香港房屋經理學會
The Hong Kong Institute of Housing
1988年創會 Established in 1988
1997年按香港法例第507章成立 Incorporated in 1997 under Cap. 507, Law of Hong Kong
2020年物業管理業監管局認可專業團體 PMSA Recognised Professional Body in 2020

News Clipping

Publication	:	South China Morning Post
		Righting the wrongs
Date	:	26 November 2026
Link	:	B01,B02

Righting the wrongs

Promised reforms to wipe out bid-rigging and prevent another Tai Po fire tragedy are in the works for the building maintenance and renovation industry. On the anniversary of the deadly blaze, EDITH LIN and VIVIAN AU talk to industry players about what needs to change



Illustration: Davies Christian

Alfred Tang Yu-chi, director of Sun On Engineering, is steeling himself to re-enter Hong Kong's embattled building maintenance and renovation industry after a sweeping overhaul following the devastating Wang Fuk Court fire.

A year after the city's deadliest fire in decades tore through the estate during a HK$336 million renovation project, killing 168 residents and displacing about 5,000 others, the push for reform to clean up a litany of issues, from bid-rigging to lax oversight of large-scale works, is in full swing.

An independent committee investigation uncovered major systemic flaws behind the renovations, including a regulatory regime too reliant on the integrity of sector players, deficiencies across government departments and a maintenance market monopolised by triad societies.

Having focused on public building maintenance projects over the past five decades, Sun On had previously tried to expand into the private sector, only to be deterred by criminal elements.

"It has always been a small circle. The black sheep always find a way to stop you from winning a bid," Tang said.

"I was awarded a tender once. Shortly after that, some people showed up downstairs at my office. They told me they knew I won it and warned me to watch my back coming and going if I did not play along."

Tang eventually pulled out of the tender, refusing the stark choice of colluding with the group or putting his life on the line. Although the government's latest reforms have given him the confidence to rejoin the industry, Tang foresees an uphill battle.

"I am not afraid. Any retaliation will only prove that the government's resolve to stamp out bid-rigging falls short," he said.

"But established players already have the experience and teams in place. It is difficult for newcomers like us to win the bids."

While acknowledging the government's efforts to overhaul the corruption-plagued sector, construction industry players are adopting a wait-and-see approach to whether the reforms will be a real game-changer.

They also fear legitimate newcomers may struggle to enter the market, especially if syndicates continue to find ways to exploit regulatory loopholes.

They say lowering the barriers to entry for newcomers, stepping up vetting to screen out bad actors, tightening proxy control and enhancing cost transparency can help clean up the tainted sector, enabling owners to carry out fairly priced renovations.

Under the new regime, consultants and contractors must enter pre-qualified lists to bid on large-scale renovation projects supported and monitored by the new Building Maintenance Support and Services Council, a government-owned body to be set up in December.

Tang's company is among the 350 contractors that applied during a month-long enrolment drive starting in late September, alongside 150 applications each for inspection and supervision consultants.

To qualify, applicants must pass background checks conducted by enforcement agencies and have no current prosecutions or convictions for integrity-related offences in the past three years, among other requirements covering technical competency, integrity, financial capability and past performance.

Even if Sun On clears those hurdles, Tang explained that entering the private maintenance sector would entail overhead costs and he would need, in particular, to hire staff who were eloquent and willing to work beyond regular hours to attend owners' meetings in the evenings.

Even with experience in public housing repairs, Tang said his company might not have an edge.

> *"Established players already have the experience and teams in place. It is difficult for newcomers like us to win the bids*
>
> Alfred Tang, Sun On Engineering

"The government is footing the bill. It has stringent supervision over public projects. It is more demanding in selecting contractors to undertake projects," said Tang, who is the president of the Hong Kong Institute of Construction Managers.

"Private properties are different. Winning owners' vote of confidence requires strong presentation and marketing skills."

The institute's vice-president, Chan Chi-man, observed that the pre-qualified lists inherently favour established industry players by requiring past project experience, such as large-scale building repair works, a school or hospital maintenance project or a new building project.

While the lists consider consultants registered under the Architectural Services Department and building contractors endorsed by the Development Bureau, Chan hoped the authorities would expand eligibility to firms listed under other registries, such as those qualified for non-building works.

"It can attract more players and break up small-circle monopolies in the industry," he said.

Chan also suggested giving newcomers more opportunities and guidance on securing contracts.

"Established players know the rules of the game and will continue to score the highest. Companies that could not break into the market before will continue to be shut out," he said.

Unlike other optimistic new joiners, one experienced contractor said it had no plans to bid for renovation projects even if authorities approved its application.

"We applied for the sake of protecting our reputation, to show that we act with integrity ... I believe many on the lists eventually have no intention of taking part in the market," said a company representative, who declined to be identified. The firm was hesitant to take on the extra costs of entering a maintenance market plagued by malpractice.

"We would rather focus on doing public projects, which have far fewer issues," he said.

A renovation industry veteran, speaking on condition of anonymity, was also doubtful that the reforms would foster a healthy market environment despite having applied for the pre-qualified list, for another reason: triad actors.

"Does it mean that triad societies are barred from taking part in the market? I think it is missing the point," he said.

Although authorities vet consultants and contractors before putting them on the lists, the veteran said triad societies could always open new companies and hire professionals with clean backgrounds to act as fronts. He added that the pre-qualified lists required consultants and contractors to obtain a quality management system certification, which would add thousands of dollars in administrative costs for legitimate players.

While the regime proposes separating the duties of inspection, supervision and renovation among unrelated parties, he believed triad societies would try to target supervision consultant contracts – either by arranging for companies to bid in tenders or by bribing the winning contender – to maintain control over projects. The authorities would have to keep a close watch on this front, he said.

Instead of placing unrealistically low consultancy bids as they did in the past, the industry veteran said syndicates could even put in higher bids to maximise profit and later demand unnecessary rectification works to drive up prices.

Syndicates could also bid directly on contractor tenders or bribe rival contenders, who often yield to intimidation and financial pressure to keep their businesses afloat, he said.

Most importantly, the insider said the reforms failed to tackle proxy manipulation in votes on tenders, as the proposed amendments to the Building Management Ordinance did not place a cap on the number of proxies a person could hold.

Contractors are notorious for using proxy votes to skew the decisions of management committees, to ensure they are chosen as the bidder for a project or push through renovation items they are keen to take on.

> *"Criminal liability should target clearly defined hard-core collusion, rather than depend on a complex economic assessment of market effects*
>
> Catrina Lam, Des Voeux Chambers

The Home and Youth Affairs Bureau attributed the decision not to cap proxies to objections raised during earlier public consultation exercises and a lack of consensus on the exact quota. The amendments, the bureau said, would instead focus on strengthening proxy verification.

Bureau chief Alice Mak Mei-kuen also pledged to roll out a pilot scheme for electronic proxies next year, and to explore setting a quota.

The industry veteran said he had called for the proxy system to be scrapped, but the bureau rejected his suggestion, citing practical concerns.

He noted that triad societies could still sway tender votes by infiltrating incorporated owners' management committees and convincing other homeowners to vote for their preferred consultants and contractors.

Such practices could persist despite the bureau's proposal to bar anyone convicted of triad-related or fraudulent criminal offences over the past five years from serving on an incorporated owners' management committee, the insider said.

"The deadlock lies in proxy manipulation and, at the same time, owners tend to pick low-priced contracts," he said.

To combat proxy manipulation, the bureau has proposed requiring property management companies to randomly check and verify 20 proxy votes or 20 per cent of the total number of proxy votes used at meetings, whichever is greater.

To facilitate these checks, the proposed proxy form would require contact details for both the owners and their representatives. The proxy holder should also declare that they obtained the documents from the owners.

Rosita Wong Po-chun, president of the Hong Kong Institute of Housing, acknowledged that authorities had to balance anti-bid-rigging measures with practical considerations, such as when owners who were out of town needed others to vote on their behalf.

While emphasising the importance of authenticating proxies, Wong raised concerns about the mechanism for management companies to verify proxy voters. "Are we required to contact owners in person? In what ways can we confirm the owners' intent? There are no detailed and clear guidelines," she said.

In cases of suspicious proxy arrangements and other abnormalities, Catrina Lam, a senior counsel from Des Voeux Chambers, said owners should seek independent legal advice as early as possible. They should preserve materials, including proxy instruments and verification records, and report concerns to enforcement agencies.

Lamsaid authorities' moves to criminalise bid-rigging in the sector could be complemented by civil enforcement.

One of the administration's key reform proposals is to criminalise bid-rigging and anticompetitive conduct in building maintenance projects under competition, criminal and corruption laws, allowing government agencies to exercise statutory powers for investigation and enforcement, including confiscation of assets. Criminalising errant behaviour under the Competition Ordinance will also carry a penalty of up to 10 years' imprisonment.

"[That] should materially strengthen the ability to pursue those organising and profiting from the conduct, not merely the company submitting the bid," Lam said.

"An offence carrying up to 10 years' imprisonment should make clear what the defendant must know or intend. Criminal liability should target clearly defined hard-core collusion, rather than depend on a complex economic assessment of market effects."

Ahead of the legal amendments, the

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Righting the wrongs that led to the devastating Tai Po blaze

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government has set up a cross-departmental task force, which launched its first two operations this month to combat bid-rigging in maintenance projects.

The operations – involving the police, the anti-corruption watchdog and the Competition Commission – led to the arrests of 163 people and a crackdown on two bid-rigging syndicates.

Noting that the agencies' powers were not interchangeable, Lam said clear case leadership, early involvement of the Department of Justice and disciplined handling of evidence were crucial to the task force's success.

She added that properly resourced specialist teams, early prosecutorial input and focused case management could help achieve timely, fair and sustainable enforcement.

The authorities meant business and expected more of such operations to "drain the swamp", a separate source told the South China Morning Post.

Carmen Lai, chairwoman of the building surveying division of the Hong Kong Institute of Surveyors, said the reforms were a good start but would need to be refined over time.

She believed that proposals to toughen penalties on professionals, contractors and bid-rigging syndicates, along with a tightened building maintenance regulatory regime, would be effective in deterring bad actors.

"Compared with the past, where one single party could handle everything from start to finish, the reforms have added many barriers in the new regulatory regime to restore public confidence," she said.

Under the proposal, instead of simply notifying the Buildings Department of a basic repair plan, the inspection consultant must seek official approval for its report to serve as the basis for the renovation works.

The supervision consultant will have to submit plans and a supervision proposal to obtain the department's permission to start renovation works and file a project progress report to the department every six months.

The department will inspect sites and conduct random checks on work completion reports.

Lai urged the department to disclose operational details of its supervision and set up a contact point for owners to seek official confirmation on whether the works were necessary and up to standard.

While she expected that the new regime would drive up renovation costs, Lai said those prices would at least be genuine and fair.

To help owners evaluate tenders, she called on the government to provide detailed cost benchmarks for each stage of a project, including pricing for individual work procedures and supervision fees at buildings of different scales before and during the renovation.

> *The reforms have added many barriers in the new regulatory regime to restore public confidence*
>
> Carmen Lai,
> Hong Kong Institute of Surveyors

"Renovations costing billions of dollars may have involved layers of tender manipulation, exploitation and bid-rigging-related secret commissions," she said.

"In the future, when there is a professional tender assessment and stringent enforcement against bid-rigging, I believe it could minimise the hidden mark-up."

To help owners struggling to foot steep repair bills, she hoped the government could explore ways to encourage long-term savings, such as setting aside a portion of property management fees for a dedicated fund.

The changes will take time to implement and projects across the city will be affected. Some are already feeling the effects of greater scrutiny and enforcement.

Elegance Gardens, for example, shared the same contractor, Prestige Construction and Engineering, as Wang Fuk Court. Repair works at the Tuen Mun private estate, which has three blocks, began in August 2024, but they are now in limbo.

The owners were supposed to have hired a new contractor earlier this month, but the meeting was called off following the arrest of the project consultant.

The firm was allegedly involved in the bid-rigging syndicate targeted in the first enforcement operation launched under the reforms.

For residents like 67-year-old Lau Wai-ming, the halted works mean he has to live with half-completed renovations. They have to wait for the new Building Maintenance Support and Services Council, which has taken over project oversight, to begin operations. There is a backlog of 1,800 renovation projects to clear.

Money was another major issue, with each household having contributed between HK$80,000 and HK$120,000 for the project.

With more than half of the repairs done, the estate's coffers were left with about HK$30 million. Owners may end up having to pay more.

"Had I known I would have to pay more, I would have delayed my retirement and kept working," Lau, a member of the estate's owners' corporation, said.

"I was previously prepared to tolerate bid-rigging as long as the contractors could actually get the work done. But after what happened at Wang Fuk Court … the consequence is just too serious to bear."

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