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VASAI TALUKA HOUSING SOCIETIES REVIEW

March 2019

VOL.08 Issue 12

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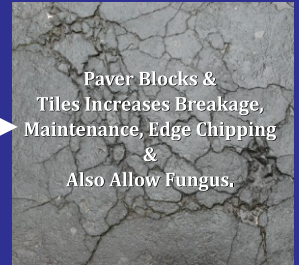
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GOOD NEWS FOR CO-OP. HSG. SOC'S

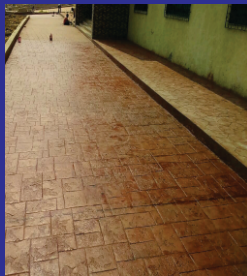
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EDITORIAL

Dear Readers,

Seasons' Greetings,



I fpo
Jh- f0g- foUoutflu

Prospective home buyers will now have a reason to cheers that GST rates slashed from 12% to 5% on houses under construction. This rate, for affordable homes which cost Rs. 45 lakh or less has been slashed to just one per cent. From 1st April, 2019 house with a carpet area of 60 square metres in a metro city and 90 square metres in non metros will be put in the affordable category, if it costs up to Rs. 45 lakhs. But GST rate on cement has not been reduced, which is highest at 28%. If this is reduced, the prices of the homes may further come down which will boost the Real Estate Industry as Home buyers will get further benefit from the price reduction. The Government has taken this decision because builders, instead of passing the tax credit on inputs such as steel, cement and paint etc. to the home buyers were pocketing the gains. I myself had also raised this point on various forums and have also addressed through various articles in local newspapers.

You are aware that the Government of Maharashtra has amended the Mumbai Municipal Corporation Act, 1888 by inserting section 144F for the provision of Stamp Duty leviable under the Maharashtra Stamp Act, on the instruments of sale, gift and usufructuary mortgage, respectively of immovable property. Any such instrument relating to immovable property situated in the area of Brihan Mumbai Municipal Corporation in which one or more Vital Important Urban Transport Projects and executed on or after such date as may be specified by the State Government, by notification in the Official gazette, be increased by a surcharge at the rate of one per cent, in case of instrument of sale or gift, on the value of the property so situated and in case of an instrument of usufructuary

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In Structural Audit and Repair work thereafter, specialization and experience in structural design of buildings (design of foundation, column, beam, slab etc.) is a must along with experience in repair, for taking decisions on safety, stability and method of repair.

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| • Providing cost estimate & remedial measures | Quality & Quantity control of work |
| • Tender preparation | Planning & Control, Taking measurements |
| • Selection of contractor | Stability certificate on completion |

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| 3. Half-cell potential meter for reinforcement corrosion extent | 9. Cement Aggregate ratio. |
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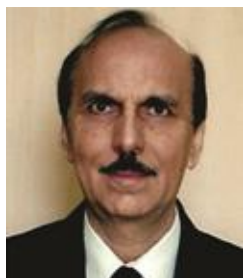
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Exposure Draft of Chapter – 2 on SELF REDEVELOPMENT

Exposure Draft of Chapter 2 on Self Redevelopment Manual Prepared by Self Redevelopment Study Group of MahaSeWA Chaired by Hon'ble Shri SUBHASH S LALLA, IAS, Former Principal Secretary to Chief Minister of Maharashtra and Co-chaired by Hon'ble Shri Chandrakant Dalvi, IAS, Former Commissioner, Co-operation and Registrar, Co-operative Societies.



Hon'ble Shri SUBHASH S LALLA, IAS,
Study Group Chairman

TYPES OF REDEVELOPMENT



Hon'ble Shri Chandrakant Dalvi, IAS,
Study Group Co-Chairman

The Readers are also requested to give their suggestions on this draft of Chapter – 2 of Manual. Please E-mail your Suggestions on - rsprabhu13@gmail.com or Call on 022 - 4255 1414 / 32.

Redevelopment means the demolition of the existing structure and then constructing the new structure with all modern amenities as per the prevailing DCR. In Maharashtra we have Maharashtra Regional Town Planning Act, 1966 (MRTP) which provides for different planning Authorities/ Competent Authorities for the development and promotion of the designated jurisdiction. As per MRTP, each Planning Authorities / competent Authorities are required to prepare a Development Plan once in twenty years and accordingly, bring out Development Control Regulations (DCR) to implement the development plan in that particular area. For Greater Mumbai area, Mumbai Development Control & Promotion Regulations (DCPR) 2034 has been notified and is effective from 13th November, 2018.

TYPES OF REDEVELOPMENT:

The redevelopment based on the parameters may be classified into three categories as under:

- A. Based on person executing the project
- B. Based on the title of the land and applicable provisions.

C. Based on incentives available as per Development Control Regulations.

A) The execution of the redevelopment Project can be broadly divided into two types:

(1) Self development which is done by the owner or the society themselves. Self redevelopment can be further sub classified into following types:

(a) Self Redevelopment with 100% responsibility by the society:

(i) Structural Audit to be carried out and asses the stability of Structure and take decision about re-development or repair.

(ii) Society approves the plan, appoints the architect, P.M.C. and other professionals to execute the project, appoints the contractor, society sells the extra area on their own or through some sells agencies and keeps complete control.

(iii) Society is fully responsible for completing the project.

(iv) Arranges required funds by way of own contribution as well as by availing the loan.

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- ✓ Latest imported Equipment.
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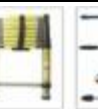
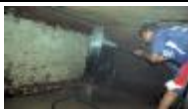


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- Ø Hygienic & Pressure jet cleaning.
- Ø Detection of Cracks & Leakages if any.
- Ø Removal of Slurry, Debris from tank.
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HEALTH IS WEALTH - To Ensure Good Health of your Family, it is imperative to clean your WATER TANKS at least ones in a month by Professional Water Tank Cleaning Specialists.

- (v) Obtain the feasibility report, prepared model agreement for each type of self redevelopment.
 - (b) Self Redevelopment under PACKAGE DEAL :
 - (i) Society prepares Feasibility Report –
 - (ii) Society appoints their own Architect for preparing and getting the sanction of the plan
 - (iii) Society approves the plan.
 - (iv) Executing agencies are appointed.
 - (v) Society Appoints own Engineer execution of the project as per the approved plan
 - (vi) Society appoints a contractor by inviting the tenders who is ready to purchase the Saleable Area at a particulars price (which normally will be acceptable to the society which will be higher than the feasibility Report & also undertakes to construct the building as per the approved plan at the rate agreed by the society.
 - (vii) The society shall execute the sale agreement & receive the consideration & then releases the payment to the contractor as per the running bills after paying its members the rent for temporary accommodation.
 - © BARTER OPTION (LOCK AND KEY/ CONSTRUCTION CONTRACT AGREEMENT)
 - (i) The difference between Package Deal & Barter is that the Contractor appointed will implement the plan approved by the society without taking any cost of construction.
 - (ii) As a consideration for completing the building with all the agreed amenities, the contractor will be allotted certain flats.
 - (iii) Contractor will be allowed to sell the flats depending on the progress of the work and the society shall be vendor and the contractor will be confirming party.
 - (iv) The balance flats shall be retained by the society to cover up the cost of premium, rent, approval expenses, PMC Cost and corpus.
 - (v) Society may appoint additional technical staff for auditing/professional consultant to monitor DMA compliances.
 - (d) Self Re-development under Development Management Agencies (DMA)
 - (1) Society prepare Feasibility Report.
 - (2) Society appoints their own DMA
 - (3) DMA introduces the Architect, Engineer and other agencies to be Appointed by the society.
 - (4) DMA arrange fund in the name of the society.
 - (5) The stage of giving membership to new prospective purchaser to be decided.
 - (6) The table containing various stages including obtaining of permission from various authorities.
 - (7) Criteria should be followed by the society for selecting various agencies.
 - (8) Development of Collector land/Central Govt. / CRZ land Issues to be discussed.
 - (2) Redevelopment through the developer. The owner/ society appoint a developer to carry out the redevelopment based on certain terms and conditions by entering into a development agreement.
- The redevelopment agreement with the developer can be broadly categorized into following three types:
- (a) AREA SHARING
 - (b) REVENUE SHARING
 - (c) COMBINATION OF BOTH
 - B) Based on the landholding / title of the land and the occupation done by the flats, the redevelopment can be classified into following types
 - (1) The title of the land is freehold
 - (2) Land is owned by MHADA/ Housing Board
 - (3) Collector Land.
 - (4) BMC / CIDCO / BPT owned land-
 - (5) Private Leasehold lands:
 - (6) Private Tenant (Pagri System)
 - (7) Cess Buildings in Mumbai City.
 - (8) Gaonthan / Koliwada / Slum land
 - C) Redevelopment based on the incentives provisions of utilizing FSI and TDR in Development control Regulations :

STRUCTURAL AUDIT OF BUILDINGS ----- Save life Save Property...



Faulty design, Load on structure,
poor construction quality Internal
and external forces

Leads to

UV rays
Chemicals
Vandalism

Fire
Moisture
Modification in structure



Beam crack



Exposed slab



Leakage Issues



Column Crack

Purpose of Structural Audit

- § To save human life and buildings.
- § To understand the condition of building.
- § To find critical areas to repair immediately, like damages, corrosion
- § To comply with statutory requirements.
- § To enhance life cycle of building by suggesting preventive and corrective measures like repairs and retrofitting.

Bye-Laws of Cooperative Housing Societies

As per clause No.77 of revised model Bye- Laws of Cooperative Housing Societies:

1. For building aging between 15 to 30 years once in 5 years
2. For building aging above 30 years once in 3 years
3. As per municipality-it is mandatory for building aging 30 year + .

Advantages of Structural Audit

- § To know the health of the building and to protect / project the expected future life.
- § To proactively assist the residents and the society to understand the seriousness of the problems and the urgency required to attend the same.
- § We have BMC, TMC, PMC, NMMC licensed Structural Engineers.
- § Cost on audit saves you in lakhs during repairs.
- § It fulfills legal compliance requirements.

Methodology of Structural Audit

Inspection

1. Inspection of all the elements of structures like column, beam & slab.
2. Inspection of overall building and surrounding including each and every flat.

NDT Testing

Technology to access structural strength, stability, integrity of concrete.

1. Schmidt rebound hammer testing
2. Ultrasonic pulse velocity testing
3. Cover meter testing
4. Half-cell potentiometer testing
5. Carbonation
6. Core study & Chemical test

Report

A report of the results of an inspection and NDT of a building shall comprise

- (a) a detailed description of the visual inspection and any full structural investigation of the building conducted by the structural engineer;
- (b) analyses of observations and every test conducted in the course of any full structural investigation of the building; &
- (c) recommendations by the structural engineer as to such building works as are necessary to ensure the structural stability or integrity of the building.

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By taking the Redevelopment incentives provided in Mumbai Development and promotion Regulations, 2034 as per the different types of tenements and various provisions are present for redevelopment of Co-operative Housing Societies.

Similar provisions need to be located from the applicable Development Control Regulations

in the respective Planning Area like Navi Mumbai Municipal Corporation or Nagpur Municipal Corporation, Pune Municipal Corporation and so on for applicable Redevelopment incentive FSI/TDR provisions.

Please E-mail your Suggestions on -
vasaihousingfederation@gmail.com

Continued from page no. 06

mortgage, on the amount secured by the instrument as set forth in the instrument and shall be collected according under the said Act. Now Urban Development Department of the Government of Maharashtra has published Notification in that respect which state, the Government of Maharashtra hereby specifies 8th February 2019 to be the date on or after which the additional stamp duty under the said section 144F shall be levied. It means from 8th February, 2019 onwards you have to shell one per cent more stamp duty on the instruments mentioned above in the jurisdiction of the Greater Mumbai Municipal Corporation.

Another Good news is that, the cabinet has taken the decision of bringing Stamp Duty Amnesty Scheme again. In the past the Government had brought this scheme in the year 2008. But there was no clarity in the G.R. that whether to take Stamp Duty on the Sale-Purchase deed executed prior to dt. 10-12-1985. Documents were registered and were stated that there is no need to pay stamp duty, but when transfer takes place, stamp duty will have to paid. Thereafter, Circular of the Amnesty Scheme was issued. Stamp Duty was charged on the sale deed executed during the Amnesty Scheme period. However since the Stamp Duty was not paid on the first sale deed transaction, the last purchasers thereafter have to suffer unnecessary cost of lakhs of rupees in charges. Burdened with this, many purchasers still have not paid the Stamp Duty. I have written to the Hon.ble Chief Minister, Revenue Minister, Co-operation Minister to bring clarity in the Stamp Duty Amnesty

Scheme to be issued. Till the time in all the transfers that took place in the Housing Sector has not paid Stamp Duty accurately, the conveyance of the society shall not take place. Therefore I request all the members of the Co-operative Housing Society, to take the advantage of this Amnesty Scheme, without being confused. I have opened a special cell to guide and help the members of Co-operative Housing Society. My expert team will guide you in this matter. Please take advantage of this scheme and facilitate the conveyance of the property in the name of the society hassle free.

Since large number of queries poured in our office about the fate of Maharashtra Co-operative Societies Act, 1960. To remove the confusion in the minds of our esteemed readers I, once again clarified that the matter was in the Hon.ble High Court, where the Government Pleader representing the State produced the copy of the letter dt. 01/02/2019 from the Co-operation Department, which stated that the Ordinance was placed before the Legislative Assembly and since the Assembly did not confirm the same the said ordinance has lapsed with effect from 31st December, 2018.

With Best Regards,

V. Viswanathan,
Secretary, VTHF

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DECADE AFTER PROJECT LAUNCH, BUYERS AWAIT POSSESSION

Nirmal Developers, who had asked RERA for an extension in 2016, is however, confident of delivering within new due date of 2020

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The township project was proposed to have towers in three different zones with varying amenities and flat costs. PICS/SATEJ SINGH AND DATTA KUMBHAR

DESPITE shelling out their life savings and taking hefty bank loans, property buyers at Kalyan's Nirmal Lifestyle City, an under-construction integrated township, are still waiting to step into their dream homes.

Eleven years after the project was announced, in 2008, their allotted flats remain on paper, even as they continue to pay their loan installments.

Aggrieved buyers who approached the Real Estate Regulatory Authority (RERA), have been told that the developer has been allowed an extension up to 2020 to complete the project.

Flat buyers pin hope on 2020

Most flat purchasers are aghast at the manner in which MahaRERA allowed an extension after the builder registered the project with the authority in 2016 for the project which was launched in 2008- 2009," said Ravi Nair, a dejected flat buyer, who continues to stay in a chawl in Andheri East. Nair has been paying a monthly EMI of over R 17,000 since 2010."

Since it was a developer of repute, I had put my money into it hoping for a timely possession of my house. I hope the developer keeps his promise of completing work by 2020 now," Nair added.

Ravi Gawli, who had opted for a furnished house in this project in 2010, was assured possession by December 2016. " I invested all my savings and took a loan of R 19 lakh from the bank," said Gawli, who stays in a rented flat and pays an EMI of over R 22,150 against the housing loan.

Another buyer Rajesh Kadam had booked a 1BHK flat in 2009 and paid 95 per cent of the amount through a bank loan. However, since Nirmal project was stuck, " I had to buy a flat in Thane West for which I took another bank loan, and am paying the EMI for both houses," he said, however adding that he won't be withdrawing from Nirmal Lifestyle, as he is " confident the project will be completed."

Consumers write to CM

In a few cases that MahaRERA has heard so far, the developer was directed by the regulatory body to pay delayed interest and rent to the complainant/s as per the existing norms which the developers did until November 2018, claimed the aggrieved parties. Some buyers have now written to Chief Minister of Maharashtra Devendra Fadnavis requesting his intervention in the case. They also want the CM to probe the manner in which flat buyers are deprived of their right to be heard at MahaRERA and compelled to withdraw complaints against errant developers.

People visiting the site have claimed that the construction is now completely stopped. Only two 15- storey towers are ready and scarcely occupied for the last few months. Residents, however, alleged that the developer is yet to get an Occupation Certificate (OC) for the building.

'MahaRERA works in larger interest'

Unfortunately, some people have not understood the very preamble of the RERA. It is not merely a platform where a distressed flat



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buyer can register a complaint to seek his money back from a builder. It is a forum which ensures that projects are completed and homes delivered to every apartment/ flat buyer," explained a housing expert, adding that the RERA act has various provisions through which the project can be completed if the developer fails to deliver in promised time. While aggrieved buyers also have the option of approaching the Consumer Court or the Metropolitan Magistrate Court instead of MahaRERA, they are time- consuming processes.

Will deliver in time

We are committed to our customers and are confident of delivery within the stipulated time frame stated with RERA. The industry has seen an unprecedented slowdown along with regulatory changes which have led to delays. We are committed to our customers and are working hard towards a sustainable solution that will lead to quality construction and delivery. Nirmal is also doing strategic partnerships with the best developers in the country for a number of our projects for fast-paced development," a spokesperson at Nirmal developers said.



Ravi Nair, his mother Rita, wife Cynthia, and daughter, Shanaya, currently reside in Savala Chawl, Andheri



Rajesh Kadam and Vidya Kadam live in Thane West, waiting to move to their new home in Nirmal Lifestyle City



Priya and Ravi Gawli, who temporarily live in a rented house, have bought a furnished flat in Nirmal Lifestyle City

HOUSING EXPERTS SAY

Advocate Vinod Sampat, President, Cooperative Society Resident Users and Welfare Association, said that a judicial authority must hear all the aggrieved parties.

"MahaRERA judgments at times knowingly or unknowingly favour the builders as the object of MahaRERA is to ensure completion of the project but this results in injustice to many flat purchasers everywhere," Sampat said.

Housing activist Ramesh Prabhu said that the ongoing projects which were stuck for years were included in RERA and also upheld by the High Court."

The developers had challenged the constitutional validity of section 7 and 8 of RERA which obligates RERA to take over the project and make alternate arrangements for its completion in consultation with the government.

This has never been witnessed so far though," said Prabhu who estimates that across Maharashtra, out of 13,000 under construction registered projects with MahaRERA, around 5,000 are stuck.

Source : Mid-Day - 4th February 2019



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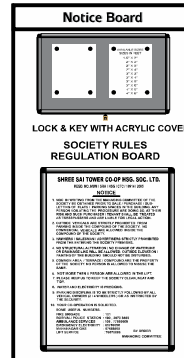
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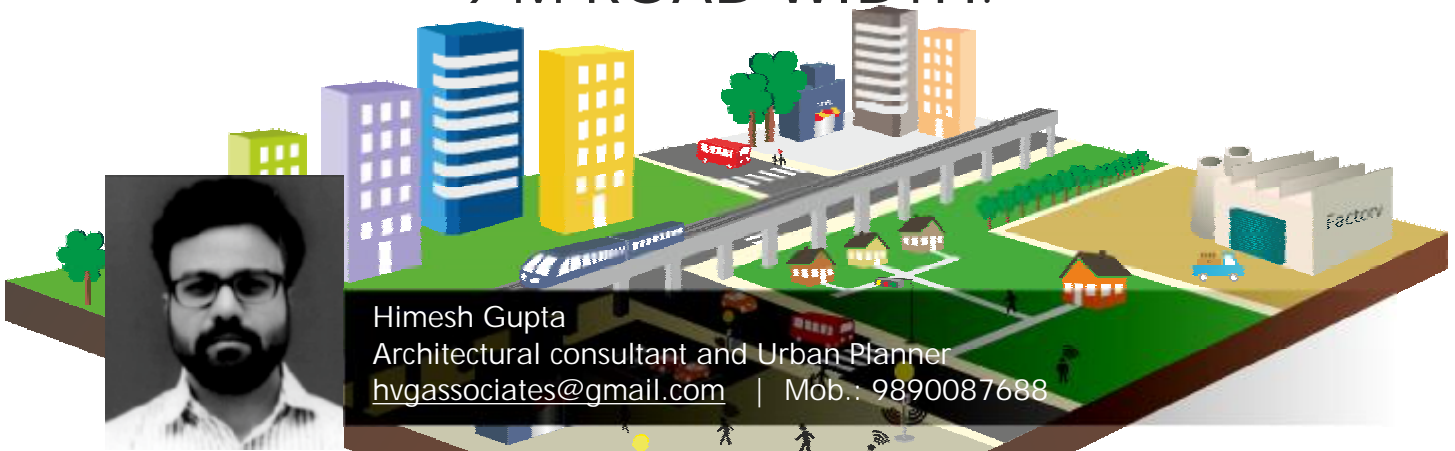
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- B** 2nd Development plan came into force on 25th March 1991
‣ Redevelopment of buildings through Developers.
‣ Unscrupulous developers. and Stalled Project.
- C** 3rd Development plan came into force on 12th November 2018
‣ MCGM shall convert all roads of width less than 9 m to 9 m
‣ Regulation 30 (A) - Zonal (basic) FSI of (1) ONE in suburbs and extended suburbs and 1.33 in case of Island city for properties/societies having road width less than 9.0 m.
‣ Regulation 33 (7) (B) Additional FSI - 15% of existing BUA or 10 sq.m per tenement.
‣ regulation 31 (3) - 35 % fungible compensatory area is permitted

History of sanctioned of development plan in Mumbai :

The 1st Development Plan came into force on 9th Feb 1967, 2nd Development plan came into force on 25th March 1991 & finally the Government of Maharashtra accorded sanction to the Development Control and Promotion Regulations - (DCPR) 2034 on 8th May 2018 and subsequently it came into effect on 12th November 2018

After the sanctioned of the 1st Development plan in the year 1967, thousands of societies came up in Mumbai and they have crossed on an average of 30 years of age, which mostly are in bad shape in respect to

structural deformation, low level as per the surrounding development and roads causing accumulation of water during rains and making the surrounding unhygienic thereby giving rise to outbreak of diseases and making it impractical to live in such societies and now redeveloping them is the only solution.

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Institution of Valuer	2002
Mumbai Building repair & reconstruction board (MHADA UNIT)	2002
License of site surveyor	1988
License of site supervisor	1997
American society of civil Engineers (ASCE)	2004
Institute for steel development & growth	2001
Indian society for technical Education (ISTE)	2002
Registered member of the council architect New Delhi	1984
Associated member of the Indian Institute of Architects	1984

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then later the societies moving out to the court for breach of development agreement and taking up the stalled project by raising money on its own.

Now considering the provisions of DCPR 2034, Regulation 19 (1) wherein every site proposed to be developed or redeveloped shall have access from a public street/road and such access shall be kept free of encroachment. Further the DCPR 2034 states that, MCGM shall convert all roads of width less than 9 m to 9 m and above, as per site condition through MR & TP Act or MMC Act, provided whole responsibility of increasing the road width to 9.0 m and the cost incurred for the same including land acquisition if any lies on the existing societies/properties which is an arduous task.

As many of the time owner of the adjacent properties are reluctant for the same, for parting of its land to the other land unless the same goes for redevelopment and the authorities insist them for leaving the extra margins for widening the road width to the adjacent properties and thereby making it to 9.0 m, which is again a time consuming process and the societies of lesser road width have to be on the mercy of the adjacent society and the authorities.

The DCPR 2034, regulation 30 (A) has a provision of availing Zonal (basic) FSI of (1) ONE in suburbs and extended suburbs and 1.33 in case of Island city for properties/societies having with less than 9.0 m. Further as per Regulation 33 (7) (B) which states that Additional FSI for redevelopment of existing residential housing societies, an incentive additional BUA to the extent of 15% of existing BUA or 10 sq.m per tenement whichever is more shall be permitted without premium, on and above in addition to the incentive FSI and Zonal (basic) FSI, 35 % fungible compensatory area is permitted as per the regulation 31 (3).

In short for a given society in suburbs of 10000

sq.feet of plot area, considering 350 sq.feet area of each tenement and 28 tenements in all, the maximum FSI permitted shall be $10000 \text{ (basic FSI)} + 28 \times 107.64 \text{ (incentive FSI)}$ $3013.92 + 13013.92 \text{ (10000 + 3013.92) sq. feet} \times 0.35 \text{ (fungible FSI)}$ 4554.87 sq. feet , total amounting to 17568.79 sq. feet, which goes to around 1.75 FSI, now if suppose the members keep their flat size same and sells the balance FSI potential in form of flats after constructing the same, they can easily recover the construction cost and other cost associated to redevelopment.

Avail More facilities / Amenities

In addition to above the societies may avail ample parking for each member, good light and ventilation, rain water and other non-conventional energy system, two lifts, wider staircases, and all modern amenities with grand entrance lobby, less impact on the existing infrastructure, office of 20 sq.m, watchman's booth of 3 sq.m, open swimming pool, recreation ground, sanitary blocks for servant, etc.

MahaSeWA form Study Group to boost Self-Redevelopment:

So it's high time the societies stop falling in the prey of unscrupulous builders and start constructing its own building by Self-Redevelopment MahaSeWA Chairman CA. Ramesh Prabhu who has formed study group for self redevelopment in guidance and Chairmanship of former Principal Secretary to the Chief Minister, Maharashtra state, and retired I.A.S officer Hon'ble Shri Subhash Lalla who is going to submit the report for Self Re-development to the Hon'ble Chief Minister of Maharashtra, urges to all the societies who are facing this problem of buildings access through less than 9.0 m to come up so as to make a policy for redeveloping them and submitting it to the Government of Maharashtra for their approval.


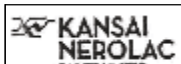















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MahaRERA

(Maharashtra Real Estate Regulation & Development Authority)



S. Parthasarathy, Vice President, MahaSeWA

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The Indian Legislature enacted a new Act to be known as the Real Estate Regulation & Development Act (Abbreviated as RERA Act), in the year 2016. The Act was promulgated as a historical step in regulating and promoting the real estate industry as a whole and was construed as a major stride in safeguarding the interest of the home buyers. The RERA Act is a central Act and is applicable for all ongoing real estate projects across the country (except for the state of Jammu and Kashmir) for which Occupation Certificate / Completion Certificate is not obtained on the date of implementation of the Act. Earlier to this Act, all the real estate projects were guided by the Ownership Flat Act (In Maharashtra it is known as MOFA, Maharashtra Ownership Flat Act, 1963)

Subsequent to the implementation of the Act, each state is required to frame their corresponding Rules taking into consideration the local laws and their applicability. Further to that, the state of Maharashtra adopted its Rules in the year 2017. Consequent to this, the RERA Authority was established and shall be known as MahaRERA (Maharashtra Real Estate Regulatory Authority).

The MahaRERA is Chaired by Mr. Gautam Chatterjee and Mr. Vasant Prabhu has been designated as the Honorable Secretary. Besides this, there are four officers, out of which Dr. Satbir Singh is the Honorable Member officer along with Mr. Gautam

Chatterje, who besides being the Honorable Chairman of MahaRERA, also holds additional charge as a Member Officer. Mr. Balchandra Kapadnis and Mr. Madhav Kulkarni are the Honorable Adjudicating Officers and Mr. Sambhaji Balaji is the Honorable Member for Pune region. The MahaRERA office and the Court rooms are located in the new SRA building, situated at Bandra (East).

After the advent of RERA, the industry is experiencing marked improvement in terms of investor confidence as well as market sentiments. The builder fraternity has realized the contribution that they could bring in and have steadily undertaken the necessary corrective measures to bring back the confidence in the minds of the flat buyers. On the other hand, the flat buyers are now enriched with the knowledge of their rights and duties. With both the main stakeholders doing their bit, the industry is experiencing the required impetus. In the months to come, there would surely be a positive outlook and a surge in the number of home buyers is expected and is much anticipated.

During this journey, MahaRERA has witnessed a huge and a positive response in terms of project registration by the developers. Registration of all ongoing real estate projects, which had not obtained OC at the time of implementation of the Act (Excluding some projects as mentioned in the Act), is compulsorily under RERA. The RERA website provides all the information related to a real



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estate project and the home buyer can acquire complete details of all the registered real estate projects, compile and compare them before narrowing down to the project as per his requirements. This has really brought in a lot of transparency in the sector and the decision making process of the home buyers has been hugely enhanced by the information available on the website.

Regarding the real estate projects where home buyers have already booked their homes, MahaRERA has received a lot of complaints from aggrieved consumers due to various violations committed by the developers. Most of the cases that have been filed with the Authority are those which pertain to either delay in receiving possession of the flat or deviation in the sanctioned / approved plans and amenities as promised by the developer during execution of the agreement for sale. In RERA terminology, the developer/ builder and all those who either construct or cause to construct any real estate project are termed as Promoters and the flat buyers or flat buyers are known as Allottees.

Moreover, in case of redevelopment projects, the housing societies which appoint a developer and enter into a redevelopment agreement with the developer are also categorized as Promoters.

Hence, whatever liability is cast on the developer, all the liabilities are also directly binding on the housing society. So, for any grievance by a flat buyer / Allottee in a redevelopment project, the housing society is also equally liable as a developer is.

RERA is a Quasi-Judicial Authority and the cases that are filed with this Authority are decided under various sections of the Act and the Rules. Maharashtra Societies Welfare Association (MahaSEWA) has been receiving innumerable enquiries from aggrieved flat buyers seeking guidance and assistance. Our sister concern, R. S. Prabhu and associates, headed by CA Ramesh Prabhu, which is also a legal and an audit firm has represented flat buyers / Allottees in more than 300 cases and have been able to attain favorable orders as required by our clients.

Our firm was instrumental in achieving some landmark judgments and we aspire to deliver more than what is expected out of us by our clients. Our endeavor to serve our clients in the best possible manner will continue unabated. Flat buyers who wish to appoint us as their legal advisors / consultants for filing cases and for representation in RERA, may feel free to contact on the above mentioned number or email id.

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FLAT BUYERS FIND HOLES IN MAHARERA ORDER

Investors in delayed Mira Road project say authority took 445 days to issue ruling, builder benefitted as interest wasn't levied from actual possession date.

Satish.Nandgaonkar@timesgroup.com
TWEETS @MumbaiMirror

Buyers of flats at a residential project in Mira Road have accused the MahaRERA of taking more than the mandated 60 days to give a ruling in a delayed possession complaint filed against the developer and then directing the builder to cough up interest from February 2018 whereas the original possession date was December 31, 2015.

The home buyers, who had invested in Man Global Ltd's Man Opus project and are simultaneously paying EMIs and rent, are now planning to approach the Appellate Tribunal to get the interest period extended by over two years. A group of 53 people had filed a complaint against Man Global Ltd, accusing it of failing to deliver the flats on the designated date of December 31, 2015, and sought interest on delayed possession.

The project has a total of eight buildings, including two under the Mumbai Metropolitan Region Development Authority's (MMRDA) rental housing scheme, and was to be developed in three phases. When it was registered with MahaRERA in mid-2017, the developer had revised the possession date to December 31, 2018.

During the hearings, the developer promised to complete three buildings in Phase-I by April 2018, and the three buildings in Phase-II by June 2018 even as home buyers had paid 95 per cent of the flat costs. According to the MahaRERA order, the developer then made a disclosure that in April 2018, MMRDA issued



The project has a total of eight buildings, including two under the MMRDA's rental housing scheme

some additional specifications for the internal works of the two rental housing scheme buildings without which it wouldn't issue a No Objection Certificate (NOC) for the sale component. When the project failed to obtain OC even by December 2018, the revised completion date, MahaRERA granted an extension till August 2019.

The developer's representative, Suraj Kulkarni, and advocate Abir Patel blamed the delay in arrival of environmental clearances and the MMRDA's refusal to give NOC till their specifications were adhered to.

MahaRERA chairman Gautam Chatterjee said though the developer has cited reasons that are beyond his control for the delay, the allottees cannot be made to suffer.

Stating that the reasonable time could only be six months from the date of registration, he directed the developer to pay interest on the delay from February 1, 2018 for phase I buildings, and from April 1, 2018 for Phase II building till he offers possession.

If the developer fails to complete the project by April 2019, the home buyers are at liberty to seek revocation of developer's registration, the order adds.

Speaking to Mirror, Housing activist Ramesh Prabhu, who represented some of the buyers,



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said, "We will challenge the order before the Appellate Tribunal. The developer was aware of MMRDA rental scheme norms but is blaming the MMRDA NOC for the delay. This cannot be dubbed as unforeseen mitigating circumstance (force majeure)."

Home buyer Tilkesh Soni said, "I filed my complaint in September 2017. MahaRERA is mandated to give a ruling within 60 days, but we got the judgment 445 days later."

In the April 2018 hearing, MahaRERA had asked both the parties to settle the matter amicably, and Man Global had agreed to pay interest from May 1, 2017 when the RERA was enacted. But, from April 2018 till January 2019, we were not given a hearing by MahaRERA, and had to protest at the developer's office for our rights."

Source : Mumbai Mirror - 11th Feb. 2019

NEED OF P. P. P. AND C. S. R. PROJECTS TO SOLVE MICRO LEVEL URBAN ISSUES.

Friends, We all are aware of these 2 terms 1st P. P. P. means public private partnership and 2nd C. S. R. means corporate social responsibility. Here we are discussing now possibilities of how these two methods can be more effectively used in solving urban issues.



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1) P. P. P. and C. S. R. projects can be more effectively used taking advantage of decentralisation policy of Govt for issues at micro level having financial need upto 2 crores or any other suitable figure based on statistical data of urban issues which remain unattended because many technical & administrative difficulties for example pot hole repairs of roads, cleaning of ghargallies (small common passage between 2 buildings) in old town, restarting of closed wells & small lakes in cities, digitisation of ancient books in many libraries in our cities, crowd management in festivals, creating sinages in big public precincts .

2) We all know that money is key factor in solving most urban issues so it should be created using these 2 methods at local level and to execute these projects innovative ideas should be invited from all interested citizen which will create a actual participatory governance of cities and micro level issues are more effectively understood by the people in its vicinity so success rate will more.

3) Employment generation at micro level is a key factor of suggesting these 2 methods , of

course it will give booster to self employment at local level and travelling distance to from home to work place is not more than 10 km. for any local level employment so it's a added advantage.

4) If local urban issues are handled by local people then they will be more answerable for its quality as they live in nearby area. so quality is expected to be high. As per Govt. policy to promote small scale businesses & startup companies these 2 methods will be a real booster.

5) Reducing negativity amongst our citizen towards governance issues and to promote them to positively contribute in making urban life comfortable is a urgent need today as we see most citizen getting clashed with Govt or we see people fighting with other hopelessly when they face difficulties like traffic jam, pothole ,Water logging on roads. So it's a policy level subject which must be taken seriously by all alert citizen ,corporate, startup companies, innovative thinkers regardless of their formal education in our city as right solution to problem can be given by anyone with right idea.

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TOUGH TIMES AHEAD FOR REAL ESTATE DEVELOPERS

Government focus on mass affordable housing worries builders facing a liquidity crunch about existing and under-construction projects, may lead to real estate industry slump

Experts say sales in under-construction properties have been declining

The real estate industry, which was struggling to overcome the liquidity crunch, will face even tougher times in coming days, with a vast difference in the demand and supply ratio.

Moreover, with the government focusing on mass affordable housing projects, developers are concerned about existing stock and the fate of under-construction projects stalled for years, which experts say, may lead to a major real estate slide down.

'Severe liquidity crises'

Speaking to mid-day, Pankaj Kapoor, managing director, Liasis Foras (a real estate data analytics company), who will soon release his report on sustainability of debt for the real estate market, said, "The lending rate for developers from nationalised banks is around 12 per cent. Non-banking financial companies (NBFC) offer R4 lakh crore at interest rate varying from 12 to 16 per cent, and the builders cannot sustain the lending and cannot repay lenders in present sales conditions. Actually they should have 2.5 times more sales."

He added, "With the recent expose of IL&FS and DHFL, the lending crises has led to a vicious cycle, and the real estate industry is stuck in severe liquidity crises. Builders will ultimately have to either reduce the prices of their existing stock, or look for brooking and consulting houses to bail them out."

Today the market is the best for buyers, as there are many sellers who want to sell their stock. In such a scenario builders are open for bargaining and negotiations. "Also we must understand that the land cost in the past 10 year period has gone up by nine times, making the price of both under-construction and ready stocks unaffordable for common man," explained Kapoor.

Kapoor added, "Sales in under-construction properties have been declining in the past few years. While under-construction properties attract 12 per cent GST, no GST is charged on ready ones. Additionally, delay in execution and delivery has kept buyers away from under-construction properties. Our data shows sales in ready properties have gone up from 11 per cent to 27 per cent in the past five years. And in MMR the ready stock versus under-construction sales have gone up from 11 per cent in 2014 to 26 per cent in 2018. If the trend continues, the real estate industry will witness a further slowdown in coming months.

Affordable houses required

The need of the hour is affordable houses, and with the market abuzz about Poddar group announcing affordable homes of approximate 250 sq ft carpet in Kandivli, it could turn around the market further.

"The very fact that CIDCO and MHADA housing lotteries get over a lakh applications



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for a few thousand affordable houses, is evident that people are willing to buy, provided they can afford the price tags," Ajay Chaturvedi, a real estate consultant and expert said.

According to housing expert Ramesh Prabhu, "Out of 13,000 under-construction projects registered with MahaRERA, over 5,000 are already stalled and most due to liquidity crunch. It will be the NBFCs and other lenders who will have to bear the brunt of this, as the developers are either bankrupt, or are facing civil and criminal litigations, and few are behind bars."

'A boost for infrastructure'

With an aim of providing affordable homes, the government, in its interim budget, has given tax exemptions to developers undertaking affordable segments' projects,

extending them for one more year for those that get approved by March 31, 2020.

Speaking on it, Dr Niranjan Hiranandani, co-founder and MD, Hiranandani Group, feels the proposals in the interim budget include a boost for infrastructure as a result of increased spending on airports, railways, waterways etc.

He said, "These will positively impact real estate. If things happen the way they are supposed to, we should be achieving twin goals — housing for the home seeker as also 'back to business' for the industry. The minister mentioned that India is poised to become a \$5 trillion economy in 5 years and aspires to become a \$10 trillion economy in the next 8 years. This will obviously augur well for real estate."

Source : Mid Day - 5th February 2019

Letter written by CA. Ramesh Prabhu, Chairman, MahaSeWA – to CM for Amendment in MAO Act 1970

Date : 21st February, 2019

To,

Hon.ble Shri Devendra Fadanvis,

Chief Minister of Maharashtra, Mantralaya, Mumbai – 400 032.

Sub : Amendment to Maharashtra Apartment Ownership Act, 1970 (MAO Act), to facilitated registration of Co-operative Society.

- Ref: (1) Our representation dt. 7th November, 2017 & addressed to C.M. , Legal Department.
- (2) Letter dt. 22-11-2017 through Law & Judiciary Department forwarding the above letter for necessary action to Housing & Co-operation Department.
- (3) Amendment to Section 14(1) of Maharashtra Apartment Ownership Act, 1970 to remove property, apartment from the act to facilitated formation of co-op. society.

Respected Sir,

We are thankful to you for considering the suggestion given by our association on the above subject to make necessary amendments in the MAO Act, 1970.

There is a provision in section 10(2) of the MOFA Act. 1963 that if any property consisting of building or buildings, is constructed or to constructed and the promoter submits such property to the provisions of the MAO Act 1970, by executing & registering a Declaration as provided by that Act, then the promoter shall inform the Registrar, as defined in the

Maharashtra Co-operative Societies Act, 1960, accordingly; and in such cases, it shall not be lawful to form any co-operative society or company. It means if the promoter register the Deed of Declaration then formation of Co-operative Housing Society become unlawful.

Based on these, many builders registered the Deed of Declaration and deprived the members from getting their Co-operative Society registered which is a fundamental right as per 97th amendment in the Constitution. Realising this, the Government has made amendment in section 14(1) of the MAO Act, 1970 that, instead of all the apartment

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owners, "A property may be removed from the provisions of this Act, by majority of apartment owners by an instrument to that effect duly executed".

Now more than 51% and more apartment owners will be able to register a declaration to remove the property under the MAO Act 1970. After the above declaration is registered by the Apartment owners, the property will not remain any more as a property submitted under section 2 of MAO Act 1970. Accordingly sub section 10(2) of the MOFA Act 1963 becomes redundant. After the removal from Apartment Act by under section 14, the property get vested with the flat owners as a co-owner under section 14(2) of the MAO Act 1970 which is reproduced as under for your ready reference.

Section 14(2) of the MAO Act 1970 read as follow: "Upon the removal of the property from the provision of this Act, the property shall be deemed to owned in common by the apartment owner. The undivided interest in the property owned in common which shall appertain to each apartment owner shall be the percentage of undivided interest previously owned by such owner in the common areas and facilities."

Now that everybody becomes the co-owner of the land and building they will be entitled to registered the co-operative society by following due procedure given under section 9 of the Maharashtra Co-operative Societies Act, 1960 and various circulars released by the Commissioner, Co-operation & Registrar, Co-operative Societies in this regard. We have to inform you that having submitted the property by Deed of Declaration, the promoter as complied with the statutory obligation cast on him under section 10 of the MOFA Act 1963 to facilitate formation of Society or an Apartment or a Company as the case may be.

Therefore we want to represent before Your Honour that removal of property from MAO Act and formation any of the legal entity like company or co-operative society become exclusive right of the Apartment Owners/Flat owners. The builders/Promoters cannot interfere nor take any objection for the formation of the society. According to 97th Constitution Amendment, formation of Co-operative society is a fundamental right.

The same has been upheld by the Hon.ble Gujrat HC when the same was challenged before the Gujrat HC. Therefore we request Your Honour to issue direction or a circular to respective Dy. Registrar to register Co-operative Society when more than 51% people make an application for registration of Co-operative Housing Society along with copy of Declaration registered before Sub Registrar Under section 14(1) of the MAOA 1970.

We are submitted this representation because there is confusion among some of the Registrar, whether such proposal are to be treated as under non cooperation of the builders under section 10 of the MOFA and refer to Competent Authority (DDR) or the Dy. Registrar can treat the same as Society proposal submitted by all the co-owners. We are of the strong view that this type of proposal should go to the Dy. Registrar of the respective ward and need not received to the District Dy. Registrar.

With Regards,
Yours Sincerely.

CA Ramesh Prabhu, Chairman, MahaSeWA
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ABOUT THE BOOK

" PRACTICAL GUIDE TO CO-OPERATIVE HOUSING SOCIETY IN MAHARASHTRA"

The Maharashtra Co-Operative dept. published the amended society Bye-Laws of 2014 for co-operative societies inserting/amending many new clauses with a view to have effective and better control on the performance of societies. It has increased the responsibility on office bearers and executive committee members of all the societies. The performance of day to day duty has become complicated and time consuming therefore most of the societies need Consultant/Advisers' help to fulfil their duties with in the frame work of the Bye-Laws and MCS Act. Moreover, society members have also become more alert about their rights and raise queries for better understanding of rules and regulations of co-operative society bye-laws and if any injustice is done to them, they do not hesitate to even lodge complaints against society office bearers in the office of Dy. Registrar of co-operative Societies as well as in Co-Operative courts. To face such situation, the sound working knowledge of society bye-laws and other related Acts would be absolutely necessary.

The amendment/insertion of sub-sections under section 10 & 11 of Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act 1963 (MOFA) ushered the doors of formation of co-operative societies under non-co-operation from builders/developers and claiming the ownership rights of land and building in favour of co-operative societies through the process of unilateral/Deemed Conveyance, side tracking land owners and Developers. Earlier getting the conveyance of land and building in favour of the co-operative societies was a dream without the consent of the land owner and developer and was only possible through courts when land owners/developers do not co-operate. The court process was consuming lot of time and substantial amount. Many documents were also required to be submitted in the court, along with the application for conveyance which were also not available with societies since builders/developers never used to part with these documents to anyone.

This book covers write-up on Deemed Conveyance, MOFA, RERA, GST, Income Tax, Redevelopment of co-operative housing societies and parking of vehicles rules in the society premises besides commentary on Bye-Laws for housing and commercial societies. No separate books need to be referred to have the working knowledge of the topics referred above. More over all the Acts have been explained in a simple and easily understandable manner with the relevant court cases and judgements so that even common man would prefer to read it. Therefore, it is expected that all Co-Operative societies' office bearers/committee members and even other members will find this book most useful to understand various Acts related to co. op. societies and get the working knowledge just by referring relevant chapters in the book. It could be termed as the handbook to understand all issues pertaining to the co-operative societies and finding the solutions.

Regards,
M. N. Trivedi

DATE: 1st FEBRUARY, 2019



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

HIGH COURT JUDGMENT MCS ORDINANCE 2018 - LAPS

P.C.

- 1] Heard learned counsel for respective parties.
- 2] After hearing the matter at length, we find that the contentions raised in the complaint lodged by the Petitioners were based on the Maharashtra Ordinance No.XXV of 2018 dated 30th October, 2018 issued by the Co-operation, Marketing and Textiles Department, in terms of which an "associate member" could not contest the election in terms of Section 154-B of the Maharashtra Cooperative Societies Act, 1960.
- 3] This particular ordinance has in the meantime lapsed and learned Government Pleader representing the State has produced before us a communication received by her dated 1st February, 2019, which indicates that the Ordinance was placed before the Legislative Assembly and since the assembly did not confirm the same the said ordinance has lapsed with effect from 31st December, 2018. Communication is taken on record.
- 4] Learned counsel for the Petitioners on instructions submits that he seeks to withdraw the present Writ Petition keeping all the contentions raised by him open for canvassing at an appropriate time and with liberty to file Election Petition in the event the Petitioners seek to challenge election of any person who may be elected in pursuance of the election scheduled to be held on 3rd February, 2019.
- 5] In view of the above, WRIT PETITION (L) NO.236 OF 2019, WRIT PETITION (L) NO.237 OF 2019, WRIT PETITION (L) NO.238 OF 2019, WRIT PETITION (L) NO.239 OF 2019 and WRIT PETITION (L) NO. 242 OF 2019 stands dismissed as withdrawn, with liberty as prayed for.
- 6] We make it clear that, if any such Election Petition is filed, the appropriate authority shall preferably decide the same within a period of six months from the date of filing of the same, strictly in accordance with law.

(SARANG V. KOTWAL, J)

(INDRAJIT MAHANTY, J)

Note : Above Detailed Judgment copy available in our Association office : 022- 42551414



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

Date- / / 2019

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FORM OF APPLICATION FOR MEMBERSHIP / And Allotment of the
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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,

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

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Yours faithfully

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

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_____ Resolved that the _____ Co-op Housing
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Proposed By : Shri _____

Seconded By : Shri _____

Carried Unanimously.
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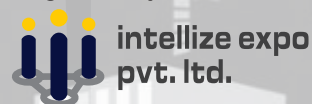


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