

**Islands District Council
Community Affairs, Culture and Recreation Committee**

**Public Consultation on Putting in Place a Regulatory Framework for
Property Management Industry**

PURPOSE

This paper briefs Members on the public consultation on putting in place a regulatory framework for the property management industry conducted by the Home Affairs Bureau and the Home Affairs Department.

BACKGROUND

2. There are currently no industry-wide basic requirements for property management companies (PMCs) and practitioners. The Chief Executive has announced in the Policy Address this year that the Government plans to establish a statutory licensing regime for the property management industry to monitor the operation of PMCs and ensure the quality of property management services.

3. We are consulting the public on the key parameters of the proposed regulatory regime, having regard to our policy objective of ensuring that owners have more choices of quality, effective and affordable property management services. Meanwhile, we shall ensure that :

- (a) the costs of property management should not be increased significantly;
- (b) there should not be a shortfall in the supply of PMCs/practitioners to meet the needs of the public; and
- (c) there should continue to be free entry to the industry without any monopoly.

NEED FOR A STATUTORY REGIME

4. At present, about 24 000 out of 40 000 private buildings are managed by PMCs. Another 9 000 buildings are managed by Owners' Corporations (OCs) or other forms of resident organisations. The remaining 7 000 buildings, mainly old tenement buildings, do not employ a PMC, and do not

have an OC or any form of resident organisation. In terms of building age, some 17 000 buildings are aged 30 years or above and some 4 000 buildings aged 50 years or above. For those buildings managed by PMCs or practitioners, unprofessional acts or malpractice of the management agent would adversely affect the safety and hygiene standards of the buildings. For buildings without any form of management, dilapidation poses hazards not only to occupants, but also the general public.

5. We consider that a statutory licensing regime will help set a basic benchmark of services for the industry, raise public awareness of the professionalism of PMCs and the importance of engaging a qualified PMC, and promote the concept of maintaining building safety and value through continuous effective building management. Empowering an authority or a government department to investigate complaints, impose penalties and take disciplinary action against non-compliant market players would help ensure the professional standard and uphold an industry-wide code of conduct.

6. Furthermore, other key elements of building management and maintenance have already been subject to statutory regulation. For example, individuals providing security work and companies offering security services to any property are regulated under a permit and a license system respectively. The maintenance and examination works of lifts and escalators by registered contractors and engineers are subject to statutory regulation. The registration system for contractors of minor works will commence within 2010. The regular inspection of old buildings and windows will soon be made mandatory by law. The absence of mandatory regulation of the property management industry is a missing link in the present regime of building management and maintenance.

SCOPE OF PUBLIC CONSULTATION

7. We have consulted the professional institutes and some other stakeholders concerned over the subject of enhanced regulation of the property management industry. The majority share the view that the current self-regulatory model is not adequate in promoting effective property management. Some stakeholders have however expressed concerns over certain implementation issues such as possible impact on management fees, compliance costs, loss of business or job, and time-frame for implementing changes. Before taking forward the proposed licensing regime, we need to consult the public on these key parameters of the proposed regulatory regime.

Regulation at Company Level or Individual Level or Both

8. According to our engagement exercise, there is a general consensus in the property management industry over licensing at the company level. However, the views on licensing at the individual level are mixed : those in favor consider that only licensing at both the company level and the individual level would ensure improvement of the service quality of the industry; those who have reservation consider that licensing at the individual level would bring unnecessary complexity in relation to the onus of responsibility, in light of the prevalent practice of team work and collective decision making process in the industry. We are open to different options provided that the policy objective and guiding principles set out in paragraph 3 can be achieved.

Single Universal Regime Vs Multi-tier Regime

9. Another concern is whether small and medium sized PMCs and experienced practitioners without formal qualification or training could meet the licensing requirements under the proposed licensing regime. One way to address this concern could be a two-tier (or multi-tier) regulatory regime : small and medium sized PMCs/practitioners who meet basic requirements shall be eligible for a licence at the lower tier, while upper tier licences will only be granted to those PMCs/practitioners who can meet a higher set of requirements regarding qualifications, financial capacity and experience. This would minimize the impact on the property management industry by enabling PMCs and practitioners with different qualifications and experience to continue to provide quality and affordable services for different types of buildings, ranging from single tenement buildings to large estates.

Scope of the Regulatory Regime

10. At the company level, we need to carefully consider whether all companies that provide property management related services in one or more functional areas of the industry should be regulated. If there is a second tier licence, we also need to consider the threshold of each tier, in terms of the maximum number of units to be managed by the licensee.

11. If it is decided that there should be regulation at the individual level as well, we need to carefully consider who should be regulated as well as the qualifications required of a licensed property manager, such as :

- (a) completion of recognised academic qualification;
- (b) a minimum length of service in the property management industry;
- (c) commitment to participating in a continuing professional development programme; and
- (d) commitment to complying with a code of conduct and code of practice.

12. If there were a second (or lower) tier licence, we would need to consider the threshold of each tier, in terms of the minimum level of academic qualification and working experience required. We also need to determine the minimum benchmark of competency to ensure quality on the one hand and avoid monopoly on the other.

Institutional Arrangements and Functions of the Regulatory Body

13. There are different possible institutional arrangements for the regulation of the property management industry. The regulatory body could be :

- (a) a government department similar to the Office of the Licensing Authority under the HAD; or
- (b) a statutory authority, like the Estate Agency Authority, under a Board to be appointed by the Chief Executive.

14. It is important that the regulatory body should command the trust and respect of the public and the property management industry and be an impartial body which takes account of the interests of the industry, building owners as well as the community at large.

15. As to the functions of the regulatory body, we envisage that the regulator will be empowered to establish a code of conduct and a code of practice, prescribe licensing requirements, deal with complaints and queries regarding members, prescribe penalties for breach of conduct and practice, and revoke or suspend licences. We would like to have the public views on whether the authority should be tasked to perform the role of an industry promoter, in addition to being a disciplinary body.

Costs of Compliance

16. We appreciate that there are some concerns as to whether the compliance costs under the proposed licensing regime would result in an increase in management fees, causing financial burden to owners. In this

regard, we have conducted a research on the application fees and/or annual fees of different professional bodies in various industries (e.g. estate agents, surveyors, engineers, architects and accountants). There is no evidence of substantial increase in service fees in these industries as a result of the compliance costs arising from the regulatory regimes concerned.

Transitional Period

17. We estimate that a lead time of about three years would be required for individual practitioners, should there be regulation at this level, to obtain the necessary qualifications, and for PMCs to gear up in terms of operation, manpower and capital requirements. We shall seek public views on whether a transitional period is required before full implementation of the licensing scheme, and if so, the length of this period, bearing in mind the guiding principles in paragraph 3 on the one hand, and the desirability of putting in place the proposed regulatory regime early on the other.

WAY FORWARD

18. We are conducting a public consultation from December 2010 to 15 March 2011. The consultation paper is at Annex I. We shall consult the 18 District Councils on the key parameters of the proposed regulatory framework, meet with the professional institutes concerned, PMCs of different sizes and conduct a number of public forums to gauge the views of management committee members and owners. After the conclusion of the public consultation, we shall analyse the views collected, and make a decision on the regulatory framework for the property management industry within the first half of 2011.

VIEWS SOUGHT

19. We welcome members' views on the consultation paper.

Home Affairs Bureau
Home Affairs Department
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