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December 2014

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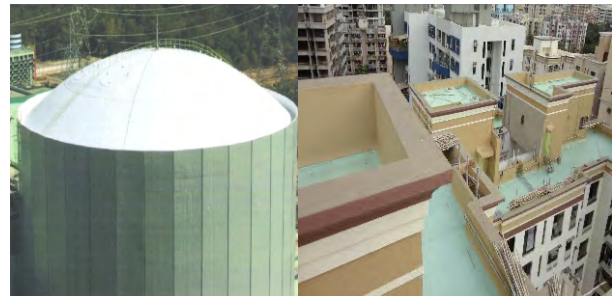


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Circulate among Friends
and other members of the Society**

EDITORIAL

Dear Members,

Your association has been conducting number of programs to update members about the latest changes in various provisions of law. You have given feedbacks and suggestions to forward to new government to make Co-operative housing societies function in a transparent way whether it is redevelopment, election, deemed conveyance etc.



RAMESH PRABHU
Chairman, MSWA

The election for societies whose terms have ended on 14.2.2013 till 31.3.2013, where the administrators, authorized officers, administrative boards have been appointed is required to be held before the end of this month. The terms of the societies which expires after 31.3.2013 are required to inform the Deputy/ Assistant registrar of your ward with provisional list of voters/ members to appoint a election officer. As per the amended Maharashtra Co-operative societies Act, 1960, elections to the committee and office bears including casual vacancy for all the societies will be done by the State Co-operative Election Authority.

Jawarlal Nehru, the first Prime Minister of India has said” All enthusiasm in the world will not be enough unless we have trained personnel to run our cooperative societies”. Even one of the principle of Co-operation is education and training. 97th Constitutional amendment and insertion of section 24A to MCS Act, 1960 has made it compulsory to impart the education to the members and the committee of the society. In order to impart the knowledge, your association has planned to have “**FREE SEMINAR FOR MEMBERS**” on every Saturday from 10am to 1pm at your association conference Hall. The details of free seminar is given elsewhere in this issue.

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Continued.... page No. 04

Representation and issues you want your association to represent before the government to bring policy changes may be send to us.

Your association has started online course, printed the new model bye-laws and also started a "MSWA" news channel on the internet and can be see by

visiting website on

www.youtube.com/channel/UCJcDvSHSxxnlGQdPQS6X87Q

Wish you all happy learning and a happy new year.

With best regards.

CA Ramesh Prabhu, Chairman - MSWA

FREE GUIDANCE AND BOOK ON ELECTION

MUMBAI: As per the latest direction given by the State Co-operative Election authority, the election to the societies which are due after 14.2.2013 (i.e date on which amendment to MCS Act was done) require to hold their election by 31st December, 2014.

Many housing societies have woken up to a state government call to conduct management committee elections by December 31. As per the new law only Active member can context and vote in the election. As per the new model bye-laws a member to be active member required to fulfill all the three conditions mentioned here under:

- (1) The member should own/purchase the flat
- (2) The member should attend at least one General body meeting in the last 5 years provided such absence is not condoned by the General body meeting
- (3) Member has to pay the dues regular and should not be defaulter as per section 73CA of the Act.

Therefore many are now telling their members to attend urgent meetings to decide on the election agenda, others have issued them ultimatums to pay up dues quickly to become eligible to vote. Many meetings will have to be held for societies to make people aware of the new regulations. Many seminars, online classes, one line video are uploaded on " MSWA News Channel " on website site www.youtube.com/channel/UCJcDvSHSxxnlGQdPQS6X87Q . Any person can visit and get the details on the youtube . Of the around 70,000 housing societies in Mumbai metro region

(Mumbai, Thane, Palghar Raigad District), elections are due for the past few years in nearly 30,000. The elections are due since so long as new bylaws governing societies and a new election authority for cooperative bodies were being formed. Number of cooperative housing society in Maharashtra have received a notice from their administrator, registrar and duly appointed election officer to arrange for the election. The specimen of the circulars received are given elsewhere in this magazine and also on Maharashtra Societies Welfare Association.

On all week days on daily basis Free training program for office bearers, committee members and the general public about the election is conducted at the association conference room, A2-302, Laram Center, S.V. Road, Opp. Raillway station, Andheri (W) from 5pm to 7pm and on Saturday from 10am to 1pm. If any group of societies, local federation, association or any NGO wants to have such meetings on Sunday or holidays or any days in the evening, the association has trained the faculties who will deliver a talk on the same. In order to educate the public at large a book titled " Election Rules to the Committee for Housing Society" has been published by your association in which entire election rules and all the circulars issued till date is included.

Experts and activists said they were getting calls from societies to address meetings and create an awareness about the new rules. Ramesh Prabhu, president, Maharashtra Societies' Welfare Association, said they were guiding people on how to file details online.

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CASUAL VACANCY OF THE COMMITTEE MEMBER FILLED THROUGH ELECTION AUTHORITY

When one or two members in the managing Committee resign or die or sell/ transfer their right, title and interest in the capital of the society, they ceased to be the member of the managing Committee and a casual vacancy is created. As per the old bye-laws, the casual vacancy caused in the Managing Committee is filled by the managing Committee themselves by inviting the application by other members of the society. Such Co-option is done mostly in the managing Committee meeting only. Few societies do call special general body meeting to fill such vacancy.

Hemant Agarwal says "With the advent of the Maharashtra Cooperative Societies (Election to Committee) Rules, 2014., cooption can be conducted ONLY in the presence of "authorized officer" from the DR's office, in a duly requisition Special General Body meeting. Henceforth, MC cannot opt another member into the MC, in a MC meeting."

One of the principles of co-operation is democratic control. According to this principle, the management has to be elected by the members only through proper election process. Therefore, 97th Constitutional amendment provided that every state government to provide for election in the managing committee through the State Co-operative Election Authority. Considering this, the amendments were done in the Maharashtra Co-operative Societies Act, 1960 that the election to the entire committee or even when the casual vacancy arises, the same will be filled by election to be conducted by the Election Authority.

In the new model Bye-laws as approved by the commissioner and uploaded on the Government website does not have any provision for co-option by the committee. The procedure as laid down for the election of the entire committee shall be adopted even for the filling up casual vacancy. Considering the number of members in the Housing society, the same is divided into C category

and D category societies. The societies which are having 200 or more than 200 members are considered to be C type societies where election are done by conducting proper election procedure including secret ballot voting. Societies which are having less than 200 members i.e societies having 199 members or less, the election will be done by the election authority but the same will be done in the Special General body meeting specially called for the purpose in which the election officer appointed by the State Co-operative Election Authority will conduct the election.



Adv. Anisha Shastri
022 - 42551439

The method to be adopted whether the voice vote, raise of hand or by secret ballot is not mentioned in any of the circulars or notification or in the Election Rules. Therefore, it is upto the Election officer whom the authority is appointed to take a decision in this matter. When the election has to be free and fair, **CA. Ramesh Prabhu, chairman of Maharashtra Welfare Association** of the opinion that all election has to be free and fair and the same can be done only through secret ballot.

The following procedure need to be adopted by the committee when casual vacancy arises in the committee or the same need to be filled. :

According to the amendment done to MCS Act, 1960, the election to any office bearers also need to be done in the presence of "election Officer" appointed by the Election Authority (Dy Registrar of your ward. Practically, it is a very difficult situation as it involves following steps:

- (1) Apply to the Dy Registrar/Assistant registrar who is notified to be election officer for the respective ward societies.
- (2) Registrar shall scrutinise the resignation, call for the information, and if required hold a hearing by sending a letter to the resigned secretary
- (3) Registrar shall pass the order to appoint an election officer once satisfied that the resignation is properly given.

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- (4) The appointed officer name will be forwarded to District Deputy Registrar, who shall recommend the same to the State Cooperative Election Authority at Pune,
- (5) The SCEA shall approve the name of the election officer
- (7) The election officer will be informed about appointing him by the deputy registrar with a copy to the society
- (8) Election officer to contact the society and fix up the meeting of the committee to elect the member to fill the casual vacancy.
- (9) If the society is C-type more than 200 members, the election to be done by adopting 35 days election program and if the same is D type society with less than 200 members, the election to be done in the Special general body meeting with 15 days notice. All the expenses of the election will have to be incurred including payment to the election officer, meeting expenses, ballot papers, conveyance etc.
- (10) Submit the result to the General body by the election officer and within two days of election to report to the Registrar and state co-operative Election authority about the

election and its result.

The same procedure has to be adopted for election of the office bearers also when any one of the officer bearers resigns or wants to change the portfolio. The election of office bearers will be done in the managing Committee meeting under the supervision of the election officer appointed by the election authority. How practical the same is yet to be seen and we expect some changes to be done by the new government in this regard..

According to Shri. **Digamber Karavade**, "If the procedure for electing a single member to fill a vacancy caused by someone's resignation is so cumbersome and typical of the babudom, members will simply follow the old procedure or continue with the remaining strength.

Every step the govt. is taking in this matter and looking at the maze of procedures, rules, circulars and notices etc the laymen are going to get terribly confused and confusion is a breeding ground for corruption. The govt. must simplify the system and make it user friendly"

SECRET BALLOT TO BE USED FOR ELECTIONS IN MUMBAI'S HOUSING SOCIETIES

MUMBAI: On Saturday thousands of Mumbaikars living in housing societies won their battle for secrecy in the society elections. Similarly the members aspiring to fight elections will get enough time to prove their validity in case of objection over their nominations. Also the associate members will be able to vote only if they are second to the owner on the share certificate of the property.

Elections of all housing societies will now be through secret ballot; provided there is no unanimity over managing committee candidates. Earlier secret ballot was allowed only in big societies with 200 and more members while remaining small societies were asked to conduct elections through voice vote. However big societies are just 5% of the total 70000 such in Mumbai metro region while rest form the majority. Small

societies have nearly 65 lakh families living against around 10 lakh in big housing societies having 200 or more flats and shops.

A circular to this effect was issued by the state cooperative election commissioner Madhukar Chaudhary on Saturday removing all complexities to make all rules clear and simpler akin to the norms followed in general elections. Chaudhary heads the newly formed state cooperative election authority. It may be mentioned that around 36,000 of the total 70,000 societies in the region are due for election following the expiry of their committees over the last two years. These societies have not held elections since over couple of years in the absence of rules governing society elections.

Source : Times of India - 29th November, 2014

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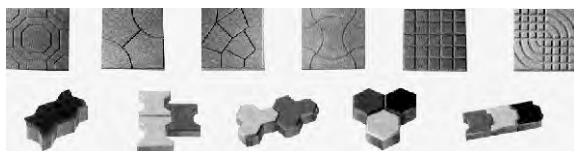
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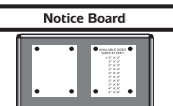
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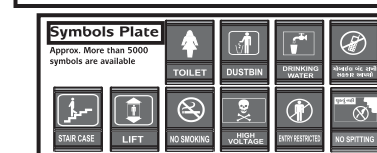


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ASSOCIATE MEMEBR WHO IS CO-OWNER OR JOINT CAN ONLY CONTEST ELECTION AS PER NEW MODEL BYE-LAW

There was lot of confusion about the associate member, their rights, duties and privileges. The definition of member given in section 2 of the MCS Act reads as under:

Member means a person joining in an application for the Registration of a Cooperative Housing Society which is subsequently registered, or a person duly admitted to Membership of a Society after Registration and who holds the right, title and interest in the property individually or jointly.

Associate Member means a Members who holds the right, title and interest in the property individually or jointly with others, but whose name does not stand first in the share certificate; There are various conditions imposed in the Bye-laws to become a member of the society. When the member includes associate member, the same eligibility conditions should be applicable to associate member.

Bye-laws No 19 provides for the various eligible conditions for member and the same should be applicable to associate member.

- a. An individual / applicant who is eligible to be the Member & who has applied for Membership of the Society in the prescribed form, may admitted as Member by the Committee on complying with the following conditions:-
 - I applicant has fully tendered the value of at least Ten shares of the Society, along with his Application for Membership;
 - ii. applicant has paid the Entrance Fee of Rs. 100/- along with the Application for Membership;
 - iii. applicant has submitted the application as prescribed, of the particulars in regard to any house, plot or flat owned by him or any of the Members of his family, anywhere in the area of operation of the Society;
 - iv. applicant has submitted undertaking in the prescribed form to the effect that he shall use the flat / unit for the purpose for which it was purchased by him;
 - v. applicant has furnished an undertaking in the prescribed form, if he / she has no independent source of income;

- vi. applicant has submitted, along with the application for Membership of the Society, a certified copy of the agreement, duly stamped and registered entered into by him / her/ them with the Promoter Builder or Transferor under Section 4 of the Maharashtra Ownership of Flats Act;



Adv. Rajlaxmi Pujary
022 - 42551435

- vii. Eligibility of Corporate Bodies for Membership of the Society
- viii. Conditions for Individuals desiring to be Member of the Society
- ix. applicant has furnished such other undertakings/ declarations, in the prescribed forms as are required under any law for the time being in force and such other information as is required under the Bye-laws of the Society along with the application for Membership.
- x. In case of Societies registered under the jurisdiction of special planning Authority like CIDCO / MHADA / SRA / MMRDA etc. the applicant should be eligible person as per the provision of respective Act and the directives of the Govt. / the Planning Authorities, if any.

Note : The conditions at (iii), (iv), (v), and (vii) above shall not be applicable to the Promoter Builder, applying for Membership of the Society, in respect of the unsold flats.

- b. An Individual, a Firm, a Company or a Body Corporate, registered under any Law for the time being in force, who/ which is eligible to be an Associate Member and who/which shall apply through Member in the prescribed form for such Membership, along with the entrance fee of Rs.100/-, may be admitted as Associate Member by the Committee.
- c. A Firm, Company or any other Body Corporate, registered under any law for the time being in force, which is eligible to be a Member of the Society and has made an application for Membership of the Society in the prescribed form may be admitted as a Member by the



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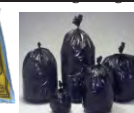
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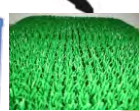


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Committee of the Society on complying with the following conditions :-

- I applicant has sent, along with application for Membership of the Society, a certified copy of the agreement duly stamped entered into by it, with the Promoter (Builder) or transferor under Section 4 of the Ownership Flats Act, 1963, with certified copy of resolution of the firm or company as the case may, authorizing to sign the application.
- ii. applicant has paid, along with application for Membership, full value of at least 10 shares and entrance fee of Rs. 100/-.
- iii. applicant has complied with the conditions mentioned in the notifications, issued by the State Government, from time to time, under the Second Proviso to Section 22 of the Act.
- iv. Applicant has furnished the undertakings / declarations in the prescribed forms required under any law for the time being in force along with the application for Membership.

Note : The conditions at (i) and (iii) shall not be applicable to the firm/ company of the Promoter Builder, applying for Membership of the Society in respect of the unsold flats.

As a matter of fact, the associate member enjoys all the rights and privileges of the member including the voting rights as provided under section 27(2) of the MCS Act which reads as under:

Where a share of a society is held jointly by more than one person, the person, whose name stands first in the share certificate, if present, shall have the right to vote. But in his absence the person whose name stands second, and in the absence of both, the person whose name stands next, and likewise, in the absence of the preceding persons the person whose name is next on the share certificate, who is present and who is not a minor, shall have the right to vote.

There was no clarity whether a person can become an associate member by paying only Rs.100 as entrance fees or need to be joint owner of the property. Just by paying Rs.100/- as entrance fees and making an application in form No. 7, as per new model bye-laws, a person cannot become the associate member.

To become an associate member, he need to have right, title and interest in the property and also to become active member he should be owing/

purchased the property. Further as per the Transfer of property Act, 1882, one cannot acquire the right, title and interest in any property without having an instrument in writing which is duly registered as required under Registration Act, 1908 and duly stamped.

The definition of Associate member given in the new bye-laws further clarifies. The definition is as under:

"Associate Member" means a Members who holds the right, title and interest in the property individually or jointly with others, but whose name does not stand first in the share certificate;

Voting rights are only with the active member. Three important terms and conditions which an member has to fulfill to become active member is as under :

- The member should own/purchase the flat
- The member should attend at least one General body meeting in the last 5 years provided such absence is not condoned by the General body meeting.
- Member has to pay the dues regular and should not be defaulter as per section 73CA of the Act In order to become a member or associate member, the persons need to get right, title and interest in the property . By paying entrance fees of Rs.100/- no one can become the associate member and get his name incorporated in the share certificate and exercise all the rights of the associate member.

Therefore, as per new Model bye-laws, managing committee can admit only joint owner as the associate member along with the member.

At the time of sending the Provisional voter list in E-3 form to the election authority to conduct the election, the managing Committee has to take a letter from the first member in case, he is not able to vote in the election and he wants that the associate member who is the joint owner of the flat to vote in place.

In such cases, the managing committee can incorporate associate members name in the voter list. There seems to now clarity in the Model Bye-laws as to who can become the associate member, vote , contest the election and become the office bearers.



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CIRCUMSTANCES UNDER WHICH THE COMMITTEE CAN BE DISMISSED AND NEW ELECTION CAN BE CONDUCTED

Whenever any member had any issues with the committee, the first thing that an aggrieved member demands from the committee is to produce the M-20 bonds signed by the committee members. Invariably, the committee members would never sign such bond as they claim that they have accepted the post as none of the members were keen to contest the election and they are doing so as a social service and thankless job.

However, the law had provided for non signing of such bond would amount to vacating the office. On the complaint to the deputy registrar, such aggrieved member would get the committee dismissed. The society would be under the management of Administrator. Considering the mischief played by such bond, the amendment in the MCS Act has done away with such bonds and now no longer the committee members are required to sign such bonds.

However, the accountability and responsibility of the committee and office bearers have increased many fold. There are many mandatory things which the committee need to follow and if they fail to do so, the entire committee may be dismissed under section 77A of the MCS Act and appoint an authorized officer. The penalty further goes that the dismissed committee members will not be able to contest the election for the next one term of five years. Therefore, the committee members need to comply with all the required provisions of law. No longer they can take the shelter under the pretext of honorary service or thankless job. Now they will be taking the management of the society under due process of election held in the presence of election officer.

They can also appoint a manager whom also can be co-opted as **"Functional Director"** in the committee. Lot of responsibility and accountability by passing an appropriate resolution in the committee meeting or by

issuing an appointment letter or executing an agreement with the manager can be transferred to the manager or functional director. No member of the society shall complain against the committee so long as it does not affect his personal issue.



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Once the same starts bothering his personal interest, the concerned member shall go to any extent and make the committee to run pillar to post. Therefore, it is advisable to all the societies to appoint a full time or part time manager to take care of all statutory obligations and handle the members grievances.

Following are the circumstances under which the deputy registrar can dismiss the committee, appoint authorized officer and conduct the fresh election without allowing the old committee members to contest.

- (1) Not holding the Special General body meeting within 30 days of notice given by not less than 20% members by the committee as per section 76 of MCS Act, 1960
- (2) Not holding the Annual general Body meeting by 30th September every year.
- (3) Not informing the deputy registrar before 6 months of expiry of the term of the committee to hold the election and submitting the provisional list of voters.
- (4) Not filing the Mandatory returns as per section 79
- (5) Committee is convicted under section 83, 88 of the MCS Act.

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IN SEARCH OF SOLUTIONS TO STUCK REDEVELOPMENT PROJECTS

Since redevelopment started in 1991 about two decades ago, and builders could augment the FSI (Floor Space Index) of the land by purchasing TDR (Transfer of Development Rights), many cooperative housing societies started actively seeking redevelopment as a way of renewing their decades-old building, and giving their residents flats that were 20 to 40 percent larger – more-or-less free of charge. This was possible because the builder or redeveloper was enabled to make a decent profit by building some extra flats, and selling them.

Building redevelopment is widely marketed by builders and project management consultants as a safe and trouble-free method of renewing the aging buildings in our metropolises. However, the truth is that this process is far from being trouble-free; rather, it is full of major and minor pitfalls preventing the redevelopment of at least 30% of the existing buildings.

Over 10 percent of Mumbai's 30,000-odd society buildings are aged, dilapidated and stuck without any scope for rebuilding. Thousands of families are condemned to risk their lives and belongings for many years or decades in a mess of deteriorating plaster, RCC columns, beams and slabs. Improper structural maintenance by societies due to greed, cost cutting, ignorance, unavailability of skilled labourers, disputes between members etc. is endangering the lives of thousands of families living in Mumbai. The steel in the RCC columns, beams and slabs has rusted and become exposed in many buildings. Some old buildings – especially those in South Mumbai – are held up by makeshift bamboo columns.

Currently, thousands of buildings in Mumbai are stuck at various stages of redevelopment, affecting lakhs of families. Some buildings, which are dilapidated and badly in need of redevelopment, are unable to commence redevelopment, because neither residents nor redeveloper can derive any benefits from such redevelopment, which is commercially unviable.

All of these problems are desperately crying out for creative but practical solutions. But they are nobody's baby – not even the state governments. So, after much deliberation, we at MSWA have decided to take ownership of this problem. For finding and executing solutions, we have created a special cell called **"CELL FOR SOLUTIONS TO STUCK REDEVELOPMENT PROJECTS" (CeSSRePro)**.



Krishnaraj Rao
Journalist, activist

SOME COMMON ROADBLOCKS TO REDEVELOPMENT ARE:

- **OVER CONSUMPTION OF FSI.** Roughly a hundred buildings in Mumbai are stuck because the earlier builder has already consumed all the available FSI on their plot of land.
- **LEASE-HOLD LAND.** A substantial proportion of buildings are built on land leased by the Collector, Municipal Corporation, BEST, Bombay Port Trust, MCGM etc., and the conditions of the lease deed often prevent construction of a new building or transfer of title to new owners.
- **RESERVATIONS & DP-ROAD SETBACKS.** Many of the land plots are partially eclipsed by municipal or state government reservations for Recreation Ground / Play Ground, School, Hospital etc., or requirement to hand over land for Development Plan roads. After that portion of the land is surrendered to government or municipal corporation, the remaining land plot may be unprofitable to develop, and FSI may be insufficient to build a rehab component and sale component that gives incentive to both residents and builder.
- **NON-AVAILABILITY OF CONVEYANCE.** Many thousand buildings are stuck because they cannot get conveyance of land and building for a multitude of reasons. In many cases, either the builder or the land-owner, or both, has died without leaving clear title for the next generation. Their next-of-kin may be unwilling



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to relinquish their title on the land or building, because the property values have appreciated a hundredfold. They now want their pound of flesh!

- **NON-COMPLIANCE OF ULC REQUIREMENTS.** Hundreds of buildings are stuck because of the builder's failure to comply with the ULC requirement of handing over 10 percent of the flats to the government. As a result, the State government has laid claim to a part of the property, and become a part owner of the land. The property card now shows the name of state government along with that of the builder or land-owner. Therefore, the society cannot get conveyance of the land in its own name, and so it does not have clear title to invite bids and commence the redevelopment process.
- **NON-AVAILABILITY OF TDR.** In South Mumbai, the FSI is 1.33 for private buildings and 3 for tenanted or "cessed" buildings. Some buildings have unknowingly created a problem for themselves by converting themselves into full-ownership buildings. Although they may be over 60 years old, and in a dilapidated condition, they are commercially unviable for redevelopment. As there is no TDR provision in South Mumbai, and the existing structure may already have availed FSI of 1.33, 2 or 2.5, there appears to be no easy way for the existing tenants to reap the fruits of redevelopment.
- **NON-PERFORMING REDEVELOPER.** Thousands of societies, having assigned the development rights to a particular builder, are finding to their great dismay that he is either unwilling or incapable of completing the project, for reasons that he may not even state clearly. Such societies and their redevelopers are like couples stuck in hopeless marriages – incapable of serving each other, unable to seek legal separation, and therefore unable to remarry!

HOW TO SOLVE THESE PROBLEMS?

- 1) In many societies, if the building collapses in the near future, each flat owner will be entitled to ZERO amount of space or money, especially if the society has not got conveyance of land in its own name. Therefore, society may consider

entering into a redevelopment agreement for less than the existing carpet area, as a way of seeking INSURANCE of at least a part of the value of the existing flat. The terms of the redevelopment agreement may be framed to enable the society members to continue to seek a better deal for a period of one or two years. Such a redevelopment agreement may be considered as UNDERWRITING OR INSURANCE AGREEMENT, which may be converted into **REDEVELOPMENT AGREEMENT**. In case of building having to be vacated by BMC,, or due to collapse, the ownership of the entire property will pass to the underwriter or insurer.

- 2) Some members must be convinced to SELL their flat to the redeveloper or underwriter at a discount to the current per-square-foot market value, or alternatively, BUY space from the redeveloper at MARKET VALUE so that they can get houses of a decent size after redevelopment.
- 3) Original builder and land-owner should be convinced to give conveyance immediately. IF NOT, IN THE EVENT OF BUILDING COLLAPSE, THEY MAY BE CRIMINALLY LIABLE for preventing the redevelopment by their actions.
- 4) Space purchased by redeveloper may be consolidated and sold to investors.
- 5) Redeveloper or PMC may consider resettling some residents in equal or larger flats in less expensive neighbourhoods.
- 6) Government concessions, subsidies, waivers etc. may be sought for resettling such families.
- 7) In case of non-performance by a redeveloper, directions may be sought from the government or the courts to compel a redeveloper to hand over unencumbered possession.
- 8) In case of lease-hold land, government or court directions can be sought for conversion into freehold, so the redevelopment can take place.

Various solutions may be conceived for such problems, including seeking government involvement, adjudication, arbitration, policy-level changes, seeking infusion of fresh capital through new investors and builders. The solutions will have to be tailored to remove the specific obstacles in each case.

For the proper solution and to discuss your case, you may contact the author Mr. Krishnaraj Rao on 9821588114 to take the prior appointment and meet at association office on any working days.,



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PAY HOUSING SOCIETY DUES TO VOTE FOR COMMITTEE POLLS

After registering your name in the voters' list for the assembly and general polls, it's time to ensure it is in the electoral roll of your housing society, with the deadline for elections five weeks away. Residents have to ensure their membership formalities are complete and clear dues against society bills to be eligible to vote.

"No dues pending against a member is enough to establish the identity as a voter. They can vote or fight elections to the new management committee at the general body meeting," state cooperative election authority (SCEA) sources said. Earlier, members who defaulted were allowed to vote but were debarred from nominating themselves to an office-bearer's post in the general body elections. This time, members who default will not even be on the society's electoral roll. Societies where elections are due following expiry of the five-year term of the management committee have to suggest a date for elections and submit the voters' list to the cooperatives office after collecting dues from members. If it is not done, the committees will be dissolved, followed by legal action. Societies have a December 31 deadline.

"Most of the 70,000-odd societies in the Mumbai metropolitan region have many members who do not pay their dues regularly, with some of them being away from their homes. Over 40% societies

- **Chittaranjan Tembhekar, TNN - Nov 21, 2014**, have elections due, probably the largest-ever election drive after six to seven years," sources said. Societies feel many residents may not be able to vote. The process of elections for societies having more than 200 members is stretched up to a month, as nominees are given time to appeal if their nomination is rejected by the polling officer. Societies with 200 or less members have to hurry up in intimating the cooperatives department about the elections to get a polling officer appointed.

"My society is meeting on Sunday to make aware people about rules and regulations for the elections," Mrunmayee Bhat, a Vile Parle resident, said.

Societies that have not submitted annual returns for 2013-14 to the cooperatives department will have to do so quickly. The returns include submission of annual report of the society, audited account statements, profit distribution mechanism, copy of amendments made in by-laws and other details sought by the registrar's office.

"Societies which fail to file the returns within six months of the end of fiscal year can be dissolved and a fine of Rs5,000 will be imposed on the committee," the sources said.



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Dombivali	1-B, Ram Govind Apartment, Opp. Vijya Bank, Near Brahman Sabha Hall, Dombivali (E) - 421 201.	0251 - 605 00 40 072 76 34 89 99
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DEEMED CONVEYANCE TO BE RELAXED

The new Government in the state has promised to bring radical changes in the Deemed Conveyance provisions and make it more friendly.

Your association has already received the following issues faced by the housing societies who want to get the conveyance and has requested us to represent before the new government.

- (1) Deemed conveyance does not give proper legal rights : The government need to change the word deemed conveyance and bring some other name. This will remove all the confusion among the societies. The words like effective conveyance, statutory conveyance, legal conveyance or simply conveyance may be used.
- (2) Disputes already filed by the societies against the builder: The societies before the amendment to MOFA have filed the case to get the conveyance. If the amendment is done to MOFA, to grant the conveyance, we fail to understand why the authorities hesitate to implement the provision of the law., If the DDR/ Competent Authority grants the conveyance, the legal case, become infectious and does not survive. We fail to understand why such cases need to be withdrawn.
- (3) Disputes on the property : Many competent Authorities receive the reply from the developer that the property is in dispute between the developer and the land owner and so the same can not be conveyed. Even the DDR accept the contention that if the property is in dispute the same cannot be granted conveyance.
- (4) Not having Approved Plan, Occupation certificate, NA order etc. It is the duty of the builder to provide the same but the society after many years are asked to produce the same. Every second society registered recently and almost all the societies which are about 20 years old do not have such documents. The DDR / Competent Authority simply rejected the application on this ground itself. Sometime a feeling is given to

the general public that the Competent authority has been appointed to create an unnecessary rights on the property which has been forgotten by the developer or land owner. This is completely against the welfare of the societies.



S. R. Desai
022-42551438

E-mail : mswa.desai@gmail.com

- (5) Remark of ULC on the property card : Many societies in Mumbai are developed by taking the permission under Urban Land Ceiling Act, 1976. It is the duty of the developer to provide such number of flats to the government as per the ULC order and obtain the Occupation Certificate. The Builders have sold such flats in the open market and now the society is formed about 20 or 30 years back. Since the builder did not hand over the required flats as per ULC order to government, a remark is mentioned in the property card not to transfer the property without the collectors permission i.e. without the permission of state government. The DDR/ Competent Authority being a class 1 officer appointed by the Government do not pass any order in such cases to grant the deemed conveyance.
- (6) BMC Land : The BMC has given on lease for 999 years or 99 years earlier to builder. Now the builder is not available and if the society approaches, the BMC, the society is required to produce the original land owner. In such cases, application for deemed conveyance is filed. The DDR on the basis of new policy declared by the BMC grants only lease for next 30 years and also all applicable transfer premium of 10% of ready reckon rate and revised lease rent at the rate of 2% of ready reckon rate to be paid every year which works out to be crores of Rupees.
- (7) Collector Land: No Deemed conveyance is granted on such land.
- (8) MHADA: Mhada societies are excluded from the provisions of MOFA and so deemed conveyance not possible.

KIND ATTENTION ALL THE MEMBERS OF CO-OPERATIVE HOUSING SOCIETIES!!!

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OUR SCOPE IN REDEVELOPMENT WORK : Legal Service, Government department Liasoning work, Feasibility Report, Tendering & Developer selection, Supervision & Quality Control, Defect Liability period

OUR SCOPE IN SELF REDEVELOPMENT WORK : Legal Service, Government department Liasoning work, Feasibility Report, Financing project, Architectural Planning & Designing, Structural Designing, Tendering & Contractor selection, Legal Service, Liasoning work for Plan approval, IOD, CC, BCC, OC etc., Supervision & Quality Control, Defect Liability period.

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- (9) SRA Societies : The collector land, BMC land, central Government land again deemed conveyance provision is not made applicable.
- (10) Forest Land : The land having forest land remark, though the same is approved by Supreme Court, the DDR is not taking any measures to grant the conveyance.
- (11) Layout having more than two or more societies. : Under the pretext of having more clarity and imbalance use of FSI.
- (12) The practice of corruption prevailing in different department and the high cost of making an application.
- (13) Not sure to get the conveyance even after spending lot of amount and hiring the professionals.
- (14) Fresh litigation by the builders
- (15) Builders / Land owners have executed the transfer deed in favour of the new developer who wants to use the TDR and redevelop the building. This is complete abuse of law but DDR reject the application stating that the new developer does not have any brevity of contract with the flat purchasers
- (16) Chain of transaction between the land owner and the builder not having properly stamped and registered.
- (17) The proposed executed agreement with the land owner and then appointed a contractor to construct and allotted the flats. There is No MOFA agreement and hence deemed conveyance is not granted.
- (18) The agreement for sale executed before 10.12.1985 was not attracting stamp duty and now the members require to pay the stamp duty at the present market value, if the proper proof of occupying the flats at that time is not produced.
- (19) Tenants purchased the land on agreement for sale but did not register the conveyance but now under deemed conveyance same is not granted stating it does not come under MOFA.
- (20) The developer retaining one wing for himself and given on tenancy basis and the conveyance applications are rejected.
- (21) For some reasons, deemed conveyance application is rejected, the DDR do not entertain the fresh application after complying with the requirements and demand the fresh direction from the High Court or approach the High Court to admit the application.
- (22) The writ petition, civil petition filed by the Builder/ Land owner on grant of deemed conveyance and extract amount from the societies which are planning for redevelopment. Each litigation to cost the societies but an opportunity to the developer to make a huge profit.
- (23) Visit to number of department like BMC for building related documents, Collector for Land related NA order or ULC orders , Revenue department like Forest remarks or non compliance by the developer, Charity commissioner, if the land is owned by the trust, City survey office to get the latest property cards, CTS map, Development Plan remark to be obtained from BMC, payment of stamp duty at collector of stamp office, sub-registrar office etc.
- (24) The agreement having a clause of granting the land on lease and now the societies have to accept the lease even after all of them covered under MOFA.
- (25) Some of the societies receive the conveyance for only land below the building without knowing the facts but now they cannot take the conveyance of proportionate land as per the FSI consumed.
- (26) Even if the deemed conveyance is granted the collector of stamps do not process or accept the application for adjudication without getting the occupation certificate. Even after the competent authority grants the conveyance, MOFA does not want conveyance, there is provision to collect duty on agreement for sale even when building is not constructed but here building is occupied, taxes are paid, deemed conveyance orders are issued but stamp duty of Rs.100/- not collected or adjudicate the deemed conveyance deed and leading to make mockery of the state government law. There cannot be any shame more than this or insult to the law of one Department (Housing Department) by another department(Stamp duty department).

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AT YOUR PLACE ON REQUEST

(27) CIDCO land in new Mumbai : Though government has cleared the CIDCO land for deemed conveyance, CIDCO demands the transfer fees of all the flats and also property as per their policy and deemed conveyance has been taken for a task by the CIDCO.

All the above issues and many more as may be brought to our knowledge has really put the entire efforts of the government on back foot. In fact, the deemed conveyance has not been successful on this account.

Your association has planned to represent before the new government to ease all the above ambiguity and make the conveyance process much easier. In order have all the issues faced by the societies CA. Ramesh Prabhu who was a part of Deemed Conveyance Rule making committee of

Government, invites all the societies to discuss their issue and the suggestion to make it a grand success.

Your association has planned for free discussion, consultation for the societies looking for conveyance on all working days from 10am to 7pm at the Association office. We also invite the application by email on mswa.hsg@gmail.com with a copy marked to rsprabhu13@gmail.com

When you are visiting the association, please do prior registration and come with all the relevant documents available with one extra copy. Your association is also willing to arrange free seminars at your local area to discuss any issues related to redevelopment, conveyance, new election rules, New model bye-laws. Please do contact association office for the same on 42551414 or send the email.



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Dear friends,

We have been campaigning for the formation of **SALT (SOCIAL AUDIT LOCAL TEAM)** in each administrative ward of BMC. We are pleased that some wards have formed the group and a few others are in the process of formation. Mahiti Adhikar Manch's initiated **Social Audit Local Team (SALT) - F/S** conducted the citizen's social audit of the maintenance contract given by BMC of playground and traffic island and then held the first **"Jan Sunwai"** at which the Audit findings were made public. We are empowered to do such efforts of **"inspection"** under the provisions of **Right to Information Act 2005**.

This has brought in some accountability in the system in that particular department as we have noticed some clauses of the contract now being fulfilled and work of maintenance has also started.

We feel that such audits by the community will go a long way in bringing accountability & transparency in the governance system. We would like to share this experience and the learning with all of you, which will help you to plan and strategize local audits in your wards by forming the Social Audit Local Team in each administrative ward which is our continuous project

Initially, we intend targeting following departments:

- a) Housekeeping services allotted for schools.**
- b) Open spaces given for maintenance.**
- c) Trench work.**
- d) Public Toilets.**

Person interested to know more detail and want to get involved may contact

Bhaskar Prabhu & Anand Castelino
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REAL ESTATE INVESTMENT TRUSTS (REITS) AND INFRASTRUCTURE INVESTMENT TRUSTS (INVITS)

REITs are collective investment schemes that invest in a portfolio of income generating real estate assets such as shopping malls, offices, hotels or serviced apartments, usually established with a view to generate income for unit holders. Assets of REITs are professionally managed and revenues generated from assets (primarily rental income) are normally distributed at regular intervals to the unit holder. Investment goals for REITs are much the same as the goals of an investment in stocks – current income distribution and long term appreciation potential.

BENEFITS OF REITs

- REITs typically own multi-property portfolios with diversified tenant pools. This reduces the risk of relying on a single property and tenant which one faces when directly owning a real estate property.
- The REIT investor enjoys the advantage of the power of the pool of capital to acquire interests in much larger opportunities than would be available to their personal capital alone.
- Compared to investing directly in real estate properties, REIT investment offers the advantage of liquidity – the ease of converting assets into cash. REITs are listed on the stock exchange and one can trade a REIT throughout the trading day, and it is easier to buy and sell a REIT than to buy and sell properties.
- The process of buying or selling a REIT is transparent and flexible, just like trading stocks listed on the exchange. Investors can access information on the REIT prices and trade REITs throughout the trading day.

STRUCTURE OF REITs

REITs are structured as trusts and thus the assets of a REIT are held by an independent trustee on behalf of unit holders. The trustee has duties as laid out in the trust deed for the REIT which typically include ensuring compliance with applicable laws, as well as protecting the rights of unit holders.

In a typical REIT structure, money is raised from unit holders through an Initial Public Offer (IPO) and used by the company to purchase a pool of real estate properties. These properties are then leased out to tenants; and in return, the income flows back to the unit holders (investors) as income distributions (dividends).



CA. Rajkumar Adukia

In most cases, a sponsor or a major shareholder is also present. For example, if a property developer launches a REIT, he may choose to keep X% (say 30% to 50%) stake in the REITs itself. Like any other investor, the developer in this instance will receive income distributed as dividends, where applicable. The underlying real estate properties are managed by a property manager and the REIT itself is managed by a REIT manager in exchange for a fee. The underlying assets are held by a trustee on behalf of the investors.

REITs AND InvITs IN INDIA

Securities and Exchange Board of India (SEBI) notified the SEBI (Real Estate Investment Trusts) Regulations, 2014 and SEBI (Infrastructure Investment Trusts) Regulations 2014 on 26 September 2014 thus laying down the framework for Real Estate Investment Trusts (REITs) and Infrastructure Investment Trusts (InvITs) and their registration and regulation in India. As per these regulations, both REITs and InvITs have to be registered as Trusts under the Indian Trusts Act, 1882.

SEBI had introduced legal framework for real estate mutual funds on 16 April 2008 by way of SEBI (Mutual Funds) (Amendment) Regulations, 2008 and inserted Chapter VI A – Real Estate Mutual Funds Schemes (REMFs) and that for Infrastructure Debt Funds was added by inserting Chapter VI B - Infrastructure Debt Fund Schemes on 30 August 2011 to the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996.

The Detail article is given in our Website : www.mswahousingsng.org

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STRUCTURAL AUDIT

What is structural audit?

Structural Audit is an important tool for knowing the real status of the old bldgs. The Audit should highlight & investigate all the risk areas, critical areas and whether the bldg. needs immediate attention. It should also cover the structural analysis of the existing frame and pinpoint the weak structural areas for static, wind & earthquake loads. If the bldg. has changed the user, from residential to commercial or industrial, this should bring out the impact of such a change.

Bye-Laws

As per clause No.77 of revised Bye-Laws of Cooperative Housing Societies: "The Society shall cause the 'Structural Audit' of the building as follows: 1) For building aging between 15 to 30 years once in 5 years 2) For building aging above 30 years Once in 3 years.

The Purpose of Structural Audit is:

- To save LIFE & PROPERTY.
- To know the health of your building. and to project the expected future life.
- To probatively assist the residents and the society to understand the seriousness of the problems and the urgency required to attend the same.

If we are serious about the Structural Audit, how do we carry it out? What do we tell to our Structural Engineers? What are our expectations?

STEP 1 : It is imperative that we must have Architectural and Structural plans of the bldgs. it will be helpful if we have detailed structural calculations including assumptions for the structural design. The assumptions can also include the allowable live loads; Whether the bldg. is designed for residential, commercial, light industry or heavy industry and whether any future provision for adding new floors is considered? What type of Earthquake loads are considered? Which I.S. Code requirements have been met?

STEP 2 : If the Architectural plans and Structural plans are not available, the same can be prepared by

any Engineer by measuring the size of the bldg. & locating the position of the columns, beams and size of all such structural elements.

STEP 3 : Inspection of the Bldg. - A detailed inspection of the bldg. can reveal the following:

1. Any settlements in the foundations.
2. Visual cracks in columns, beams and slabs
3. Concrete disintegration and exposed steel reinforcements – photographs can be helpful.
4. Slight tapping with hammer can reveal deterioration in concrete.
5. Extent of corrosion in reinforcement.

STEP 4 : Tests Recommended : It is important that various tests are carried out in the old bldgs. This will give an idea about the extent of corrosion, distress and loss of strength in concrete & steel.

STEP 5 : Earthquake Criteria : Mumbai is located in Earthquake Zone III as per Indian Standard Codes. The Earthquake Code IS 1893-2002 provides rigorous analysis and designs of Bldg. structures so that it can withstand the Earthquake forces. It may be possible to retrofit the old buildings, so that they do not collapse during Earthquake; but may develop some cracks and allow enough time for people to escape. Thus saving precious lives.

STEP 6 : Compliance of Audit requirements. Audit is a good thing, but in itself Audit is not sufficient. It is important that the findings and/or recommendations of audits are implemented satisfactorily, within a stipulated time limit and are certified by Structural Engineers; Otherwise the Audit findings will remain on paper.

Conclusion: If your bldg. is more than 15 years old, it is important that rigorous audit is carried out every five years. This will be a continuous process as it is difficult to guarantee future life of old bldgs. However, regular Audits and implementing audit findings will avoid sudden collapse of bldgs. and save thousands of life. This process will also increase the future life of bldgs.



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सहकारी गृहनिर्माण संस्था इमारतींचा पुनर्विकास

मुंबई आणि तिच्या सभोवतालच्या उपनगरात जवळपास २५००० सहकारी गृहनिर्माण संस्था आहेत त्यापैकी सुमारे २०००० गृहनिर्माण संस्था सन १९६०-६५ च्या अगोदरच्या आहेत. या गृहनिर्माण संस्थांच्या इमारती मोडकळीस आलेल्या अवस्थेत आहेत. महाराष्ट्र सहकारी संस्था अधिनियम १९६० च्या कलम ७७ अन्वये १५ ते ३० वर्षे जुनी असलेल्या इमारतीचे स्थापत्य लेखा करणे बंधनकारक आहे परंतु अनेक संस्थांनी याकडे दुर्लक्ष केले आहे. त्यामुळे जुन्या इमारतीची सध्याची स्थिती धोकादायक बनली आहे. अशा धोकादायक इमारतीची पुर्नबांधणी सुलभ होण्यासाठी महाराष्ट्र शासनाच्या सहकार विभागाकडून पहिल्यांदाच महाराष्ट्र सहकारी संस्था अधिनियम १९६० च्या कलम ७६(अ) अन्वये मार्गदर्शक तत्वे प्रस्तुत करण्यात आली आहेत.

मोडकळीस आलेल्या इमारतीतील मूळ सदनिकाधारकांना नवीन पक्की घरे मिळण्यासाठी व मुंबई आणि तिच्या उपनगरात अधिकाधिक लोकांना घरे उपलब्ध व्हावीत म्हणून महाराष्ट्र शासनाने घर सुरक्षा धोरण जाहीर केले आहे. त्यानुसार १ एफ. एस. आय. बांधकामावर एक वाढीव टी. डी. आर. च्या बांधकामाची विक्री करून येणाऱ्या पैशातून मूळ सदनिकाधारकांसाठी नवीन घरे बांधून देता येतील त्यामुळे दोन हेतु साध्य होतात. मोडकळीला आलेल्या

इमारतीत राहणाऱ्या लोकांना नवीन पक्की घरे प्राप्त होतात. आणि सदनिकेच्या शोधात असणाऱ्या लोकांना बाजार भावाने सदनिका खरेदी करता येतात. सन २०१२ नंतर फंजीबल एफ. एस. आय ही संकल्पना लागू करण्यात आली आहे. यामुळे इमारतीच्या पुर्नविकासात अडचणी वाढल्या आहेत. यामध्ये आकारला जाणारा प्रिमियम हा पुर्नविकासात मोठा अडसर ठरत आहे.

जुन्या इमारतींच्या पुर्नविकासात जसे फायदे आहेत तसेच तोटेही आहेत मुळ सदनिकाधारकांना सर्व सुविधानी युक्त नवीन पक्के घर मिळते वाहन ठेवण्याच्या जागेची सुविधा मिळते. याचे तोटे म्हणजे बिल्डर दिलेल्या वेळेत नवीन सदनिकेचा ताबा देईल की नाही याची शाश्वती नसते बऱ्याचवेळा बिल्डरकडून काम अर्ध्यावर सोडले जाते. जुन्या इमारतीला सदनिकाधारक हे बहुतांशी वरीष्ठ नागरीक असतात त्यांना बराच कालावधी बाहेर काढणे कष्टाचे तसेच त्रासाचे जाते. बऱ्याच ठिकाणी व्यवस्थापन समिती स्वतःचे हितसंबंध जपते. त्यामुळे त्यांच्यावरचा अविश्वास वाढतो.

महाराष्ट्र शासनाने जुन्या इमारतींच्या पुर्नविकासाच्या कामकाजाबाबत दि. ३ जानेवारी २००६ रोजी एक जी. आर. प्रस्तुत केला आहे त्याबाबत पुढील अंकात.

मिलेगा हल

दिनांक : २१ नोव्हेंबर, २०१४ Navbharat Times

घर खरीदने के पहले पेपर चेक करने की उलझन हो या फिर सही इन्वेस्टमेंट की चिंता। सोसायटी के रीडेव्हलपमेंट का काम अटकने की दिक्कत हो या फिर रुका हुआ हो, स्लम के रीडेव्हलपमेंट का काम। इन परेशानियों से अगर आगे का रास्ता न सूझ रहा हो, तो मत हों परेशान। अब एनबीटी आपकी मदद के लिए है तैयार। प्रॉपर्टी से जुड़ी किसी भी समस्या से संबंधित सवाल आप हमसे पूछ सकते हैं। हमारे एक्सपर्ट्स उसपर अपनी सलाह देंगे। प्रश्न के साथ अपना नाम जरूर भेजें। आप अपने सवाल हमें mswa.hsg@gmail.com पर भेज सकते हैं। आप हमें ९८२०६०१८९४ पर एसएमएस भी कर सकते हैं।

मैं अंधेरी वेस्ट में एसवीपी नगर में रहता हूँ। हमारी सोसायटी ने ४ साल पहले रीडेव्हलपमेंट का काम प्राइवेट बिल्डर को दिया था लेकिन अब तक कोई प्रगति नहीं हुई है। अब हमें क्या करना चाहिए ?

- एक पाठक

सोसायटी बिल्डर को कारण बताओ नोटिस दे सकती है। इसमें बिल्डर से काम की गति के बारे में पूछा जा सकता है। ऐसे में हो सकता है कि आपका पुराना बिल्डर केस फाइल कर दे। हालांकि म्हाडा के नियम बदलने की वजह

से तमाम बिल्डरों का काम धीमा है। इस वजह से बेहतर होगा कि आप लोक बैठकर वापस अग्रिमेंट पर निगोसिएट कर लें और नई पॉलिसी के आधार पर काम करें। बिल्डर बदलने से ही मामला हल नहीं होगा।

मैंने २० साल पहले एक दुकान खरीदी थी लेकिन बिल्डर के बाद में चले जाने की वजह से उसका रजिस्ट्रेशन नहीं हुआ, स्टैप ड्युटी भी नहीं भरी गई है। अब वह सोसायटी रीडेव्हलपमेंट में जा रही है और सोसायटी के सदस्य ध्यान नहीं दे रहे हैं। ऐसे में मुझे क्या करना चाहिए ?

- आनंद वासंदी

आपके पास दुकान का ताबा है और बिल्डर के साथ किया हुआ अग्रिमेंट भी है। ऐसे में आपको नई दुकान देनी होगी। आपने सोसायटी का मेंटेनेंस भी समय-समय से भरा है। इसके बाद सोसायटी आपको मेंबर के तौर पर ले लेगी। यदि सोसायटी ऐसा नहीं करती है तो आप डिप्युटी रजिस्ट्रार के पास जाकर केस कर सकते हैं।

पगडी की कॉलोनी को कैसे रीडेव्हलपमेंट कर सकते हैं ?

- अमृत जैन

उपनगर में पगडी या टर्नेट बिल्डींग के रीडेव्हलपमेंट के लिए उसके मालिक को आगे बढ़कर काम करना होगा। साधारण तौर पर बिल्डींग का मालिक बिल्डर के साथ तैयारी दिखाता है। बिल्डर रीडेव्हलपमेंट के बाद वहां रह रहे लोगों को नया घर देने ओनरशिप का वादा करता है। मुंबई शहर की बिल्डींगों में और सेस

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बिल्डींग के मामले में ७० प्रतिशत लोगों की सहमति जरूरी होती है । साथ ही जमीन मालिक की एनओसी भी लगती है । डीसीआर ३३(७) के अनुसार, इसमें ३०० स्के फीट से ७५३ स्के फीट के एरिया तक के घर मिल सकते हैं । नई बिल्डींग में ओनरशिप प्लैट मिलेगा । पगडी बिल्डींग में जमीन मालिक के पास अधिकार होते हैं ।

सोसायटी का यदि कोई मेंबर लंबे समय से मेंटेनेंस नहीं भर रहा है तो उसके खिलाफ क्या किया जा सकता है ?

- योगेश पटेल

सोसायटी उसके खिलाफ रजिस्ट्रार के पास केस कर सकती है । इसके बाद रजिस्ट्रार उसे बुलाकर ३ महीने के भीतर रिकवरी सर्टिफिकेट देता है । यदि मेंबर को दिक्कत है तो वह इसके खिलाफ अपील कर सकता है ।

बिल्डींग की रीपेयरिंग कराने के पहले स्ट्रक्चरल ऑडिट कराने के पहले स्ट्रक्चरल ऑडिट कराना जरूरी है क्या ?

- संजय चुडासामा

बिल्डींग की रीपेयरिंग कराने के पहले स्ट्रक्चरल ऑडिट कराने से आपको बिल्डींग की स्थिती के बारे में पता चल जाता है । यह बेहतर होगा की आप स्टक्चरल ऑडिट करा लें ।

मुझे लोन लेकर १० लाख रुपये तक की बजट में एक घर चाहिए ?

आपको इस बजट में घर लेने के लिड कल्याण के आगे जाना होगा या फिर आपको दहाणू जाना हो सकता है । वैसे इस बजट में घर मिलना मुश्किल है लेकिन फिर भी आप आटगॉव जैसे इलाको में घर ले सकते है ।

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6.	03/01/2015	Online Management Course & Deemed Conveyance & Redevelopment	06.00 to 08.00	Free	Free
7	10/01/2015	New Bye-Laws, Election Rules, Deemed Conveyance, Redevelopment	10.00am to 1.00 pm	Free	Available on concessional rate.
8	10/01/2015	Online Management Course & Deemed Conveyance & Redevelopment	06.00 to 08.00	Free	Free

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'HSG SOCIETY MUST PROVIDE PARKING SPACE TO MEMBERS IT HAS CHARGED'

Homebuyer a consumer under law, providing space not developer's duty: forum

MUMBAI: If a cooperative housing society levies and recovers parking charges from a member, it must provide parking space to him, the South Mumbai district consumer forum recently held.

According to the complaint, Yogesh Shah and his mother Asha bought two adjoining flats in 21-storey Vardhaman Heights in Byculla in December 2007. At the time of purchase, the developer, Vardhaman Estate Corporation, had assured them of parking spaces for their vehicles, after seeking the necessary permission from the Brihanmumbai Municipal Corporation (BMC). The mother-son duo alleged the developer demanded huge amount for the parking space and also tried to obstruct their vehicles. Subsequently, after the housing society was formed, the managing committee, allegedly acting at the behest of the developer, did not allot parking slots to them, although a general body meeting was held in March 2012, the complaint stated.

The Shahs then approached the consumer forum, seeking allotment of two parking spaces. Even after getting notices, the housing society did not respond to the complaints. The developer, however, contested the complaint, stating the society has been formed and parking spaces have been allotted. The developer also raised questions on the maintainability of the complaint.

Accepting the arguments of Shahs' advocate Ajay Panicker, the forum held a member of a co-operative housing society was a consumer under the Consumer Protection Act, 1986, and could seek relief from the forum. The forum, however, dismissed the complaint against the developer. The bench of forum president SM Ratnakar and member SG Chabukswar has directed the society to allot two parking spaces to the complainants and pay them Rs 10,000 as compensation for mental agony and Rs 5,000 towards litigation cost.

Source : 27 Nov 2014 • Hindustan Times (Mumbai)

20,000 SMALLER HSG SOCIETIES ASK FOR SECRET BALLOT

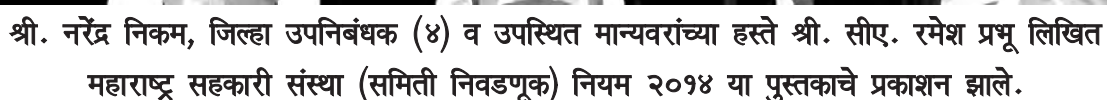
Rules that allow housing societies with less than 200 members to elect management committees through a voice vote--a contentious issue after BJP used it to "prove its majority" in the assembly--have now met with opposition. Most societies say it is not a transparent voting method and that all housing societies should be made to vote through a secret ballot to ensure free and fair election. There are nearly 20,000 such societies with around 70 lakh members in the city. State cooperative election authority (SCEA) officials, though, said such societies have to conduct elections through open voting.

If the general body decides on a secret ballot, such a voting facility could be arranged by an SCEA-appointed polling officer. "However, the general body has to approve and decide on it with a majority before the polling officer announces the election," he said and added that in societies with more than 200 members, secret ballot was compulsory.

Nov 21 2014 : The Times of India (Mumbai)

Ramesh Prabhu, president of Maharashtra Societies' Welfare Association, said: "This is necessary for free and fair elections. Also, there is no time period to appeal against a polling officer if the nomination is rejected in such societies." He also raised concerns over transparency in elections. Prabhu said remuneration for polling staffers was a paltry Rs 750, which left scope for corruption. He said as per law, the election machinery should be an independent body but cooperatives department staff is being pressed into election duty. Surendra More, vice-chairman of Bombay Suburban District Housing Federation, said, "Lack of awareness about election rules and authentic information about societies could badly impact transparency and thus credibility of election process." Around 40% of the total 70,000 housing societies in Mumbai metropolitan region with a population of nearly one crore are due for elections. The new BJP-led government has announced the programme to hold elections in these societies. Around 500 societies have administrators appointed by the government.

नौदणी कृत पत्ता : प्लॉट नं. १९८/सी/११, स्फुली सहकारी गृहनिर्माण संस्था मर्यादित, गोराई-२, बोरीवली (पश्चिम), मुंबई - ४०० ०९२.



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महाराष्ट्रातील बहुतांश सहकारी गृहनिर्माण संस्थांतील इमारतींचे त्या बांधून अनेक वर्षे होवूनही त्यांचे अभिहस्तांतरण गृहनिर्माण संस्थेच्या नावे न झाल्यामुळे त्यातील सदनिकाधारकांना अनेक अडचणींना तोंड द्यावे लागत होते. इमारतींची दुरावस्था झाली असली तरी त्यांची व त्या इमारती ज्या जमीनीवर उभ्या आहेत त्या जमीनीची मालकी गृहनिर्माण संस्थाकडे नव्हती. त्यामुळे इमारतीची दुरुस्ती / देखभाल / पुर्नबांधणी यात अनेक अडचणी येत होत्या. बिल्डर स्वतःहून अभिहस्तांतरण करून देण्यास पुढे येत नव्हते. यातून मार्ग काढण्यासाठी महाराष्ट्र शासनाने महाराष्ट्र मालकी हक्काच्या सदनिकांबाबत अधिनियम १९६३ कलम ११ (३) अन्वये पुढीलप्रमाणे तरतूद केली आहे. “मोफाच्या पोट-कलम (१) मध्ये नमूद केलेली, कलम १० खाली स्थापना केलेली संस्था किंवा यथास्थिती कंपनी किंवा वेश्म मालक संघाच्या बाजूने अभिहस्तांतरण पत्र निष्पादित करण्यास प्रवर्तक निष्फळ ठरल्यास, अशा संस्थेच्या, कंपनीच्या यथास्थिती सदनिका मालक संघाच्या सदस्यास विहीत मुदतीत सक्षम प्राधिकाऱ्याकडे अर्ज करता येईल, व मानीव अभिहस्तांतरण मिळविता येईल. उपरोक्त तरतुदीमुळे महाराष्ट्रातील तमाम सदनिकाधारकांना मोठा दिलासा मिळाला आहे कारण लाखो रूपयांचे कर्ज काढून तसेच शासनाला लाखो रूपयांचे मुद्रांक शुल्क भरूनही सदनिकांची मालकी सदनिकाधारकांकडे नव्हती. ही सदनिकाधारकांची शुध्द फसवणूक होती. या संपूर्ण अभिहस्तांतर प्रक्रियेत शासनाचे निबंधक कार्यालय, मुद्रांक शुल्क कार्यालय, यांचा महत्वाचा सहभाग असतो. परंतु मुद्रांक शुल्क कार्यालयाच्या आडमुठेपणामुळे आज अनेक गृहनिर्माण संस्था मानीव अभिहस्तांतरणापासून वंचित आहेत.

मुद्रांक शुल्क विभाग आणि निबंधक कार्यालयातील अधिकारी सर्वसामान्य नागरिकांच्या आणि मानीव अभिहस्तांतरणाच्या हिताविरुद्ध वागत आहेत. सर्वसाधारणतः शासनाने नेमलेल्या अधिकाऱ्यांचे कर्तव्य आहे की त्यांनी सर्वसामान्य नागरिकांचे हित जपून त्यांच्यासाठी शासनाने तयार केलेल्या कल्याणकारी योजनांची अंमलबजावणी करणे. परंतु असे आढळून आले आहे की, सक्षम प्राधिकाऱ्याने (अर्ध-न्यायिक प्राधिकारी) मानीव अभिहस्तांतरणाचे आदेश त्याच्या सहीने पारित केल्यानंतरही मुद्रांक नोंदणी निबंधकांकडून मानीव अभिहस्तांतरणाची नोंदणी करून घेतली जात नाही. ज्यामुळे शासनाने सर्वसामान्य नागरिकांच्या हितासाठी पारित केलेल्या कायद्याचे उल्लंघन केले जाते. त्यामुळे सर्वसामान्य नागरिकांना प्रश्न पडला आहे की, मुद्रांक शुल्क अधिकारी शासनापेक्षाही मोठे आहेत का? कारण ते, शासनाने नेमलेल्या सक्षम प्राधिकाऱ्यांनी पारित केलेले आदेश मान्य करण्यास नकार देत आहेत. अशा प्रकारचे अधिकार या अधिकाऱ्यांना कोणी दिले आहेत जे सर्वसामान्य नागरिकांचे हित आणि हक्क पायदळी तुडवत आहेत. एका बाजूला शासनाने बलाढ्य बिल्डर लॉबीच्या विरोधात जावून मानीव अभिहस्तांतरण कायद्या अनिवार्य करण्यात यश मिळविले असताना दुसरीकडे शासन, त्यांचेच स्वतःचे अधिकारी जे,

शासनाने बनविलेले कायदे, जी. आर., निवाडे यांचे उल्लंघन करीत आहे त्यांच्याविरुद्ध कारवाई करण्यात हतबल झाले आहे.

महाराष्ट्र मालकी हक्काच्या सदनिकांबाबत अधिनियम १९६३ च्या तरतुदीनुसार जर बिल्डरने जमीन व त्यावरील इमारतीचे गृहनिर्माण संस्थेच्या नावे अभिहस्तांतरण करण्यात कसूर केल्यास, गृहनिर्माण संस्थेच्या नावे मानीव अभिहस्तांतरण करून देण्यासाठी अर्ध न्यायिक प्राधिकाऱ्याची नेमणूक करण्यात आली आहे ज्याला गृहनिर्माण संस्थेच्या नावे मानीव अभिहस्तांतरण करून देण्याचे अधिकार आहेत. गृहनिर्माण विभागाने दि. २५.०२.२०११ रोजी प्रस्तुत केलेल्या शासकीय आदेशानुसार मानीव अभिहस्तांतरण मिळविण्यासाठी जमीन आणि इमारतीची संस्थेकडे केवळ उपलब्ध कागदपत्रे सक्षम प्राधिकाऱ्याकडे सादर करणे आवश्यक आहे. या सर्व कागदपत्रांची छाननी करण्यासाठी सक्षम प्राधिकाऱ्यांना सुमारे सहा महिन्यांचा अवधी लागतो त्यानंतर सक्षम प्राधिकारी मानीव अभिहस्तांतरण विलेख पारित करतात. असे असताना मुद्रांक शुल्क अधिकारी गृहनिर्माण संस्थांकडून शंभर रूपयांची किरकोळ रक्कम स्विकारण्यास नकार देवून हजारो गृहनिर्माण संस्थांना मानीव अभिहस्तांतरण मिळण्यापासून वंचित ठेवित आहेत. महाराष्ट्र सोसायटी वेल्फेअर असोसिएशनचे अध्यक्ष सी. ए. श्री. रमेश प्रभू यांनी या प्रश्नी लक्ष घालून मुद्रांक शुल्क व नोंदणी महानिरिक्षक डॉ. श्रीकांत परदेशी तसेच तत्कालिन महसूल मंत्री मा. श्री. बाळासाहेब थोरात यांची भेट घेवून त्यांच्याशी याबाबत चर्चा केली. मा. महसूल मंत्र्यांनी त्यावेळी संबंधीत सचिवांना व इतर अधिकाऱ्यांना बोलावून यातून मार्ग काढण्याचे आदेश दिले परंतु त्यावर प्रत्यक्ष कार्यवाही अजूनही झालेली नाही. आता नवीन भारतीय जनता पार्टीचे सरकार या प्रश्नी लक्ष घालून सर्व वंचित गृहनिर्माण संस्थांना मानीव अभिहस्तांतरण विना अडथळा देण्याबाबत सर्व संबंधितांना आदेश देईल अशी अपेक्षा आहे.

महाराष्ट्रातील सुमारे १,०००/- सहकारी गृहनिर्माण संस्था मुद्रांक शुल्क अधिकाऱ्यांच्या या अशा असहकाराच्या वृत्तीने त्रस्त आहेत. सदर मुद्रांक शुल्क अधिकारी, इमारतीच्या बांधकामाला सुरुवात झालेली नसतानाही त्या इमारतीत सदनिका खरेदी केलेल्या सदनिकाधारकांकडून त्यांच्या विक्री करारानाम्यावर लाखो रूपये मुद्रांक शुल्क घेतात परंतु मानीव अभिहस्तांतरणासाठी मात्र रु. १००/- चे मुद्रांक शुल्क घेण्यास शुल्लक कारणे जसे, इमारतीला भोगवटा प्रमाणपत्र नाही, इमारत पुर्णत्वाचे प्रमाणपत्र नाही, मंजूर नकाशे नाही इत्यादी सांगून नकार देतात. त्यामुळे गृहनिर्माण संस्था व त्यातील सदनिकाधारक यांची अंत्यत दयनीय अवस्था झाली आहे. नव्याने सत्तेवर आलेल्या भारतीय जनता पक्षाकडून सर्व मानीव अभिहस्तांतरणापासून वंचित सहकारी गृहनिर्माण संस्थांची अपेक्षा आहे की त्यांना मुद्रांक शुल्क विभागाकडून मानीव अभिहस्तांतरण मिळविण्यात जो अडथळा येत आहे तो लवकरात लवकर दूर होईल व सर्व सदनिकाधारकांना न्याय मिळेल.

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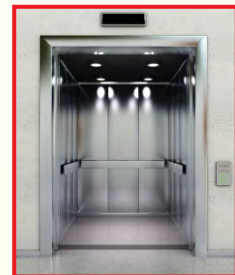
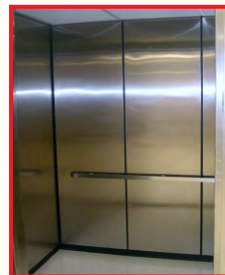
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