

Liberal Translation of Revised Redevelopment Direction dated 4th July, 2019 issued u/s 79A of the MCS Act, 1960

Courtesy:

By **MAHARASHTRA SOCIETIES WELFARE ASSOCIATION (MahaSeWA)**, Andheri (W).

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Regarding Re-development of the Co-operative Housing Societies.

**GOVERNMENT OF MAHARASHTRA
CO-OPERATION, MARKETING AND TEXTILE DEPARTMENT
GOVERNMENT RESOLUTION NO. SaGruYo 2018/Pra. Kra. 85/14-S,
Dated 04 July, 2019.**

READ – Government Resolution, Co-operation Marketing and Textile Department No. SaGruYo-2007/Pra.Kra.554/14-S, Dt. 3.1.2009.

INTRODUCTION –

Re-development Projects of the Co-operative Housing Societies are being started on large scale in the State of Maharashtra. Many complaints regarding the management of the co-operative societies under re-development are received from the Housing Societies, Housing Federations and individual members. The nature of the complaints of most of the co-operative housing societies under re-development are as under:-

1. Not taking into confidence the members in the re-development process.
 2. No transparency in the tender process.
 3. Appointments of the contractors made at one's please.
 4. Working made by violating the provisions of the Co-operative law, rules and bye-laws.
 5. No co-ordination in the work to be done by the Architect and Project Consultant.
 6. Not making the planning of Re-development Project Report.
 7. Not resorted proper procedure for finalizing the tender.
 8. No uniformity in the agreement to be executed with the Developer.
2. Government has prescribed procedure regarding making re-development of the Co-operative Housing Societies by giving directions under section

79(A) of the Maharashtra Co-operative Societies Act, 1960 by the Government Resolution Dt. 3rd January, 2009. Considering the nature of the complaints made as mentioned above, it is necessary to make changes in the directions of Dt. 3rd January, 2009 for giving impetus to the re-development procedure in the State. While considering the said matter it was under consideration of the Government to issue revised guidelines in this respect. Following to that, by superseding the Government Resolution Dt. 3rd January, 2009 under reference, the Government is issuing following directions according to section 79(A) of the Maharashtra Co-operative Societies Act, 1960.

GOVERNMENT RESOLUTION –

1. If the Competent Authority declares that the building of the Co-operative Housing Society is devastating or in the state of collapse or danger for residing or danger for going through that building or caused danger to any neighboring structure or place and the society is eligible for the re-development according to the Development Control Rules then the society can take decision regarding re-development of that building in the General Body Meeting.
2. The said directions are applicable to the all type of re-developments undertaking by the society like re-development by the developer through the agreement, self re-development, cluster re-development in the federal society, re-development through the group of the societies etc. All procedures stipulated for the appointment of developer shall be applicable to all types of re-developments mentioned above and also for the appointment of the contractor or for the developer appointed through the agreement.
3. The decision of undertaking re-development of the buildings of Housing Societies, shall be taken under the registered bye-laws of that society and according to the procedure stipulated through the said guidelines in the Special General Body Meeting of that society.
4. Authorized Officer/Administrator appointed by the Registrar cannot take the decision of the re-development of the buildings of the Co-operative Housing Societies.
5. **To arrange Special General Body Meeting for the re-development of the building of the society :-**

Not less than 1/5 of the members of the societies who are intending to undertake the re-development of the buildings of the Co-operative

Housing Societies should submit an application for arranging a Special General Body Meeting to decide the policy to undertake re-development of the building of the society with their plan and suggestions regarding the re-development of the building to the Secretary of the Managing Committee of the society duly elected according to the bye-laws of the society and constituted according to the Act. After the receipt of the applications, the Secretary of the Society after taking note of it in the Managing Committee Meeting within 8 days, shall call Special General Body Meeting within 2 months. The Agenda of the meeting should be given to each member of the society before 14 days of the meeting and its acknowledgement should be kept with the office record. Before calling the said meeting, the managing committee of the society shall call at least 3 quotations for preparing Project Report of the re-development work of the building from the Project Management Consultant on the panel of Government/Local Authority comprising of registered Architects from the Council of Architecture under the Architect Act, 1972 and one expert person amongst them shall be selected in the Special General Meeting.

6. In view of the transparency, the proposed re-development societies shall create web site on the internet.

All type of information in respect of the re-development like notice, minutes of the meeting and report of the Project Management Consultant etc. shall be kept on that web site. The said information shall be available to the members of the society. Notices and minutes of the meeting regarding the said project shall be sent to the members by e-mail/in person/registered post. Each member have to submit his e-mail ID and contact particulars for sending notices and minutes of the meeting through e-mail in respect of the said project. Registrar will also be communicated about the said web site. Similarly the above mentioned information will also be published on the Notice Board of the society for the information of the members.

7. Suggestions and communication through the minutes of the meeting of the Managing Committee and Special General Body Meeting regarding the re-development shall be necessary to communicate to the concerned Registrar's office within 15 days of the said meeting through e-mail and hard copy. The acknowledgements in this regard should be kept carefully by the said societies.

8. Subject-wise business in the said Special General Meeting shall be transacted as follow :-

- i. To take primary decision by considering the demand of the members and the suggestions received regarding making the re-development of the building of the society.

- ii. To select expert and experienced Architect/Project Management Consultant on the panel of the Government/Local Authority for the work of re-development of the building and to fix the scope of work to be done by them and terms/conditions.
- iii. To submit the frame work of the programme of the re-development of the building.

9. To accept written suggestions of the Members regarding the re-development of the building:-

The Members of the Society may submit their realistic plans, suggestions and recommendations regarding the re-development of the building of the society and similarly the names of experienced and expert Architects / Project Management Consultant on the panel known to them in written to the committee before 8 days of the meeting. But the consent letter of Architect / Project Management Consultant that he is ready to do the said re-development work should be submitted to the society.

10. Decision to be taken in the Special General Body Meeting :-

- (A) The quorum of the Special General Body Meeting called for the re-development of the Building of the Co-operative Housing Society shall be 2/3 of the total number of members of the society. If quorum is not fulfilled, the said meeting is adjourned and by giving 7 days notice, the said meeting shall be again arranged within next 1 month. If again quorum is not fulfilled in the said meeting then the meeting shall be cancelled by assuming that the members are not interested in the re-development of the building of the society and the said subject cannot be brought for the approval before the Special General Body Meeting for up to next 3 months. Suggestions, recommendations and objections of all members regarding the re-development of the society shall be considered in the Special General Body Meeting and the opinions of all members expressed in this regard shall be mentioned with name in the minutes of the meeting. The primary decision regarding whether the re-development of the society to made or not will be sanction in this General Body Meeting with not less than minimum 51% of the total number of members at the majority of the members present. Approval of minimum 51% members of the total number of members of the society shall be necessary for the said decision. For this, any type of approval, opinion, remarks whether written or oral of any absent member shall not be considered in the General Body Meeting.

Thus, the said decision shall be approved by the majority not less than 51% of the number of total members of the society. (For e.g. If one of the Housing Society's total membership is 100, the quorum for the Special

General Body Meeting arranged for the re-development of the society shall be 66.66 i.e. 67 members and for the majority, the approval of 51 or more members of it shall be necessary. That means if 67 members are present to that meeting, then for the majority, out of the 67 members present, the approval of 51 or more members shall be necessary. Similarly if 75 members are present, even then for the majority out of the 75 members present, 51 or members' approval is necessary and accordingly continue).

- (B) After the decision of approval of the re-development, the working shall be conducted as mentioned below.
- (i) To select expert and experienced Architect/Project Management Consultants from the panel with the Government/Local Authority for the working of the re-development of the building and to determined their scope of the work and the terms and conditions.
 - (ii) To submit frame work of the programme in respect of the re-development of the building.

11. To circulate the minutes of the meeting to all members :-

The Secretary of the Society by preparing the minutes of the meeting of the above Special General Body Meeting and shall circulate the copy of it to all members within 7 days of the meeting and the acknowledgement of it should be kept with the record of the office and one copy of it should be submitted to the office of the Registrar.

12. To take written consent letter of the members for the proceedings of the re-development :-

As mentioned above, after the passing of the decision of making re-development by majority in the General Body meeting by not less than 51% of the total members, it is necessary for the managing committee to take written consent letter of the member registering the vote in favour of the re-development resolution for taking further action in respect of the re-development.

13. To give appointment letter to the Architect/Project Manager Consultant :-

The Secretary of the society shall give appointment letter to the Architect/Project Manager Consultant selected in the Special General Body Meeting within 30 days from the date of the meeting and the committee will execute agreement with Architect/Project Manager Consultant according to the terms and conditions approved in the General Body Meeting.

14. Works to be done by the Architects/Project Manager Consultants in the initial stage :-

- A) To conduct survey of the building and land of the society.
- B) To take information about the conveyance of land of the society.
- C) To take information about the F.S.I. and T.D.R. available according to the buildings and land of the society by considering the existing policy of the Government and similarly rules of the MHADA/S.R.A./Municipal Corporation according to the ownership of land. And accordingly the concerned societies should take action in this regard.
- D) To prepare realistic feasibility report by considering the suggestions, recommendations or the members of the society regarding the re-development and considering the matters like residential area to be made available for the members, commercial area, open land, garden, parking, specifications of the construction.
- E) Architects/Project Manager Consultants by preparing feasibility report within two months from the date of their appointment, the same should be submitted to the Managing Committee of the society.

15. Proceedings after receiving the Re-development Feasibility Report :-

- A) The Secretary of the Society shall call the Managing Committee meeting after the receiving of the Re-development Feasibility Report as above. By inviting Architect/Project Manager Consultant in the said meeting and by considering the suggestions of the members in that meeting, the approval to the Feasibility Report shall be taken. Notice of the said meeting, time and place of the meeting shall be displayed on the Notice Board of the Society. The said Notice contain that the copy of the feasibility report received is available for viewing to the members of the society in the society's office and to submit suggestions before 7 days of the next committee meeting. The copy of the said notice shall be delivered to each notice and the acknowledgement of it shall be filed in the office record.
- B) The Secretary shall send the suggestions received from the members before 7 days of the Managing Committee Meeting to the Architect/Project Manager Consultant for consideration as above.
- C) After making comprehensive discussion on all matters like suggestions/recommendations from the members and opinion of the Architect/Project Manager Consultant in the said Managing Committee, the approval to the

Feasibility Report will be given by majority after making necessary changes and by preparing tender draft and by making discussion on it, the next date, time and place of the Managing Committee Meeting for finalizing the tender draft shall be fixed. While preparing the tender draft, the Architect/Project Manager Consultant shall invite tenders for getting competitive tenders from the renowned expert and experienced Developers by putting one matter of the Carpet Area and Corpus Fund permanent (not changeable) and by fixing other technical matters. The members of the society can give information in this regard to the renowned and experience Developer known to them. In the case of Self Re-development also, while preparing the Feasibility Report Tender and while inviting tenders from the contractor, the Society and Architects/Project Management Consultants should follow the procedure mentioned above.

16. To publish the list of the tenders received :-

- A) The Secretary of the Society shall prepare the list of how much tenders received on the last day of the tender to be received and published the same on the Notice Board of the Society.
- B) The Secretary of the Society shall call the meeting of the Managing Committee of the Society within 15 days after the last date of the tender to be received. Tendered or his authorized representatives and the willing members in the society cannot be prohibited from attending the said meeting. The tenders received shall be opened in the presence of all. Architect/Project Management Consultant shall prepared comparative table by scrutinizing all tenders and by checking the merit, reputation, experience and competitive rates of the tender holders that received, if minimum 3 tenders are received, the approval shall give for tabling the said tenders before the Special General Body Meeting. Tenders becoming competitive, it is necessary that minimum 3 tenders should be received. However, if less than 3 tenders are received, then at first, minimum one week extension should be given. Even after giving such extension, if less than 3 tenders received then second time again one week extension should be given. Even then also less than 3 tenders received then as many tenders received shall be approved for tabling before the Special General Body Meeting.

17. To select the Developer /Contractor:-

- A) **To appoint the Authorized Officer from the Registrar's Office for the General Body Meeting:-**

The Special General Body Meeting of the Society shall be called for selecting the Developer on the basis of his experience, merit, financial

capability, technical capability and competitive rates from the tenders selected by the Managing Committee of the Society with the help of the Architect/Project Management Consultant. The Managing Committee should submit the application within 7 days with the list of the members to the Registrar for appointing the Authorized Officer to take the said Special General Body Meeting in his presence. The Registrar shall appoint the Authorized Officer by taking decision on this application. It is necessary that minimum one project of the selected Developers or their Associates or Assistants should be registered with MahaRERA.

B) To call Special General Body Meeting for finalizing the Tender:-

After the appointment of Authorized Officer, the Secretary of the Society shall call the Special General Body Meeting within one month with the prior permission of the Authorized Officer and by fixing the time and place for the appointment of the Developer and by sending the Agenda of this meeting to all Members before 14 days of the meeting by hand delivery and Registered Post and similarly by e-mail to the members resides outside India and its acknowledgement shall be kept with the record of the society. The Secretary of the Society shall upload the agenda on the web site of the society prepared for the re-development work. The representatives of the of the Registrar Office shall ascertain that the authorized representatives of those, whose tenders are to be submitted are present.

Similarly make an arrangement of the video shooting of the Special General Body Meeting at the cost of the society. No one other than the bonafide member is allowed to be present in the said meeting. For this, it is necessary that the members should keep the identity card with them at the place of the meeting. While submitting the proposal of re-development for approval to the concerned Authority, it is necessary that the selection of the Developer and other working should be done in the presence of the Authorized Officer in the office of the Architect/Project Management Consultant.

C) If no quorum of the Special General Body Meeting:-

The quorum of the Special General Body Meeting shall be 2/3 of the total members of the society. If quorum is not fulfilled, then the meeting shall be postponed for next 7 days and if again quorum is not fulfilled to the said meeting then by assuming that the members are not interested in the for the re-development of the society, the said meeting shall be called off and the said subject cannot brought before the Special General Body Meeting till the next 3 months for approval.

D) Business before the Special General Body Meeting called for the selection of the Developer:-

The Authorized Officer in the office of the Registrar shall present in the said meeting and supervise the proceedings of the meeting. Similarly after required representatives and Authorized Officer are present at the place and time of the meeting and after completing the 2/3 quorum as stated above, the business of the meeting shall be transacted as follow :-

1. To give comparative information regarding the tenders selected for the presentation. (Regarding re-development work)
2. To present tenders serially (presentation of the tenders)
3. To select one developer/contractor with terms and conditions for re-development of the building and finalized the tender.
4. To take consent from the developer/contractor selected.
5. To take information of the next course of actions.

It is necessary to take written consent of not less than minimum 51% members of the total members of the society present in the meeting for the appointment of the Developer/Contractor. For this no written/oral or any other type of approval, opinion, remarks of any absent member in the General Body Meeting shall be considered. If selected builder/contractor or their representatives are not present in the meeting then further action will be proceeded assuming their consent for the said project.

18. Agreement to be executed with the Developer :-

The agreement should be executed within 3 months with the Developer/ Contractor according to the guidelines of the Architect / Project Management Consultant subject to the terms and conditions approved by the Managing Committee of the society.

With the other points as suggested by the appointed Architect/Project Management Consultant of the society, the following points also shall be included in it :-

- (1) According to the size of the Re-development Project, the completion period of the project of Re-development/Construction of the Society shall not be more than 2 years and in exceptional case not more than 3 years from the date of first commencement certificate.
- (2) The Developer shall give 20% of the total cost of the re-development project as bank guarantee to the Society.

- (3) The Developer shall make available alternative residential facility till the completion of project in the same area if possible to the members in the re-development period or shall make an arrangement of making payment of such monthly rent and deposit as acceptable to members or shall make available such transit camps.
- (4) The Development Agreement with the Society and Permanent Alternative Accommodation Agreement with the individual member shall be registered under the Registration Act, 1908.
- (5) New members will be admitted in the Society after the completion of the Re-development Project and with the approval of General Body Meeting of the Society only.
- (6) Clear mention of the due Carpet Area should be made in the Agreement according to the Real Estate (Regulation and Development) Act, 2016.
- (7) The rights given to the Developer shall be non-transferable.
- (8) The tenement holders shall vacate the tenements only after getting all legal approvals for the re-development of the building and after registration of the Permanent Alternative Accommodation Agreement with the individual members.
- (9) The rights of those who have flats in their possession shall be un-affected.
- (10) If any dispute, arise in the re-development work, then the provision should be made in the agreement between the society and the said Architect/Contractor to solve it under section 91 of the Act.
- (11) While making allotment of the flats in the Re-development after getting Occupancy Certificate, the allotment should be made where possible according to the floor number as per present situation and if it is necessary to allot the flats by lottery system, then after completion of the building, the developer should make an arrangement of the lottery system and at time the allotment of the flats should be made by the lottery system in the presence of the Representative of the Registrar and video shooting of it should be made.
- (12) Any Member or his relative or Office bearers of the Society should not be a Developer
- (13) Building plans sanctioned by the Municipal Corporation/Competent Authority should be submitted before the General Body Meeting again for

the information and if any member demanded certified copy of the documents then they should made written application to the Society in that regard. It is binding on the Managing Committee to provide the information by charging due fee.

19. To make Cluster Re-development of the Societies under Co-operative Housing Societies' Federation having ownership rights of the land :-

- 1) Cluster Re-development through the Co-operative Housing Federation of the affiliated societies in the name of Co-operative Housing Federation and having ownership rights of the common area can be made.
- 2) The quorum of the Special General Body Meeting arranged for the cluster re-development of the buildings affiliated to the Co-operative Housing Federation shall be 2/3 of the total affiliated members of the Federation.
- 3) After completion of the quorum as above in Special General Body Meeting arranged for the primary decision of the re-development of the buildings of the affiliated co-operative societies, the primary decision shall be approved by not less than minimum 51% members of total members of the affiliated member societies by majority. The approval of minimum 51% members of the total affiliated member societies shall be necessary for the said decision. Written/oral or other any type of approval, opinion, remarks of the member absent in the General Body Meeting shall not be considered for this.
- 4) Before commencing the working of the re-development of the buildings of the affiliated societies, the affiliated societies should give consent as follow.

All affiliated societies of the Federation shall arrange the Special General Body Meeting of each society for making re-development of their buildings. The Special General Body Meeting of each society by completing quorum of the 2/3 members of the total members of that society, the resolution shall be approved by majority of the members present not less than minimum 51% of the total number of members of that society. Approval of minimum 51% members of the total number of members of that society is necessary. Similarly, the written/oral or any other type of approval, opinion, remarks of any member absent in the General Body Meeting shall not be considered. Similarly each society by taking the written consent of all members voted in favour of the resolutions, shall submit the same to the committee of the Federation or it is necessary to vote in favour of the resolution by the members not less than 60% of the total members together with all societies affiliated to the Federation and each society by taking written consent of all members voted in favour of the resolution shall

submit their resolution and written consent to the committee of the Federation.

After taking primary decision of the cluster re-development of the societies as above, the further procedure shall be according to the procedure of the re-development of the Co-operative Housing Societies mentioned above.

20. While taking recourse of the procedure mentioned in this Government Resolution, while making any calculation, any fraction shall be converted into highest round figure.

The said Government Resolution is made available on the Government Website www.maharashtra.gov.in and its code number is 201907041556201202. This order is issued by digital signature.

In the name and order of the Governor of Maharashtra.

(K. S. BADGUJAR)
Section Officer, Government of Maharashtra.

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