMP licence of a staff is revoked, does the PMC have the right to terminate his/her employment for this reason? | <ul style="list-style-type: none"> ● This hinges on the employment contract between the employer and employee. The Bill does not govern employment matters. The PMCs concerned should seek their own legal advice. |
| <ul style="list-style-type: none"> ● Is a PMC obliged to provide any internal information or documents if so requested by an investigator appointed by the PMSA under clause 21(2) of the Bill? ● Is a PMC obliged to provide assistance if a licensed PMP engaged by the PMC is under investigation? | <ul style="list-style-type: none"> ● Under clause 22(1) of the Bill, a person commits an offence if the person, without reasonable excuse, fails to comply with a requirement of a notice given to the person under clause 21(2). |
| <ul style="list-style-type: none"> ● How to determine whether a PMP is “an individual who assumes a managerial or supervisory role in a PMC in relation to property management services provided by the company” and is required to obtain a PMP licence? | <ul style="list-style-type: none"> ● The PMSA will stipulate the details in the subsidiary legislation and the codes of conduct. ● Our initial thinking is that the PMSA will specify in the codes of conduct the suggested ratio of the number of Tier 1 and Tier 2 licensed PMPs to the number of flats or area being managed. PMCs must engage the number of Tier 1 and Tier 2 licensed PMPs corresponding to the number of flats or area they manage. |
| <ul style="list-style-type: none"> ● Is it necessary to follow the procedures under section 20A of the BMO if the DMC manager commissions another company to provide property management services? In case a licensed PMP becomes a mentally incapacitated person after obtaining the licence and the licence is revoked, can the employer | <ul style="list-style-type: none"> ● This is outside the scope of regulation of the Bill. The PMC should seek its own legal advice. |

| Concerns of MTR Corporation Limited | Response |
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| dismiss the PMP for this reason? Would this contravene any ordinances related to discrimination? | |
| <ul style="list-style-type: none"> Does the information to be provided by a PMC under clause 16(3) of the Bill refer to the accounts of the PMC or budget and accounts of the estates it manages? | <ul style="list-style-type: none"> “Information that relates to the property management services provided by a licensed PMC to the PMC’s clients” under clause 16 of the Bill refers to accounts and information of the estates managed by the PMC. |
| <ul style="list-style-type: none"> Clause 16 of the Bill stipulates the duty of licensed PMCs to provide information to clients. It is suggested that a clear definition of “client” should be given. | <ul style="list-style-type: none"> “Client” refers to the service target of a PMC. The subsidiary legislation and the codes of conduct will stipulate how to ensure owners’ access to the information provided by PMCs. |
| <ul style="list-style-type: none"> Who should bear the costs incurred in the provision of the prescribed information to the clients by licensed PMCs? | <ul style="list-style-type: none"> Clause 16(2) in the present form does not empower the PMSA to make regulations relating to the burden of cost for providing the prescribed information. Paragraph 1(7) of Schedule 7 to the BMO provides that if any owner requests in writing the manager to supply him with a copy of any draft budget, budget or revised budget, the manager shall, on payment of a reasonable copying charge, supply a copy to that owner. Paragraph 2(5) of Schedule 7 to the BMO provides that the manager shall permit any owner, at any reasonable time, to inspect the books or records of account and any income and expenditure account or balance sheet, and on payment of a reasonable copying charge, supply any owner with a copy of any record or document requested by him. With reference to similar provisions in the BMO, we will |

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| | consider making necessary amendments to the legislation. |