

# TRANSPARENCY AND GOVERNANCE Optimising Value of Property Management Fee in Hong Kong

創優增值——  
提升香港物業管理費的  
透明度和管治



**TRANSPARENCY AND GOVERNANCE**  
**Optimising Value of  
Property Management Fee  
in Hong Kong**

A Study on the Private Residential  
Property Management Fees in Hong Kong

**創優增值 — 提升香港物業管理費  
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香港私人住宅物業管理費研究

# Executive Summary

## Property Management in Hong Kong

In Hong Kong, over half of the population live in private housing, a lot of which are multi-owned residential buildings. Ownership in multi-owned buildings is generally expressed in terms of undivided shares, which are assigned to each purchaser as co-owner with all other co-owners as tenants-in-common. Shareholding of the undivided shares is normally set out in the deed of mutual covenant (DMC) of the building or the development where there are multiple buildings. The DMC may also stipulate the shareholding of management shares which form the basis on which management fees are charged. Collective actions from owners are required to exert influence in decision making related to property management matters.

Common areas (e.g. entrance lobbies and communal corridors) and facilities (e.g. water supply systems and fire service installations) are co-owned by all owners, who are jointly responsible for the costs in managing and maintaining these common parts. To cover the aforesaid costs and all other expenses in relation to the management and administration of the building, owners are obliged to pay their share by way of payment of management fees. Survey commissioned by the Consumer Council (the Council) found that “staff salaries and related expenses” (40.4%) was the major component of the management fee budget, followed by “repairs and maintenance related expenses” (27.7%) and “cleaning related expenses” (10.8%).

Where a property management company (PMC) is hired to provide property management services, the PMC usually collects management fees from the owners on a regular basis. The Council’s survey found that the monthly management fees paid by the respondent owners ranged from HK\$200 to HK\$3,700. On average, the respondent owners spent approximately 7.4% of their monthly household income on management fees. According to a market study, the total revenue of property management services in the residential market in Hong Kong was forecasted to reach HK\$55.1 billion (2.0% of Hong Kong’s GDP) in 2022. As the residential properties continue to age, a general rising trend in management fees is expected.

From time to time, the Council received stakeholders’ concerns or consumer complaints related to property management, such as pricing or charge disputes and dissatisfaction with the quality of property management services. The resolution rate of this type of complaints is relatively low due to the complexity of the issues involved. Further problems of property management, including unreasonably high or even unaffordable property management fees, bid-rigging, over-charging and lack of information transparency are also found from court cases and news reports.<sup>1</sup>

In order to better understand, identify and assess if the existing system of management fees in private residential buildings in Hong Kong is working effectively, or whether there are issues giving rise to consumer detriment, the Council undertook this Study to look into the issues and put forward recommendations for enhancement of consumer protection.

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<sup>1</sup> The Standard. (2023 Jan 06) ICAC smash syndicate over record HK\$500 million building maintenance contracts, arrest 49.

## This Study

The key objectives of the Study<sup>2</sup> are to:

- Gauge consumers' levels of awareness, understanding and influence on private residential property management fees in Hong Kong, their rights and obligations in property management, and their experiences and opinions on property management services and fees;
- Find out the roles and powers of owners' organisations (OOs) in property management in practice and their experiences and opinions in choosing and switching PMCs;
- Identify the prevailing issues and ranges of management fees and related expenses (such as property manager's remunerations) in the private residential property management market; the nature and extent of market competition among PMCs and their views and opinions; and
- Review the current state of safeguards so as to propose appropriate recommendations for enhancing consumer protection in property management.

To define the scope of the Study and to gain insight into the market situation, the Council reviewed the key statutory and regulatory requirements governing property management in Hong Kong; carried out an in-depth review of 694 complaint cases related to property management received during the last 11 years or so; and conducted a series of consultation sessions at various stages of the Study with a range of stakeholders including relevant government departments, regulatory authorities, public body, trade associations and professionals to solicit their views on property management issues in Hong Kong.

To enrich the perspective of the Study, the Council also made inquiries with relevant regulatory bodies in other markets and collected relevant regulatory information online with a view to identifying possible learnings or good consumer protection measures for consideration.

Noting the importance of owner's undivided shares and manager's remunerations in property management and management fees, and in order to understand the availability and accessibility of key property management information to prospective purchasers, the Council conducted desktop research into 50 sales brochures, 249 DMCs and two statutory declarations (SDs) of first-hand private residential developments in Hong Kong during the sample period of December 2019 to December 2021. The review analysis focuses on looking at the extent to which DMC manager's (i.e. the PMC specified in the DMC) remuneration is charged to the permitted ceiling; the presentation of allocation of undivided shares and management shares in DMC; the disclosure of DMC terms in sales brochure; and the connection of DMC managers with developers.

In order to find out more about the underlying causes and circumstances of the prevailing property management issues from the viewpoints of owners, OOs and PMCs, the Council commissioned a research agency to conduct substantive fieldworks covering three sets of surveys and in-depth interviews with selected owners, OOs and PMCs of multi-owned private residential buildings across Hong Kong during November 2020 to July 2021.

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<sup>2</sup> Public buildings, industrial buildings, commercial buildings, composite buildings, public housing estates, buildings under home ownership scheme, and buildings/houses with three storeys or below are out of scope of the Study.

## Laws, Regulations and Regulatory Bodies

The management of multi-owned buildings in Hong Kong is mainly governed by the Building Management Ordinance (Cap. 344) (BMO) and their respective DMCs, while property management services are regulated under the Property Management Services Ordinance (Cap. 626) (PMSO).

On the one hand, the BMO provides a statutory framework for the formation of owners' corporations (OCs) to facilitate the management and control of the common parts of buildings. It contains provisions to avoid multiplicity of lawsuits involving numerous owners and allows the majority rule in decision making so as to avoid the need for unanimous consent of all owners in property management matters. Also, Schedule 7 to the BMO introduced mandatory terms which are impliedly incorporated into every DMC and shall prevail over the express terms of a DMC in the event of inconsistency. The Legal Advisory and Conveyancing Office (LACO) of the Lands Department (LandsD) examines and approves DMCs to ensure compliance with the BMO and the Guidelines for Deeds of Mutual Covenant (DMC Guidelines), which is a set of guidelines it drew up for the purpose of providing a system of building management in private residential developments. On the other hand, the PMSO provides for the licensing of PMCs and property management practitioners (PMPs), regulates the provision of property management services and established the Property Management Services Authority (PMSA), which is the industry regulator in Hong Kong. The PMSA regulates and controls the provision of property management services through a licensing regime, disciplinary actions and promotion of industry development. Apart from the PMSA, the Home Affairs Department (HAD) has been dedicating efforts to encourage owners of private buildings in Hong Kong to form OCs and provided relevant supports to owners.

## Review on Building Management in Five Selected Markets

Hong Kong's land holding and conveyancing system is unique in that multi-storey buildings are held under co-ownership, with each owner holding undivided shares in the building as tenants-in-common with each other. The co-owners' rights, interests and obligations are set out in and governed by the DMC of the building.

Although the system in Hong Kong is unique, it is beneficial to examine and draw on the experiences of other markets across the globe, especially when other markets are striving to improve their systems and legal frameworks such that their experience can serve as good reference for Hong Kong. In this connection, the Council reviewed the regulatory regimes of five selected markets, namely Victoria of Australia, Mainland China (the Mainland), Singapore, Taiwan and the United Kingdom, and details can be found in Chapter 5 of the Report.

In a nutshell, the transparency of information related to property management fees are higher in Victoria, Singapore and Taiwan, enabling consumers in these markets to make more informed decisions of property purchase; property managers can be appointed or terminated by simple majority of votes of owners in Victoria and Singapore; specified duties and requirements are imposed on developers in Victoria, the Mainland, Singapore and Taiwan; and step-by-step mechanisms are in place to address property management disputes in Victoria, Singapore and the United Kingdom. All the above serve as good reference for betterment of the system in Hong Kong.

## Issues Related to Property Management Fees in Hong Kong

With an overarching objective to advocate for a healthy, competitive and sustainable marketplace in property management for the benefit of consumers in Hong Kong, by consolidating the findings from all surveys, review exercises, desktop research and stakeholder consultations undertaken, the Council has identified the following issues of concern and puts forward a list of key recommendations in the hope of instigating further discussion by stakeholders and society.

### *Lack of Transparency in the Basis of Allocation of Shares*

One special feature of property ownership in Hong Kong is the allocation of undivided shares and management shares (if any) among co-owners, with the former defining ownership and the latter defining the sharing of property management and maintenance expenses that the owners should bear from the moment they take ownership of the property.

The Study found that the allocation of shares is disclosed in the DMC of a development and in the sales brochure under the section of summary of DMC. Nonetheless, no explanation on the calculation and formula that determine the allocation of shares could be found in either the DMC or the sales brochure. Absence of this piece of information is obviously unsatisfactory from a consumer protection point of view, as it is essential information to enable prospective purchasers to make informed purchase decisions. Without due consideration of such essential information, owners who had not taken the share allocation, common areas and facilities and maintenance fees into adequate consideration before purchasing the property may subsequently find their liability for property management and maintenance expenses exceeds their household budget. A natural consequence of ill-informed purchase decision is consumer disputes, which the Council received from time to time mainly involving questions of apportionment of shares, whether certain parts of the building were common parts, if the common facilities or open spaces were opened for public use, or whether the sharing of expenses was fair.

Although the calculation leading to allocation of undivided and/or management shares can be found in the SD of a building, it is not a sales document offered for the general public's reference. As a matter of fact, many consumers are not aware of its existence or how to access such information.

### *Difficulty in Obtaining Unanimous Owners' Consent to Amend Unfair Terms in DMCs*

Under the current legal setting, the DMC of a development, once registered with the Land Registry, binds the successors in title of the covenantor and the persons deriving title from them, whether or not they have actual notice of the DMC. Also, no party should unilaterally modify any provisions in a DMC without the consent of all other parties.

Desktop research into relevant court cases showed that some DMCs drawn up by developers might no longer fit the prevailing interests and benefits of the owners, therefore causing disputes and controversies between the parties. However, under the current legal setting, any amendment of the DMC must be supported by a unanimous consent of all owners even in cases where the implementation of the problematic terms seriously jeopardised the rights and interests of the owners. Recognising such difficulty, especially in large-scale housing estates or where some owners are untraceable, uninformed or indifferent, Legislative Council's Panel on Home Affairs had years ago urged for a mechanism for amending the unfair provisions in a

DMC by a resolution of less than 100% of shareholding of owners, subject to certain pre-approval mechanism. The proposal was, however, not adopted due to concerns over the interest of the minority owners who would oppose the amendment. As a result, the problem continues and unanimous owners' consent has to be reached in order to amend terms in a DMC.

### ***Potential Influence of the Developer or Major Owner or Management Committee (MC) Members on Property Management Matters***

A party holding a substantial number of undivided shares of a development might have the voting rights to control the management of the property, such as establishment of the owners' corporation (OC), termination of the PMC, etc. It is noted from the court cases that the residential portion of some large-scale housing estates were allocated a low percentage of undivided shares, making it difficult for the residential owners to gather sufficient shares to pass resolutions for property management decisions. The analysis of sampled DMCs revealed that residential owners in five out of the total 249 reviewed developments actually held less than 50% of the total undivided shares. Furthermore, affiliation of DMC manager with the developer is a common practice in the market and that there appears to be a high level of market concentration. The analysis showed that 75% of the DMC managers in the reviewed developments were affiliated with the developers, and that the top 10 DMC managers managed around 47% of the reviewed developments.

When a developer decides to allocate less than 50% of the total undivided shares to the residential owners and simultaneously appoints its affiliate as the DMC manager, concerns may arise over potential conflict of interest. Besides the developers, as remarked by some stakeholders, concern about conflict of interest may also appear in respect of major owners and MC members during the appointment and termination of affiliated PMC as well as other service providers. When these parties exercise their influence to push for specific property management projects or activities, it may affect the choice and result in significant expenses that have to be borne by all residential owners.

### ***Service Quality Issues of PMCs Including Financial Risks and Dissatisfaction over Performance***

Apart from the front-end services which are primarily facility management and repair and maintenance, property management services nowadays involve the back-end general management to manage the finance, human resources and legal aspects of the property. Among the 694 complaints concerning property management received by the Council from 2012 to 2022, around 50% of the complaints is related to allegation of improper handling of financial related issues by PMCs and about 40% of the complaints is about dissatisfaction with PMCs' quality of services.

Notwithstanding the mandatory requirements and measures in place which aim at curbing mishandling of financial matters, allegations against PMCs having handled accounts indiscriminately and used the management fees collected improperly were reported from time to time. Although PMCs are statutorily required to account for their financial operations on a regular basis, and that owners have the right to access financial information related to management, some PMCs were reported to have refused to disclose financial and operational information in the complaint cases received by the Council. Sometimes, dissatisfied owners

were left with no choice but to seek redress from the court, which might not be the best course as the process could be lengthy, costly and stressful.

The Study also revealed an expectation gap between PMCs and owners on the PMCs' performance, in that 71.4% – 100% of the PMCs surveyed considered their performance was up to expectation while only 43.7% – 56.4% of the owners and 54.8% – 65.9% of the OOs surveyed agreed that the performance was up to expectation. Apart from the expectation gap, 87% of the owners indicated that they did not know the procedures to terminate unsatisfactory PMCs, and many owners (40.4%) and OOs (33.3%) found it difficult to choose a suitable PMC due to a lack of adequate market information.

### ***Passive Owners' Participation in Property Management Matters and Insufficient Communication between OOs/OCs, PMCs and Owners***

The Council's survey found that about 60% of the owners were passive to attend general meetings (63.0%) opine (62.7%) or vote (58.0%) on building management-related matters. The findings also showed that a majority of owners (over 78%) lacked an understanding of building management and related regulations, which might be the reason for their low participation in the management of their buildings. In fact, over 97% of the owners were unwilling to join OOs as chairpersons or members with reasons such as "no spare time", "no interest" and "too old to participate" or did not even provide relevant reasons.

Managing a building entails decision-making on a wide range of issues, from daily cleaning arrangements to overseeing major building maintenance works. As such, some form of OO is required to be in place to facilitate collective decision-making of owners. Yet, statistics from the Research Office of the Legislative Council revealed that only 47% of the private buildings (including residential, mixed-use, commercial and industrial buildings) in Hong Kong had formed OCs as at the end of 2021. Despite many years of government efforts in assisting the formation of OCs and providing support services to OCs, the percentage remained at a similar level for years. Stakeholders pointed out that the key obstacle for setting up OCs was the unwillingness of owners, apart from the time commitment involved and a lack of knowledge and experience in building management. Such passiveness could increase owners' exposure to the risk of mismanagement or possibly manipulation of their properties, and eventually harming their rights and interests. Another problem is it may lead to misunderstanding or misinterpretation, as evident by the finding that most disputes between owners, OOs and PMCs were caused by a lack of adequate communication.

### ***Substantial Rises in Management Fees Especially for Maintenance Costs***

Feedbacks from PMCs indicated that the leading reasons for increases in management fees were "inflation" (100%), "a rise in minimum wages" (72.4%) and "repair and maintenance of the building" (31.6%). Although the DMC Guidelines stipulates the establishment of a special fund (SF) to meet irregular expenses for renovation, improvement, and repair of the common areas and other related costs, a study of the Urban Renewal Authority (URA) in 2017 revealed that only one-third of the buildings surveyed in Hong Kong had set up SF while the remaining buildings did not have reserves for major maintenance work. Even for buildings with SF, balances of the funds were found to be inadequate to cover the costs of major maintenance works. One main reason for inadequate funds in the SF is the lack of professional knowledge of owners to determine the level of reserves required to cover the expenditure involved in future maintenance works. Without SF or where the reserve in the SF is insufficient, the owners

may have to bear millions or even tens of millions of dollars of project costs when the need for major maintenance arises. This kind of additional contribution could cause financial strain on some owners, especially retirees and the elderly. An affordable and sustainable mechanism to accumulate funds for maintenance and repair is therefore a key protection for owners.

## **Recommendations from the Consumer Council**

To achieve effective and responsible property management, on the one hand, it is important to ensure information accuracy and transparency in both the pre- and post-purchase stages and that the rights and obligations of owners are enforced in a fair manner throughout their ownership. On the other hand, owners should play an active role in property management and exercise proactive supervision to safeguard their own rights and interest. With all these goals in mind, the Council puts forward eight key recommendations with the objectives of improving communication, minimising misunderstanding and promoting consumer interests in effective property management in the long run.

### ***Enhancing Market Transparency, Fairness and Efficiency***

#### **Recommendation 1: To Boost Transparency on the Basis upon Which Property Management Fees are Shared between Owners**

Information about undivided shares and management shares to prospective purchasers prior to their making of purchase decision is crucial to minimising future misunderstanding and disputes. The Council recommends that the disclosure of the calculation and allocation basis of the shares should be made by developers in first-hand sale of private residential properties, as a good corporate practice to satisfy consumers' right to know. It is further recommended that developers should present the information in salient points in the sales brochures, with the detailed calculation uploaded to the development's websites, and a link to the website specified in the sales brochures. To enhance consumers' ease of reference, different categories of expense items should be displayed in the sales brochures. When the allocation of undivided shares differs from that for management shares, a clear explanation for the difference should be given. An example to illustrate the suggested display can be found in Section 7.2 of Chapter 7.

#### **Recommendation 2: To Make Available Updated Property Management Information to Promote the General Public's Understanding and Knowledge of the Industry**

The Council considers that the PMSA in the long run may consider developing a reference database for the general public, by collating information on the levels of management fees across Hong Kong. References can be made to the Electrical and Mechanical Services Department's release of maintenance price information on lifts in private residential premises for public reference and the Mandatory Provident Fund Schemes Authority's MPF Fund Platform. To ensure that the database will serve its intended purpose, it should contain key information such as building age, number of building units, building location, facilities and services provided, area of horticulture, number of property management staff employed, etc. for owners' reference. Competitively sensitive information such as the names of the PMCs and the buildings would be anonymised before aggregating the information for publication and take a progressive arrangement in the scale of information provision.

### **Recommendation 3: To Promote Fairness through Allowing Amendment of the Terms of DMC (Other Than Those on Undivided Shares) with Majority Consent**

Drawing reference from the experience in the Mainland and Singapore, the Council calls for a relaxation of the requirement of unanimous consent, such as by amending the BMO to allow amendment of the terms in a DMC by majority consent of owners, except for terms relating to the allocation of undivided shares. Recognising the need for further review and discussion on the percentage of shareholding required to form a majority consent, the Council proposes in reference to the Companies Ordinance (Cap. 622), which allows amendment of the articles of association of a company by a majority of at least 75% of the number (not shareholding) of the members who vote in person or by proxy, to take 75% of undivided shares as reference point in determining what should amount to a majority consent for the purpose of amending the terms of a DMC. To address the concerns of potential abuse of the power and the need to protect minority interests, the proposed amendment mechanism should only be available to buildings of not less than 10 years of age, conducted under stringent procedures and subject to appeal.

### **Recommendation 4: To Avoid Conflict of Interest from Over-engagement in Property Management Decisions**

To address the potential risk of conflict of interest of developer, major owners with 30% or more undivided shares, or MC members with that of other owners and to promote healthy competition in property management, the Council recommends the introduction of the following provisions in the Residential Properties (First-hand Sales) Ordinance (Cap. 621) (RPO) and/or DMC Guidelines:

- Relationships between the developer and the DMC manager should be disclosed in the sales brochure. Where the DMC manager has yet to be appointed, the sales brochure should have a clear indication on when and how the disclosure will be made.
- Relationship between any major owner holding 30% or more undivided shares or any MC members, the PMCs or other service providers should also be disclosed as soon as the latter is proposed for selection.
- Declaration of interest should be made by the developer, major owner with 30% or more undivided shares and any MC members when a conflict-of-interest situation arises. Where appropriate, he/she should withdraw from the meeting and abstain from voting.
- Bidding practice should be adopted to procure services from PMCs (after completion of the appointment of the first DMC manager) and other service providers for substantial scale projects and where nature of the service is critical.

The measures adopted in Victoria and the Mainland (Section 5.3 of Chapter 5) in this regard may serve as good reference to Hong Kong.

### **Recommendation 5: To Improve Performance Efficiency of Property Management Services with New Technologies and Intelligent Solutions**

To improve the performance efficiency of property management services, the Council advocates the adoption of technological and intelligent solutions and puts forward the following suggestions for the industry to consider:

- Roll out new intelligent solutions for services such as cleaning, sanitising, security, communication, etc. at a suitable pace and priority.

- Enhance communication and sharing of information with owners through social media, communication tools and/or dedicated websites, in addition or alternative to the conventional way of displaying circulars.
- Involve owners and gather their feedback in all key project milestones, such as the initial stage, evaluation process, testing stage and after the launch of the solution.
- Explore the feasibility of bespoke software, apps, platforms or templates through synergising effort of the industry to facilitate cost management and proper handling of personal details and data. To this end, collaboration of the industry, the PMSA and the innovation and technology sector should be considered.

### *Encouraging Participation of Owners*

#### **Recommendation 6: To Promote Active Participation of Owners with More Effective Communication in Property Management Activities**

The Council suggests strengthening owners' engagement and participation in property management matters in a progressive manner. To this end, an "information pack for owners", which introduces the nature of property co-ownership, the rights and obligations of owners in property management, the importance and procedure to form an OC, the available building management support services, etc, may be prepared and provided to every purchaser upon completion of the purchase through different channels. When owners move into their property, they should be introduced to the management of the property as soon as possible, such as through welcome gatherings or periodic workshops held by PMCs. To continue to inform and engage owners in property management during the course of ownership, the HAD may consider developing interactive learning kits or holding regular workshops about property management and regulatory requirements. To further engage the owners, PMCs could increase the use of social media and websites to strengthen mutual communication. In the long run the practicality of virtual owners' meetings could also be explored as a means to facilitate participation of owners in view of their busy schedule.

The Council also calls for owners to play their part in property management and get involved from the beginning of their ownership. Apart from always reviewing relevant documents to understand the details of the property management expenses, they should also attend owners' meeting regularly and keep track of the progress of any ongoing property management projects. Apart from raising interest in participating, such progressive approach in education and engagement could help the owners equip the required knowledge and present their opinion more confidently before major decisions are made, instead of after their interests or rights have been compromised.

#### **Recommendation 7: To Facilitate the Early Set-Up of OCs or Join Forces of Owners to Address Property Management Issues**

To address the problem of insufficient knowledge and persistent lack of incentive of owners to form OCs and join OOs, the Council calls for more education and publicity programmes to enhance the general public's understanding of the importance of OCs in property management so as to increase their interest and willingness in forming OCs.

In addition, the Council calls for a review of the time within which a property manager must call the first meeting of owners, as one main purpose of the meeting is to appoint an MC for the purpose of forming an OC. Currently, the DMC Guidelines stipulates a 9-month period from the date of the DMC for the property manager to call the first owners' meeting. Having regard to the fact that owners' eagerness and interest in the management of their property usually decrease with time after completion of the purchase, the Council believes that the first

owners' meeting should take place as early as possible. Although some owners may not be ready to form the OC at the first meeting, it can still serve as a platform for owners to join forces to address concerns over the management of their buildings and set the foundation for the formation of OC. In this connection, a review analysis conducted by the Council supports the introduction of a requirement that, on top of the 9-month period, the first owners' meeting should be convened as soon as residential owners hold over 50% of the undivided shares in aggregate, so as to safeguard their reasonable need to convene the first owners' meeting as early as possible to voice their concerns and to facilitate the earlier set-up of an OC.

For buildings without OCs or other forms of OOs, the PMCs can consider holding the general meeting of owners at least twice per year to increase frequency of engagement with owners, instead of the current practice of once every 12 to 15 months.

To provide motivation to owners to join the MC, the HAD may consider introducing an award scheme to recognise the efforts, commitment and achievements of MCs or individual members of MCs in promoting good property management. In addition, the amounts of maximum allowances payable to specific members of an MC under the BMO may require a review in order to better reflect the value of their contribution to the management of the property.

### ***Enabling Safe and Sustainable Buildings***

#### **Recommendation 8: To Maintain Building Sustainability for Expected Repair and Maintenance Expenditures with Reasonably Sufficient Reserve in the Special Fund**

To avoid financial strain on owners as a result of the need to pay substantial one-off contributions to the costs of major maintenance work, with reference to the experience in Shenzhen of the Mainland and Australia in establishing reserve funds for future repair and maintenance needs, the Council recommends that a SF should be maintained with sufficient reserve by regular and reasonable contributions from owners in Hong Kong. In this connection, the Council proposes establishing a capital works fund with a 10-year maintenance plan, and that the contributions to be made could be determined based on the following options: (i) a maintenance budget prepared by independent qualified professionals; (ii) an amount equivalent to a certain percentage of the annual budget of property management fees; (iii) a hybrid model with a seed fund paid by the developer plus contributions by owners equivalent to two months' management fees, followed by owners' monthly contributions; or (iv) the current practice of a budget prepared by the PMC or OC.

As regards when owners should start to pay contributions to the SF, the Council proposes with reference to experience from other markets that owners of first-hand properties should start to contribute to the fund from the second year onwards. While buildings over 10 years may face major repair and maintenance needs and should seek advice from professionals for the required expenses, buildings at or below 10 years of age should set up a reserve fund to prepare for the forthcoming repair needs. Subject to the condition of their buildings, owners should decide the timing for contribution according to the respective maintenance needs. To promote good governance of the fund, the Council suggests that the current requirement of keeping the fund in a designated and interest-bearing account should continue. In addition, a list of maintenance project items for which the fund may be used in future should be specified in order to define its proper use. Furthermore, the contribution paid should not be transferable and owners should be required at law to make monthly contributions. Except in a situation considered by the property manager to be an emergency, no money shall be paid out of the SF unless it is for a purpose approved by a resolution of the owners' committee (if any).

To enhance owners' understanding of the importance in establishing and maintaining the SF, PMCs and OOs are recommended to communicate with owners about the background and rationale for establishing the fund, advise them on the basis of calculation of the contribution, and inform them periodically about how the fund was and will be used.

## The Way Forward

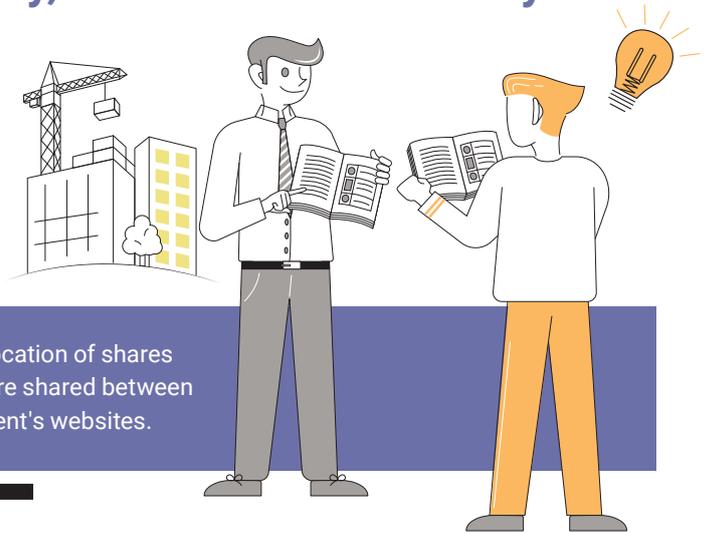
In most private residential buildings in Hong Kong, property management fee is the main source of income to fuel the effective operation of daily property management activities. Effective property management with high quality service and good maintenance would bring positive impact on the living environment as well as upholding the condition and market value of the building. To ensure financial sustainability and fair apportionment of management expenses, full and clear disclosure of information and proactive participation of owners in the management of their buildings are necessary. Yet, complicated laws and regulations in property management, insufficient disclosure of information to potential purchasers, low level of transparency of the property management market and generally weaker bargaining power of owners together give rise to miscommunication, misunderstanding and disputes among different parties.

The Study identifies various consumer protection issues in the property management market which warrant the joint efforts of stakeholders in finding workable solutions in the long run. By making the aforesaid recommendations, the Council hopes with informed and constructive discussion with all stakeholders involved, a fair marketplace with strengthened consumer protection could be achieved and that the value of the owners' contributions to the management of their property could be truly optimised.

# Issues and Recommendations

## Enhancing Market Transparency, Fairness and Efficiency

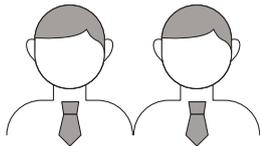
Lack of transparency in the allocation basis of undivided and management shares among property units, which define ownership and the sharing of property management and maintenance expenses.



1

Elaborate the basis of calculation and allocation of shares upon which property management fees are shared between owners in sales brochures and development's websites.

ABC cleaning service?



Developer's/major owner's/management committee (MC) members' potential conflict of interest with owners over property management matters.

4

Declare potential conflicts of interest:

- relationships between parties.
- where appropriate, withdraw from meeting and abstain from voting.
- adopt bidding practice for substantial scale project.

withdraw



## Encouraging Participation of Owners

Passive participation of owners and insufficient communication between owners, owners' organisations (OOs) and PMCs.

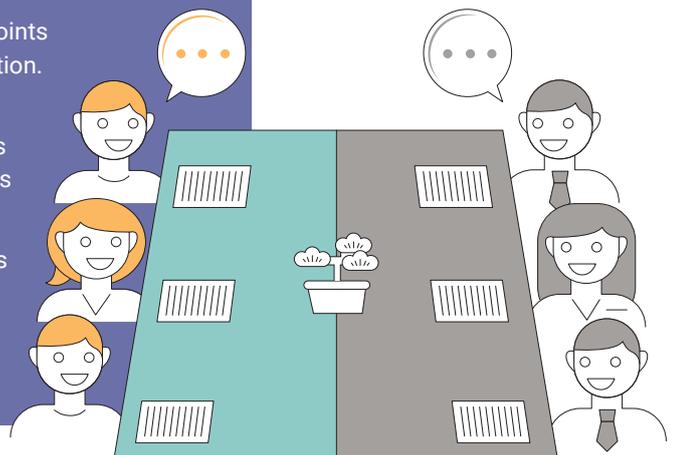
6

Increase engagement with owners in major touchpoints and the use of e-platforms to facilitate communication.

7

Allow convening the first owners' meeting upon residential owners reach over 50% undivided shares in aggregate, apart from the no later than 9 months period under DMC guidelines.

Introduce an award scheme to recognise the efforts of MCs or individual members of MCs, and review the amount of maximum allowances payable to members of MC.





Difficulty in choosing new property management companies (PMCs) due to insufficient market information.

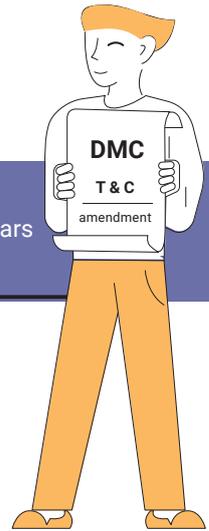
Increase market transparency through an open database as reference source on management fees.

2

Difficulty in obtaining unanimous owners' consent to amend unfair terms in Deed of Mutual Covenant (DMC).

3

Allow amendment of the terms of DMC (other than those on undivided shares) with majority consent for buildings  $\geq 10$  years old under a stringent mechanism.



Efficiency and service quality issues of PMCs.

Synergise industry efforts to deploy new technologies and intelligent solutions for service enhancement.

5

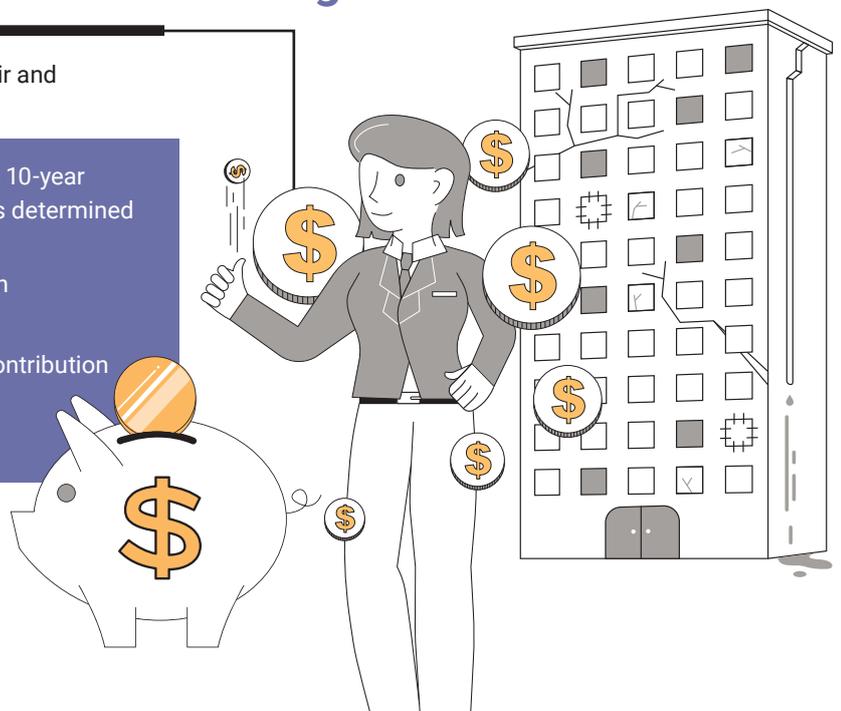
## Enabling Safe and Sustainable Buildings

Insufficient reserve for building repair and maintenance

8

Establish a capital works fund with a 10-year maintenance plan, with contributions determined either by:

- professional assessment approach
- percentage of annual budget
- developer's seed fund + owners' contribution (start-up and monthly)
- PMCs and OCs





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