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Vasai Taluka

Housing
Federation

January 2018

VOL.07 Issue 10

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	36	10	63115

VASAI TALUKA HOUSING SOCIETIES REVIEW

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Views expressed in this Magazine are of the authors & VTHF is not Responsible for its Contents. Circulate among Friends and other members of the Society

EDITORIAL



श्री. वि. विश्वनाथन

Dear Members,

Wish you a Happy & Prosperous new year 2017!

RERA is topic of the day -- the Maharashtra Government appointed Bureaucrat Mr. Gautam Chaterjee as the Housing regulator under the Real Estate (Regulation and Development) Act 2016, which aims to safeguard interests of home buyers and resolve disputes relating to the Housing Sector. As per the Government Resolution (GR), Mr. Gautam Chaterjee will be officer on special duty in the CM's Office. He will hold additional charge as Housing Regulator till the Housing Regulatory Authority is constituted. We are keeping an hawk's eye on further development in this regard and also the steps that may be taken by the Government thereof. It is learnt that draft rules framed for the authority are in public domain for inviting suggestions and objections till December 31, an official said. Following finalization of rules, the authority will come into existence. The regulatory authority will be a quasi judicial body as given to understand.

Regarding RERA it is learnt that many important provisions in the original Central Act have been relaxed by the State Government in the draft Rules published recently under the duress of Builders' lobby.

Once the RERA is out, it is quite likely that the deemed conveyance work would be indirectly stalled until Occupancy Certificates are not given. Year end is round the corner. All the societies are requested to gear up for the same.

For further details please log on to www.vasaihousingfederation.com or call us on 0250- 6457585 / 95 / 90 2809 7499.

Happy reading VTHF.

V. Viswanathan, Secretary - VTHF

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Dear Friends,

Three years ago our **Honourable Prime Minister Sri Narendra Modi** launched the mission for a clean India through **Swachh Bharat Abhiyan** carrying forward the vision of **Mahatma Gandhi**.

In keeping with objectives of **Swachh Bharat Abhiyan** we, at Rotary Club of Mumbai Green City along with our co-hosts Rotary Club of Bombay West and Rotary Club of Mumbai North End had organized a Seminar on 12th November 2016 at Rotary Service Centre Juhu focusing on Management of Sewerage and Municipal Solid Waste. Dr. Sanjay Muknerjee IAS Additional Municipal Commissioner of Municipal Corporation of Greater Mumbai (MCGM) had inaugurated the Exhibition and Conference addressed by Who's Who of their area of Expertise. The exhibition was participated by reputed manufacturers of Machines geared to assist Solid Waste Processing. The Seminar had wide participation of delegates from Housing Societies, ALMs, Corporates and Municipalities.

Thanks to the initiatives generated by above Seminar coupled with recent orders from MCGM concerning segregation and processing of Solid Waste, Management of Solid Waste by Housing Societies and ALMs have become a critical issue.

While there has been considerable awareness and actions for segregation of Mixed Solid Waste amongst the residents of Mumbai, processing and management of Solid Waste still remain a problem as not much of knowledge with regard to processing of Solid Waste has been dissipated to the Residents and Housing Societies.

As you all are aware Rotary Clubs around the globe select projects like Eradication of Polio etc and work with a missionary zeal for the solution of the problem. With regard to Swachh Abhiyan Rotarians in Mumbai have been participating in numerous ways like Construction of Toilet Blocks in Schools. Rotary Club of Bombay Bay View and Wockhardt Foundation have installed Swachh Bharat Recycle Machines for Plastic Bottles at Churchgate Railway Station. Besides Awareness programmes are being conducted in various Housing Societies. With the above foregoing this year Rotary Club of Mumbai Green City with our cohosts have embarked upon holding a two day Seminar and Exhibition focusing on Management of the Solid Waste on 16 and 17 February 2018 at SNDT Womens University Juhu. The First Information Bulletin along with Detail Tentative Programme is attached herewith.

We, the Organisers, request presence of delegates from MCGM, Housing Societies, ALMs, Real Estate Developers and Corporate Organisations engaged



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in providing processes and products for Solid Waste Processing. A Registration Form is attached for delegates intending to attend. While Delegates sponsored by Corporate Organisations, Hospitals, Restaurants etc., are required to pay Rs 5000/-per delegate, delegates sponsored by MCGM, Rotary Clubs, Housing Societies and ALMs will be treated as Invitees.

No Charge will be levied on the Housing Societies Limited to four nos. for exhibiting the Process/Machineries operating successfully in their premises.

Welcome to the Seminar on Swachh Mumbai.

Yours faithfully

Corporate Organisations wishing to advertise their products and processes can do so by being a Sponsor or Advertiser in the Seminar Bulletin or by exhibiting their Product/Process in Exhibition.

D. P. Misra
FNAE, FICHEM, FIICHE, FIE
Project Director, Swachh Mumbai
Cell : 098200 49581

For More Details & Registration Please Call: 022 / 4255 1414 / 32 or Logon to www.mswa.co.in or E-mail - mswa.hsg@gmail.com

PROGRAMME SCHEDULE : - Friday, 16th and Saturday, 17th Feb 2018

Day/Date/Time	Topic
Day 1, Friday, 16th February	
10.00 am to 11.00 am	Inauguration: Rotary District Governor- Rtn. Prafull Sharma will be Guest of Honour
11.00 am to 11.30 am	TEA BREAK
Session 1: 11.30 am to 11.45 am	Snapshot on Regulation of Disposal of Solid Waste
Session 2: 11.45 am to 12.30 pm	Case Studies of House Holders with successful experience
Session 3: 12.30 pm to 1.30 pm	Case Studies of Housing Societies with successful experience
1.30 pm to 2.15 pm	LUNCH BREAK
Session 4: 2.15 pm to 3.30 pm	Status of Solid Waste Management in Housing Societies Case Studies of successful ALMs Case Study of Nirmalaya Composting for Temples
3.30 pm to 4.00 pm	TEA BREAK
Session 5: 4.00 pm to 5.00 pm	Composting: Technological Features and Types incl. Sale of Compost Presentation by successful vendors
Session 6: 5.00 pm to 6.00 pm	Bio Gas and Energy – Solution for treatment of Solid Waste Status of converting Solid Waste to Energy Presentations by successful vendors
@@@Day 2- Sat, 17th February	
Session 7: 9.30 am to 10.30 am	Dry Wastes and Methods of Recycle and Disposal Presentations by Successful Vendors
Session 8: 10.30 to 11.30am	Treatment and Disposal of Biomedical Waste and e-waste Household waste like diapers, sanitary napkins, medicines etc. Dispensary, laboratory, nursing home, hospital waste Household/Corporate e-waste
11.30 am -12.00 noon	TEA BREAK
Session 9: 12.00 noon to 1.30 pm	MCGM Experience Segregation of Garbage Collection and Transport Decentralised Treatment Plans for Centralised Treatment Incentives for raising Public Initiatives



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1.30 pm to 2.15 pm	LUNCH BREAK
Session 10: 2.15 pm to 3.45 pm	Case Studies of Municipalities with Waste to Energy Plants Dumping Site (MCGM) Plants for Waste to Compost (Ahmedabad) Integrated Systems for Dry and Wet Waste (Goa)
3.45 pm to 4.00 pm	TEA BREAK
Session 11: 4.00 pm to 5.00 pm	Management of MSW Facilities: Waste Management Services-Need of Hour Waste Management and Sustainability Involvement of Rotary/NGO
Session 12: 5.00 pm to 5.30 pm	Reactions from Audience
5.30 pm to 6.00 pm	Valedictory Address & End

N.B. The Programme is tentative. Unmarked Items are confirmed.

**Action: @@:Dr.Deepak Kantawala/Mr.Yogen Parikh to contact and confirm
@@@:D.P.Misra/Parvez Merchant to contact and confirm.**




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MahaRERA order: Form society before possession



CA. Ramesh S Prabhu
Mob.: 9820106766

In a decision by Maharashtra Real Estate Regulatory Authority (MahaRERA), a developer has been asked to initiate the process of society formation even before he hands over the possession of the flats. The possession of the flat by the developer will be given by January 31,

2018, however, within 30 days of the order (dated November 23), he has been asked that the process of society formation be initiated, as more than 51 per cent of the apartments in the project have already been sold. Experts say this order will set a precedent, as other developers will have to follow suit. Additionally, though there is conflict as certain rules also state that a society can be formed only after receiving completion certificate, the MahaRERA rule will be held above all this.

While hearing a case of delayed by possession filed by homebuyers Sangeeta and Dinesh Mehta against Nandaaj Developers, MahaRERA chairman Gautam Chaterjee passed the order, asking the developer to initiate the process.

Following the order, Ramesh Prabhu, chairman of Maharashtra Societies Welfare Association (MSWA), said, "This is a good order and will set a precedent for all developers to follow. There are examples where developers for years do not form a society, because they want to enjoy the benefits. For example, in the initial period after the project is completed, many homebuyers carry out sale of the purchased flat. For this, builders charge them a transfer fees and if they form a society immediately, they will suffer a loss. Now, after sale of 51 per cent of the total flats, they have to initiate a process of society formation."

The complainant had alleged that they entered into a registered agreement for sale dated December 12, 2012 to purchase an apartment in



Royal Residency, Parel-Lalbaug, adding that the date of possession was on or before March 31, 2014. But, till date they haven't received the possession so they sought the authority's intervention to register the society within a period of one month, as more than 51 per cent of the apartments have been sold.

The developer had countered that the building is almost complete and he has applied for Occupation certificate and the possession of the apartment will be handed over by January 31, 2018.

Hearing the matter, the authority then directed the developer to handover possession of the apartment to the complainant before January 31, 2018, failing which he shall be liable to pay interest to the complainant from February 1, 2018. The authority further directed the developer to initiate the procedure for formation of society within 30 days from the date of the order.

According to Prabhu, there are several other departments that also had different rules for society formation. "Under one of the act, within few months of receiving occupation certificate the developer had to form a society. Another department had this rule that society be formed only after receiving completion certificate. The new ruling of MahaRERA will be over all these. Hence, now, societies will be formed at the earlier benefiting the common home buyer," he said.

Source : DNA 26th November 2017



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Real estate sector welcomes Bombay HC verdict on validity of RERA

The Bombay High Court has upheld the validity of the Real Estate (Regulation and Development) Act (RERA), saying its objective is to develop the real estate sector.

A bench of Justices Naresh Patil and Rajesh Ketkar pronounced its judgement on a bunch of petitions filed by real estate developers and individual plot owners, all challenging the constitutional validity of the Act that was brought into effect in May this year. The bench, headed by Justice Patil, however, allowed a significant leeway for the developers in today's judgement by permitting the state-level RERA Authority and the Appellate Tribunal to consider delays on a case-to-case basis, and not to cancel such projects or developers' registration in cases where the delay was caused due to "exceptional and compelling circumstances."

Here is how the real estate sector reacts -

Dharmesh Jain, CMD, Nirmal

"The Hon'ble High court's judgement will only strengthen the real estate fraternity further. By upholding the constitutional validity of the Act the Hon'ble Bombay High Court eliminates any ambiguity and scope for misconceptions with regards to legal aspects and provisions. We appreciate the ruling of the Hon'ble High Court as it only serves to reinforce RERA and the impactful objective of a transparent industry, making it easier for us to work in tandem."

Rohit Poddar, Managing Director, Poddar Housing and Development Ltd

"The decision reinforces the 'power of customer' by giving them a protective shield. This on one hand will boost the customer confidence while closing a real estate deal, on the other it will ensure stringent compliance to be followed by developers. PHDL being a customer centric organisation, we welcome the decision of the Hon. Bombay High Court"

Ashok Mohanani, Chairman, EKTA world and Vice President NAREDCO WEST



We appreciate the efforts taken by the Hon'ble Bombay High Court in looking into these cases and dedicating time selflessly to look into issues, which impact the entire industry. We accept the order and ruling of the Hon'ble Court and will work with the MahaRERA in the implementation of the act, in its true letter and spirit.

Niranjan Hiranandani - National President, NAREDCO

"The Bombay High Court has upheld the constitutional validity of the Real Estate (Regulation & Development) Act, 2016. Stakeholders in real estate, including some builders, had raised questions on the legal validity of the Act, and its various provisions. The Hon'ble Bombay High Court has given its decision to uphold the validity of RERA after evaluating the legal aspects. Real estate developers have two points where the Hon'ble High Court has upheld their perspective, first on giving an extension beyond the stipulated one year, on a case to case basis, in exceptional cases.

From a builder's perspective, it is unfair to cap the extension to only a year, as there may be genuine impediments in completion of the project, which would render builders liable to penal actions for such delays. This is a realistic decision by the Hon'ble Division bench of the Bombay High Court. The second one, on appointment of members of an appellate tribunal, where the Hon'ble Court held that majority members must be judges or judicial officers. So, the Hon'ble High Court has accepted some aspects which were put up on behalf of builders, which augurs well for fair and just implementation of the regulatory Act."

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Amit Wadhvani, Director Sai Estate Consultants

"The Bombay HC Bench has allowed significant leeway for developers and permitted the state-level RERA authority and the Appellate Tribunal to consider delays on a case-to-case basis in "exceptional and compelling circumstances." The developers have challenged the provision of natural disaster and asked the court to give leeway under such situations. The pending cases of delays due to RERA must be resolved to understand the limitations. If a real estate developer is following the best practices, RERA can work in their favour. RERA is supposed to instill cheer and not to be feared within the developer community. Hence, it is a positive move. However, it can lead to ambiguity as the HC ruling says it may differ case to case"

Manju Yagnik, vice chairperson of Nahar Group

"The delays are not always because of developers there are many other unforeseen circumstances in which the delay occurs. For example- Labour strike or sand extraction, material unavailability and other such unavoidable circumstances for which developers cannot be penalized. Also, for periodicals delays in approval, one cannot attain 100% approvals at all levels at the same time. There are so many approvals on different stage that developers need to obtain, like environ-

mental, fire NOC which take one month to three months. At times, delays are in processes and government approval which are beyond the control of developer which needs to be seen and heard and also evaluated at that level. It's a good step that when the developers are at no fault, they will be considered if it is genuine.

The approvals and sanction will be much faster. Customers will not lose faith as the delays won't prolong, these delays would be of a comparatively shorter duration because of processes."

CA. Ramesh Prabhu, Chairman, MahaSeWA

The judgment as consumers victory. Because so far consumer was denuded in the hands of scruples builders. First time RERA give him solace and he was confident that his hard earned money is safe. And he can get his dream home in stipulated time. Some builders challenged the constitutional validity of RERA, but Hon'ble High Court upheld the Constitutional validity of RERA and also gives powers to the Authority to give extension to the project on case to case basis. It means that if the problem is genuine for causing delay to the project, the Authority will decide on it.

Source : Magicbricks Bureau

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CA. Ramesh S Prabhu
Mob.: 9820106766

Which projects are exempted from RERA registration

*E-mail your queries
related to any housing
issue and legal matter on
rsprabhu13@gmail.com*

Saturday, December 30, 2017

Q.1. Can a Co-operative Housing society who has entered in DA with a builder get registered by making an application under Real Estate (Regulation and Development) Act, 2016 (RERA). If builder is not registering the project after taking over the possession of the property, what can members and society do? It's a project having more than 8 flats for sale component.

A. As per section 3 of the Act, the promoters are required to register the project with RERA, before offering any apartments for sale and registration. It may be done only after obtaining necessary sanctions i.e (at least IOD). The society will not be able to register with RERA, as the society is not going to sell a single flat. It is the promoter / developer who will be entering into sale agreement, receive consideration from purchasers, etc. So only developer has to register with RERA. If the developer has started to market project without RERA registration, members of the society or any person may complain to RERA who shall take necessary action against such developer including levy of penalty up to 10% of cost of the project as determined by the Authority.

Q. 2. Our project got OC up to 3rd floor in 2004. Later on, 2 more floors were built by buying TDR against FSI in 2012. Everything was made according to norms but some of the occupants went ahead and took fire escape inside. Because of that OC was denied but not in writing. Do we have to register under RERA? What steps should be taken to get OC?

A. Since there is no OC in your project for 4th and 5th floor built by using TDR as on the commencement of the Act, (that is 1st May 2017)

that phase need to be registered with the advent of RERA with effect from 1st May 2017. The phase which do not have OC need to register with RERA authorities. The reasons behind denying OC should be rectified by appointing an Architect/ Licensed Surveyor and then after such rectification you should apply for OC through an Architect/ Licensed Surveyor.

If it is not registered before 31st July 2017, if some flat owners complain it RERA, you will be receiving a show cause notice and may levy you the penalty up to 10% of cost of project as determined by the authority.

Q.3. Builder has given Allotment letter way back in 1999. The building is ready with OC since about 10 years. But, agreement for Sale is not yet executed till day neither Possession given to buyers (About 30 of them) Entire payment was made to Developer as per Allotment letters. Matter went to High Court, Consumer Court, Criminal court & orders were passed by Courts to hand over possession & Agreement for sale. Main reasons for not giving possession & Agreement for Sale is Developers (Partners) fighting among themselves and there is some TDR which can be loaded on the said plot and a building can easily come up on the same.

Is RERA applicable to the Developer?

- 1) Since NO Agreement for Sale
- 2) NO Possession
- 3) Only OC in place
- 4) Unsold inventory of about 70% in the building

A. Since Occupation certificate is received prior to 1st May 2017 and according to definition given for completion certificate includes OC or any other name which allows builders to hand over the possession, this case does not fall under RERA.

Q. 4. Which projects need not be registered with the RERA authority or are exempted from registration?



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A. As per section 3(2) of the Act, no registration of the real estate project shall be required—
(c) where the area of land proposed to be developed does not exceed five hundred square meters inclusive of all phases or
(d) the number of apartments proposed to be developed does not exceed eight inclusive of all phases:

First proviso to section 3(2) of the Act, provides that, if the appropriate Government considers it necessary, it may, reduce the threshold below five hundred square meters or eight apartments, as the case may be, inclusive of all phases, for exemption from registration under this Act

Maharashtra government has not issued any notification to reduce the number of units or lesser area for registration of the real estate projects.

(c) where the promoter has received completion certificate for a real estate project prior to commencement of this Act.

(g) for the purpose of renovation or repair or re-development which does not involve marketing, advertising selling or new allotment of any apartment, plot or building, as the case may be, under the real estate project.

Source : Afternoon Dispatch & Courier

GOOD NEWS!

AVAILABILITY OF NEW - MODEL BYE-LAWS - ENGLISH

Your association has been given permission to print and sell the model bye-laws and other forms to the housing societies and others. Your association has printed the sufficient number and is made available at very nominal amount. For latest and updated copies of Model Bye-laws in English as approved by the Commissioner for Co-operation and Registrar of Societies, Maharashtra State, you may contact the association office. You will also be given the required guidance for adoption of the same. For more details contact: 022- 4255 1414. For Members Rs. 70/- Per Copy

GOOD NEWS!

APPEAL TO ALL HOUSING SOCIETIES

Maharashtra Societies Welfare Associates is taking every efforts for well being of the Co-operative Housing Societies and its smooth functioning. Considering the hardship caused to the Housing Societies for submitting the audit report to the Dy. Registrar office, your organisation write and present this issue to the Registrar's office. And we are glad to inform you that. Registrar has authorized our Association for collecting the Audit Report for the year 2016-17 of the Co-operative Housing Societies. Our Association's **MahaSevak** will visit your premises to collect the Audit Report for the year 2016-17 and they may also solve or guide you in any difficulty in submitting the audit report.

You are requested to Co-operate them and if you have any complaint in this regard you may please contact our office directly on Tel. No. 022-42551414/432/424.



You may also submit your audit report directly to our following branch offices in Mumbai, Thane & Palghar District.

For more details and guidance please contact our assistant desk Shri Santosh Giri on Mob. No. 7045599701. or Tel.: 022 - 4255 1414

HC upholds Rera, says it also applies to ongoing projects

Builders Can Get More Time In Rare Cases

- [Swati.Deshpande @timesgroup.com](mailto:Swati.Deshpande@timesgroup.com)

Mumbai: In a victory for home buyers, the Bombay high court has upheld the constitutional validity of the Real Estate (regulation and development) Act (Rera) and its applicability to ongoing projects across states. The law intends to make home-buying a transparent and speedy transaction with powers of redressal.

The judgment, however, offered a breather to builders too. It expanded the Rera authority's powers to grant more time in exceptional cases to a builder to complete a project. The

additional time is meant to be granted in compelling circumstances on a case-by-case basis.

A division bench of Justices Naresh Patil and R G Ketkar gave separate but concurrent findings. The extension would go beyond the statutory one-year extension after the deadline for completion, which the Act requires the project's promoter to mention during registration.

The HC pronouncement is the first such verdict in the country on challenges raised by builders in various high courts. The Supreme Court had in September tasked the Bombay HC to set the path while staying hearings in other courts on similar challenges.

IN LARGER PUBLIC INTEREST: COURT

In September this year, SC dismissed a plea by Centre to transfer all anti-Rera petitions to one court; directed Bombay HC to be first to decide the challenge

PROVISIONS THAT WERE CHALLENGED

- Builder to specify time within which he will finish a project or a phase of construction
- Builder to deposit 70% of amounts received from buyers in a separate account to cover only construction and land costs
- Builder liable to compensate a buyer for delay in possession even if he withdraws from a project

WHAT BOMBAY HC SAID

Two-judge bench upholds constitutional validity of 18 sections of Rera and its application to even ongoing projects



Says harmonious of Rera sections establishes they are constitutionally valid; provisions seek to protect allottees and simplify remedying of wrongs committed by a promoter

Fresh timeline to ongoing projects doesn't absolve builder of liability

A BREATHER FOR BUILDERS

- HC expands Rera's powers to grant more time, though only in exceptional cases, to a builder to complete a project
- The extension will go beyond the statutorily limiting one-year extension after a completion deadline which must be mentioned during registration

Source :- Times of India, Date:- 07/12/2017

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E-mail Id: scepune@gmail.com

Outward No.SCOEA/Section-3A/Mumbai/Training & Guidance/Housing/Election/1552/2017

To,

Date : 01/04/2017

Shri Ramesh Prabhu, Chairman,

Maharashtra Societies Welfare Association, Andheri (W), Mumbai -400 058.

Sub :- In respect of the election of the committees of Co-operative Housing Societies

Ref:- Your letter dt 20-03-2017

Incidental to above mentioned subject and under reference letter you have been informed that,

Your Association has shown keen interest in giving guidance in election matter to the Co-operative Housing Societies, which is highly appreciable. There are roughly 30,447 'D' class Co-operative Societies in the jurisdiction of Greater Mumbai and most of them are under the 'Housing Co-operative Society' type. By making amendment in the Maharashtra Co-operative Society Act, 1960 on dt 14.02.2013, Section 73 CB relating to election was inserted and Rules under the said section came into force w.e.f. 14-11-2014. However most of the Office Bearers and Members of the Co-operative Housing Societies are ignorant about provisions of Maharashtra Co-operative Societies (Committee Election) Rules 2014. As a result, most of the Co-operative Housing Societies are not co-operating with the election machinery for implementing election process according to amended law under section 73 CB (14). It came to the notice of the Authority that difficulties arise in conducting election and due to this, elections are kept pending.

Considering the above, it is necessary to organized meetings/guidance camps for comprehensive enlightenment of office bearers and members of Co-operative Housing Societies

in Greater Mumbai incidental to the provisions included after the amendments and new Election Rules. Currently, there are more than 90 Federal Societies of Housing Societies active in Mumbai. Their participation will be beneficial for this task. If such training workshops are organized through your Association with the participation of Federal Societies of Co-operative Housing Societies in Co-ordination with Divisional Joint Registrar, Co-operative Societies Mumbai/Konkan, District Deputy Registrars, Co-operative Societies and Ward Officers, then the Senior Officers of the Authority would definitely attend such seminars for guidance.

Similarly, if the Authority get the information regarding your member societies contacting to your Association for election purposes, then the Authority can take further necessary action immediately. You are therefore requested to organized such type of Guidance camps/workshop and inform the same to this Authority.

With the direction of Hon. Commissioner, State Co-operation Election Authority Maharashtra State Pune,

(Srikrishna Wadekar) Secretary,
State Co-operation Authority Maharashtra
State Pune

State Election Authority appoints MSHA for educating Mumbai Hsg. Societies

MSWA has been appointed by State Co-operative Election Authority to conduct training sessions for cooperative housing societies. Vide a letter addressed to CA Ramesh Prabhu, Chairman of MSHA, dated 01.04.2017, Srikrishna Wadekar, Secretary of State Co-operation Authority, pointed out that, "most of the Office Bearers and Members of CHS are ignorant about Election Rules 2014. So, most of the Societies are not cooperating with the election machinery. Difficulties arise in conducting election due to this and elections are kept pending. **You are therefore requested to organize such type of guidance camps/workshop and inform the same to this Authority.**"

Accordingly, MSHA member societies are invited to call on 022-42551414/32 for free-of-charge training in their societies.

BUILDER TO PAY HOME BUYERS FOR CHANGING PROJECT PLAN

Satish.Nandgaonkar @timesgroup.com
TWEETS @MumbaiMirror

Besides Rs 50,000 compensation, 15 buyers to get interest for delay in project

In one of the first such orders, the Maharashtra Real Estate Regulatory Authority (MahaRERA) has directed a Pune-based developer to pay a compensation of Rs 50,000 along with interest to each of the 15 home buyers who complained that the developer not only delayed possession but also alleged that the project plan was changed without their consent.

A group of 15 home buyers who had booked flats in Aura and Myra wings of Artemis, a 21-storey twin tower project on Sinhagad Road in Pune, had complained that the developers Calyx Estate Lenora, Landmark LLP and Kankariya Properties had promised possession by December 2016 when they booked flats in 2013-14. Since the possession has been delayed and even their consent was not taken when the project plan was changed, they sought interest on their payments and compensation under Section 14 and 18 of RERA.

The developers questioned MahaRERA's jurisdiction to entertain the complaint stating that as the agreements for sale were executed before RERA was enacted on May 1, 2017 hence RERA provisions cannot be applied retrospectively. They contended that the possession was delayed because the clearances from the Maharashtra Pollution Control Board, the National Defence Academy, and the Ministry of Environment and Forests were not granted in time. They also denied that they have changed the project plan without the knowledge and consent of home buyers.

Adjudicating officer and member, MahaRERA, Bhalchandra Kapadnis ruled that the regulator had the jurisdiction to entertain the complaint, and the home buyers were entitled to both interest for delayed possession and compensation for change in project plan without their consent.

Explaining the reasons for his ruling, Kapadnis, a



retired district judge, referred to Bombay High Court's recent judgment on petitions challenging the validity of RERA. "Honourable Bombay High Court referred to Section 18 and accepted that it is retrospective though the law is prospective. The project of the respondents is registered with MahaRERA as it is an on-going project," he said in the order. "The cause of action to claim possession is a recurring cause of action which continues and therefore, I hold that MahaRERA has jurisdiction to entertain these complaints and adjudicate upon it, though the agreements for sale have been executed before May 1, 2017," Kapadnis ruled.

He referred to Para 119 of the HC's judgment on RERA validity which put the onus on the promoter in assessing the time required for completion of a project. "The promoter is expected to have fair assessment of the time required for completing the project, so the respondents were expected to estimate the time likely to be taken for obtaining sanctions and approvals before the launch of their project," he said.

He also referred to Section 7 of Maharashtra Ownership of Flats Act (MOFA), which states that the promoter shall not make any alteration in the structure prescribed in the approved plan without the previous consent of the buyers. He said the developer had gone ahead with overhead tank instead of underwater tank, changed the parking area and some amenities too.

He then directed the developers to pay interest at the rate of 10.5 per cent on the amount paid by the 15 home buyers from January 1, 2017 for every month of delay till actual possession. He asked the developer to pay Rs 50,000 each as compensation for change of plans without their consent, and handover possession by Feb 28, 2018 instead of June 30, 2018.



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GST – No major relief to the real estate industry



Prior to the introduction of Goods and Services Tax (GST), paying multiple taxes in a complicated system was the biggest task before the real estate industry, thus resulting in disparity in property rates across the nation for which home-buyers bore the brunt. While purchasing home, home-buyers have to pay GST on every services rendered, may be it loan for purchasing flat, private services for preparing and executing documents etc.

Today, under the GST regime, under-construction properties are taxed at 18 percent, applicable only to 2/3 of the value of the property. It excludes ready-to-move-in properties and residential schemes sponsored under the Pradhan Mantri Awas Yojana (PMAY). The remaining cost is considered as per the value of the land. Eliminating stamp duty and registration charges, the actual tax rate comes to 12 percent. Realtors can benefit from input tax credits, which are ideally transmitted to customers.

GST on under-construction houses is reduced to 8 percent from 12 percent for affordable housing up to 650 sq.ft. This has been a big positive move to boost demand in the affordable housing segment.

Future reports about GST state that the real estate sector will be brought under the GST regime without stamp duty and other levies like property tax. However, The Associated Chambers of Commerce and Industry of India (ASSOCHAM) is of the opinion that stamp duty should be included under GST and should not add to the cost of housing and construction as it will result in more confusion.

Recently, the Congress demanded petroleum products and real estate be brought under GST. On the other hand, the Maharashtra Government has asked the GST council to re-consider its decision after an in-depth study, including its impact on the State finances.



CA VISHAL GALA
Mob - 981951 3758

Pre-GST home loans were taxed at 15 percent while currently it is taxed at 18 percent. Although GST is not applicable on MCLR-linked mortgage pre-payment fee, the pre-payment fee for a fixed rate mortgage remains 18 percent instead of 15 percent. The Indian real estate segment has been experiencing significant transformations such as RERA that ensures transparency and timely delivery of projects. The residential segment will definitely benefit from GST as it will attract potential customers. The relative simplicity of the system will benefit all stakeholders in the realty market.

As far as building materials are concerned, GST brings no major changes. Pillars and iron rods are being taxed at 18 percent from the previous 20 percent. Cement is currently taxed in the highest slab of 28 percent. The tax rate on fly ash bricks and sand-lime bricks has been reduced to 5 percent from 6 percent. These marginal variations can make a big difference. In the luxury segment, the basic construction cost may reduce marginally, but as the input tax credit is limited to 12 percent, it will not be sufficient to bring down the tax liability completely because of the taxes paid on other expenditures.

However, the abatement available for the land cost, for calculating service tax on under construction projects is still unclear. The abatement rules and the input tax credit facility for developers will determine if the effective tax incidence on real estate has increased or decreased under GST.

FIRE-RESISTANT EVACUATION LIFTS TO BE A MUST FOR NEW BUILDINGS IN MUMBAI

BMC has prepared a policy to make fire-resistant firemen evacuation lifts compulsory for buildings above 70 metres (22 floors) for fire-fighting and rescue operations during an emergency. The lifts will have additional power backup, fire-resistant cabins and glass, which will help firemen reach to affected floors and rescue victims.

Residents can use the lifts on a regular basis, which will ensure they are in a working condition at all times, officials said. There have been instances when residents have died due to suffocation, trying to escape fires by using building lifts or staircases.

The fire brigade has 90-metre hydraulic ladders that can go up to 30 floors. Beyond that, it's difficult for the fire brigade to reach out, so they need an internal mechanism in buildings for fire-fighting and rescue operations on higher floors. The policy is awaiting civic chief Ajoy Mehta's approval, after which upcoming buildings will have to install the lifts or the fire brigade will not give them an NOC, without which builders will not get the mandatory occupation certificate from BMC. Fire officials said that for the first time they are coming with specifications for the fire evacuation lifts after meeting lift manufacturers. The fire brigade prepared the policy after consulting all stakeholders and will incorporate in the Development Control rules after Mehta's approval.

The lifts must be able to carry 1,000kg or 15 persons, and must have at least two hour's fire resistance capacity, the door should have fire resistance glass, backup power supply and an emergency fire switch. Civic officials said the national building code states that buildings should have an external evacuation system. BMC development control rules had made a provision of a fire escape chute and lowering devices for buildings above 70 metre for rescue operations. But there are not efficient, so we are suggesting the firemen lift, which not only help rescue people, but also in fire-fighting operations, said fire officials.

BMC will replace the chute and lowering device provision in the rules with the firemen evacuation lift. Fire officials said the rule will not apply to building already constructed, but many were showing interest to install them.

Past cases

- June 2015 | 7 persons died in a fire at a building at Lake Homes complex, Powai, mostly due to suffocation in two lifts which they were using to escape
- Dec 2013 | 7 persons died after a major fire broke out on 26th floor of Mont Blanc building, Kemps Corner
- June 2013 | 4 persons died due to suffocation after a fire broke out at Indusland Bank office building, MIDC, Andheri (E)

Firemen trapped during rescue operations

- July 2014 | A fireman died and 22 were trapped on the terrace after a fire broke out at the 22-storey Lotus Business Park at Andheri (W). A helicopter was call in for their rescue but after few hours, they controlled the fire at the staircase which helped rescue the firemen

Key points of firemen evacuation lifts

- Building should have fire evacuation lift instead of fire escape chute or control lowering device
- Lift should have capacity to carry 1,000kg (or 15 persons)
- Lift car and landing door must have at least two hours' fire resistance capacity
- Transparent glass must have fire resistance capacity at least for two hours
- Backup power supply and electric cable should be fire-resistant
- Lift can be use by residents on regular basis, which will ensure they are working at all times
- It will have an emergency fire alarm





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 - CONVEYANCE AND DEEMED CONVEYANCE
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 - LEGAL MATTERS RELATED TO SOCIETY MATTERS / TRANSFER OF FLAT

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FREE PUBLIC LECTURE ON **RIGHT TO INFORMATION ACT**

“GIANTS INTERNATIONAL JOINTLY WITH MAHARASHTRA SOCIETIES WELFARE ASSOCIATION

HAS ARRANGED PUBLIC LECTURE ON “RIGHT TO INFORMATION ACT” BY Mr. HARIRAM CHAUDHARY, ON EVERY FOURTH SATURDAY, Next Date for Seminar-27th Jan, 2018 At 5.00 PM

Chief Guest & Key Note Speaker

SHRI SHAILESH GANDHI, Retired Chief Central Information Commissioner

Other Key Speaker : Mr. Hariram Chaudhary, S.E.O. Ex. Special Executive Magistrate, Panelist and Moderator - TELEVISION & RADIO, Chairman - Publicity GIANTS INTERNATIONAL, Past National Director - HG. FELLOWSHIP, INDIAN JUNIOR CHAMBER

Topic: 1. PREVENTION OF DELAY IN DISCHARGE OF OFFICIAL DUTIES ACT. HE WILL ALSO GUIDE ABOUT EFFECTIVE USE OF LOKSHAHI DIN . 2. INFORMATION ABOUT RIGHT TO SERVICES ACT, WHICH HAS BEEN RECENTLY PASSED BY THE MAHARASHTRA ASSEMBLY.

**THE LECTURE & INTERACTIVE SESSIONS WILL BE HELD AT CONFERENCE ROOM OF
MAHARASHTRA SOCIETIES WELFARE ASSOCIATION AT**

A-2/302, LARAM CENTRE, OPP ANDHERI RAILWAY STATION (WEST), MUMBAI 400 058
FOR FREE REGISTRATIONS CONTACT : Mob. 9322090137 OR | Tel. 42551414 | Tel. 2367 9698

*You are Welcome to post your questions / queries, by E-mail in advance, to
hariramchaudhary@gmail.com / rsprabhu13@gmail.com*



MAHARASHTRA SOCIETIES WELFARE ASSOCIATION (R)

“MSWA BRANCH OFFICE ”

Location	Address	Tel. No.
Fort	Sai Sadan, 1st floor, office No. 103, 76/78, Modi Street, Fort, Mumbai 400001	022 - 2265 65 82 98 21 23 47 70
Vasai	Swagat Bhavan Bldg., Near Indian oil, Opp. M. S. E. B. Colony, Vasai (E), Thane - 400 208.	0250 - 645 75 85 0250 - 645 75 86
Dombivali	1-B, Ram Govind Apartment, Opp. Vijya Bank, Near Brahman Sabha Hall, Dombivali (E) - 421 201.	0251 - 2422 880
Mulund	3, Nakshatra, Shobha Aptment, Sarojini Naidu Road, Tambe Nagar, Mulund (W), Mumbai - 400 080	022 2568 5983 98 69 03 45 67
Kalyan	Shop No. 6, K-Wing, Sanghavi Estate, Nr. KDMC “B” Ward Office, Kalyan West, Thane Dist, Pin – 421301	98330 45208
Dahisar (E)	SHREE SATYAM CHS, No. 3, Ground Floor, Near Corporation Bank, Dahisar (East), Mumbai - 400 068.	022 - 2898 0414 022 - 2896 9178



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H. O. : A-2/302, Laram Center, Opp. Platform No. 6, Andheri (W), Mumbai – 58.,
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APPLICATION FOR MEMBERSHIP/ SEMINAR REGISTRATION

No. _____

Date: _____

To,

The President/ Hon., Secretary,
AHWOI/MSWA, Andheri (W), Mumbai.

I, the undersigned, would like to get enrolled as a Free Member of AHWOI /MSWA /Seminar . On becoming AHWOI / MSWA, I shall abide by the rules and regulations of AHWOI/ MSWA.

My particulars are as follows:

1.Name in full with surname first : _____
(Surname) (First Name) (Father's Name)

2.Office address in full : _____

3.Designation : _____

4.Residential address : _____

5. Phone No.(L): _____ Mobile No.: _____ Email: _____

6. Date of Birth: _____ Age: _____ Monthly Income Rs. _____

7. Number of dependents on Applicant: _____

8. Liabilities : Bank / Other Loans Rs. _____ Others Liabilities Rs. _____

9. Total Family Income : Rs. _____

10. Membership of any other Professional bodies / Associations / Institutions.

Sr. No.	Name of Organisation	Designation
1.		
2.		
3.		
4.		

1. Location preferred for buying / renting of house : _____

2. Loan Required Rs.: _____

Signature of the Applicant _____ AHWOI / MSWA Membership No. _____

**APPLICATION FORM FOR SUBSCRIPTION FOR
VASAI TALUKA HOUSING SOCIETIES REVIEW MAGAZINE.**

**VASAI TALUKA CO-OPERATIVE HOUSING FEDERATION LTD.,
VASAI - 401202**

Regd. No. TNA/VSI/GNL/(O)/1453/2011 dated 25th August 2011.

Date- / / 2015

To,
The Hon.Secretary,
Vasai Taluka Co-op. Housing Federation Ltd.
Swagat Bhavan, Near Indian Oil, Opp. MSEB Colony,
Station Road, Vasai Road (E) 401 202.

Sir,

I/We hereby apply for the subscription for the VASAI TALUKA HOUSING SOCIETIES REVIEW MAGAZINE which is published by your Federation.

I/We furnish my/our particulars as below :-

1. Name of the subscriber : -----
2. Address in full details of the subscriber : -----

Pin code -----
3. Land mark to reach up to society/house : -----

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I/We do apply for the above said magazine for one year at Rs. 199/-for 12 monthly issue. The cheque of Rs. 199/- vide cheque no.-----dated-----drawn on -----towards magazine subscription starting from-----,2015 to-----,2015 is enclosed herewith in the name of Vasai Taluka Co-op.housing Federation Ltd. Kindly deliver the magazine at the above address.

Yours faithfully,

Name of the subscriber

ACKNOWLEDGEMENT

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Secretary /Authoritory
Vasai Taluka Co-op.Housing Federation Ltd.

FORM OF APPLICATION FOR MEMBERSHIP/And Allotment of the
VASAI TALUKA CO-OPERATIVE HOUSING FEDERATION LTD.,
VASAI - 401202

Regd. No. TNA/VSI/GNL/(O)/1453/2011 dated 25th August 2011.

Date: _____

The Hon. Secretary,
Vasai Taluka Co-op Housing Federation Ltd.
Vasai. Dist : Thane 401 202.

Sir,

We hereby apply for the membership of the **THE VASAI TALUKA COOP. HOUSING FEDERATION LTD.**, and for allotment of Ten shares of Rs. 100/- each. We furnish below following particulars in respects of our society.

1. Name of the society (in Block Letters) : _____

2. Registered Address : _____

3. Registration No. and Date if Registration : _____
4. Location of Land of building of the Society : _____
5. Total No. of member in a society : _____

The Bye-Laws of the Federation have been read by us and agreed to be binding on our society.

A copy of the resolution of the managing Committee of the society in this connection and a cheque of Rs.1600/- being the value of ten shares of Rs.100/- and Entrance Fee Rs.100/- and annual subscription of Rs 500/- is enclosed herewith.

Yours faithfully

Chairman / Secretary / Treasurer
Co-op. Housing Society Ltd.

Copy of the Resolution of the Meeting of the Managing Committee of the _____
Co-op. Housing Society Ltd. _____ held on _____.
_____ Resolved that the _____ Co-op Housing
Society Ltd _____

Do apply to **THE VASAI TALUKA CO-OP. HOUSING FEDERATION LTD., VASAI** and for allotment of TEN shares of the Federation of the Value of Rs. 100/- each, in the name of the society.

Further resolved that the Chairman / Secretary of the society be and is hereby authorized to sign the application for membership of the Federation on behalf of the society and to pay the amount of Rs. 1600/- towards ten shares of Rs. 100/- each. Entrance Fee of Rs. 100/- and Annul Subscription Expenses of Rs. 500/-..

Proposed By : Shri _____

Seconded By : Shri _____

Carried Unanimously.
TRUE COPY

Chairman / Secretary Society

DATA SHEET

Name of the Society : _____

Address of the Society : _____

Land Mark to reach Society : _____

Registration No. : _____

No. of Flat : _____ No. of Shops : _____

Name of the Committee Members :

Designation	Name	Mobile	E-mail-ID
Chairman			
Secretary			
Treasurer			
Other			

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