

**The Administration's response to the matters raised
at the meeting of the Bills Committee
on the Property Management Services Bill
held on 15 October 2014**

Purpose

At the meeting on 15 October 2014, Members of the Bills Committee requested the Administration to provide information on the following issues –

- (a) to provide a detailed analysis on –
 - (i) the profile of the existing buildings which were managed by owners' corporations (OCs) or other forms of owners' organisations without engaging property management companies (PMCs); and
 - (ii) the views received during the public consultation exercise on the regulation of the property management industry regarding whether owner's organisations or individual owners managing their own buildings without engaging PMCs should be required to obtain licences.
- (b) to respond to the suggestion that an upper limit should be imposed on the number of property units that could be self-managed by the OCs or owners' organisations without having to obtain licences under the Property Management Services Bill (the Bill).
- (c) to respond to the suggestion that permanent PMP licences should be granted to experienced in-service property management practitioners (PMPs) without requiring them to obtain the required academic qualifications or to complete the relevant continuing professional development (CPD) course and advise on whether there are any proposals other than the completion of CPD courses to facilitate existing PMPs' transition into the new licensing regime.
- (d) to consider introducing a multi-tier licensing regime for PMCs.

- (e) to provide information on existing assistance available to owners of “three-nil” buildings.

This paper sets out the response of the Administration.

Profile of Buildings managed by OCs or Other Forms of Owners’ Organisations Without Engaging PMCs

2. At present, there are around 8 500 buildings which are managed by OCs or other forms of owners’ organisations without engaging PMCs. Among those buildings, around 69% are single tenement buildings and around 31% of such OCs or owners’ organisations are managing more than one block of building. The number of units for those buildings, broken down by single tenement buildings and OCs or owners’ organisations managing more than one block of building, are detailed in the table below –

<u>No. of Units</u>	<u>No. of Single Tenement Building</u>	<u>OCs or Owners’ Organisation Managing More Than One Block</u> ^{Note}
Less than 50 units	82%	57%
Less than 100 units	94%	72%
101 units or more	6%	28%

Note: For those OCs or owners’ organisations managing more than one block of building, many are developments in the New Territories comprising a few blocks of three-storey village-type houses. Examples include Kam Sau Terrace in Tai Po and Star Terrace (Phase 1) in Sai Kung. Each block of the village-type house is counted as one building.

Views Received During the Public Consultation Exercise

3. During the public consultation exercise on the regulation of the property management industry, we met OCs and other types of owners’ organisations managing their own properties without engaging PMCs to gauge their views on the licensing regime. They are all strongly against the requirement for them to obtain any licences.

4. At the meeting of the Legislative Council Panel on Home Affairs (HA Panel) held on 8 July 2011, we briefed Members on the outcome of the public consultation exercise and the key parameters of the proposed regulatory framework for the property management industry. Members noted the strong objection of OCs or other types of owners' organisations managing their own properties to obtain licence under the licensing regime. Reasons of their strong objection are as follows –

- (a) since members of the management committee (MC) are serving on a pro bono basis, it would be unfair to subject them to personal legal liabilities under the licensing regime;
- (b) for many OCs, nearly all MC members are elderly and would not have the capability to take training courses to meet the licensing requirements; and
- (c) buildings under self-management are usually old single tenement buildings with a small number of flats, which require only some basic building management knowledge. Owners of such buildings do not engage any PMCs for cost consideration and they cannot afford to employ a licensed PMC. Any increase in management fees would be too harsh for the owners, most of whom are elderly people.

The report on the public consultation and the written submissions could be viewed at http://www.buildingmgt.gov.hk/en/regulation_of_property_management/13.htm.

5. We are mindful of the need to strike a proper balance between OCs' concerns and ensuring the standard of property management. Having carefully considered all factors, we proposed and Members supported that OCs managing their own properties without engaging PMCs should not fall within the scope of the licensing regime.

Response to the Suggestion to Impose an Upper Limit on the Number of Property Units that could be Self-managed

6. The Long Title of the Bill provides that the purpose of the Bill is to provide for the licensing of business entities and individuals engaged in the business of providing property management services. It is not the legislative intent of the Bill to regulate the operation of OCs. The legal

basis for the formation and operation of OCs is provided for in the Building Management Ordinance (Cap. 344) (BMO).

7. As MC members serve on a pro bono basis, it would be unfair to subject them to personal legal liabilities under the licensing regime. Furthermore, there would be practical constraint in imposing the licensing criteria on the operation of an OC. For instance, a PMC has to fulfil criteria such as the minimum number of directors and employees holding PMP licences.

8. If OCs of self-managed buildings are required to obtain licences under the regulatory regime, owners may be reluctant to take up the posts in the MC as they do not wish to be subject to personal legal liabilities. Owners of buildings which are currently paying low self-management cost may have no choice but to hire PMCs at much higher prices. In one of the cases in the Yau Tsim Mong District, for two single tenement buildings with the same number of units and facility, the monthly management fee per household for hiring a PMC to provide property management services is five times more expensive than self-management by the OC. For those owners who are not willing to pay the extra cost, their buildings will become “three-nil” buildings without any building management at all.

9. The operation of the OCs should be regulated by the BMO but not the Bill. To cope with the changing needs and circumstances of building management, the Government has established the Review Committee on the Building Management Ordinance to conduct a comprehensive review of the BMO. We would soon consult the public and stakeholders on proposed legislative amendments to the BMO later this year.

Transitional Arrangements for PMPs

10. There will be a three-year transitional period after the enactment of the principal ordinance and subsidiary legislation in order to allow sufficient time for the PMCs and PMPs to prepare themselves to migrate to the new licensing system smoothly.

11. In order to facilitate those experienced PMPs with lower level of formal qualifications to adapt to the new licensing system, experienced PMPs meeting certain basic requirements will be granted provisional

licences during the three-year transitional period. They will be allowed three years to attend CPD courses before they are granted formal licences.

12. To facilitate provisional PMP licence holders to obtain the formal PMP licences, the Property Management Services Authority (PMSA) may consider accepting PMPs to attend interview or to submit dissertations or reports (similar to the practice of relevant professional bodies) in lieu of attending CPD courses.

Single-tier Licensing Regime for PMCs

13. As stated in paragraph 4 above, at the HA Panel meeting held on 8 July 2011, we briefed Members on the outcome of the public consultation exercise and the key parameters of the proposed regulatory framework for the property management industry. There are some concerns, in particular among the small-to-medium sized PMCs (i.e. about 60% of the total number of PMCs in Hong Kong), on the proposal of a multi-tier licensing regime at the company level. They were worried that a multi-tier licensing regime would have a strong labelling effect, since the general public tended to perceive PMCs possessing an upper-tier licence, which would mostly be larger PMCs, to be able to provide better quality services, and small-to-medium sized PMCs would thus be disadvantaged. Small-to-medium sized PMCs also considered that property owners already had the capability to set their own requirements in tender documents. The Government should not create a multi-tier system arbitrarily.

14. Having considered all the views and arguments, we proposed and Members generally supported that a single-tier licensing regime for PMCs supported by the availability of transparent information would be the best option as it strikes a balance between providing a level playing field to PMCs of different sizes and facilitating consumer choices. Detailed justifications are –

- (a) a multi-tier licensing regime would create or reinforce a labelling effect. It would also create rigidity and restrictions on the types of developments that the small-to-medium sized PMCs could serve, which in turn may reduce the scope of business for these companies. This would run contrary to our guiding principle to facilitate the development of a healthy and competitive property management industry.

- (b) the objective of facilitating consumers in making informed choices on PMCs could be achieved by ensuring open access to essential information on the PMCs. Clause 13(2) of the Bill provides that the PMC register must, for each licensed PMC, contain the number (given in the form of a range) of licensed PMPs employed by the PMC and the number (given in the form of a range) of residential units for which property management services are provided by the PMC. Such information will be available at the offices of the PMSA and on the Internet.

Assistance to Owners of “Three-nil” Buildings

15. The Government has been actively promoting the proper management of private buildings by their owners. The Home Affairs Department (HAD) has set up District Building Management Liaison Teams in 18 districts to provide owners with dedicated support and assistance in dealing with building management matters, and a wide range of support services.

16. To further support buildings which do not have any OCs, residents’ organisations or PMCs (commonly known as “three-nil” buildings), HAD has launched various new targeted schemes to provide comprehensive and intensive support for owners of those buildings in recent years. Details are in the ensuing paragraphs.

Building Management Professional Advisory Service Scheme

17. To enhance the support for owners of old buildings, the Building Management Professional Advisory Service Scheme (BMPASS) was first launched by HAD in November 2011 to commission PMCs to provide free dedicated support to old “three-nil” buildings with low rateable values.

18. The PMCs provided owners with one-stop professional advice and follow-up services having regard to the circumstances and the needs of the target buildings. The scope of services included: conducting household visits to individual units of the target buildings to make direct contact with the owners, preparing management audit reports for the common areas (such as external walls, water pipes, drains, electricity and water supply systems, fire services and lighting equipment) of the

buildings, assisting in forming OCs, attending OC meetings to provide professional advice and supporting secretarial services, assisting OCs in applying for various subsidy or loan schemes and following up maintenance works and tender documents, assisting OCs in procuring third party risks insurance, and providing building management training to office-bearers of OCs and other owners.

19. Phase I of the BMPASS was completed in March 2014. During the service period, PMCs prepared management audit reports on the common areas for all 1 200 target buildings and formed or re-activated 157 OCs. In addition, PMCs have assisted 111 OCs to apply for subsidies for building maintenance and 86 OCs to appoint Authorised Persons or contractors for maintenance works. The results far exceed the target of the Scheme.

20. The BMPASS is well-received by owners of the target buildings and the local community in assisting owners of old buildings to improve building management, living environment and building safety. In view of the promising achievements, HAD launched Phase II of the BMPASS in April 2014 to provide support to a further 1 200 “three-nil” buildings for three years.

Resident Liaison Ambassador Scheme

21. Noting that old buildings involve great difficulties in forming OCs and managing as the majority of owners are not living in the buildings concerned, the HAD rolled out the Resident Liaison Ambassador (RLA) Scheme in November 2011 with a view to encouraging owners and residents to work together to assist in improving building management and living environment, as well as serving as a bridge between government departments and residents. HAD arranges talks and activities on building management for the RLAs from time to time to enhance their understanding of and interest in building management, thereby facilitating them to form OCs in future. So far, we have successfully recruited over 1 600 RLAs from more than 770 “three-nil” buildings in various districts. With the active promotion by RLAs, a total of 92 new OCs have been formed.

Community Care Fund - Subsidy for Owners' Corporations of Old Buildings

22. In order to enhance support to owners of old buildings with low rateable values to improve their building management, HAD has launched a subsidy programme under the Community Care Fund to provide OCs of these buildings with financial subsidies to foster better building management and encourage more owners of “three-nil” buildings to form OCs.

23. The subsidy programme is implemented for three years from October 2012. Eligible OCs¹ may apply for subsidy on an accountable basis in respect of the following items during the implementation period –

- (a) fees paid by OCs for registration or filing of any document with the Land Registry as required by the BMO;
- (b) expenses on procurement of third party risks insurance;
- (c) expenses on regular inspection of fire services and electrical equipment; and
- (d) expenses on clearance of fire escapes.

24. OCs may apply for a maximum subsidy of \$20,000 during the implementation period. It is estimated that around 70% (i.e. around 3 000) of the 4 500 eligible OCs will apply for the subsidy. Since the implementation of the programme, about 2 900 OCs have indicated their interest to apply in writing, and HAD has already approved about 1 500 application with a total subsidy amount of \$6.3 million.

Provision of theme talks and briefings on building management

25. To enhance owners’ and residents’ understanding of the building management, HAD and the PMCs assisting to implement the BMPASS organise theme talks and briefings for owners and residents, inviting professionals or representatives of government departments concerned to provide information and advice on matters in relation to building management, such as the procedures for the formation of OCs,

¹ The targets of the programme are residential or composite buildings aged 30 years or above which have formed OCs. The annual average rateable value of the residential units of buildings in urban areas (including Sha Tin, Kwai Tsing and Tsuen Wan) shall not exceed \$120,000 while that of buildings in the New Territories shall not exceed \$92,000.

follow-up action on orders or directions relating to building renovation or fire safety issued by Buildings Department or Fire Services Department, and building maintenance subsidies.

Handling of disputes

26. If disputes case arises from amongst owners and residents of “three-nil” buildings on building management, HAD encourages parties concerned to resolve their conflicts through enhanced communication. In case of complicated disputes cases, HAD will refer it to a dedicated Panel of Advisors on Building Management Dispute, comprising solicitors, accountants, surveyors, architects and building management professionals, etc. The Panel will render impartial and professional advice to help resolve disputes from amongst disputing parties. If both sides agree, HAD may also refer them to free voluntary mediation services provided by professional mediation bodies.

**Home Affairs Department
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