



NEWS LETTER

香港物業管理公司協會
The Hong Kong Association of Property Management Companies

2007年12月號

專業物業管理



2007



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會長淺言

韶光荏苒，本屆理事會任期轉瞬已交班，荷蒙各位理事及會員鼎力襄助，俾本人得以順利完成兩任會長職務，謹此衷心致謝。

四年來，同業們和全港市民一起經歷各種考驗，尤以沙士風暴，讓市民深切體會物業管理與切身生活息息相關之重要，也大大提升了業界的社會地位，如今在多方爭取下，「兩地資質互認」的落實，使同業得以分享CEPA的成果；另一方面，同業們的精誠團結和不斷求進，使本人為業界爭權益、謀福祉上大為順遂，本會近年即便有所建樹，過往會長理事立下厚實根基暨全體會員齊心努力，實屬功不可沒。

本人仔肩將卸，回顧四年任內，雖已竭盡棉力，然亦自愧仍有未足之處，本人對此不無遺憾，深冀繼任同業薪火相傳，同心協力，俾物業管理業更獲社會認同，本會更加發揚光大。

謹此再向諸位同業先進多年支持及鼓勵致謝，並祝鴻業大展，身體健康。



孫國林



2007年建築物管理(修訂)條例

本會與香港房屋經理學會、英國特許房屋經理學會亞太分會及香港地產行政學會於二零零七年六月二十六及二十七日分別於香港大學專業進修學院九龍東分校及香港理工大學舉辦座談會，並邀得前民政事務總署助理署長張馮泳萍女士主講，合共約五百會員參加。講座內容簡述如下：

主要修訂

1. 成立法團

1.1 委出管委會

- 遵照條例(而非公契)的規定行事。此舉並不表示條例凌駕於公契，業主仍可根據公契成立業主委員會，但此委員會並不等如業主立案法團。

1.2 召集人

- 由擁有 $\geq 5\%$ 業權份數的業主委任一名業主成為召集人

1.3 委出管委會的決議

- 獲擁有 $\geq 30\%$ 業權份數的業主支持；及
- 獲過半數票通過。

2. 委任管委會委員

2.1 遵照條例(而非公契)的規定

- 委員人數
- 副主席〔以往按公契而定〕

2.2 委任應按照

- “得票最多者當選”投票制而非“過半數票”投票制
- 若票數相同則抽籤

2.3 擔任管委會委員的資格

- 在過去五年內沒有宣布破產及
- 被判處監禁者

2.4 填補管委會的空缺

2.4.1 透過管委會

- 此乃快速填補法，任期至下一個業主大會

2.4.2 透過法團業主大會，任期與其他管委會委員一樣

2.4.3 如空缺多過半數，若主席及主要委員仍在，可透過法團業主大會填補；若無主席，其他委員可選一召集人開特別業主大會找人填補空缺，但此大會不可議決其他事項。

3. 有關管委會委員

3.1 對管委會委員的保障

- 代表法團行事；
- 真誠地行事；及
- 以合理方式行事

3.2 法團支付的津貼

- 只有主席、副主席、秘書及司庫有資格領取津貼，但要經業主大會批准。

4. 管委會會議

- 會議日期七天前張貼會議通知
- 業主可索取會議紀錄

5. 法團業主大會

- 5.1 在 $\geq 5\%$ 業主要求下，主席須
- 在 14 天內召開會議；及在 45 天內舉行會議
 - 此乃主席個人責任
- 5.2 會議日期14 天前張貼會議通知
- 5.3 業主可索取會議紀錄

6. 過半數票

- 6.1 $> 50\%$
- 6.2 無須理會
- 沒有出席會議的業主；
 - 出席但沒有投票的業主；
 - 空白或無效的票；
 - 棄權票

6.3 委託書則雖計算在內

7. 委任代表

- 7.1 法定格式
- 不可以更改格式
 - 不可以存在投票指示
 - 不可要求業主提供身份証號碼
 - 被委託者有全權投票
- 7.2 送交委託書的時限
- 現時：24小時
 - 修訂後：48小時 (絕對期限)，不可更改
- 7.3 委託書是否有效
- 由管委會主席決定
- 7.4 秘書在收到委託書後，須
- 發出收據；
 - 張貼業主單位資料，即那個單位交委託書
- 7.5 保留委託書
- 12 個月
 - 由管委會保留

8. 採購安排

8.1 採購規定

	招標	法團業主大會/ 業主會議
> \$200,000	✓	-
> 每年預算的 20%	✓	✓

適用於法團和經理人，無論有沒有經理人，法團都必須依照程序

8.2 例外情況：續約

- 同一種類；及
- 現任的供應商；及
- 業主通過決議

8.3 不遵從法定的規定將引起下列問題

- 合約的有效性
- 個人法律責任

9. 展示法律程序的資料

9.1 如法團是法律程序的一方〔原告或被告〕包括小額錢債審裁處，管委會必須在

- 收到法院文件的 7 天內；或
- 發出法院文件的 7 天內，
在大廈張貼通知

10. 財務安排 — 法團

10.1 在周年大會上省覽

- 已審計的財務報表；及
- 會計師報告

10.2 業主可查閱單據、發票等

- $\geq 5\%$ 業主支持；或
- 法庭命令
- 除了已獲得法庭命令，個別業主並不能查閱單據、發票等。

11. 財務安排 — 經理人

11.1 業主可查閱／索取下列文件副本 —

- 已審計的財務報表；及
- 會計師報告

11.2 經理人須開立和維持獨立戶口

- 信託戶口；或
- 客戶戶口

11.3 只適用於法團

12. 其他有關經理人的事宜

12.1 法團只可終止委任下列經理人

- 公契經理人
- 合約經理人
 - 合約沒有列明終止委任的條款

12.2 離任經理人的交接安排

- 所有法團的動產
 - 14天
- 其他為擬備財務報表的文件，包括單據
 - 2個月

12.3 業主之間的通訊

- 經理人必須諮詢法團
- 採取法團決定的方法

13. 建築物管理（第三者風險保險）規例

13.1 所有法團都必須購買保險

- 大廈的公用部分
- 第三者的傷亡

13.2 保額：每宗事故1千萬元

13.3 無須涵蓋僭建物

13.4 罰款：最高 \$50,000

14. 相關刊物

- 《2007年建築物管理(修訂)條例》簡介
- 《2007年建築物管理(修訂)條例》常見問題
- 《建築物管理條例》指南
- 怎樣成立業主立案法團
- 廉潔有效財務管理指南
- 供應品、貨品及服務採購工作守則
- 大廈管理及維修工作守則



座談會中各會員踴躍提問，其中主要內容及答案簡述如下：

1. 公契管理人續約是否需進行招標？

需按合約而定。

2. 若經理人成為原告或被告，是否仍需於大廈內張貼通告有關法院文件？

不用。張貼通告只適用於當法團成為原告或被告。

3. 若財政預算案分開不同戶口，該怎樣計算？

計算法團全年總財政預算。

4. 第三者保險可否包括僭建物？

可以。但不包括已屬合法。

5. 怎樣交委託書及怎樣計算時間？

方法以秘書要求為準，例如可透過傳真或遞交。時間是開會前48小時，以秘書收到委託書的時間為準。

6. 若一幢大廈存在一個法團該怎樣計算？

按現行大廈公契每法團要預備一份財政預算案，但在新法例下，每幢大廈最多只可有一個法團。

7. 若 $\geq 5\%$ 業主要求查閱單據，是否需要出示所有單據？

必須出示法團單據而不用出示經理單據。

8. 若管委會已通過聘用某承辦商但 $\geq 5\%$ 業主要求開業主大會而大會通過不聘用此承辦商，該怎辦？

- 若未與承辦商簽約，可另作考慮。
- 若預早知道個別業主傾向，應首先考慮業主所關注的事項。
- 若已經與承辦商簽署合約，應向業主解釋有關法例。

9. 若沒有法團，可否解僱公契經理人？

若 $> 50\%$ 業權業主同意，可解僱公契經理人。

PROPOSAL OF LICENSING OF PROPERTY MANAGEMENT COMPANIES

Discussion Forum

The discussion forum was held on 16th April 2007 with 35 member companies participants. The contents are extracted below for members' reference.

1. Introduction

- 1.1 Since 1990, HKAPMC has been in pursuit of a proper licensing system for our industry with Government's support and accreditation.
- 1.2 A Working Group was set up in August 2005 to draft a proposal for members' comment.

2. Background

Government is now conducting an opinion survey with a view to systematically establishing a new licensing regime. The aims are:

- 2.1 With an aim to maintain a high standard of professionalism within the property management industry.
- 2.2 Licensed property management companies can be operated independently in spite of close monitor and scrutiny.
- 2.3 Sudden bankruptcy of poorly managed property management companies such as 嘉居樂物業管理公司 and 屋宇管理公司 could be minimized.
- 2.4 Minimize any malpractice in our property management industry such as theft and bribery.
- 2.5 Arguably, disruptive competition among property management companies could be avoided.
- 2.6 Boost the public confidence on our property management industry.

3. Discussion

- 3.1 Advantage
 - 3.1.1 With clear rule & regulation, property management companies can be closely supervised and monitored.
 - 3.1.2 Easy to identify those companies with poor financial situation.
 - 3.1.3 Improve and enhance the standard and quality of property management companies.
 - 3.1.4 Minimize some occasional incidents such as bribery and misappropriation of the funds.
 - 3.1.5 Enhance the occupiers' confidence.
 - 3.1.6 Property management industry can be operated healthily.
- 3.2 Member's Concern
 - 3.2.1 The rules and regulations may be too harsh.
 - 3.2.2 Companies with small size portfolio and poor financial situation may not be granted with license for business.
 - 3.2.3 May lead to redundancy and layoff problems.
 - 3.2.4 Short-term turbulence in property management industry may occur.



3.3 Other Considerations

- 3.3.1 Notwithstanding Government's commitment to establish a proper licensing system for our industry, there is another school of thought that the current system is working smoothly and satisfactorily.
- 3.3.2 It is also believed that those fraud cases are isolated incidents without impairing the integrity of our status in the society.
- 3.3.3 The present self-regulated functions of our industry work perfectly well and should not be hampered with intervention from such licensing system.
- 3.3.4 The material fact that there are some Owners' Corporations which are managing their own premises without appointing any management companies and as such licensing of property management companies is entirely not matching with their needs.

3.4 Proposed Types of License

3.4.1 Corporate License (公司牌)

- a) It is suggested that the applicant must be a member of HKAPMC.
- b) Membership with HKAPMC therefore becomes a statutory requirement for obtaining a Property Management License before a company could conduct property management business.

3.4.2 Individual License (個人牌)

It is suggested that the applicant must hold a recognized professional qualification (e.g. Member of the Hong Kong Institute of Housing).

3.5 Proposed License Issuing Body

Three options of license issuing body are proposed:

3.5.1 License to be issued by Government

- a) Similar to the travel agent license issued by the Travel Agents Registry (旅行代理商註冊處) and estate agent license issued by Estate Agents Authority (地產代理監管局).
- b) No person or corporate body shall conduct business in property management without license or at any place other than the premises specified in that license.
- c) Government could set up a new Quasi-Government Authority to censor and issue license to property management companies.
- d) Authority should have statutory power to refuse and grant licenses to corporate or individual applicants based on their qualifications.
- e) To adopt similar approach taken by the Travel Industry Council of Hong Kong 香港旅遊業議會 ("TIC") in that only TIC member is allowed to obtain a travel agent license.
- f) Hence, only HKAPMC members are allowed to apply for the property management license.
- g) Assessment Committee and a Monitoring Committee could also be set up under this Quasi-Government body.
- h) With members from Government officials including officials from Home Affairs Department, representatives from HKAPMC, and esteemed figures.
- i) For the purpose of issuing licenses and monitoring the compliance of the code of practices and conducts of all licensees respectively.

3.5.2 License to be issued by Government

- a) HKAPMC could be tasked with the duties to approve applications and issue licenses to qualified property management companies or individuals, based on certain assessment criteria.
- b) Independent Committees should be set up comprising representatives from HKAPMC, Government Officials and esteemed figures etc for the purpose of issuing licenses and monitoring the compliance of code of practices and conduct.
- c) It is considered more appropriate for the Government to take a major role in scrutinizing all the financial reports submitted by the management companies before our approval of their applications.

3.5.3 License to be issued by an Independent Committee

- a) An Independent Committee should be established to approve applications and issue licenses.
- b) A separate entity independent of any Government roles.
- c) Comprise of representatives from professional institutions including HKAPMC, HIREA (香港地產行政學會), CIH (The Chartered Institute of Housing), HKIH (香港房屋經理學會), Government Officials and esteemed figures etc.
- d) The Independent Committee should be empowered to accept or refuse to grant license and to closely monitor the licensees for full compliance with the rules and regulations under the Building Management Ordinance.

3.6 Category Licensing or Single Licensing

3.6.1 Category Licensing

- a) Licenses can be categorized but the categories should be kept to a minimum so as to avoid unnecessary dispute.
- b) Licensing system may be categorized in A, B and C according to the following criteria:
 - Company's turnover
 - Size of portfolio of the company, and
 - Year of service of the company

3.6.2 Single Licensing

- a) To be issued to qualified property management company or individual without the need of categorization of license.
- b) Simplify the licensing process.
- c) Avoid the following problems arising out from the category licensing :
 - The need for license upgrade or downgrade upon renewal of license.
 - Disputes on categorization among licensees.
 - Differentiation among licensees and property management companies.

3.7 Proposed Requirements and Operation of Licensing

3.7.1 For easy control and boosting the recognition of HKAPMC, HKAPMC membership should be a statutory requirement for obtaining a Property Management license.

3.7.2 The valid period of license should not exceed 2 years in order to have closer supervision on the property management companies.



4.Recommendation

4.1 Two types of licenses – Corporate License & Individual License

4.2 HKAPMC membership should be a statutory requirement for obtaining a license

4.3 HKAPMC could be an authorized license-issuing body

- Approving applications and issuing licenses to property management companies.
- Providing a self-regulated mechanism for the industry and yet still maintaining an overall control of professional standard.

4.4 Single licensing could be adopted in the first phase

- Simplify and speed up the licensing procedure.
- Avoid unnecessary disputes among licensees.

4.5 License should be valid for a 2-year period.

Summary of Feedback from Members

1. Licensing of Property Management Company

For: 2 members supported licensing of property management companies

Against: 0

Remarks:

1. There is no Government Department to make sure that stipulation in the BMO are strictly observed. The Association should take more active role to make it happen as it could help in more positive image-building and even reduce corruption cases
2. The licensing scheme should be a simple one. The financial status of the corporation should be examined every 6 years.

2. Individual Licence / Corporate Licence Preferred

Individual Licence

For: 0

Against: 4 members supported issuing individual/corporate licence

Corporate Licence

For: 3 members supported issuing corporate licence

Against: 0

Remarks:

1. Individual licence not required as there are quality framework for recognition of knowledge, skills and experience.
2. Some property management practitioners especially technical staff may not possess qualification such as RPHM, MCIH, MHKIH. etc. Individual licence may not be able to take care of these practitioners.
3. Only HKAPMC members are qualified for a licence.
4. There should be consideration to take care of small property management companies which are not qualified for membership of HKAPMC.

3. Licence Category

With Category: 3 members supported introducing categorization

Without Category: 3 companies did not support

Remarks:

- 3.1 Up to client to decide which category of company to employ.
- 3.2 Property Management Company need to take out Professional Indemnity Insurance cover.
- 3.3 Should treat owners' corporation as property management company.
- 3.4 To categorize company in accordance with asset and no. of professionals.
- 3.5 It is up to the client to decide which category of company to employ.
- 3.6 Categorization would limit those 'incapable' company to manage a big portfolio and
- 3.7 Would promote the professionalism of property management industry.

4. Licensing Body / Authority

Setting up a Licensing Board

For: 2 members supported setting up Licensing Board

Against: 0

Remarks:

1. Board members should include representatives from RPHM.

Feedback to Government

Together with CIH (APB), HKIH and HIREA, the Association consolidated views and referred to the government on 28th June 2007. In principle, the proposed licensing of property management companies is supported in cognizance of the following benefits:

- (a) Property management companies can be closely supervised and monitored under lucid rules and regulations;
- (b) Companies with poor financial standing can be easily identified;
- (c) Standard and quality of property management companies can be holistically improved;
- (d) Occupiers' confidence can be appropriately enhanced;
- (e) Property management industry can be healthily operated;
- (f) Professional status in the industry can be visibly improved;
- (g) Bribery and misappropriation of money and funds can be closely monitored; and
- (h) Compliance of statutory regulations and rules and code of practice can be suitably monitored.

The Association is keeping an eye on the progress of this issue and will keep members informed should there be further development.

「救心先鋒」培訓課程

為提高會員對市民之服務及提升同業知識及技考，本會聯同香港消防處及醫療輔助隊由本年五月開始向會員提供心肺復蘇法自動外置式心臟去纖維顫動器訓練課程，至今近五百會員員工報讀並考試及格。

香港消防處更於本年八月十三日假尖沙咀消防局4樓長官會會所為三百多名及格學員舉行一個名為「救心先鋒」的委任典禮，並由消防處處長郭晶強先生FSDSM, JP頒發委任證書予各出席學員，以示鼓勵。會上，更由學員作出示範表演，本會各委員亦撥冗出席，以示支持，場面熱鬧。



孫國林會長接受郭晶強消防處處長致送紀念品



本會理事會成員及消防處高級職員與「救心先鋒」合照



因會員踴躍參與是次活動，令「救心先鋒」數目眾多

第十七屆周年大會暨新一屆委員會選舉

香港物業管理公司協會第十七屆周年大會暨新一屆委員會選舉於二零零七年十月十一日假香港銅鑼灣世貿中心38樓香港世界貿易中心會舉行。當晚請到本會義務法律顧問林健雄律司及義務核數司畢馬域會計師事務所代表劉佩詩小姐為大會監察及宣佈二零零七至二零零九年委員會投票結果。

會上，以孫國林會長為首之委員會代表除了向會員報告過去一年之工作及未來展望，各出席會員亦借此機會提出對會務發展之意見。

新近選出之委員會第一次會議已於十月二十五日於本會舉行，各委員之職位透過互選產生。2007-2009年度香港物業管理公司協會之委員互選結果如下：

職務	會員公司	代表
會長	第一太平戴維斯物業管理有限公司	梁進源先生
副會長	中國海外物業服務有限公司	黃繼生先生
副會長	富城物業管理有限公司	鄭錦華博士
義務秘書	啟勝管理服務有限公司	沈錫勝先生
義務司庫	香港房屋協會	阮偉基先生
委員	其士富居物業管理有限公司	譚國榮先生
	佳定物業管理有限公司	何照基先生
	康業服務有限公司	鄺正煒先生
	和記黃埔地產有限公司	陳志球博士
	置邦物業管理有限公司	伍慧兒女士
	僑樂服務管理有限公司	陳有燦先生
	信和物業管理有限公司	楊光先生
	新恆基國際物業管理有限公司	李春犁先生
	偉邦物業管理有限公司	孫國林先生MH

歡迎新一屆之委員！謹此預祝各委員工作事事順利，會務蒸蒸日上。



新委員會來一張大合照



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