

# Electrical & Mechanical Services Department

## Seminar on Energy Performance Contracting 10 July 2008

### *Energy Performance Contracting - views on Consumers' Aspects*



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# Introduction

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## Consumers

- aware of the need to reduce energy
- acquaint with energy saving feature appliances
- able to make informed decisions



# Energy Performance Contracting

- a new issue
- large scale transactions between energy services companies and owners of buildings
- business to business



# Energy Performance Contracting

- Individual residential unit owners
  - little experience
  - not accessible to appropriate information
  - business to consumer



## What special needs exist for residential unit owners to understand the offers?

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- Complexity of terms and conditions
  - how energy savings are measured and verified?
  - what sort of contractual obligations?
- Extent to which individual unit owners can exercise choice with regard to contracts on offer
  - service offered through building management committees to Owners' Corporation - economy of scale



# Contractual terms and conditions

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## Difficulties

- unfamiliarity with the terms and conditions
- extreme variation between contracts offered by different service provider
- difficult to compare with competitors' offers



# Contractual terms and conditions

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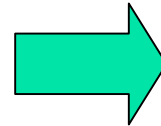
- Industry standardization help alleviate problems in complicated transactions
  - Uniform framework – compete across
    - Price
    - Quality
    - Choice



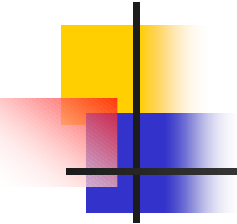
# Contractual terms and conditions

- Industry standardization applied to energy performance contracting

- efficiency arises from **standardization** accepted by business community
- Common & expected practice in building sector



- modified and made available to residential consumers

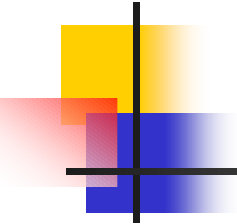


# Measurement and verification of energy savings

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Standardised measurement and verification  
protocols in contracts:

Access to unbiased, technically and  
cost effective methods to measure  
& verify energy saving



# Measurement and verification of energy savings

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## Standardized measurement and verification protocols in contracts:

- easy comparisons between projects in offered in the past and currently offer
- easier to raise capital - open and transparent method of calculation of energy savings
- reduce disagreement over the type of protocol used in a contract



# Measurement and verification of energy savings

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## Government to consider:

- legislative proposals – mandatory implementation of Building Energy Codes
  - assist residential building owners undertaking appropriate transactions
  - transparent means of assessing the extent of energy saving & environmental improvement



# Measurement and verification of energy savings

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- International Performance Measurement and Verification Protocol (US)
  - basis for developing standardized protocol for Hong Kong
  - an overview of best practices techniques for verifying results of energy efficiency, water efficiency and renewable energy project
  - used by large business enterprises
  - residential building owners – not having resources available for determining the most appropriate measurement and verification protocol



# Contractual provisions

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- Guidelines derived from what has occurred in business sector
- e.g. Best Practice Guide produced by Australian Energy Performance Contracting Assoc outlining clauses for a standard contract:
  - key clauses in plain English
  - cases illustrated with example
  - tools and document to help contracting parties
- Government to consider establish similar set of standardized terms and conditions



# Building Management Issues

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Energy performance contracts between energy service company & residential building owners through Owners Corporation

- Disputes mainly between management company and property owner(s):
  - restrictions in unit owners' choices of contractors
  - a forum for mediating owner/building management disputes
  - changes to the Deed of Mutual Covenant
  - unreasonable charges
  - poor repair and maintenance services
  - substandard quality of management



# Building Management Issues

- Amendments to Building Management Ordinance in 2007
  - assist Owners' Corporations in performing duties and exercising powers
  - rationalizing appointment procedures
- Training programmes by Home Affairs Dept for members of Owners' Corporation.



# Building Management Issues

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- Energy performance contracting in residential building
  - unknown complexity
  - bear in mind the potential difficulties Owners' Corporation will face
  - consider additional measures it should take



# Misleading and Deceptive Conduct

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Unscrupulous business might engage in shady practices by misleading or deceiving building owners

- Large commercial building owners
  - have resources to scrutinise offers & taking legal actions
- Residential building owners
  - asymmetry of power – at disadvantage against business in commercial transaction

# Misleading and Deceptive Conduct

- Council's report examines various laws and administrative procedures for HK consumers
- Deficiencies in current consumer protection framework
  - sector-specific
  - piecemeal
  - uncoordinated

**Fairness**  
*in the Marketplace for  
Consumers and Business*



**公平營商 買賣共贏**



# Misleading and Deceptive Conduct

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- Trade Description Ordinance (TDO)
  - applies to goods NOT services
  - energy performance contract services not covered by TDO
- only civil action could be taken by aggrieved consumers/residential unit owners



# Misleading and Deceptive Conduct

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- Comprehensive consumer protection law – a **Trade Practices Statute** - covers both goods and services
  - provide safeguard in form of basic ‘safety net’
  - adapt to many situations arisen in vibrant and creative economy – provision of energy performance contract services
  - work to the benefit of legitimate businesses – ensuring scrupulous practices removed from marketplace
  - protect reputation of the industry



# Competition Policy

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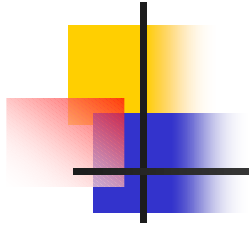
- Broad based competition law
  - Will ensure any anti-competitive practices by energy performance contractors will be investigated



# Conclusion

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- Not only residential building owners' interests protected
- Industry can succeed in bringing forward the benefits inherent in energy performance contracting



**THANK YOU !**