

**The Administration's Response to  
the Submission from Mayer Brown JSM**

**Purpose**

This note sets out the response of the Administration to the following issues raised in Mayer Brown JSM's submission of 14 October 2014 on the Property Management Services Bill (the Bill) –

- (a) the Bill should be amended to include a specific exemption whereby the Bill does not apply to property management services provided by one associated company to another;
- (b) whether the current drafting of the Bill reflects the policy intent that the Bill should apply only to those developments which are subject to deed of mutual covenants (DMCs); and
- (c) whether the Bill applies only to the de facto manager of the building and not the named manager.

**Property Management Services Provided by One Associated Company to Another**

2. According to clause 2 of the Bill, property management company (PMC) means a business entity (whether a company, partnership or sole proprietorship) that carries on the business of providing property management services. Whether a company needs to obtain a PMC licence depends on –

- (a) whether the company carries on the business of providing property management services as defined under the Bill;
- (b) whether the company manages one or more developments that fall within the definition of “property” in clause 2 of the Bill; and
- (c) whether any of the exceptions in clause 7 of the Bill applies to the company.

3. The Administration does not see the need to make an exception to clause 6 of the Bill for the provision of property management services by a company to a property owned or held by another company within the same group of companies.

### **Exemption for Single Ownership Building**

4. To delineate the scope of application of the Bill, “property” under the Bill is defined as “building” under the Building Management Ordinance (Cap. 344) (BMO). According to the BMO, “building” means –

- (a) any building which contains any number of flats comprising 2 or more levels, including basements or underground parking areas;
- (b) any land upon which that building is erected; and
- (c) any other land (if any) which –
  - (i) is in common ownership with that building or land; or
  - (ii) in relation to the appointment of a management committee under section 3, 3A, 4 or 40C of the BMO or any application in respect thereof, is owned or held by any person for the common use, enjoyment and benefit (whether exclusively or otherwise) of the owners and occupiers of the flats in that building.

5. “Flat”, as referred to in paragraph 4(a) above, is further defined under the BMO to mean any premises in a building which are referred to in a DMC whether described therein as a flat or by any other name and whether used as a dwelling, shop, factory, office or for any other purpose, of which the owner, as between himself and owners or occupiers of other parts of the same building, is entitled to the exclusive possession.

6. By virtue of the definition of “flat”, buildings covered by the definition of “property” are limited to those buildings in respect of which a DMC is in effect.

## **Named Manager and De Facto Manager**

7. As explained in paragraph 2 above, a company that carries on the business of providing property management services to a development that falls within the definition of “property” is to be covered by the licensing regime under the Bill unless one of the exceptions under clause 7 applies, regardless of whether and how the company is described in a DMC.

**Home Affairs Department**  
**October 2014**