

LCQ16: Licensing regime for property management companies and property management practitioners

Following is a question by the Hon Andrew Wan and a written reply by the Secretary for Home Affairs, Mr Lau Kong-wah, in the Legislative Council today (January 30):

Question:

The period for the public consultation conducted by the Property Management Services Authority on proposals regarding the licensing regime for property management companies and property management practitioners under the Property Management Services Ordinance (Cap. 626) ended on the 18th of this month. Regarding the licensing regime, will the Government inform this Council:

(1) as it is provided in section 7(5) and (8) of Cap. 626 that where a property contains 1 500 or more than 1 500 flats as defined by section 2 of the Building Management Ordinance (Cap. 344), and the property is managed by an owners' organisation of the property on its own (i.e. without engaging any property management company or property management practitioner), the owners' organisation concerned is required to obtain a licence under Cap. 626, whether the Government knows the current number of this type of properties, with a breakdown by type of owners' organisations (i.e. owners' corporations (OCs), owners' committees and other forms of organisations) managing the property;

(2) whether those contractors currently providing cleansing and horticultural services for properties will be required to obtain a licence upon implementation of the licensing regime;

(3) whether it will, by making reference to the Contractors' Performance Rating scheme for registered lift and escalator contractors implemented by the Electrical and Mechanical Services Department, introduce a similar performance rating scheme for licensed property management companies/practitioners; if so, of the details; if not, the reasons for that; and

(4) whether it will consult the property management services sector, OCs and the Panel on Home Affairs of this Council on the proposed subsidiary legislation on the licencing regime before commencing the relevant legislative procedure?

Reply:

President,

The Property Management Services Ordinance (Cap. 626) (PMSO) was enacted by the Legislative Council (LegCo) on May 26, 2016. It aims to establish the Property Management Services Authority (PMSA), which regulates and controls the provision of property management services by licensing property management companies (PMCs) and property management practitioners (PMPs) and sets the professional requirements respectively for PMCs and PMPs, with a view to enhancing the professionalism and service quality. According to section 6 of the PMSO, no person may, without a PMC licence, act as a PMC, and no person may, without a PMP licence, act as a PMP.

According to the PMSO, the PMSA is responsible for the implementation of the licensing regime. In this regard, the PMSA conducted in November 2018 a two-month public consultation to collect public views on the proposed licensing regime.

With regard to the four parts of Hon Wan's question, my reply is as follows:

(1) The PMSO aims to regulate companies providing property management services, and the practitioners assuming a managerial or supervisory role in such companies in relation to the property management services provided by the companies. Performing the duties under the Building Management Ordinance (Cap. 344) (BMO) and the Codes of Practices under the BMO, etc. by owners' corporations (OCs) does not equate to carrying on the business of providing property management services. Therefore, OCs (and the management committees of the OCs) are not PMCs, and the members of the management committees are not PMPs. They are not the target of regulation of the PMSO and are not required to be licensed.

As regards owners' organisations, the only exception is "self-managed" properties which contain 1 500 or more flats (i.e. the owners' organisations of the properties have not engaged any licensed PMCs and are providing property management services on their own). These owners' organisations will not be exempted (i.e. section 7(8) of the PMSO). Such arrangement is to respond to the concern raised by some members of the Bills Committee during the scrutiny of the PMSO, i.e. the management standard of the "self-managed" properties may not be satisfactory if the number of flats in such properties is very large, and there would be a need for certain level of regulation. On the basis of the preliminary understanding of the Home Affairs Department, there may only be very few such cases in Hong Kong.

(2) Pursuant to section 3 of the PMSO, the PMSA may, by regulation, prescribe a service falling within a category of services set out in Schedule 1 to the PMSO as a "property management service". Whether an individual company is required to apply for a licence after the implementation of the licensing regime depends to a large extent on the specific definition and coverage of "property management service" under the subsidiary legislation for the licensing regime to be formulated by the PMSA.

According to section 7(2) of the PMSO, if a company carries on the business of providing "property management service", and such service falls

neither within more than one category of services nor one type of services under a category of services, then such company will not be subject to the licensing regime. The practitioners providing the relevant service(s) in such company will also not be subject to the licensing regime. Moreover, practitioners in a company which carries on the business of providing more than one category of services (i.e. a PMC which is required to be licensed) will not be subject to the licensing regime, unless they assume a managerial or supervisory role in relation to the "property management services" provided by such company.

The PMSA conducted a public consultation early on regarding the details of the licensing regime (including how, pursuant to section 3 of the PMSO, to prescribe a service as a "property management service" that should be regulated). Among the different views collected during the consultation period, some opined that companies and practitioners providing cleaning and gardening services, etc. to a property at the same time should not be subject to the licensing regime, and, following the above, the PMSA should not put cleaning service and gardening service under two different categories of "property management services" or as two different types of services under the same category when prescribing "property management services".

The PMSA will take the relevant views and the actual circumstances of the industry operation into account when prescribing "property management services", with a view to balancing the development and regulatory needs of the industry.

(3) The PMSO provides for a single-tier licensing regime for PMCs and a two-tier licensing regime for PMPs. In order to ensure the quality of property management services, both PMCs and PMPs have to fulfil a set of criteria before they are granted a licence.

The licensing criteria of a PMC include the minimum number of directors and employees holding PMP licences and whether the company is suitable for holding a PMC licence (e.g. whether the company is in liquidation or subject to a winding-up order, whether there are past conviction records of relevant offences, the suitability of its directors, etc.).

As regards PMPs, the licensing criteria include academic qualifications, professional qualifications, years of working experience and the suitability of the person in holding a PMP licence (e.g. whether the individual is a mentally disordered person, whether there are conviction records for relevant offences, etc.). The professional requirements to be complied by a licensed PMP (Tier 1) are more stringent than those by a licensed PMP (Tier 2). The former may describe himself/herself as a "registered professional property manager" whereas the latter a "licensed property management officer". Such a two-tier licensing regime encourages PMPs to pursue professional development in order to move to a higher tier, while continues to allow those with a lower level of qualifications to have access to the job market.

The PMSO empowers the PMSA to monitor the performance of licensed

PMCs/PMPs through different means, including investigating complaints involving disciplinary offences, and conducting disciplinary actions against PMCs/PMPs which/who are in breach of the requirements under the PMSO and/or the codes of conduct drawn up by the PMSA, such as revocation or suspension of licences and other sanctions such as reprimands, warnings, fines, etc. In addition, to ensure consumers are fully informed in selecting PMCs, licensed PMCs are required to provide the PMSA with certain essential information (e.g. the property management portfolio, the number of licensed PMPs employed, etc.) so that the PMSA can upload the information to its website for public inspection.

As to whether the PMSA will introduce other administrative measures, such as the introduction of a performance rating system for licensed PMCs and/or PMPs, we have relayed such views to the PMSA for its consideration. We will urge the PMSA to take full consideration of such views when formulating the implementation details of the licensing regime.

(4) The PMSA is studying in detail the views collected during the public consultation with a view to refining the licensing regime, such that the regime can balance the development and regulatory needs of the industry. We will closely monitor the process of drafting the subsidiary legislation and implementation details by the PMSA. Together with the PMSA, we will fully communicate with stakeholders (i.e. the property management industry, OCs, LegCo, etc.) to explain and clarify the specific details so as to eliminate any misunderstanding. We look forward to the early implementation of the licensing regime so as to regulate the provision of property management services and enhance professionalism and service quality.