

# REAL ESTATE TRANSACTIONS MAINTENANCE & RECONSTRUCTION OF SOCIETY BUILDINGS

Fourth Edition  
Revised



**READY RECKONER  
HAND BOOK**

By  
**SUDHAKAR DOKHANE**  
PAST PRESIDENT : PEATA (I)

Published by:



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Town Planners Association (India)**

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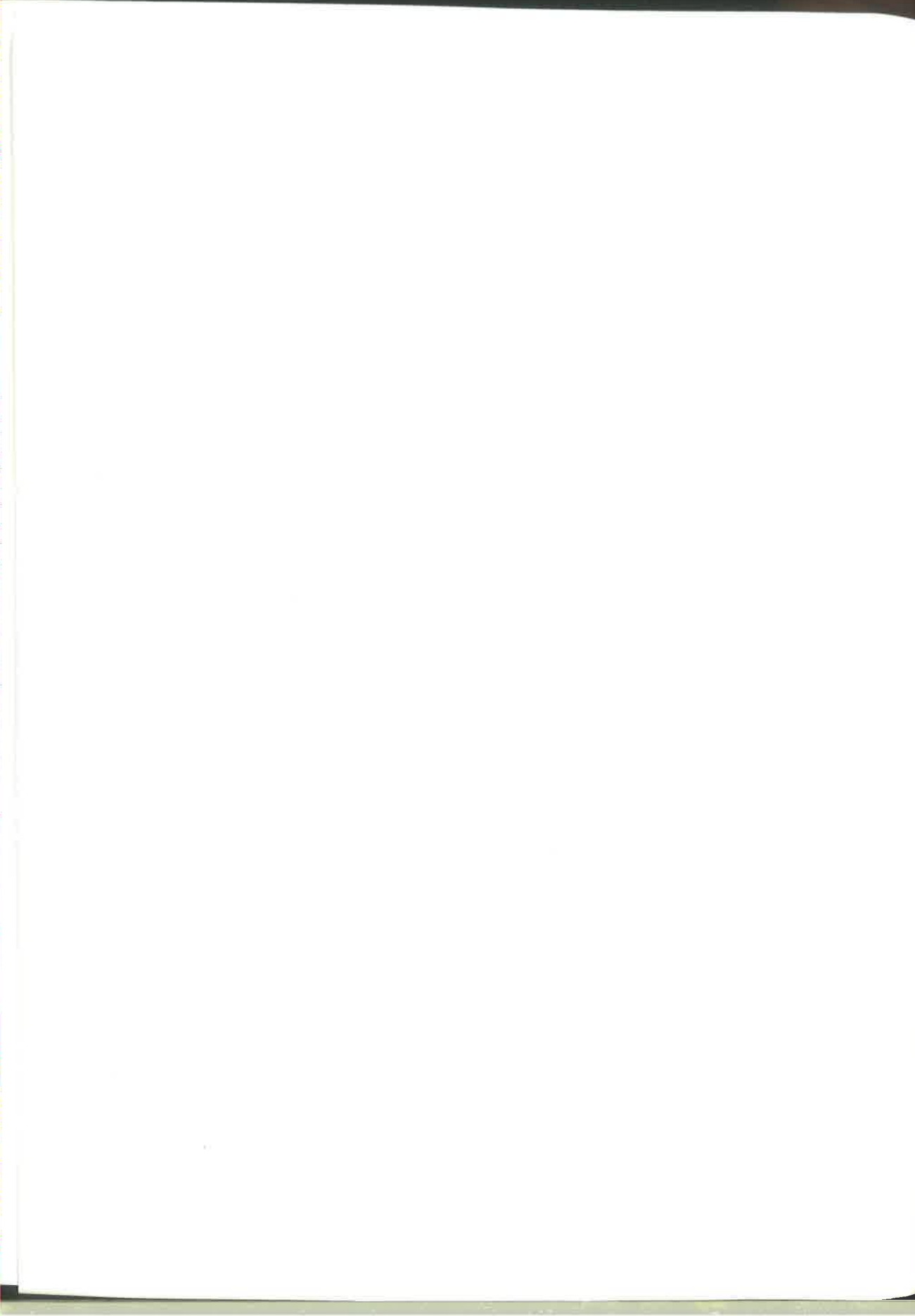
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- DOCUMENTS & CLEARANCES REQUIRED FOR URBAN & AGRICULTURAL PROPERTY TRANSACTIONS
- SALE/PURCHASE OF AGRICULTURAL LANDS. (DO'S & DONT'S)
- POWERS & ADDRESSES OF REVENUE AUTHORITIES
- PROPERTY DISPUTES & LITIGATIONS
- COMMONLY USED LEGAL TERMS IN PROPERTY DISPUTES, LITIGATIONS & LAND TRANSACTIONS.
- STAMP DUTY, VALUATION AND REGISTRATION OF DOUCMENTS
- HOW TO FORM CO-OP. HOUSING SOCIETY RULES & REGULATIONS
- COMPULSORY TECHNICAL AUDIT & REPORT
- IMPACT OF BOMBAY RENT CONTROL ACT
- NEW GUIDE LINES OF STATE GOVERNMENT FOR REDEVELOPMENT
- INCENTIVES FOR REDEVELOPMENT FOR SOCIETY BUILDINGS.
- BENEFITS OF TRANSFER OF DEVELOPMENT RIGHTS(T.D.R.)
- CAPITAL VALUE BASED ASSESSMENT OF PROPERTY TAXES
- CAPITAL GAIN TAX ON TRANSFER OF PROPERTY.
- SHORT NOTES ON CONSUMER PROTECTION ACT
- SHORT NOTES ON THE MAHARASHTRA OWNERSHIP FLATS ACT - 1963
- COASTAL REGULATION ZONE (CRZ) POLICY & GUIDELINES
- ENVIORNMENTAL CLEARANCE (MOEF)
- FOREIGN DIRECT INVESTMENT (FDI)

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## **FOREWARD** **(Fourth Edition)**

The First Edition (1000 copies) of this Hand-book was published on 20-6-2000, within a year revised Second Edition (1500 copies) was published on 7.12.2001 and further updated Third Edition (1000 copies) was released by PEATA (India) in October 2006. Now PEATA (India) has decided to publish Fourth Edition (1500 copies) with suitable amendmends, for which I am grateful to the organization.

A practising professional in construction industry, besides his scope of work, has to give all relevant information and guidance to his clients for Real Estate Transactions, and for the purpose he should be well aware of basic parameters and information regarding various aspects and procedures involved thereof. One has to be always updated with any changes & amendments to legal, revenue, & technical requirements so that the client can get sufficient preliminary information, to his satisfaction.

And so is the case of common man who at least once in a life time either buy or sale immovable property and face lot of difficulties if he is not aware of basic information on Real Estate transactions. Most of the time it is seen that the educated purchasers are not even reading the documents carefully and / or not aware of their obligations under the contract they have signed. With the result some time they land in to troubles and run pillar to post for ordinary information, which cost them time and money both.

PEATA (India) is known for various regular educative publications for the benefit of all concerned connected to building industry. Based on the feedback, personal interviews, debates and experience of professionals in arbitration cases, idea of preparing this "Hand Book" was originally crystallized.

This Hand-Book is a compilation of information on various subjects, enactments, rules, regulations, publications and procedures in practice related to Real Estate. What precisely is done in this exercise is to arrange required text on all related aspects under one compilation; which can be used as primary ready reference, by anyone interested in subject. As this compilation is based on the materials collected from various sources, it is possible that in



some place somewhere, the information given may be in-adequate, or there may be error in detailing. Such short comings if any are exclusively of mine alone.

In this effort besides Shri. Pravin Kanekar – President – PEATA (I), Executive Committee and many authorities and professionals from different fields has provided important material, guidance and tips to me, without which this exercise could not be possible. I sincerely thank all of them.

I am grateful to Justice Shri V.S. DESHPANDE, Retd. Chief Justice (Mumbai High Court) & Lokayukta, who has graced this Hand-Book with his PREFACE, to its 1<sup>st</sup> edition. Shri. R.C. Shah Past President PEATA (I) deserve all the complements and appreciation for his Prologue to 2<sup>nd</sup> Edition. Both are reproduced for the benefit of readers. I am sure; this Hand-Book may not only serve to basic requirements of practising professionals & developers, in building industry, but may give all the answers to prospective purchasers. I hope that this exercise will prove a useful reference book besides one more addition to their personal library.

The First, Second & Third Edition of this book was highly appreciated from various sectors of all component agencies of building industry including consumers at large. In this Fourth Edition besides new additions number of chapters are updated due to changes in policies and rules to the best of my ability.

With immense pleasure I submit this Fourth Edition to all concerned with assurance of more useful publications in future.

**Sudhakar Dokhane**

Past President PEATA (India)

2012

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## **PROLOUGE** **(4<sup>th</sup> Edition)**

### **“HANDY HAND BOOK”**

1<sup>st</sup> Edition June 2000 & 4<sup>th</sup> Edition June 2012! Within a span of 12 years you need to **take out 4<sup>th</sup> edition** on Public demand. The credit certainly goes to the Author for providing a Handy Hand Book with full of latest information on very dry but important subject related to “World of Real Estate” and Redevelopment of Buildings. Everybody needs a shelter whether it is tiny flat of 400.0 SFT. or specious 4000.0 SFT. The person has to undergo the same formalities, follow the same rules and procedures.

This hand book is a compilation of information on various Subjects, Rules, Regulations, Publication and procedure in practice. This book can be used as a ready reference by anyone interested in subject and will serve to basic requirements of Practicing Professionals, Developers in Building Industry, Housing Societies and actual Consumer too.

PEATA (I), a well known professional body comprises of Practicing Engineers, Architects and Town Planners is one of the major stake holders in the construction industry also known for its various regular educative publications for the benefit of all concerned connected to world of Real Estate. Considering the need of the hour, we have great pleasure to release the updated 4<sup>th</sup> Edition of a Hand Book a Ready Reckoner named as “Real Estate Transactions, Maintenance and Redevelopment of Society Buildings”. We personally feel is that this handbook is worth to be in the regular syllabus for final year students of Engineering and Architecture.

We are grateful to the author - our former President, Shri. Sudhakar Dokhane, the “NAME” in the Industry for his long term contribution towards the fraternity as well as common man “A Consumer” at large. Dear Shri. Sudhakarji we look forward for more publications from you in near future.

**Ar. Pravin Kanekar**  
**(PRESIDENT, PEATA (I))**

**2012.**

• INDEX •

- Foreword for Revised 4<sup>th</sup> Edition by the Author
- Prologue for 4<sup>th</sup> Edition by Mr. Pravin Kanekar President – PEATA (I)

• CHAPTER – I

**DOCUMENTS & CLEARANCES REQUIRE FOR URBAN AND AGRICULTURAL PROPERTY TRANSACTIONS**

**a) Legal Documents**

i) Public Notice	.....	16-17
ii) Agreement to Sale (Sathe Khat)	.....	18
iii) Deed of Conveyance	.....	19
iv) Lease Deed	.....	19
v) Agreement of Leave & License	.....	20
vi) Deed of Assignment, Gift Deed	.....	21
vii) Agreement of Tenancy: Rent control Act	.....	22-24
viii) Will/ Testament & Probate	.....	24-25
ix) Power of Attorney	.....	25-26
x) Title Search & Title clearance Certificate	.....	26-27
xi) Declaration, Affidavit, Undertaking, Indemnity Bond and Index II	.....	27-28 28-29
xii) Deed of Confirmation	.....	30

**b) Revenue Documents & Clearances:**

i) a) 7/12 Utara b) Property Registered Card c) City Survey Plan, d) brief Notes on Non-Agricultural (N.A.) Permission	.....	30-32
--	-------	-------

**c) Technical Documents & Clearances:**

i) Approved Plans, Letter of Approval / I.O.D, and Commencement Certificate	.....	32-33
ii) Carpet Area, Built-up area, Super Built-up Area	.....	34



iii) Clearance under Urban Land Ceiling & Regulation Act 1976 & Permissible Development thereof	.....	34-36
iv) Clearance from Charity Commissioner for Trust properties	.....	36

● **CHAPTER – 2**

**SALE & PURCHASE OF AGRICULTURAL LANDS**

**1. Classification of Agricultural Lands:**

a) Bagayeet (Wet crop) Lands, b) Jirayeet (Dry Crop) Lands & c) Padik (Barren) Lands	.....	37
--	-------	----

**2. Ownership Classifications:**

**a) Private Ownership Lands :**

i) Kabjedar (Khudd)	.....	38
ii) 32 – G. Lands	.....	38

**b) Government Ownership Lands :**

i) Inami / Vatan Lands	.....	39
ii) Khalsa Lands	.....	39
iii) Tribal (Adivasi) Lands	.....	39

<b>3. Who can purchase Agricultural Lands?</b>	.....	40
<b>4. Land uses</b>	.....	40
<b>5. What is Farm House and how it can be used?</b>	.....	40-41
<b>6. Where Farm House is permitted, its area and height of structure</b>	.....	41
<b>7. Where Farm House is Not permitted?</b>	.....	42
<b>8. Sub Division of Agricultural Lands</b>	.....	42
<b>9. Precautions for Purchase, Sale, Occupation and use Agricultural Lands, Do's &amp; Don'ts</b>	.....	42-43

**Important definitions of terms commonly used In Agricultural property transactions**

i) 7/12 Utara	.....	43
ii) 6/12 Utara (Pherfar Patrak)	.....	43

iii) Survey Number	.....	43
iv) Hissa Number	.....	43
v) Kabjedar / Khudd	.....	43
vi) Kool (Protected Tenant)	.....	43
vii) Pattedar	.....	44
viii) Gaothan	.....	44
ix) Pot Kharaba	.....	44
x) Kharif Crops	.....	44
xi) Rubbi Crops	.....	44
xii) Ceiling on holding of Agricultural Lands in State of Maharashtra, Class of Lands & Ceiling area limits.	.....	44-45

● **CHAPTER – 3**

**POWERS AND ADDRESSES OF REVENUE AUTHORITIES**

i) The Collector, Dy. Director of Lands & Records (D.D.L.R.), Supt. of Lands of Records (SLR),	.....	46
ii) Dist. Inspector of Lands and Records (DILR) & The Tahasildar	.....	47
iii) City Survey Officer & Talathi	.....	47
iv) Offices of Revenue authorities	.....	48
v) Offices of Tahsildars & Talathis	.....	49-50
vi) City Survey Offices, and Area wise jurisdiction	.....	50-51
vii) Fees, Charges for Revenue Documents	.....	51-52

● **CHAPTER – 4**

**NON-AGRICULTURAL (N.A.) PERMISSIONS**

i) Classification of N. A. uses	.....	53
ii) Application & procedure	.....	53
iii) Time Limit, Payment of N. A. & conversion Tax, Penalty / Fine, Intimation of N. A. use	.....	54
iv) Who is entitled for N. A. Permission	.....	55
v) List of documents to be submitted	.....	55-56

vi) General conditions of N. A. Order	.....	56-58
vii) Formats (1 to 3):-		
a) Affidavit-cum-Indemnity Bond	.....	59-60
b) Owner's Affidavit for ULC Act, 76	.....	60-61
c) Application for N. A. Permission	.....	62-65

● **CHAPTER – 5**

**PROPERTY DISPUTES & LITIGATIONS**

Classification of Property Disputes	.....	66-67
-------------------------------------	-------	-------

● **CHAPTER – 6**

**COMMONLY USED LEGAL TERMS IN PROPERTY DISPUTES & LITIGATIONS**

Commonly used Legal Terms	.....	68-79
---------------------------	-------	-------

● **CHAPTER – 7**

**MEASUREMENTS & CONVERSION TABLES**

<b>Conversions:</b> British units to Metric units		
Length & Square Measurements	.....	80

● **CHAPTER – 8**

**STAMP DUTY, ADJUDICATION AND REGISTRATION OF DOCUMENTS**

a) <b>STAMP DUTY &amp; ADJUDICATION :</b>		
i) Stamp Duty – Policy & principals	.....	81
ii) Which Documents attract Stamp Duty?	.....	82
iii) Where Stamp Duty is NOT applicable?	.....	82-83
iv) Stamp Duty Rates for Residential Premises	.....	83
v) Percentage of Stamp Duty for different users	.....	84
vi) Valuation of Property	.....	84-85
vii) Adjudication of Document & Adjudication Authorities	.....	85-86
viii) Rebates permissible for Stamp Duty payments	.....	86-87
ix) Area considered for Stamp Duty Calculations	.....	87



• **CHAPTER – 9**

**REGISTRATION OF DOCUMENTS:**

i) Registration Charges	.....	88
ii) Process of Registration	.....	88
iii) Preparation of Documents for Registration	.....	88
iv) Check-List of Documents required for Registration	.....	89
v) Important Questions & Answers	.....	89-90
vi) Rates of Stamp Duty & Registration Fees for various documents	.....	90-94
viii) Area wise Registration Offices in Gr. Mumbai	.....	94-97

• **CHAPTER – 10**

**FORMATION OF CO-OPERATIVE HOUSING SOCIETY**

i) Types of Societies	.....	98-99
ii) How the Co-op. Society can be formed, & Procedures involved thereof	.....	99-100
iii) Application for Registration of Society	.....	100
iv) Check-List of documents required for Registration of different Type of Co. operative Societies	.....	100-103
v) Registration of Society of Less than 10 members	.....	104
vi) Amendments in Byelaws of the Societies for Maintenance, Insurance & Repairs	.....	104-105

• **CHAPTER – 11**

**MAINTENANCE OF STRUCTURES: DO'S & DON'T'S**

i) Preliminaries	.....	106
ii) Check-List for maintenance of structures- Do's &	.....	106-108
iii) Don'ts	.....	108-109

• **CHAPTER – 12**

**REPAIR PERMISSIONS FROM MCGM**

i) Nature of Repairs	.....	110
----------------------	-------	-----

ii) Repairs where permission is NOT required	.....	110-111
iii) Repairs prohibited	.....	111
iv) Repairs where permission is required	.....	111-112
v) Procedure of obtaining permissions	.....	112
vi) Time limit for granting permissions, and to whom to approach for permission	.....	112-113
vii) Don'ts: to observe strictly	.....	113-114

● **CHAPTER – 13**

**COLLAPSES OF BUILDINGS**

i) Reasons of building collapses	.....	115-116
ii) Classifications	.....	116
iii) Short comings	.....	116-117

● **CHAPTER : 14**

**COMPULSORY TECHNICAL AUDIT & REPORT**

i) Deterioration of Buildings :-	.....	118
ii) Collapse of Buildings :-	.....	118-119
iii) Technical Audit & Report	.....	119-120
iv) Scope and Procedure of Technical Audit	.....	121-122
v) Contents Of Technical Audit Report :-	.....	122-123

● **CHAPTER : 15**

**REDEVELOPMENT OF HSG. SOCIETY BUILDINGS**

i) Effect of Maharashtra /Bombay Rent Control Act	.....	124
ii) Provisions for Redevelopment in city Limits under D.C.R.-91..	.....	124-127

● **CHAPTER : 16**

**NEW GUIDE LINES OF STATE GOVERNMENT**

New Guide Lines issued by the State Govt. for redevelopment of Society Buildings	.....	128-136
---	-------	---------

● **CHAPTER : 17**

**REDEVELOPMENT SCHEMES : CHALLENGES & IMPEDIMENTS OF HOUSING SOCIETIES**

i) Challenges:-	.....	137-138
ii) Impediments :-	.....	138
iii) Legal Documents	.....	139
iv) Technical Documents :-	.....	139-140

• **CHAPTER - 18**

**INCENTIVES FOR REDEVELOPMENT FOR SOCIETY BUILDINGS**

- i) Additional 0.33 F.S.I. in Suburbs and Extended suburbs ... 141-146
- ii) Fungible Compensatory F.S.I.:- ..... 146-148
- iii) Important Provisions of Fungible Compensatory F.S.I. .... 148

• **CHAPTER : 19**

**REDEVELOPMENT SCHEMES : BENEFITS OF TRANSFER OF DEVELOPMENT RIGHTS (T.D.R.) (FOR SUBURBS ONLY)**

- i) Defination : ..... 149
- ii) Availability of TDR ..... 149
- iii) Who Can Utilise TDR ..... 149
- iv) Permissible F.S.I. Credit of TDR ..... 149
- v) Extent of utilization of TDR ..... 150
- vi) Where TDR can be utilized ..... 150
- vii) Where T.D.R. can not be utilized ..... 150-151
- viii) Users permissible in receiving zones for utilisation of TDR .. 151
- ix) TDR generated from R-2 zone to be utilised in C-1 zone ..... 151

• **CHAPTER – 20**

**DOCUMENTS TO KEEP AS PERMANENT RECORDS: BY SOCIETIES / OWNERS / PURCHASERS**

- i) Check-List of documents to keep as “All time Records” by:- the Societies / Owners / Purchasers & Imp. Notes ..... 152
- ii) List of various professional Associations who can give respective professional services & guidance ..... 153

• **CHAPTER – 21**

**ASSESSMENT OF PROPERTY & TAXES (OLD SYSTEM)**

- i) What is Assessment tax ..... 154
- ii) Which properties / premises attract assessment tax ..... 154
- iii) Where assessment tax is not applicable? ..... 154
- iv) How taxes are worked out? ..... 154
- v) What is ratable value? ..... 154-155
- vi) Whether ratable value can be challenged? ..... 155
- vii) Percentage of taxes in relation to ratable value ..... 155
- viii) Recovery of taxes – Periods ..... 155
- ix) Actions against non payment of taxes ..... 155

x) Tax refund for vacant premises	.....	156
xi) Contents Tax Bill & Percentage of taxes under different heads	.....	156

● **CHAPTER – 22**

**CAPITAL VALUE BASED NEW PROPERTY TAX SYSTEM**

i) Summary of New Tax System	.....	157
ii) Formula of Taxation	.....	158
iii) Salient Features of New Tax System	.....	158-159

● **CHAPTER - 23**

**CAPITAL GAIN TAX FOR TRANSFER OF PROPERTY**

i) Capital Gain	.....	160
ii) Capital Assets	.....	160
iii) Capital Gain tax	.....	160
iv) Total exemption from Capital Gain Tax	.....	160-161
v) Capital Gain / Gain Loss	.....	161
vi) Computation of Capital Gain Deductions, for Short Terms Capital Gains	.....	161-162
vii) Deductions for Long Term Capital Gains	.....	162
viii) Table for cost inflation indices	.....	162
ix) Formula of indexed cost calculations	.....	162-163
x) Illustration I to III for computation of index cost	.....	163-165
xi) Exemption from Long term Capital Gains	.....	165-166
xii) Capital Gains for transfer of Agricultural Lands	.....	166

● **CHAPTER – 24**

**SHORT NOTES ON CONSUMER PROTECTION ACT 1986**

i) Definitions	.....	167-170
ii) Consumer Disputes Redressal Agencies	.....	170-171
iii) Jurisdiction of the District forum	.....	171-172
iv) Findings of District forum	.....	172
v) Appeal	.....	173
vi) Complaint under consumer protection Act and Check list of Documents required for making complaint	.....	173
vii) List of Consumer Dispute Redressal Forums, and its Jurisdiction related to Claim Amount	.....	174
viii) List of other Consumer Guidance Organizations	.....	175

● **CHAPTER – 25**

**SHORT NOTES ON**

**THE MAHARASHTRA OWNERSHIP FLATS ACT – 1963.**

(As modified up to 28<sup>th</sup> May 198 with proposed Amendments Bill - 2005)

i) Definitions	.....	176
ii) Competent Authority: Powers & Jurisdiction	.....	177
iii) Objects & reasons for amendments	.....	177
iv) Major Amendments proposed	.....	177-178
v) Status of Competent Authority	.....	178
vi) General Liabilities of Promoter (Builder)	.....	178-180
vii) Liabilities of Flat purchaser	.....	180

● **CHAPTER – 26**

**COSTAL REGULATION ZONE (CRZ) POLICY & GUIDELINES**

i) Policy	.....	181
ii) High Tide Line (HTL)	.....	181
iii) Distance to observed for construction from High Tide Line	.....	181-183
iv) Prohibited Activities in CRZ	.....	183-186
v) Permissible activities in CRZ & Regulations thereof	.....	186-187
vi) Costal Zone Management Plan	.....	187
vii) Procedure for monitoring & enforcement of the Notification	.....	187

● **Costal area classification & Development Regulations thereof  
(Annexure – I)**

a) Category wise classification of CRZ	.....	188
b) Category wise Norms for Regulation of activities in respective zones	.....	189-192

**(Annexure – II)**

● **Guidelines for developments of Beach Resorts/Hotels etc. in CRZ**

a) Permissible areas & activities	.....	192-194
b) Prohibited areas	.....	194

**(Annexure – III)**

● **List of Petroleum products permitted for**

storage in CRZ	.....	194-195
----------------	-------	---------



● Special Considerations in CRZ-II for Gr. Mumbai	.....	195
● SRA Schemes in CRZ	.....	195-196
● Redevelopment of Dilapidated, Cessed, And Unsafe Buildings in CRZ	.....	196-197

● **CHAPTER – 27**

**M. O. E. F. ENVIRONMENTAL CLEARANCE (EC) FOR  
CONSTRUCTION OF NEW BUILDINGS, TOWNSHIPS &  
SETTLEMENT COLONIES**

i) Object	.....	198
ii) Categorization of Project & activities for prior environmental clearance	.....	198
iii) <b>Schedule - I</b>		
a) List of projects requiring E.C. clearance	.....	199-200
iv) Environmental Clearance NOT applicable in certain projects	.....	200-201
v) <b>Schedule - II</b>		
a) Procedure for environmental clearance	.....	201-202
vi) Application Form (Form –A)	.....	203-205
vii) <b>Schedule - III</b>		
a) Composition of Expert Committee	.....	206
viii) <b>Schedule – IV</b>		
a) Procedure of Public Hearing	.....	206-208

● **CHAPTER – 28**

**FOREIGN DIRECT INVESTMENT (FDI)  
(IN TOWNSHIPS, HOUSING, BUILT-UP INFRASTRUCTURE  
AND CONSTRUCTION- DEVELOPMENT PROJECTS)**

i) Objects, Eligibility, Investment	.....	209
ii) Time Limit	.....	210
iii) Development Regulations	.....	210
iv) Monitoring Authority	.....	210

**ANNEXTURES -**

i) 7/12 Extract (Annexure – A)	.....	211
ii) 6/12 Extract (Annexure – B)	.....	212
iii) Property Register Card (Annexure – C)	.....	213

<b>BIBLIOGRAPHY</b>	.....	214
---------------------	-------	-----

## DOCUMENTS & CLEARANCES REQUIRED FOR URBAN AND AGRICULTURAL PROPERTY TRANSACTIONS

It is absolutely essential that every person should have adequate knowledge and information about common documents & clearances required for any property transaction. In the following chapter efforts are made to give elementary information of such documents for the benefit of public, who is generally not aware of its importance. Basic knowledge can help you in saving time, and avoiding unnecessary litigations, and hardships.

The said documents and clearances are classified in 3 categories: -

- i) LEGAL
- ii) REVENUE
- iii) TECHNICAL

### • LEGAL DOCUMENTS:

#### 1. PUBLIC NOTICE

It is advisable that prospective purchaser should consult legal advisor for any real estate transaction and get the documents verified & prepared by him to avoid unnecessary complications later on.

Before purchase of any property i.e. house, flat, plot of land etc. either out right or on lease (beyond 9 years), one should give Public Notice in two daily news papers preferably in English & other in local language i.e. Marathi, Hindi, Gujrathi etc. through the Advocate/Solicitor, asking for objections from any third party/ies having interest in the proposed transaction between seller & purchaser; with a time limit of 15 days from the date of its publications. The public notice consists of name & address of seller, description of property, time limit of notice, name & address of the advocate/solicitor etc. It is precisely mentioned in the notice that if no objections with necessary proofs are received within prescribed time limit the transaction will be completed. This notice will act as legal proof and serve as safety measure to any litigation at later stage. General format of such public notice is appearing hereafter: -

**PUBLIC NOTICE**

NOTICE is hereby given that Shri / Smt / M/s. \_\_\_\_\_  
(Name of Vendor)

residing at \_\_\_\_\_ have agreed to sale &  
transfer of \_\_\_\_\_ (Address of Vendor)  
their \_\_\_\_\_ property

\_\_\_\_\_ (full description of property)

\_\_\_\_\_ within  
the limits of \_\_\_\_\_ Municipal Corporation, together with all the  
benefits, rights, clear and marketable title, free from encumbrances and with  
vacant possession thereof, to our clients.

Any person/s having any claim/s by way of sale, mortgage, lease, lien,  
gift, easement, exchange, possession, inheritance, succession or otherwise  
howsoever in respect to the said property and the same are required to  
intimate to the undersigned together with proof thereof within 15 days of  
publication of this notice failing which my clients shall complete the  
sale/transaction and all such claims, if any, shall be deemed to have been  
waived and/or abandoned.

Place: \_\_\_\_\_

Sd/-

Dated: \_\_\_\_\_

(Name & Address of Advocate)

## 2. AGREEMENT-TO-SALE (SATHE-KHAT):

This is a contract duly executed between the "Vendor" (Seller) and the "Purchaser", and legally binding on both the parties. Generally this agreement-to-sale consists following details: -

- i) Names, address, age and nationality of the vendor & purchaser.
- ii) History of ownership of seller with sequence of documents, and development rights acquired by the developer from the original owner/s; in case developer is seller.
- iii) Description of property i.e. Survey No., Plot No., C.T.S. No. etc. and Area of property.
- iv) The terms, conditions and covenants agreed by and between the vendor & purchaser according to which the property is agreed to be sold or purchased.
- v) Specifications of constructions and list of amenities and facilities proposed to be provided by the developer/owner, for purchase of built-up properties.
- vi) Total purchase value/consideration & schedule of payment according to which the purchase price and other charges are to be paid.
- vii) Annexure documents of ownership by way of 7/12 extract / property register card, copy of approved plan / floor plan etc.
- viii) Title-Search-Report & Clearance certificate from the advocate / solicitor who has investigated the title of the property, for minimum period of 60 years.
- ix) Schedule of property giving description, location & area of the property agreed to be purchased/sold.

### **Notes: -**

- a) *It is mandatory to register the agreement to sale with respective Registrar of assurances within 4 months by paying adequate stamp duty & registration charges.*
- b) *Please note that unregistered agreements/deeds are not considered by the financing institutions and the Court of Law in case of litigations.*
- c) *More information on payment of Stamp duty & registration is given separately in other chapter.*

### 3. **DEED OF CONVEYANCE / TRANSFER (KHAREDI-KHAT) :**

This is an instrument of absolute transfer of all rights, title and interest of "vendor" (seller) and all his heirs, nominees etc. in perpetuity in favour of "purchaser/s". The contents of these documents are more or less same as described in item No.2 (i.e. agreement to Sale) above.

In case of conveyance of multi ownership apartment schemes, all the flat purchasers have to form, a body, either by way of a Registered cop. Hsg. society/Apartment condominium to enable vendor to give/execute the conveyance of the building along with the land thereon in favour of such body/ies; as the case may be; at the end of completion of scheme.

*Notes: i) This document is also required to be registered by paying stamp duty & registration charges; as stated in item No.2 above.*

*ii) However the credit is given for the stamp duty paid initially by the flat purchaser/s while registering their agreement-to-sale, at the time of registration of the conveyance.*

### 4. **LEASE DEED :**

It is also a contract by which one conveys real estate equipment or facilities for a specified term and for specified rent; duly executed between the "Lessor" & "Lessee" and legally binding on both the parties for the lease period. Salient features of the lease deed are described below: -

The contents of the lease deed are more or less same as described in item No. 2 (Agreement to Sale) above with following different clauses: -

- i) The vendor & purchaser so described in case of agreement to sale / conveyance are termed as lessor & lessee in this deed.
- ii) Lease period varies generally from 30 years to 999 years, or any period beyond 9 years, so agreed.
- iii) At the end of expiry of lease period, the lease is required to be renewed for further period on the terms & conditions, if renewal provisions are recorded in original lease deed.



- iv) Description of monthly/yearly lease/ground rent and premium payable by the lessee to the lessor.
- v) Specific rights of development / constructions granted to the lessee, by the lessor.
- vi) In this transaction the ownership of land always remains & vests with lessor alone. By and large the lands belonging to the State/Central Govt. and public bodies such as Municipal Corporations, Port Trust, CIDCO, MHADA, MIDC etc.; (who provides necessary infrastructure for the development) offer their lands on lease basis, to public, with minimum lease period of 60 to 99 years, where the lessee is permitted to construct premises on the said land for specific users permitted, on the terms & conditions recorded in the lease deed.

*Note: The lease deed also attracts stamp duty & registration charges.*

#### **5. AGREEMENT OF LEASE AND LICENCE :**

This is a short-term contract (not more than 9 years) executed between "Licensor" & "Licensee" and is legally binding on both the parties. Under this contract the licensee is permitted to use the premises, fittings & fixtures provided therein against monthly compensation payable by the licensee to licensor. The contents of this agreement are more or less similar to as described in item no.2 above.

Some of the important clauses of this agreement are as under: -

- i) The term of licence shall always be less than 9 years.
- ii) The Licence can be renewed for further period if so provided in the agreement.
- iii) During the subsistency of agreement the licensor always remains the owner of premises; and the licensee has no rights other than granted in the contract.
- iv) The licensee can be evicted after licence period is expired.
- v) The contract agreement can be executed on Rs.20/- court fee stamp paper. It is essential to register the contract to avoid litigations in later stage.

## 6. DEED OF ASSIGNMENT:

This is an Indenture by which the property can be transferred to be held in trust, for the benefit of assignee/s and or creditors. The contents of this document are more or less same as described in item no.3 deed of transfer / conveyance above.

This document is executed between "Assignor" & "Assignee" by which the assignor assigns all his right, title, interest in the property to the assignee on the same terms and conditions according to which such rights are hold by the assignor, in perpetuity or the specific time limit as recorded in the document; and same is legally binding on both the parties.

Generally the deed of assignment is made in favour of assignee by assignment of rights of tenanted or leased assets, only when the assignor is empowered specifically for the assignment rights if so granted by the land lord, lessor etc. and not other wise.

*Note : The registration of this document is also compulsory for giving necessary effect of transfer in Govt. record. Un-registered document is not entertained by the court of law.*

## 7. GIFT DEED:

This is a document executed by a "Donor", voluntarily transferring his rights & interests in the asset in favour of "Donee". In such case donee becomes a recipient of gift.

This document also consists of name, address, age, nationality of the donor & donee, the description and value of asset being gifted, place & date of execution as required for transfer of documents. By this document transfer of rights in favour of donee are in perpetuity which in other words can be termed as absolute transfer.

The assets so transferred under Gift Deed by donor to donee can be out of love affection; or special goodwill gesture; either in favour of any relation or otherwise. This document attracts the stamp duty and should be registered with registrar for giving proper effect of such transfer in Govt. records.

## 8. AGREEMENT OF TENANCY: RENT CONTROL ACT

This is a contract executed between "Land Lord" & "Tenant" for use and occupation of the premises by the tenant against payment of monthly rent, which will remain valid and subsisting till the monthly rent is paid regularly to the land lord by the tenant.

Due to the provisions of Bombay Rent control Act and its amendments the land lords are reluctant to give their specifically residential premises on monthly tenancy basis since it is almost impossible to evict the tenant and acquire the possession of the tenanted premises. On an average at present the tenancy agreements generally are executed for commercial premises.

With new Maharashtra Rent Control Act 1999, now the landlord is entitled and can charge: -

- i) 4% increase in monthly rent per year.
- ii) Official premium (Pagree) for transfer of tenancy.  
Under this contract the landlord & tenant has to observe & discharge following obligations:-

### **Obligations of Land Lord: -**

- i) The landlord has to keep the premises in tenantable conditions.
- ii) The landlord can charge the monthly rent equal to permitted standard rent only.
- iii) The landlord has to pay property taxes and water charges to the local authority.
- iv) The landlord can evict the tenant for non payment of monthly rent and or for using the premises for the purpose other than users permitted, any time during the tenancy.
- v) The landlord has to transfer the tenancy in favour of legal successor in case of the death of the tenant.
- vi) The landlord shall remain absolute owner of the premises so tenanted for all the time.
- vii) The landlord can take interest free deposit an amount equivalent to THREE months' rent from the tenant, before granting tenancy, and has

to refund the same on surrendering the tenancy rights & handing over the premises.

- viii) The landlord can not evict the tenant unless a breach is committed of any of the conditions of tenancy agreement by the tenant.

**Obligations of Tenant: -**

- i) The tenant has to pay monthly rent in time (Generally on or before 5<sup>th</sup> date of respective month) to the landlord; and also has to pay permitted increase in rent, and other charges so provided under the contract or by statute.
- ii) The tenant has to use the premises strictly for the same users as permitted under the contract.
- iii) The tenant can not make any structural additions or alterations and or do any such work which will endanger the building or the tenanted premises, without specific permission in writing from the landlord.
- iv) The tenant can not sub-let, under-let, give premises on leave & licence basis or create any third party rights in any manner whatsoever, any time during the validity of tenancy unless it is specifically provided & permitted under the contract, by the landlord.
- v) The tenant has to pay electrical consumption charges and any other expenses so recorded in the contract.
- vi) The tenant can not object the landlord for any balance development or redevelopment of the property provided that the landlord assures and agree the tenancy rights of tenant as the case may be.
- vii) The tenant has NO right to use any other part of building or property of the land lord, and his rights shall remain Limited to the use of tenanted premises only throughout.
- viii) If the building is destroyed by any natural calamity such as flood, fire or earth quack, the tenant automatically loses his tenancy rights in the demised premises.
- ix) The tenant has to use the premises in decent manner and shall have to keep it in tenantable conditions throughout.

- x) The tenant can not claim ownership in any manner whatsoever, of the tenanted premises or any other part of building or property of the landlord any time.
- xi) The tenant can be evicted by the landlord, if the tenant commits breach of conditions of the contract so accepted and agreed by him.

The format of the tenancy agreement is more or less is similar to the agreement of lease / leave & licence described above in this chapter.

**Notes:**

- i) *Under the provisions of the Maharashtra Rent control Act 1999, it is a responsibility of the landlord to register the tenancy agreement, under the Registration Act 1908.*
- ii) *For detail information please refer "The Maharashtra Rent Control Act 1999", applicable w.e.f. 31.3.2000.*

**9. WILL / TESTAMENT & PROBATE:**

This is a written declaration made & executed by a person by which one determines the disposition of his estate to take effect infavour of beneficiary / ies only after his death and not otherwise.

This document generally consists of following: -

- i) Name, address, age, nationality of the person making a will.
- ii) The names, addresses, age, relationship of persons who are named as the beneficiary/ies in the will.
- iii) Details of moveable & immovable assets and its value.
- iv) Details of the distribution of such assets, its nature, share and value granted to the beneficiary/ies in the will.
- v) The place and date of execution of the will.
- vi) Minimum two witnesses, with their names, addresses in whose presence a person has signed & executed the will.

**Notes:**

- i) *A person can make as many wills during his / her lifetime, canceling his/her earlier will/s.*
- ii) *In a testament a person can record the wording in the document as a Final or Last Will.*
- iii) *The will can be executed on plain paper.*



- iv) *The will can become operative only after the death of such person and not other wise.*
- v) *A person making a will should be in sound mind and health at the time of execution of will & he should record such confirmation in the will. In case of will made by very aged person with poor health, it is advisable to take appropriate statement / certificate from the medical practitioner where he confirms that the person making such will is of sound mind.*
- vi) *To avoid unnecessary litigations, it is required to obtain PROBATE from the court of law to establish the will as genuine and valid.*
- vii) *The probate court has jurisdiction chiefly over the probate of wills and also administration of the estate of deceased person.*

#### **10. POWER OF ATTORNEY:**

This is a legal instrument executed by the "Grantor" & "Grantee", by which he/she appoints and authorise a person/s to act as his/her true and lawful agent/attorney to transact any or all business on his/her behalf; and legally binding on both the parties to the extent of powers so granted.

The power of attorney is granted by the owner to the representative of the developer, in case the development rights are granted to the developer.

It is essential that such power of attorney should be registered by paying adequate stamp duty and registration charges.

Following are some of the salient features: -

- i) The grantee is commonly known as "Constituted Attorney (C.A.)" of the owner/s.
- ii) The grantee can not act beyond the scope of powers granted to him/her, by the grantor.
- iii) The power of attorney can be granted for limited purpose and acts; as well as for all the acts and deeds for unlimited time, so provided.
- iv) The power of attorney, unless irrevocable, can be revoked by the grantor for any contempt or breach of powers by the grantee.

- v) The grantee can substitute the powers to any third party if so agreed by the grantor and specific clause of substitution is recorded in the power of attorney.
- vi) The power of attorney becomes automatically invalid, null and void upon the death of the grantor; and can not be used or exercised by the grantee there after.
- vii) Un-registered power of attorney is not entertained by the Court of law in case of litigations.

## 11. TITLE SEARCH & TITLE CLEARANCE CERTIFICATE :

For sale or purchase of any property it is **essential**, that the property must hold clear & marketable title i.e. the **property** is saleable and is free from any defective rights. Before purchase of any property, it is required to examine the documents of ownership in Govt. revenue records; to ascertain as to whether the property has clear and marketable title and to confirm as to whether it is affected by any encumbrances, rights or interests of any third party, The purchaser through his advocate/solicitor should investigate in this matter before entering in to an agreement.

For investigation of title, the advocate/solicitor or his authorised search clerk make the inquiries with the office of Talathi, Tahasildar, City Survey Officer, Collector etc. and collects the information of mutation entries related to the ownership of the property from Govt. revenue records; for the last minimum 60 years; and prepares the report on the sequence of change of ownership from one hand to other up to date; along with all the information of third party rights if any. This exercise is called "**Title Search Report**".

Based on the Title Search Report, response to public notice, and examination of title deeds (i.e. original conveyance / sale deeds declarations and other revenue & public documents more particularly described in the chapter of "Documents of Ownership") the advocate/solicitor concern after getting satisfied that there is no risk to purchase the property, issues "**Title Clearance Certificate**" to the effect that the property holds clear and marketable title together with

search report. The title clearance certificate consists of following information: -

- i) Name of present owner/seller and sequence of change of ownership, & third party rights if any.
- ii) Description of property i.e. Plot No., Scheme No., Survey & Hissa No., City Survey No., Name, Village, Taluka and District and Zone in which the property falls.
- iii) Area of property.
- iv) Short notes and findings from search report.
- v) Certification of clearance and marketability of title of the property.

*Note: Such title certificate is not required for the lands owned by State or Central Govt.*

## **12. DECLARATION:**

It is a document of written affirmation made by a party ("Declarant") for the use of legal transaction (Not under oath) declaring certain facts related to the title, ownership or interests in the property. These declarations are made by the owner and or his/her heirs or co-owners of the property or any other person having rights & interests in the property thereof. The Declaration so made is legally binding on the Declarant to the extent of the statement made.

The Declaration can be made on Rs.100/- Stamp paper.

The Declaration contents: full name, address, age, nationality of the declarant, and the items of declarations followed by the place & date of the declaration executed.

*Note : It is advisable to get the said declaration notarised by the Notary Public appointed by the State Govt.*

## **13. AFFIDAVIT:**

This is a document of written declaration on oath; by the owner, co-owners or any party having rights & interests in the property; and is legally binding on the person/s concerned. The affidavit in property

transactions are executed by the owner on behalf of his/her minor children regarding their interest in the property.

The affidavit consists of following: -

- i) Full name, address, age, nationality of the person making affidavit.
- ii) Items of affidavit followed by place where affidavit is executed and date of execution.

**Notes:**

- i) *The affidavit can be executed on Rs.100/- India Non Judicial Stamp paper.*
- ii) *It is advisable to get the affidavit notarised by the notary public.*

**14. UNDERTAKING:**

This is a written statement made by the person legally binding on him/her. In this document the person concerned has to undertake and agrees to comply with the obligations as stated therein.

The contents of undertaking are identical as mentioned in the item 13 (Affidavit) above. Such undertakings are given by vendor/seller for discharging specific performance during time limits prescribed therein.

**Notes:**

- i) *The undertaking can be executed on Rs.100/- India Non Judicial Stamp paper.*
- ii) *It is advisable to register the undertaking with Sub-registrar as unregistered undertakings are not considered in Court of Law in case of litigation.*

**15. INDEMNITY BOND:**

This document is a writing of obligations agreeing to perform the contract executed by one party (Indemnifier) to other. For the other party, it is a document of security against damage, loss or punishment, guaranteed by the Indemnifier, where the Indemnifier is liable to bear

and pay the compensation against any loss or injury caused to the other party so indemnified.

The basic structure of the Indemnity Bond except specific indemnities is one and the same as described in item No.13 above.

**Notes:**

- i) *The Indemnity Bond is required to be executed on Rs.200/- Non Judicial Stamp paper.*
- ii) *It should be notarised by notary public appointed by the Govt.*

**16. (EXTRACT OF) INDEX NO.: II:**

This is an extract issued by the Registrar / Sub-registrar in a format for the documents registered with their department; as an official confirmation of recording the transaction / document in their records. It is essential to obtain this confirmation (Index – II) as the same is required for all revenue authorities for giving effect to the transfer of ownership in their records such as 7/12 extracts & property register cards etc.

Index – II extract consists of following information: -

- i) Nature of deed and amount of consideration.
- ii) Description of property such as Plot No, Survey and Hissa No., City Survey No. etc.
- iii) Area of property.
- iv) Assessment details of property.
- v) Name/s of executing party (Transferor).
- vi) Name/s of claiming party (Transferee).
- vii) Date and place of execution of document.
- viii) Date of Registration.
- ix) Serial No., volume & page of register in which the document is recorded.
- x) Remarks.

**Note:** *(Format of Index II is given as "Annex- D").*



## 17. DEED OF CONFIRMATION :

This is a legal document to be executed by and between the parties confirming any prior execution of agreement / document which could not be registered within specific time limit. This deed consists the reconfirmation of all the terms and conditions according to which previous agreement is signed and executed by both the parties.

### *Notes:*

- i) *This can be executed on Rs.20/- Court Fee Stamp paper.*
- ii) *Any executed documents must be registered within 4 months from the date of its execution.*
- iii) *The registrar can grant additional time of 4 months on the application if satisfied with the reasons of delay.*
- iv) *If the executed document could not be registered for any reasons beyond 8 months from the date of execution then the parties has to prepare a separate "Deed of Confirmation" as stated above and it has to be attached with original documents for the purpose of registration.*

## REVENUE DOCUMENTS & CLEARANCES

### 1) 7/12 UTARA:

It is a revenue document of ownership mainly for agricultural and rural lands issued by the Talathi of the respective village in which property falls. It contains name of owner, description of property i.e. Survey No. & Hissa No.; Area of plot and Mutation entry Nos., of any encumbrances by way of loan, charge, protected tenant etc. and tenure of land. This document is always available in local language of the State. In Maharashtra it is in Marathi. Format document is given at the end ("Annex. A").

*Note : Validity of this document is 6 months from its date of issue.*

### 2) 6/12 UTARA (PHERFAR PATRAK)

It is also a revenue document showing the details of mutation entries showing charges or encumbrances of any nature i.e. transfer, assignment, partition, mortgage etc. popularly known as "Pherfar Patrak". (Annex. B)

### 3) **PROPERTY REGISTER CARD:**

It is also a document of ownership similar to 7/12 UTARA described above, with all its contents mainly applicable for urban areas. This is issued by the concern City Survey Officer of respective Zone. It is essential to have endorsement of area of plot in figures as well as in words on this document as per present policy of the Govt. format document is attached at the end. ("Annex. C")

*Note : Validity of this document is ONE YEAR from the date of issue.*

### 4) **CITY SURVEY PLAN:**

This is a plan prepared and issued by the concerned City Survey office showing the boundaries of the plot and existing structures if any thereon. Format document is attached as "Annex. E".

The city survey officer on request can carry out survey and demarcate the boundaries of the plot and issue plan of demarcation to the applicant.

### 5) **NON-AGRICULTURAL PERMISSION (N.A. PERMISSION):**

This permission is essential from the Collector, when the tenure of land is changed from agriculture to nonagricultural purpose for residence, commercial & industrial use / development. The applicant has to apply in format together with the check list of document as described bellow.

This permission is generally issued within a period of 30 days. As soon as the N.A. permission is granted the applicant has to pay conversion charges & N.A. assessment taxes to the office of the Tahasildar concern.

*Note: N.A. permission is not necessary for the development in island city of Mumbai, but required for developments in rest city of limits of Gr. Mumbai. (Western & Eastern Suburbs)*

#### **Check List**

- i) Application in format, and copies of: -
- ii) 7/12 Utara.
- iii) Property register card.

- iv) City survey plan.
- v) Exemption order under Urban land (Ceiling & Regulations) Act 1976.
- vi) 5 sets of approved plans & I.O.D. (letter of approval).
- vii) Copy of previous N.A. permission if issued.

**Notes:**

- i) *Please note that for any application to revenue authorities a Court fee stamp of Rupee 5/- must be affixed, other wise the application will not be accepted.*
- ii) *For the benefit and knowledge of all concerned, the information of Revenue authorities, its officers, powers, fees/charges payable for obtaining copies of revenue records together with their addresses is appearing in Chapter No .3.*

### **3) TECHNICAL DOCUMENTS & CLEARANCES**

#### **1) APPROVED PLANS:**

The Local planning authority i.e. Municipal Corporation/Council approves the plans of proposed development as per rules & regulations prescribed.

The plans of proposed development submitted by the architect along with necessary documents are scrutinised, and after getting satisfied, the local planning authority through its authorised officer grants its approval to the proposal subject to compliance of certain terms & conditions. The approved plans are issued in duplicate, i.e. copies to the owner & architect.

In Gr. Mumbai, The Municipal Corporation issues the approval under section 337 & 342 of BMC Act 1888. The approved plan bears signatures of owner, architect, beside municipal stamp of approval with case / file number, date of approval and is signed by the authorised officer of the Corporation.

Validity of approved plan is ONE year and requires revalidation every year.

2) **LETTER OF APPROVAL / I.O.D. (INTIMATION OF DISAPPROVAL):**

Along with approval of plans, Municipal Corporation / Council, issues letter of approval in their format. In Mumbai it is popularly known as I.O.D. (Intimation of Disapproval). People get confused for the long form of I.O.D. and are reluctant to accept it as letter of approval. In fact even though it is termed as intimation of disapproval, it should be read in its positive form; which means the I.O.D. is a letter of approval subject to compliance of terms & conditions mentioned therein. Validity of Letter of approval (I.O.D.) is ONE year unless revalidated yearly.

*Note:* Please note that only approval of plans and issue of I.O.D. (letter of approval) by the Municipal Corporation of Gr. Mumbai, is NOT a development permission unless it is clubbed with commencement certificate issued under section 44/69 of M.R.T.P. Act. 1966, by the authorised officer of the Corporation.

3) **COMMENCEMENT CERTIFICATE:**

It is a development permission under M.R.T.P. Act 1966, issued by the Local Planning authority. It is generally issued together with approved plans & letter of approval in other cities except in Gr. Mumbai.

The Municipal Corporation of Greater Mumbai, issues commencement certificate only after compliance of terms & conditions of the letter of approval (I.O.D.) by the applicant. This permission is popularly known as "C.C." (Commencement Certificate). Validity of Commencement Certificate is ONE year from its date of issue.

This can be revalidated yearly for further 3 times (Total 4 years) within which period the applicant has to start the work. If for any reasons work is not started within the above period; the applicant has to seek fresh development permission. In case the property is subjudice revalidation period can be extended.

*Notes:*

- a) *Only after obtaining commencement certificate the applicant is entitled to start the work and not otherwise.*
- b) *The work carried out without C.C. is treated as unauthorised and is offence under MRTP Act, which attracts penal action and proceedings against the applicant.*

#### 4) **ESSENTIAL TECHNICAL INFORMATION :**

The consumer should have adequate knowledge and information about certain technical terms commonly used in property transaction. To ensure clarity and confidence while executing any real estate document, some of the important informations are detailed below: -

##### a) **Carpet Area:**

It is an internal area of each of the room (including toilets, passages/lobbies, balconies etc.) calculated by the internal dimensions of respective rooms measured inside from wall to wall.

*Note: For the purpose of stamp duty & assessment taxes, areas of open balconies are considered 50% and 100% area for enclosed balconies whether merged or not.*

##### b) **Built-up area:**

This is a plinth area of premises measured out to out, inclusive thickness of external walls, peripheral to the respective premises.

##### c) **Super Built-up area:**

There is no definition of super or delux built-up area anywhere in regulations. This concept is designed by the developers and is in practice for over a decade, wherein built-up areas of common services such as staircase/s, lifts, common corridors/passages leading to flats, are proportionately added to the net built-up area of each of the unit. The total of built-up area measured as described in item (b) above plus (+) proportionate area of common services is generally known as Super Built-up Area.

#### 5) **CLEARANCE FROM COMPETET AUTHORITY UNDER URBAN LAND (CEILING & REGULATION) ACT 1976:**

The Urban Land (Ceiling & Regulations) Act came in force on 17.2.1976 with a view to create more housing stock & to bring housing within affordable limits of common man. All the vacant properties in urban areas of all the states wherever act is applicable, in excess to permissible limits as described in the act, attract the provisions of ULC Act 1976, and such excess vacant lands are deemed vest in Govt. on 17.2.1976.



## **PERMISSIBLE DEVELOPMENTS: -**

### **a) U/S 20 of ULC Act 1976**

The Govt. through its appointed competent authority, can permit development on excess surplus (urban) vacant land (SVL) under section 20 of the Act; with following general conditions: -

- i) 50% Flats should have plinth area up to 40 Sq. Mtrs.
- ii) 50% Flats are permitted with plinth area up to 80 Sq. Mtrs.
- iii) Specific percentage (not exceeding 10%) built-up flats are to be reserved and surrendered to the Govt. for their nominees; at subsidy selling price.
- iv) The selling price of remaining 90% flats is also decided by the Govt. while issuing such permission.
- v) The flat so purchased under this scheme can not be transferred for 5 years.
- vi) Scheme should be completed within 5 years, however necessary extension of time can be granted on the merit of the case

### **b) U/S 22 of the ULC Act 1976**

The redevelopment of existing built-up properties in urban areas wherever the act is applicable, can be permitted by the competent authority u/s 22 of the Act. Some of the salient features of this permission are as under: -

- i) The developer/owner has to rehouse all the existing tenants/occupants in the redevelopment scheme.
- ii) Plinth area of each flat should not exceed 80 Sq. Mtrs. except to the extent of larger areas of flats in existing occupied structures.
- iii) There is no restriction on sale price.
- iv) Scheme should be completed within 5 years, however necessary extension of time can be granted on the merit of the case.

*Notes: i) The properties owned by registered co-op. Hsg. societies, State and Central Govt. & such statutory bodies do NOT attract the provisions of ULC Act.*



*ii) Any excess vacant land, or land with building thereon in urban areas where ever ULC Act is applicable, can NOT be sold and transferred without necessary clearance / exemption order from the Competent Authority.*

*iii) This Act is now is repealed in all the States by the Union Government*

#### **The Additional Collector & Competent Authority UL (C & R) Addresses**

- 1) Mumbai Urban Agglomeration,  
New Administrative Building, 5<sup>th</sup> Floor,  
Housing Board Colony, (Near Chetna College),  
Bandra (E), Mumbai – 400 051.
- 2) Thane Urban Agglomeration  
Thane Collector's Office Building  
2<sup>nd</sup> Floor, Thane, Dist. Thane.

#### **6) CLEARANCE FROM CHARITY COMMISSIONER:**

For sale or purchase of properties owned by charitable trusts, it is essential to obtain necessary permission from the charity commissioner, under Bombay Public Trust Act 1950 before execution of agreement.

#### **Imp. Note :**

- 1) *According to the enactment of Union Government of India aforesaid urban Land (Ceiling & Regulation Act) 1976 is **repealed in the State of Maharashtra** vide State Government Notification published in State Government Gazette dated 1<sup>st</sup> December 2007.*
- 2) *However this Chapter may be useful for Clearances of pending cases under Urban Land (Ceiling & Regulation Act) 1976 (before the Competent Authority).*

## SALE & PURCHASE OF AGRICULTURAL LANDS

For last decade or two, higher income group people residing in urban areas are buying agricultural lands for the purpose of construction of farmhouse, gardening, farming & horticulture; mainly to spend some days in the company of nature. Some time agricultural lands are purchased for business income out of cash crop products, and income tax exemptions on such income.

However very few people are aware of the revenue rules, regulations and provisions, and some time land in to troubles if such lands are purchased merely on advice of agents without proper investigations; and advice of legal experts in the field. Following information on the subject will give adequate knowledge while executing transaction of agricultural lands, permissible developments & uses etc:-

### 1) CLASSIFICATIONS OF AGRICULTURAL LANDS:

The agricultural lands are mainly classified in three categories mainly based on type of crops, water resources, monsoon and specific period for cultivation as stated below :-

#### i) Bagayeet (Wet Crop) Lands:

These type of lands remains under cultivation for all types of crops, horticultural products, vegetable, nurseries etc. through out the year by using reserve water sources i.e. wells, rivers, canals etc.

#### ii) Jirayeet (Dry Crop) Lands:

These lands are mostly dependent on monsoon for cultivation where other water resources are not available. Such lands are mainly cultivated for Jawar, Bajari, Wheet, and such crops once in a year.

#### iii) Padik (Barren) Lands:

These lands mostly consist of rocky soil where cultivation is not possible easily. In other words these are non-cultivable lands.

## 2) OWNERSHIP CLASSIFICATIONS:

### a) Private Ownership Lands :-

Private ownership lands are divided in two categories: -

#### i) Kabjedar :-

The agricultural lands owned and cultivated by the holder are private ownership lands. The ownership of such land is permanent in perpetuity and the holder is entitled to sale such lands. The owners under this category are termed as Kabjedar or Bhooswami in revenue records of 7/12 extract.

#### ii) 32-G Lands :-

Lands under this category are also private ownership lands, which are allotted to kool for cultivation, against payment of yearly rent payable by the said kool to the land lord.

Under the provisions of (protected) Tenancy Act (Kool – Kayada) the lands under cultivation by such tenant as on 1-4-1957, such kool being statutory purchaser automatically becomes the holder of such land, had it been the said tenant has paid appropriate value (Nazarana), to the Govt. and have obtained a Sanad / Certificate under section 32/M of the Act and thereafter such land can be sold and not otherwise.

In some of the cases even today it is seen that the encumbrance i.e. 32-G is mentioned by way of mutation entry in the other right's column of 7/12 extract. Which means that the said tenant (even in possession of land) has not paid appropriate value (Nazarana) to the Govt. and obtained necessary Sanad/Certificate under section 32-M of the Act and to that extent the land is encumbered.

In such circumstances the holder cannot sale such land unless the appropriate value (Nazarana) is paid to Govt. and necessary Sanad/Certificate /Permission is obtained.

*Note: It is advisable that the purchaser of such lands (32-G) should verify the compliance of above obligations by the holder before execution of transaction.*

**b) Govt. Ownership Lands:**

The lands NOT owned legally by any person as well as lands declared as forests, and lands covered under sea bed, creeks below high water mark, rivers, nallas, lakes, tanks etc. are normally Govt. lands unless private ownership is mentioned in 7/12 extract.

The State Govt. can award their lands to private individuals on certain terms and conditions for cultivation; which are known as under:-

**i) Inami / Vatan Lands:-**

The lands awarded by the State Govt. to religious trusts, temples or to a person for his distinguished services, for their use and occupation; are Inami / Vatan Lands, which can not be transferred by such person or body holding inami / vatan rights, without permission of the Govt. However this category is no more operative as the inami / vatan rights are abolished by law.

**ii) Khalsa Lands: -**

The lands of which inami / vatan rights are abolished are known as Khalsa lands, even though are in private possession. Such holder can not sale khalsa lands without prior permission of Govt. The State Govt. can permit sale only after recovering appropriate value (Nazarana) from the seller as determined by the Collector, and not otherwise.

*Note: It is essential for purchaser that where the charge of Govt. is mentioned as Khalsa in 7/12 extract, he should verify & confirm that the permission for sale & transfer is obtained from the Collector and appropriate value (Nazarana) is paid to Govt., prior to transaction.*

**iii) Tribal (Adivasi) Lands: -**

The lands allotted by the Govt. to adivasis for cultivation known as Tribale Lands. Sale & transfer of such lands in any manner whatsoever in favour of non-tribal, is strictly prohibited unless specifically permitted by the Govt. Any transaction of adivasi/tribal lands, without permission of Govt. is illegal and will not be entertained by court of law. Even no pleader or advocate can appear or represent before collector/commissioner on behalf of non-tribal purchaser.

### 3) WHO CAN PURCHASE AGRICULTURAL LAND ?

ONLY an Agriculturist of any state of India can purchase agricultural land/s in state of Maharashtra. (Non-Agriculturist is prohibited from purchase of agricultural land by law).

The purchaser agriculturist has to produce proof of he being an agriculturist by submitting 7/12 extract in his favour, to the land revenue officer – Talathi of the respective village, without which ownership of such purchased agricultural land/s can not be transferred.

*Note: If wife or husband prior to her or his marriage, either of is an agriculturist the other automatically becomes agriculturist and there after their children by succession.*

### 4) AGRICULTURAL LAND USES:

The agricultural land can be used for the following purposes:

- i) Cultivation & Farming.
- ii) Producing dry or wet crops.
- iii) Horticulture-for growing fruits, vegetables, flowers, nursery, ornamental & medicinal plants etc.
- iv) Construction of wells, tanks, or such water reservoirs.
- v) Construction of cattle & storage sheds for crops and agricultural instruments.
- vi) Construction of house for self & servants' use.

- Note:*
- i) Above users are not treated or considered as Non-agricultural.
  - ii) No agricultural land or its part is allowed to be used for non-agricultural (N.A.) purpose i.e. for housing, commercial or industrial use; without specific permission from the Collector.
  - iii) The Collector can issue N.A. permissions provided such lands are covered by the development plan approved by the appropriate authority of the Govt.; for the respective users permitted in the said development plan.

### 5) WHAT IS FARM HOUSE AND HOW IT CAN BE USED ?

Any holder of land, which is assessed or held for the purpose of agriculture, is entitled to construct residential accommodation on

agricultural land, popularly known as "FARM HOUSE"; which can be used for following purposes: -

- i) Residence of family, servants & tenants.
- ii) Storage sheds for agricultural products.
- iii) Cattle Shed/s.
- iv) Storage sheds for instruments and accessories required for cultivation.

**6) WHERE FARM HOUSE IS PERMITTED?**

- a) In rural areas the farmhouse can be permitted on agricultural lands by the permission of appropriate local revenue authority.
- b) In urban areas local planning authority can permit farm house in the following manner:
  - i) Within city limit or beyond 8 kms. of peripheral areas of Pune, Nagpur, and Gr. Mumbai Municipal Corporation limits.
  - ii) In rest of A, B & C class Municipal Councils, within city limit and beyond 3 kms. peripheral area.
- c) Following **Table** shows the minimum area of land/plot where farm house can be constructed with its plinth area & height of structure permissible thereof: -

S.R. NO	AREA OF PLOT/LAND	NUMBER OF FARM HOUSES PERMITTED	MAXIMUM PLINTH AREA PERMITTED	MAXIMUM HEIGHT OF STRUCTURE AND FLOORS PERMITTED
1	Minimum 4000 M <sup>2</sup> & Maximum 6000 M <sup>2</sup>	ONE	150 Sq. Mtrs.	5 Mtrs. above Plinth Single Floor House.
2	Above 6000 Sq. Mtrs.	More than ONE	1/4 of the plot area maximum 400 M <sup>2</sup>  (If Farm House is to be used for Owner & tenants' residence then plinth area shall be restricted to 150 Sq. Mtrs.)	5 Meters above Plinth Single Floor House.



7) **WHERE FARM HOUSE IS NOT PERMITTED ?**

Farm House will not be permitted by the authority in the following cases: -

- i) If area of agricultural land is less than 4000 Sq. Mtrs.
- ii) If height of structure proposed is more than 5 Meters.
- iii) If number of floors are more than one.

8) **SUB-DIVISION OF AGRICULTURAL LANDS:**

In rural areas large agricultural lands can be sub-divided for the purpose of sale or for family partitions. Minimum area of sub-divided plot in respective type of lands is shown in the following **TABLE** : -

SR. NO.	TYPE OF LAND	MINIMUM AREA FOR SUB-DIVISION
1	Rice / Paddy Fields	1 Acre.
2	Bagayeet (Wet Crop) Land	1/2 (Half) Acre
3	Jirayeet (Dry Crop) Land	2 Acres.

*Note: The above minimum areas for sub-division is not applicable for the agricultural lands in urban areas.*

9) **PRECAUTIONS FOR: PURCHASE / SALE, OCCUPATION AND USE OF AGRICULTURAL LANDS**

**Do's & Don'ts**

- i) Do not purchase agricultural land if you are NOT an agriculturist.
- ii) Visit & inspect the land before purchase.
- iii) Verify the title of land through legal expert.
- iv) Confirm whether the land sale is prohibited by the State Govt. for any reasons mentioned above; and purchase only after prior permissions are obtained from concern revenue authority of the State Govt.
- v) Confirm & verify that the ownership of land so purchased is transferred in 7/12 extract & mutation entries are recorded in 6/12 extract in your favour.
- vi) Do not construct farmhouse without permission.
- vii) Use the land for the purposes mentioned herein above.

- viii) Collect/Obtain KHATE BOOK-LET from Talathi & get it updated every year.
  - ix) Obtain fresh 7/12 extract every six months/year & check encumbrances if any.
  - x) Pay agricultural land revenue to the Talathi concern every year and obtain receipt of payment thereof.
  - xi) Visit/stay on the site at least once a month and monitor the progress, and improvement of cultivation.
  - xii) Do not produce perishable items without marketing arrangements.
- 10) IMPORTANT TERMS COMMONLY USED FOR AGRICULTURAL LAND TRANSACTIONS:**
- i) 7/12 Extract:**  
This is a revenue document of ownership consist of name of the holder, description of property (i.e. S. No., H. No.) area of land, village, taluka, description of cultivation, and encumbrances if any.
  - ii) 6/12 Extract:**  
This is a extract of records of mutation entries of showing other rights which is, popularly known as "Pher-Far Patrak".
  - iii) Survey Number:**  
This is an identification number given by the revenue authority to agricultural lands in the respective village where the property is situated.
  - iv) Hissa Number:**  
This is a sub-number given to portion of land when main survey number is divided due to partition of land. It is also an identification number allotted to respective piece land.
  - v) Kabjedar / Khudd:**  
Holder of the land, in whose name ownership vests; and who cultivates the land him self, or through his family.
  - vi) Kool:**  
Kool is a protected tenant of the agricultural land having her/his cultivation rights and such interest in the property. After the agricultural tenancy act came in force this category is abolished, as all such tenants became holders by statute.

**vii) Pattedar:**

Lessee of the landlord who is permitted to cultivate the land.

**viii) Gaothan:**

It is a village site with its peripheral boundary reserved for the residential purpose for the natives of the village and is free of assessment. The Govt. has powers to increase the boundary of the gaothan as and when required on the basis of population.

**ix) Pot Kharaba:**

It is a non-cultivable portion within a the cultivable land to which the land assessment is not charged.

**x) Kharif Crops :**

The crops totally depending upon monsoon and which are produced during June to October once in a year are known as Kharif Crops.

**xi) Rabbi Crops:**

The crops produced mainly during November to March of the year with other water / irrigation resources are Rabbi Crops.

**11) CEILING ON HOLDING OF AGRICULTURAL LAND IN THE STATE OF MAHARASHTRA**

The State of Maharashtra by enactment has put up ceiling on holding of agricultural land under "The Maharashtra Agricultural Lands (Ceiling & Holding) Act 1961; modified from time to time.

The Ceiling is decided on the class of land. The classification of land for this purpose as shown in clause No. (5) of section 2 of the act is as under: -

**CLASSIFICATION OF LANDS**

<b>Class of Land</b>	<b>Description</b>
(a) Type	The lands with assured water supply for irrigation and capable at two crops in a year.
(b) Type	The lands which has no assured perennial water supply for irrigation, and capable of one crop a year.
(c) Type	The lands irrigated seasonally by temporary water supply under water sanction.
(d) Type	Dry crop lands not falling under (a) (b) & (c) categories above; which are used mainly for paddy cultivation.
(e) Type	Dry crop lands other than falling under (a) (b) (c) & (d) above; and irrigated by any water source & used for horticulture.

## CEILING LIMITS

In all the districts of State of Maharashtra following **TABLE** will show the ceiling Limits on holding of agricultural lands according to the revenue classifications of lands: -

Sr. No.	Class of Land	Ceiling Area		
		Hectares	Ares	i.e. Acres
1	(a) Class	7	28.43	= 18 Acres
2	(b) Class	10	92.65	= 27 Acres
3	(c) Class	14	56.86	= 36 Acres
4	(d) Class	14	56.86	= 36 Acres
5	(e) Class	21	85.29	= 54 Acres

### Notes:

- i) *Above ceiling limits and classification of lands are as shown in the Maharashtra Agricultural Lands (Ceiling on Holding) Act 1961 modified up to 15<sup>th</sup> December 1980, which are reproduced for information only.*
- ii) *It is advisable that the purchaser concern should make proper inquiries with revenue officer to decide his holding limit before purchase of new transaction.*

## POWERS AND ADDRESSES OF REVENUE AUTHORITIES

Sr. No.	AUTHORITY	POWERS
1.	The Collector	<p><u>To issue approvals &amp; orders for:-</u></p> <ul style="list-style-type: none"> <li>i) Sub-Divisions.</li> <li>ii) N.A. Permission.</li> <li>iii) Area Correction.</li> <li>iv) Acquisition of Lands.</li> <li>v) Hearing / Appeals.</li> </ul>
2.	Dy. Director of Lands & Records (D.D.L.R.)	<p><u>To issue approvals &amp; orders for:-</u></p> <ul style="list-style-type: none"> <li>i) Confirmation of area corrections &amp; Corrected areas Certificate</li> <li>ii) Direction to SLR/City Survey Officer for recording of area confirmation &amp; suitable mutation entries.</li> </ul>
3.	Superintendent of Lands & Records (S.L.R.)	<p><u>To issue orders/approvals for: -</u></p> <ul style="list-style-type: none"> <li>i) Recording mutation entries on property Registered Cards &amp; other concern records to City Survey Officer.</li> <li>ii) Extract of Inquiry Register.</li> <li>iii) Demarcation / Re-demarcation of disputed Boundaries / area.</li> <li>iv) Recording of Area corrections.</li> <li>v) Appeals &amp; hearings.</li> <li>vi) Updation of Records.</li> </ul>

4	Dist. Inspector of Lands & Records (D.I.L.R.)	<u>To issue orders &amp; documents for:-</u> i) Extract from Village Map. ii) Extract from Gut Book plan of S. No./H. No. etc. iii) Demarcation of boundaries as per Survey No./H.No.etc. iv) Demarcation plan & Area Certificate.
5.	The Tahasildar	<u>To issue orders/approvals: -</u> i) Recording of Change of Ownership & other Encumbrances & mutation entries thereof in Agricultural records (7/12 extract etc.) ii) Recovery of Taxes, N.A. Taxes iii) <u>Updation</u> of Records.
6.	City Survey Officer	<u>To issue Documents: -</u> i) Property Register Cards / with area in words & figures. ii) City Survey Plans. iii) Kami-Jasta-Patruk (KJP). iv) Recording of Mutation Entries on P.R. Cards. v) Surveying of lands & demarcation of boundaries as per city survey records & issue of Demarcation Plan and area. vi) <u>Updation</u> of Records.
7.	Talathi	<u>To issue Documents: -</u> i) 7/12 Extract/s. ii) 6/12 Extract/s (Mutation Entries). iii) Recording of Mutation Entries. iv) <u>Updation</u> of Records.

*Notes: 1. Above information is based on the present working system.*

**2. Validity period for certain Documents**

- i) *Property Registered Card* : **One Year.**  
 ii) *7/12 Extract* : **Six Months.**

*3. It is advisable that concerned person should obtain fresh P.R. cards & 7/12 extract after expiry of validity period for updating their personal records.*



## OFFICES OF REVENUE AUTHORITIES IN GR. MUMBAI

AUTHORITY	TELEPHONE NOS.
1. THE COLLECTOR Mumbai (City), Old Custom House, Fort, Mumbai - 400 023.	2861231 2863802
2. THE COLLECTOR Mumbai Suburban District New Administrative Building, Housing Board Colony, Near Chetna College, Bandra (East), Mumbai - 400 051.	6427956 6441399 6441446
3. THE DY. DIRECTOR OF LANDS & RECORDS (D.D.I.R.) Kaiser-E-Hind Building, Ballard Estate, Mumbai - 400 038.	2664269
4. THE DISTRICT INSPECTOR OF LANDS & RECORDS (CITY), (D.D.I.R.) Old Custom House, Fort, Mumbai - 400 023.	2869654
5. THE SUPERITENDANT OF LANDS & RECORDS, (S.L.R.) Mumbai Suburban District, New Administrative Building, Housing Board Colony, Near Chetna College, Bandra (East), Mumbai - 400 051.	6429874

## OFFICES OF TAHASILDARS, THEIR RESPECTIVE TALATHIS IN GR. MUMBAI & THEIR DUTIES / POWERS

WESTERN SUBURBS	EASTERN SUBURBS
<b>1. THE TAHSILDAR, TALUKA BORIVALI,</b> Shimpoli Village, Shimpoli Road, Borivali (West), Mumbai – 400 092.	<b>3. TAHSILDAR, TA. KURLA</b> Topiwala College Building, Sarojini Naidu Road, Mulund (West), Mumbai – 400 080
<b>a. TALATHI - BORIVALI,</b> Babhainaka, L.T. Road, Borivali (W), Mumbai – 400 092.	<b>a. TALATHI – MULUND</b> Topiwala College Building, Sarojini Naidu Road, Mulund (West), Mumbai – 400 080.
<b>b. TALATHI - GORAI,</b> Village Manori, Taluka Borivali, Borivali (West), Mumbai – 400 092.	<b>b. TALATHI – KURLA</b> A.H. Wadia Trust Office, Kurla (West), Mumbai – 400 070.
<b>c. TALATHI - MALWANI,</b> Marve Road, Opp. Dagdi Building, Malad (West), Mumbai – 400 064.	<b>c. TALATHI – CHEMBUR</b> Sindhi Colony, Chembur – Mumbai.
<b>d. TALATHI - KANDIVALI,</b> Station Road, Goshala, Kandivali (East), Mumbai – 400 067.	
<b>e. TALATHI - GOREGAON,</b> Menan Estate, S.V. Road, Goregaon (West), Mumbai – 400 062.	
<b>2. TAHASILDAR - ANDHERI,</b> Dadabhoy Road, Andheri (w) Mumbai – 400 058.	
<b>a. TALATHI - ANDHERI,</b> Tahsildar Office Compound, Dadabhoy Road, Andheri (West), Mumbai – 400 058.	
<b>b. TALATHI – KOLE KALYAN,</b> Potdar High School, S. V. Road, Santacruz (w), Mumbai – 400 054.	
<b>c. TALATHI – BANDRA</b> 20. Station Road, Bandra (West), Mumbai – 400 050.	

## DUTIES OF TAHSILDAR

- i) To accept application for recording transfer of ownership in Revenue Records
- ii) To conduct hearing and to give awards / judgements / orders.
- iii) To accept N.A. Conversion Charges and N.A. assessment taxes
- iv) To instruct Talathi Concern to record change of ownerships in 7/12 extract & mutation entries in 6/12 extract.

## DUTIES OF TALATHI

- i) To issue 7/12 & 6/12 extracts.
- ii) To issue village gut book plan.
- iii) To accept payment of Agricultural Land Revenue
- iv) To identify & to show boundaries of the property.

## CITY SURVEY OFFICES FOR ISSUE OF PROPERTY REGISTER CARDS & CTS PLANS IN GR. MUMBAI

Office Addresses	Area Jurisdiction
<b>MUMBAI CITY DISTRICT</b> The Superintendent, Mumbai City Survey & Land Records, 1 <sup>st</sup> Floor, Old Custom House, Shahid Bhagat Singh Marg, Near Homimam Circle, Near Central Library, Fort, Mumbai 400023. Tel.: 22661231.	Bhuleshwar, Byculla, Colaba, Dadar-Naigaum, Dharavi, Fort, Girgaum, Lower Parel, Mahim, Malabar Hill & Khambala Hill, Mandvi, Matunga, Mazgaon, Parel-Serwi, Princess Dock, Salt Pan, Sion, Tardeo & Worli.
<b>MUMBAI SUBURBAN DISTRICT(Western Suburbs)</b>	<b>Area Jurisdiction</b>
<b>City Survey Officer Bandra,</b> Municipal Motor Garage Compound, Opposite to the Santacruz bus Depot, S. V. Road, Santacruz (West), Mumbai 400054. Tel.: 2612 8110	Bandra East, Bandra-A, Bandra-B, Bandra-C, Bandra-D, Bandra-E, Bandra-F, Bandra-G, Bandra-H, Bandra-I, Kole- Kalyan & Parigha-Creek.
<b>City Survey Officer Vile Parle,</b> Municipal Motor Garage Compound, Opposite to the Santacruz bus Depot, S. V. Road, Santacruz (West), Mumbai 400054. Tel.:2612 8110	Bapnala, Brahmanwada, Chakala, Gundhvali, Juhu, Kondivata, Marol, Maroshi, Mulgaoh, Parjapur, Sahar, Varivali, Vile-Parle East & Vile Parle West.
<b>City Survey Officer Andheri,</b> MHADA Colony, Next to R. T. O. Office, Near Shree Swami Samarth Nagar Road, off.Link Road, Andheri (West), Mumbai 400058. Tel.: 2636 2674	Ambivali, Andheri, Bandivli, Ismaliya, Madh, Majas, Mogra, Oshiwara & Versova.
<b>City Survey Officer Goregaon,</b> BEST Colony Building, Behind Goregaon-Oshivara Bus Depot Goregaon (west) Mumbai – 400104	Alse, Akurli, Darvali, Erangal, Malvani, Marve, Pahadi-Eksar, Pahadi-Goregaon Esat, Pahadi-Goregaon West, Poisar, Valnai & Wardhvan

<b>City Survey Officer Malad,</b> 5 <sup>th</sup> Floor, New Tehsildar Office Building, Natakwala Lane, Opp. Lord Krishna Bank, Borivali (West), Mumbai 400092.	Aarey, Chincholi, dindoshi, Goregaon, Gundgaon, Klerabad, Kurar, Malad East, Malad North, Malad South, Sai & Tulsi.
<b>City Survey Officer Borivali,</b> 4 <sup>th</sup> Floor, New Tehsildar Officer Building, Natakwala Lane, Opp. Lord Krishna Bank, Borivali (West), Mumbai 400092.	Borivali, Charkop, Dahisar, Eksar, Gorai, Kandivali, Kanheri, Magaathane, Mandapeshwar, Manori & Shimpoli.
<b>MUMBAI SUBURBAN DISTRICT (Eastern Suburbs)</b>	<b>Area Jurisdiction (Villages):</b>
<b>City Survey Officer Kurla,</b> Topiwala college Building, Sarojini Nagar Road, Mulund (West), Mumbai 400080. Tel.:2561 9878.	Kurla-1, Kurla-2, Kurla-3, Kurla-4, Mohili & Saki.
<b>City Survey Officer Chembur,</b> Topiwala College Building, Sarojini Nagar Road, Mulund (West), Mumbai 400080. Tel.: 2561 9878	Aanik, Borla, Chembur, Mahul, Manbudruk, Mandale, Mankhurd, Marvali, Nanale, Trubhe & Vadhvali.
<b>City Survey Officer Ghatkopar,</b> Topiwala College Building, Sarojini Nagar Road, Mulund (West), Mumbai 400080. Tel.: 2561 9878	Asalpha, Chandivli, Deonar, Ghatkopar, Ghatkopar-Kirol, Hariyali, Kirol, Tungva & Vikhroli.
<b>City Survey Officer Mulund,</b> Topiwala College Building, Sarojini Nagar Road, Mulund (West), Mumbai 400080. Tel.: 2561 9878	Bhandup, Kanjur, Kopri, Mulund East, Mulund West, Nahur, Paspoli, Powai & Tirandaz.

### FEES & CHARGES FOR VARIOUS REVENUE DOCUMENTS.

Sr.No	Description	Fees/Charges in Rs.	
1.	Property Register Card	Rs.5.00	Per Entry
2.	City Survey Plan	Rs.7.50	Per C.T.S. No.
3.	7/12 Extract	Rs.5.00	Per Copy.
4.	6/12 Extract (Mutation Entries)	Rs.5.00	Per Copy.
5.	Kami Jast Patrak (KJP)	Rs.7.50	Per Page.
6.	Extract of Inquiry Register	Rs.7.50	Per Page.
7.	Gut-Book Plan	Rs.7.50	Per Survey No.
8.	Tikka Sheet (Printed Plan)	Rs. 165	Per Sheet.

#### A) MEASUREMENT FEES & CATEGORY

Demarcation of City Survey Boundaries,

- i) **Very Urgent** :- (within One Month).  
Rs.800/- upto two city survey Nos. or 10 Hectares & ii) Rs.300/- for further each city survey No.
- ii) **Urgent** :- (within Three Months)  
Rs.550/- upto two city survey Nos. 10 Hectares & ii) Rs.200/- for further each city survey No.
- iii) **Ordinary** :- (within Six Months)  
Rs.300/- upto two city survey Nos. or 10 Hectares & ii) Rs.100/- for further each city survey No.

#### B) AFFIXING A COURT FEE STAMP ON APPLICATIONS

1.	Simple application for documents listed 1 to 8 of "A" above.	Rs.5/- Per application.
2.	Inquiry search	Rs.5/- Per application.
3.	i) Measurements ii) Complaints iii) Registration	Rs.5/- Per application.
4.	i) Power of Attorney ii) Wakalat Nama	Rs.10/- Per application.
5.	Appeal	Rs.10/- Per application.

*Note: The above rates are subject to change as per Govt. policy from time to time. For exact fees it is advisable to contact respective revenue authority.*

## NON-AGRICULTURAL (N.A.) PERMISSIONS

Under Section 44, Sub-Section (1) of Maharashtra Land Revenue Code, 1966 (MLRC), it is mandatory for the applicant to obtain 'Non-Agricultural Permission' from the concerned District Collector or Competent Authority appointed and authorised by the State Govt. for permitting change of user of Agricultural lands for Non-Agricultural purpose. The N. A. users category wise are classified as under:-

### N. A. USE : CLASSIFICATION:

- 1) Residential use
- 2) Commercial use
- 3) Industrial use
- 4) Any other specific N. A. use other than 1 to 3 above.

### Category - I (Agricultural Lands in Rural Areas)

This category covers 'Partial Non-Agricultural' use of Agricultural Land for construction of Farm House and other necessary structures required thereof, wherein remaining entire land is used for agricultural purpose. Only area under such structures shall be levied with N. A. Tax.

### Category – II (Agricultural Lands in Urban Areas)

In this category the user of agricultural land can be converted for urban development purposes as per the zones and users prescribed (1 to 4 above) in the Regional or City Development Plan, approved by the statutory authority.

### APPLICATION & PROCEDURE:

#### i) Applicant:-

Only Land Holder in whose name ownership of the land vests can apply for Non-Agriculture permission either by himself or through his Constituted Attorney in whose favour Power of Attorney is granted.

The Applicant has to submit application in format (Performa appearing hereafter) along with documents as stated in Check List, to the District



Collector or Competent Authority authorised and appointed by the State Government for the purpose.

**ii) Time Limit:-**

- a) If the N. A. Application & Documents submitted are in order, the concerned officer processes the same and with approval of the Collector, N. A. Permission is issued to the applicant, within maximum period of **90 days**.
- b) If the permission is not rejected and or not issued within **90 days** from the date of submission such application (duly acknowledged) the N. A. Permission is **deemed to have been granted**.

**iii) Payment for N. A. Assessment & Conversion Tax:-**

- a) The applicant has to pay Conversion Charges and N. A. Taxes as specified in such permission, to the Office of concerned Tahsildar of the jurisdiction within a period of **30 days**, from the receipt of N. A. Permission.

**iv) Penalty/ Fine:**

- a) If the N. A. use is started without obtaining N. A. Permission, the applicant is liable to pay fine and / or penalty equal to 40 times of the annual N. A. Assessment.
- b) The N. A. Taxes are to be paid every year and are subject to increase per year.
- c) There are different Taxes for Residential, Commercial & Industrial users.

**INTIMATION OF N. A. USE:**

It is obligatory for the person to whom N. A. Permission is granted he shall have to intimate in writing to the Tahsildar & Talathi concerned, within **30 days**, from the date of commencement of N. A. use of the said land.

If the applicant fails to intimate commencement of N. A. use within **30 days** as stated above, he shall be liable to pay fine and penalties in addition to N.A. Assessment Taxes as will be decided by the Collector.

*Note : It is advisable that the applicant should intimate the date of commencement of N. A. use in writing to the Tahsildar and Talathi in time.*

### **WHO IS ENTITLED FOR N. A. PERMISSION:**

- i) Only the Land Holder/ Owner is entitled for N. A. Permission; in case of Land is free hold.
- ii) For Lease hold Lands, the Lessee has to submit consent in writing from the Lessor (Owner) for such permission, along with application. However N. A. Order shall be always granted in favour of the Land Owner /Lessor only.

### **LIST OF DOCUMENTS TO BE SUBMITTED:**

Following are the accompaniments required for submission of Application seeking permission for Non-Agricultural use:-

- 1) Covering letter / application for N. A. Order addressed to the Collector.
- 2) Application in Format (Format is appearing at the end of Chapter) duly affixed with court fee stamp of Rs.5/-
- 3) Certified copy of document of Ownership i.e. Sale Deed, Deed of Assignment, Conveyance, Lease Deed etc.
- 4) Copy of fresh 7/12 utara issued within 6 months.
- 5) Copy of Fresh Property Register card issued within One Year.
- 6) Copy of Village Plan (for rural areas) and /or City Survey Plan (for urban area) of the property in reference.
- 7) 5 copies of approved plans of proposed non-agricultural user granted by Civic Authority; alongwith development permission thereof.
- 8) Consent Letter of Co-Owners if property is jointly owned.
- 9) N. O. C. / Exemption Order issued by the Competent Authority under U.L.C. Act-1976, for 'Surplus Vacant Land' if property falls in urban zone where provisions of Urban Land (Ceiling & Regulation) Act-1976 are applicable.

- 10) Affidavit on Rs.100/- Stamp paper in Proforma, if the Land area is within Ceiling Limits under U.L.C. Act 1976.
- 11) Certified copy of Power of Attorney if applicant is C.A.
- 12) Copy of previous N. A. Order granted if any.
- 13) Affidavit-cum-Indemnity Bond on Rs.200/- Non-Judicial-Stamp paper in Proforma. (Format is given at the end of this chapter.)
- 14) Any other related documents required by the Collector.

### **GENERAL CONDITIONS OF N. A. ORDER**

The N. A. Order is subject to certain terms and conditions as specified in the said order. However general conditions are described herein below:-

- 1) That the grant of permission shall be subject to the provisions of the Code & Rules made there under.
- 2) That the grantee shall use the land together with the building or structure thereon, only for the purpose for which the land is permitted to be used and shall not use it or any part of the land or building thereon for any purpose, without obtaining the previous written permission to that effect.
- 3) That the grantee shall construct the building according to the plans approved by the Municipal Authority.
- 4) That the grantee shall not sub-divide the plot, if any, approved in this order, without getting prior approval for the sub-division from the Collector.
- 5) That the grantee shall pay the non-agricultural assessment in respect of the land @ the rate of Rs. \_\_\_\_\_/- per 100 sq. mtrs. per annum for the residential/ Commercial/Industrial purpose. The N. A. Assessment (N.A.A.) for the year \_\_\_ which works out to Rs. \_\_\_\_\_/-
- 6) That the N. A. rate mentioned in condition No.5 above, is guaranteed upto \_\_\_\_\_ and will be revised thereafter for further period.
- 7) As mentioned in condition No.6 above, the grantee shall on demand be liable to pay the amount of difference due to revision and fixation of standard rates of N. A. Assessments.

- 8) That the grantee shall pay the Conversion Tax as per the schedule, which is equal to five times of N. A. assessment, within 30 days from the date of issue of N. A. Order, failing which the N. A. Permission shall be liable to be cancelled.
- 9) In Addition to the above payment of N.A.A. & Conversion Tax, the grantee shall pay a sum Rs. \_\_\_\_\_ being a fine equivalent to \_\_\_\_\_ times of annual N.A.A. for unauthorisedly proceeding with the construction work before obtaining N. A. Permission.
- 10) That the grantee shall pay the measurement fees to the concerned City Survey Officer immediately and the area and assessment mentioned in the order and Sanad shall be liable to be altered in accordance with the actual area found on measuring the land by the concerned City Survey Officer.
- 11) That the grantee shall construct substantial building and/or other structure, if any, as per the approved plans on the land within a period of **three years** from the date of commencement of the N. A. use of the land, with due intimation to the competent authority. This period may be extended in discretion on fine/premium payment by the grantee as may be imposed as per the Government orders in force from time to time.
- 12) That the grantee shall be bound to execute a Sanad in the form prescribed as provided in Schedule VI appended to Maharashtra Land Revenue (Conversion of use of Land & N. A. Assessment) Rules, 1969 embodying therein all conditions of the order, whenever called upon to do so.
- 13) That if the grantee contravene any of the conditions mentioned in the Order and those in the Sanad, the Collector may, without prejudice to any other penalty to which grantee may be liable under the provisions of the Code, can allow to continue the said land/plot in the occupation of the grantee, on payment of such fine and assessment as may be directly by the Collector.
- 14) That notwithstanding anything contained in condition 13 above, it shall be lawful for the Collector, to direct the removal or alteration of any building or structure erected or used contrary to the provisions of this grant within such time as specified in that behalf by him, and if no such removal or alteration is not carried out by the grantee within the specified time, the Collector may cause the same to be carried out and recover the cost thereof from the grantee as an arrears of Land Revenue.

- 15) That the grant of the permission is subject to the provisions of any other laws and Rules for the time being in force and that may be applicable to the relevant other facts of the case i.e. the Urban Land (Ceiling and Regulation) Act-1976 etc.,
- 16) That the grantee shall plant minimum one tree per 100 sq. mtrs area of plot before the completion of the building on the said land and he shall take adequate care of proper and healthy growth of such trees.
- 17) That if there is deduction in plot area due to any set back/Road area, the N. A. A. will be reduced proportionately after handing over possession of such road area to the Municipality and subject to receiving such intimation there from.
- 18) That the grantee shall obtain prior permission for excavation & shall pay royalty to Government as per rules.
- 19) That the earlier N. A. Permission granted by \_\_\_\_\_ under No. \_\_\_\_\_ date \_\_\_\_\_ be treated as cancelled.
- 20) That the permission is granted at the risk of applicant/power of Attorney / Occupant as regards Title of the land in reference.
- 21) That the permission is granted presuming that the papers submitted by applicant are genuine and for the purpose grantee or attorney holder will be held liable & responsible.
- 22) That the N. A. Order is only for fiscal purposes and realization of N. A. A. will be when land has been put to Non agricultural use.

**Note:** *The Format Applications duly completed which are required to be submitted along with the N.A. application are provided hereafter :*

**FORMAT NO. - 1.**

**Affidavit Cum Indemnity Bond**  
(For Sub-Division / N. A. Permission)

I/We Shri /Smt. \_\_\_\_\_ Adult, Indian  
Inhabitant residing at \_\_\_\_\_ do  
hereby state and declare on solemn affirmation as under :-

- 1) That I/We have applied for Sub Division/Non Agriculture permission for S.No.\_\_\_\_ H. No. \_\_\_\_\_ / C.T.S.No.\_\_\_\_\_ of village \_\_\_\_\_ Taluka \_\_\_\_\_ in \_\_\_\_\_ District.
- 2) That I/We, am/are lawful Power of Attorney holder of below named owners as mentioned in 7/12, and /or PRC:-
  - i) \_\_\_\_\_
  - ii) \_\_\_\_\_
  - iii) \_\_\_\_\_
  - iv) \_\_\_\_\_
- 3) That there is no dispute in respect to the title of the property in reference and no litigation is pending in any Court of law, so far as ownership of property is concerned.
- 4) That the land does not have either tenancy or tribal rights. The present owner/s are non-tribal.
- 5) That the Land under consideration is not under any acquisition.
- 6) That the land is private and has been acquired under deed of conveyance/ assignment etc. In future, if it is revealed that the land under consideration is of Govt. Land, then I/We abide to pay unearned income of 50% to 75% as may be decided by the Govt.
- 7) I /We further state and declare that pursuant to grant of Sub Division/N.A. Permission by the Collector, any dispute claim and or interest with regard to ownership over the property in question, if rises or created by any third person, in that case, I/We undertake to settle the said dispute out and out and undertake to make such loss, claim etc., good, at our end and in that event, I/We indemnify and keep Govt. acting through Collector, indemnified to that effect.



Solemnly affirmed at \_\_\_\_\_

This \_\_\_\_\_ Day of \_\_\_\_\_ 200\_\_

**Name & Signature  
of Owner/POA.**

Before Me.

Name, Address, Date Seal & Signature  
of the Notary Public

*Note: i) Rs.200/- Non-Judicial Stamp should be used for above Affidavit –  
Cum-Indemnity Bond and same is required to be notarised by the  
Notary Public.*

**FORMAT NO.- 2.**

**OWNER'S AFFIDAVIT FOR N. A. PERMISSION  
UNDER ULC ACT 1976 (Stamp Paper of Requisite value duly notarised)**

To,  
The Collector  
Mumbai Suburban District,  
M.M.R.D.A.Bldg., Bandra (E),  
Mumbai – 400 051.

**Sub:** N. A. Permission for proposed development on plot bearing  
C.T.S.No./s. \_\_\_\_\_, Village  
\_\_\_\_\_, at \_\_\_\_\_

I, Shri/Smt. \_\_\_\_\_ Age \_\_\_\_\_, Indian  
inhabitant, residing at \_\_\_\_\_, do  
hereby solemnly affirm and declare as under:-

1. That I am the holder of plot bearing C.T.S.No. \_\_\_\_\_  
Village \_\_\_\_\_ Taluka \_\_\_\_\_ Mumbai Suburban District.

2. That I propose to construct a building over the aforesaid plot of land.
3. That the plans for the construction of a building over the said plot of land are approved by the Municipal Corporation vide approval issued under their order. NO.CE/ \_\_\_\_\_/ BP ES/WS Dated \_\_\_\_\_20
4. That the aforesaid plot of land is the only vacant land held by me in any of the Urban agglomerations covered under the Urban Land (Ceiling and Regulation) Act, 1976 and that the extent of that plot is 'Within the Ceiling Limit' on vacant land imposed by the said Act.
5. That I do not hold any other land or any other land with building with a dwelling units therein in any of the urban agglomerations covered under the said Act.
6. That in the event of the aforesaid plot of land being declared as excess by the Competent Authority under the Urban Land (Ceiling and Regulation) Act, 1976, I shall abide by the decision of the competent authority under the said Act.

SOLEMNLY AFFIRMED AT MUMBAI  
 DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 200

BEFORE ME.

SIGNATURE OF OWNER

Name, Address, Date Seal & Signature  
 of the Notary Public

*Note: i) To be submitted in original duly Notarised.*

*iii) This undertaking is now not relevant since UL(C&R) Act is now repealed.*

*iv)*

Cont..

FORMAT NO. - 3.

**APPLICATION FOR N. A. PERMISSION**

(Form of Application under Sub-Section (1) of Sec.44 of the Maharashtra Land Revenue) Code, 1966.

To,  
The Additional Collector,  
Mumbai Suburban District,  
Mumbai.

Rs. 10  
Adhesive Stamp

Sir,

I, \_\_\_\_\_ residing at \_\_\_\_\_  
\_\_\_\_\_ hereby apply for permission to  
use the land described below, which is-

- (a) Assessed or held for : agriculture/for the non-agricultural purpose \_\_\_\_\_.
- (b) Assessed or held for : the non-agricultural purpose of \_\_\_\_\_
- (c) Assessed or held for : the non-agricultural purpose of \_\_\_\_\_ or for the same purpose but in relaxation of conditions \_\_\_\_\_ imposed at the time of grant of permission for such non-agricultural use. The previous N. A. permission was granted vide Order No. \_\_\_\_\_ dated \_\_\_\_\_ for which copy is enclosed for \_\_\_\_\_.

2. Annexures to the:  
Application

(a) A certified copy of record of rights (7/12 abstract) & property Register Cards in respect of the land as it existed at the time of application.

(b) Layout of the site and building plans (5 copies) showing the location of the proposed building and area for which permission is sought and the nearest roads or means of access as approved by M.C.G.M. \_\_\_\_\_.

- (c) A certified copy of I.O.D. issued by M.C.G. M. \_\_\_\_\_
- (d) Written consent of the Superior Holder/ Co-owners/ Tenants .
- (e) No Objection Certificate under urban Land (Ceiling & Regulation) Act, 1976 in case total holding is above 500 sq. mtrs. or suitable affidavit that total holding does not exceed 500 sq. mtrs. in case of total holding below 500 sq. mtrs. in Format
- (f) Challan of measurement fees paid in the City Survey Office.
- (g) Certified Copy of Power of Attorney if application by Constituted Attorney.
- (h) Other documents as required .

3. I also furnish the following information.

- i) Name of the applicant :
- ii) Full Postal address :
- iii) Occupation :
- iv) Village, Taluka, District where the land is situated :

4. i) Survey No. of the land :
- ii) C.T.S. No. of the land :
- iii) Area of the site above, (Residential/Industrial/ proposed to be converted (Commercial any other Purpose:) : \_\_\_\_\_ sq.mtrs.)

5. Whether Sub-division of

- S.No./C.T.S.Nos. is approved? : Yes/ No
6. Whether Amalgamation of S. Nos./C.T.S.Nos. is approved? : Yes/ No.
7. Proposed use of land :
8. Whether the applicant is:-  
Superior holder or alienated land  
or occupation Class I or Class II or  
a tenant or a Government Lessee :
9. Present use of the land and whether  
any building is existing thereon and  
if so, its use. :
10. Whether the land is situated or  
included:-
- a) In Municipal Area :
- b) In City Surveyed area :
- c) In the notified Regional Plan,  
Development Plan or a Town  
Planning Scheme under the  
Maharashtra Regional and  
Town Planning Act, 1966. :
- d) In or near a Cantonment area :
- e) Near Airport or a Railway  
Station or a Railway line or Jail  
or Prison or Local or Burial  
Ground, if so, its approximate  
Distance there from. :
11. Whether electrical high transmission  
lines pass over the land & if so,  
what is the distance thereof from the  
proposed building or other works. :
12. Is the land is under acquisition, if so  
state details. :

13. Is there a road from where the land is easily accessible? State the name of the road & whether it is Highway, D. P. Road & what is the distance of the proposed building or other work from the centre of the road? :
14. If there is no road adjoining the land, how is its proposed to provide for access to the site? :
15. Was a similar application made in the past for non-agricultural use of this land & was it rejected? If yes, Why? :
16. Whether the land is situated within 500 m. from sea shore. :

I solemnly affirm that the information given above is true to the best of my knowledge and belief.

Place : Mumbai.

Date : \_\_\_ Day of \_\_\_\_\_ 20

(NAME & SIGNATURE OF APPLICANT)

Enclosed: As above and other documents attached if any.



## PROPERTY DISPUTES & LITIGATIONS

### CLASSIFICATION OF PROPERTY DISPUTES

As far as Real Estate transactions are concerned, for centuries together, major litigations are arising out of property disputes between family members, as well as between vendors and purchasers which can be generally classified as under:-

#### **A) Disputes arising out of defective title of the Property :-**

Main disputes in this category, are arising out of defective title to the property, wherein due to various encumbrances i.e. covenants, lien, charge, rights of third party etc. the marketability of the property is affected. For any real estate transaction either sale or purchase, the transaction can not be concluded unless the property is free from encumbrances and it holds clear and marketable title.

#### **B) Monetary Disputes between Vendors and Developer :-**

In this category, disputes are related to recovery of payments agreed under the Agreement to sale or assignment of Development Rights between Land Owner & Developer / Purchaser. The Land Owner (Vendor) as Plaintiff can approach to the appropriate Court by filing Suit for Specific Performance for recovery of payment from the Developer/purchaser when the Developer/purchaser refuse to pay or purposely delays the payments, payable as per Schedule of Payment agreed under the contract. Such Suits can be filed as per jurisdiction either in Hon'ble High Court or District courts, by paying appropriate court fees. The Plaintiff has to enclose copies of all the related and relevant documents duly certified as "True Copy" by his advocate, to the plaint with separate Exhibit numbers to each document upon which the Plaintiff is relied upon.

#### **C) Disputes between developer and Consumer:-**

Similarly in this case, if there is dispute between flat Purchaser & Developer, in respect to quality of construction or amenities not provided as per contract, the aggrieved party can approach to the 'Consumer Disputes Redressal Forum' for the relief or order from the Hon'ble Consumer Court; for claiming compensation etc. The short notes on Consumer Protection act, including guidelines are appearing in Chapter No. 17 of this hand book.

#### **D) Ownership Disputes between Co-owners and Beneficiaries :-**

Mainly such disputes arise out of family claim when the property is jointly owned by the co-owners. The legal beneficiaries can claim his right, title, interest and or possession in the disputed property. In case of sale of property jointly owned, all concerned co-owners and beneficiaries, if do not join and sign and execute the sale agreement, the transaction can not be concluded, satisfactorily, which may lead to long term litigations.

#### **E) Disputes arising out of Third Party claims/rights :-**

These are mainly arose by the intervention of Third Party who has legal interest in the property either by specific covenants, possession and or Right of access / way over their property etc. Therefore it is essential to call for objections of any from such interested third parties through Public Notice in the initial stage before entering in to agreement.

#### **F) Disputes between Landlords & Civic Authority for recovery of Taxes:**

In these category, mainly the Disputes are between Property Owner/s and Civic Authorities for recovery of Property Taxes, cesses, charges, Lease rents etc. Such disputes are entertained by the Hon'ble Small Causes Courts only.

#### **G) Public Interest Litigations (PIL):-**

In this category a citizen of India, can file a Suit against either State or Central Govt., Civic Authorities, and or any Statutory Authorities, challenging any specific policy, regulations etc., which applicant feels that, it is harmful in social and public interest.

#### **Notes: -**

- i) *The recent PILs' filed in the matter of use of T.D.R. in Gr. Mumbai, and policy of Redevelopment of cessed properties under section 33 (7) of DCR – 1991; for Gr. Mumbai are covered under this category.*
- ii) *It is therefore advised that to avoid unnecessary litigations at the later stage the party concerned should take advice of competent legal professional before proceeding in the matter.*

## COMMONLY USED LEGAL TERMS IN PROPERTY DISPUTES & LITIGATIONS: -

Following are some of commonly used terms, in various agreements, deeds, applications, documents etc. in connection with Real Estate transactions. It is necessary, that the parties involved in such transactions, atleast should be aware of the meanings of such terms for the purpose of clarity.

**Access, easement of:** An easement of access is the right which an abutting owner has of ingress to and egress from his premises, in addition to the public easement in the street.

**Accessory:** Anything which is joined to another thing as an ornament, or to render it more perfect, or which accompanies it, or is connected with it as an incident, or as subordinate to it, or which belongs to or with it.

**Acquisition:** The act of becoming the owner of certain property; the act by which one acquires or procures the property in anything.

**Acquittal/ Acquit:** To set free, release or discharge as from an obligation, burden or accusation. To absolve one from an obligation or a liability; or to legally certify the innocence of one charged with crime. A release, absolution, or discharge from an obligation, liability or engagement.

**Ad hoc:** For this; for this special purpose. An attorney ad hoc, or a guardian or curator ad hoc, is one appointed for a special purpose, generally to represent the client or infant in the particular action in which the appointment is made.

**Ad interim:** In the meantime. An officer as interim is one appointed to fill a temporary vacancy, or to discharge the duties of the office during the absence or temporary incapacity of its regular incumbent.

**Adjudge:** To pass on judicially, to decide, settle, or decree, or to sentence or condemn.

**Adjudicate/ Adjudication:** To settle in the exercise of judicial authority. To determine finally. The legal process of resolving a dispute. The formal giving or pronouncing a judgement or decree in a court proceeding; also the judgement or decision given. The entry of a decree by a court in respect to the parties in a case.

**Agreement-to-Sale:** This is initial contract between the Vendor (seller) and Purchaser, specifying the terms and conditions mutually agreed upon, for sale/purchase of any immovable property.

**Agreement of Leave and License:** This is a short-term contract (not more than 9 years) executed between "Licensor" & "Licensee" and is legally binding on both the parties. Under this contract the licensee is permitted to use the premises, fittings & fixtures provided therein against monthly compensation payable by the licensee to licensor.

**Agreement of Tenancy:** This is a contract executed between "Land Lord" & "Tenant" for use and occupation of the premises by the tenant against payment of monthly rent, which will remain valid and subsisting till the monthly rent is paid regularly to the land lord by the tenant.

**Appeal:** A complaint to a higher tribunal of an error or injustice committed by a lower tribunal, in which the error or injustice is sought to be corrected or reversed.

**Appellate:** Pertaining to or having cognizance of appeals and other proceedings for the judicial review of adjudications.

**Appellate Court:** A court having jurisdiction of appeal and review; a court to which causes are removable by appeal, certiorari, error or report.

**Appendix:** Supplementary materials added to appellate brief; e.g. record on appeal.

**Arbitration:** A process of dispute resolution in which a neutral third party (arbitrator) renders a decision after a hearing at which both parties have an opportunity to be heard.

**Affidavit:** A written or printed declaration or statement of facts, made voluntarily, and confirmed by the oath or affirmation of the party making it, taken before a person having authority to administer such oath or affirmation.

**Affirmation:** A solemn and formal declaration or asseveration that an affidavit is true, that the witness will tell the truth, etc; this being substituted for an oath in certain case.

**Attorney:** In the most general sense this term denotes an agent or substitute, or one who is appointed and authorised to act in the place or stead of another. An agent or one acting on behalf of another.

**Bail:** Monetary amount for or condition of pretrial release from custody, normally set by a judge at the initial appearance.

**Bailiff:** A court officer or attendant who has charge of a court session in the matter of keeping order, custody of the jury, and custody of prisoners while in the court. One to whom some authority, care, guardianship, or jurisdiction is delivered, committed, or intrusted.

**Bailable Offense:** One for which the prisoner may be admitted to bail.

**Bar Association:** An association of members of the legal profession.

**Bench:** A seat of judgement or tribunal for the administration of justice. The seat occupied by judge in courts.

**Beneficiare:** The person in whose favour a promissory note or bill of exchange is payable; or any person in whose favour a contract of any description is executed.

**Bona fide:** In or with good faith; honestly, openly, and sincerely; without deceit or fraud.

**Breach of Trust:** Any act done by a trustee contrary to the terms of his trust, or in excess of his authority and to the detriment of the trust; or the wrongful omission by a trustee of any act required of him by the terms of the trust.

**Cause of Action:** The fact or facts which give a person a right to judicial redress or relief against another. The legal effect of an occurrence in terms of redress to a party to the occurrence.

**Charge :** An incumbrance, lien, or claim; A person or thing committed to the care of another. The price of, or rate for, something.

**Charge Sheet:** A record kept at a police station to receive the names of the persons brought and given custody, the nature of the accusation, and the name of the accuser in each case.

**Claim:** To demand as one's own or as one's right; to assert; to urge; to insist. A cause of action. Means by or through which claimant obtains possession or enjoyment of privilege or thing. Demand for money or property as of right.

**Client:** An individual, corporation, trust, or estate that employs a professional to advise or assist it in the professional's line of work.

**Collateral:** Property pledged as security for satisfaction of debt. Collateral is additional security for performance of principal obligation or that which is by the side, and not in direct line.

**Conflicting Evidence:** Evidence offered by plaintiff and defendant, or prosecutor and defendant which is inconsistent and cannot be reconciled.



**Contempt of Court:** Any act which is calculated to embarrass, hinder, or obstruct court in administration of justice, or which is calculated to lessen its authority or its dignity, committed by a person who, being under courts' authority as a party to the proceedings, willfully disobeys its lawful orders or fails to comply with an undertaking he has given.

**Contract:** An agreement between two or more persons which creates an obligation to do or not to do a particular thing/s.

**Conveyance:** A transfer of title to land from a person, or class of persons to another, by deed; which included deed of assignment, free of any condition or qualification.

**Convict:** To find a person guilty of a criminal charge, either upon a criminal trial, a plea of guilty, or a plea of nolo contendere.

**Coram:** Before; in presence of. Applied to persons only.

**Consent Decree:** A judgement entered by consent or a decree entered in an equity suit on consent of both the parties.

**Covenant:** An agreement, convention, or promise of two or more parties, by deed in writing, signed and delivered, by which either of the parties pledges himself to the other that something is either done, or shall be done, or shall not be done, or stipulates for the truth of certain facts.

**Deal:** An arrangement to attain a desired result by a combination of interested parties; the prime object being usually the purchase, sale, or exchange of property for a profit.

**Declaration:** An unsworn statement or narration of facts made by the party to the transaction.

**Decree:** The judgement of a court of equity or chancery, answering for most purposes to the judgement of a court of law. A decree in equity is a sentence or order of the court, pronounced on hearing and understanding all the points in issue, and determining the rights of all the parties to the suit, according to equity and good conscience.

**Deed of Conveyance:** This is an instrument of absolute transfer of all rights, title and interest of "vendor" (seller) and all his heirs, nominees etc. in perpetuity in favour of "purchaser/s".

**Deed of Assignment:** This is an Indenture by which the property can be transferred to be held in trust, for the benefit of assignee/s and or creditors.



**Deed of Confirmation:** This is a legal document to be executed by and between the parties confirming any prior execution of agreement / document which could not be registered within specific time limit.

**Defamation:** An intentional false communication either published or publicly spoken, that injures another's reputation or good name.

**Default:** By its derivation, a failure. An omission of that which ought to be done.

**Defense:** That which is offered and alleged by the party proceeded against in an action or suit, as a reason in law or fact why the plaintiff should not recover or establish what he seeks.

**Defendant:** The person defending or denying; the party against whom relief or recovery is sought in an action or suit or the accused in a criminal case.

**Delinquent:** Person who has been guilty of some crime, offense, or failure of duty or obligation.

**Demised premises:** That property, or portion of a property which is leased to a tenant.

**Denounce:** To pronounce or condemn something as being evil or morally wrong.

**Depose:** To make a deposition; to give evidence in the shape of a deposition; to make statements which are written down and sworn to; to give testimony which is reduced to writing by a duly qualified officer and sworn to by the deponent.

**Deponent:** One who deposes (that is, testifies) to the truth of certain facts; one who gives under oath testimony which is reduced to writing; one who makes oath to a written statement.

**Direct Evidence:** Evidence in form of testimony from a witness who actually saw, heard or touched the subject of questioning.

**Direct examination:** The first interrogation or examination of a witness, on the merits, by the party on whose behalf he is called. The first examination of a witness upon a matter that is not within the scope of a previous examination of the witness.

**Documentary evidence:** Evidence derived from conventional symbols (such as letters) by which ideas are represented on material substances.

**Due process of law:** Law in its regular course of administration through courts of justice. A course of legal proceedings according to rules & principles which have been established in legal system.

**Easement:** A right of use over the property of another. Traditionally the permitted kinds of uses were limited, the most important being rights of way and rights concerning flowing waters or any other similar rights etc.

**Ejectment:** A common law, which lay for the recovery of the possession of land, and for damages for the unlawful detention of its possession.

**Equity:** Justice administered according to fairness as contrasted with the strictly formulated rules of common law.

**Escrow Account:** A bank account generally held in the name of the depositor and an escrow agent which is returnable to depositor or paid to third person on the fulfillment of escrow condition.

**Essence of the Contract:** Any condition or stipulation in a contract which is mutually understood and agreed by the parties to be of such vital importance that a sufficient performance of the contract cannot be had without exact compliance with it is said to be "of the essence of the contract."

**Evidence:** Any species of proof, or probative matter, legally presented at the trial of an issue, by the act of the parties and through the medium of witnesses, records, documents, exhibits, concrete objects, etc., for the purpose of inducing belief in the minds of the court or jury as to their contention.

**Exhibit:** A paper or document produced and exhibited to a court during a trial or hearing, and which, on being accepted, is marked for identification and annexed to the deposition, report, or other principal document, or filed or record, or otherwise made a part of the case.

**Ex parte:** On one side only; by or for one party; done for; in behalf of, or on the application of, one party only.

**Fair Market Value:** The amount at which property would change hands between a willing buyer and a willing seller, neither under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts.

**Forum:** A court of justice, or judicial tribunal; a place of jurisdiction; a place of litigation; an administrative body.

**Fraudulent:** Based on fraud; proceeding from or characterized by fraud; tainted by fraud; done, made, or effected with a purpose or design to carry out a fraud.

- Freehold:** An estate for life or in fee. A "freehold estate" is a right of title to land and held by free tenure.
- Frivolous:** Of little weight or importance. A pleading is "frivolous" when it is clearly insufficient on its face, and does not controvert the material points of the opposite pleading, and is presumably interposed for mere purposes of delay or to embarrass the opponent.
- Gift:** A voluntary transfer of property to another made gratuitously and without consideration.
- Guaranty:** A collateral arrangement or a contract for performance of undertaking.
- Hearsay:** A term applied to that species of testimony given by a witness who relates, not what he knows personally, but what others have told him, or what he has heard said by others.
- Homicide:** The killing of one human being by the act, procurement, or omission of another. A person is guilty of criminal homicide if he purposely, knowingly, recklessly or negligently causes the death of another human being.
- Hostile:** Having the character of an enemy; standing in the relation of an enemy feeling or displaying enmity or antagonism such as a hostile witness.
- Hypothecation:** A mortgage on real property; the right vested in a creditor by the assignment to him of real estate as security for the payment of his debt, whether or not it be accomplished by possession.
- Immunity:** Exemption, as from serving in an office, or performing duties which the law generally requires other citizens to perform; e.g. exemption from paying taxes.
- Impound:** To seize and take into the custody of the law or of a court.
- Indemnity Bond:** An undertaking given by an obligor to reimburse an obligee for any loss suffered due to the conduct of the obligor or a third person.
- Indenture:** In real estate conveyanceing, a deed to which two or more persons are parties and in which these enter in to reciprocal and corresponding grants or obligations towards each other.
- Indictment:** An accusation in writing found and presented by a grand jury, legally convoked and sworn, to the court in which it is impaneled, charging that a person therein named has done some act, or been guilty of some omission, which by law is a public offense, punishable on indictment.

**Index No.: II:** This is an extract issued by the Registrar / Sub-registrar in a format for the documents registered with their department; as an official confirmation of recording the transaction / document in their records.

**Infringement:** A breaking into; a trespass or encroachment upon; a violation of a law, regulation, contract, or right.

**Inter alia:** Among other things. A term anciently used in pleading, especially in reciting statutes, where the whole statute was not set forth at length.

**Interim Order:** One made in the meantime, and until something is done.

**Intervention:** The procedure by which a third person, not originally a party to the suit, but claiming an interest in the subject matter, comes into the case, in order to protect his right or interpose his claim.

**Joint Venture:** A legal entity in the nature of a partnership engaged in the joint undertaking of particular transaction for mutual profit.

**Judicature:** A power of dispensing justice by legal trial.

**Judicial inquiry:** Such inquiry investigates, declares, and enforces liabilities as they stand on present or past facts and under laws supposed already to exist.

**Landmark decision/judgment:** A decision of the Supreme Court that significantly changes existing law.

**Lease Deed:** It is also a contract by which one conveys real estate equipment or facilities for a specified term and for specified rent; duly executed between the "Lessor" & "Lessee" and legally binding on both the parties for the lease period.

**Legal Title:** One cognizable or enforceable in a court of law, or one which is complete and perfect so far as regards the apparent right of ownership and possession.

**Lis Pendens:** A pending suit. Jurisdiction, power, or control which courts acquire over property in litigation pending action and until final judgment.

**Marketable Title:** A title to the property which is free from encumbrances and any reasonable doubt as to its validity, and which readily can be sold or mortgaged.

**Mesne Profits:** Intermediate profits; i.e., profits which have been accruing between two given periods.

**Modus operandi:** Method of operating or doing things (M.O.). Term used by police and criminal investigators to describe the particular method of a criminal's activity.

**Notice of Motion:** A notice in writing, entitled in a cause, stating that on a certain day designated, a motion will be made to the court for the purpose or object stated. Such notice is required to be served upon all the parties concerned.

**Null and void:** Naught; of no validity or effect. Usually coupled with the word "void"; as "null and void" The words "null and void", when used in a contract or statute are often construed as meaning "voidable."

**Operative part:** That part of a conveyance or of any instrument intended for the creation or transference of rights, by which the main object of the instrument is carried into effect.

**Original Jurisdiction:** Jurisdiction to consider a case in the first instance. Jurisdiction of court to take cognizance of a cause at its inception, try it, and pass judgment upon the law and facts.

**Out- of- Court settlement:** A case which is compromised, settled and withdrawn by mutual consent/ agreement of the parties privately, without being referred to the Court.

**Petition:** A supplication or a prayer or a written application made to the court of law.

**Plaint:** In civil law, a complaint; a form of action, particularly one for setting aside a testament alleged to be invalid.

**Plaintiff:** A person who brings an action; the party who complains or sues in a civil action and is so named on the record.

**Power of Attorney:** An instrument in writing whereby one person, as principal, appoints another as his agent and confers authority to perform certain specified acts or kinds of acts on behalf of principal.

**Prima Facie:** At first sight; on the first appearance; on the face of it; so far as can be judged from the first disclosure; presumably; a fact presumed to be true unless disproved by some evidence to the contrary.



**Probate:** Court procedure by which a will is proved to be valid or invalid; though in current usage this term has been expanded to generally refer to the legal process wherein the estate of a defendant is administered.

**Reciprocal Contract:** A contract, the parties to which enter into engagements. A mutual or bilateral contract.

**Remand:** To send back. The act of an appellate court when it sends a case back to the trial court and orders the trial court to conduct limited new hearings or an entirely new trial, or to take some other further action.

**Reparation:** Payment for an injury or damage; redress for a wrong done.

**Repugnancy:** An inconsistency, opposition, or contrariety between two or more clauses of the same deed, contract or statute, or between two or more material allegations of the same pleading, or any two writings.

**Respondent:** In equity practice, the party who makes an answer to a bill or other proceeding in equity.

**Restraining order:** An order in the nature of an injunction which may issue upon filing of an application for an injunction forbidding the defendant from doing the threatened act until a hearing on the application can be had.

**Rider:** A schedule or small piece of paper reflecting an amendment, addition or endorsement annexed to some part of a contract, document, or record.

**Right of Entry:** The right of taking or resuming possession of land by entering on it in a peaceable manner.

**Right of way:** Term used to describe a right belonging to a party to pass over land of another.

**Royalty:** Compensation for the use of property, usually copyright material or natural resources, expressed as a percentage of receipts from using the property or as an account per unit produced.

**Sealed and delivered:** These words, followed by the signatures of the witnesses, constituted the usual formula for the attestation of conveyances.

**Summon:** To serve a summons; to cite a defendant to appear in court to answer a suit which has been begun against him; to notify the defendant that an action has been instituted against him, and that he is required to answer to it at a time and place named.



**Specific Performance:** The remedy of requiring exact performance of a contract in the specific form in which it was made, or according to the precise terms agreed upon.

**Tenure:** Generally, tenure is a right, term, or mode of holding or occupying.

**Testimony:** A formal statement, evidence or proof one given in the court of Law.

**Testament:** A person's will or evidence or proof of facts or events.

**Third Party:** One not a party to an agreement, a transaction, or an action but who may have rights therein.

**Title:** The formal right of ownership of property. Title is the means whereby the owner of lands has the just possession of his property.

**Title deeds:** Deeds which constitute or are the evidence of title to lands.

**Trespass:** An unlawful interference with one's person, property, or rights.

**Undertaking:** A promise, engagement, or stipulation. An engagement by one of the parties to a contract to the other, as distinguished from the mutual engagement of the parties to each other.

**Valid Contract:** A contract in which all of the elements of a contract are present and, therefore, enforceable at law by the parties. A properly constituted contract having legal force.

**Vendor:** The person who transfers property by sale.

**Vendor's Lien:** A creature of equity, being a lien impliedly belonging to a vendor for the unpaid purchase price of land, where he has not taken any other lien or security beyond the personal obligation of the purchaser.

**Vested Interest:** A present right or title to a thing, which carries with it an existing right of alienation, even though the right to possession or enjoyment may be postponed to some uncertain time in the future, as distinguished from a future right, which may never materialize or ripen into title, and it matters not how long or for what length of time the future possession or right of enjoyment may be postponed, if the present right exists to alienate and pass title.

**Void Contract:** A contract that does not exist at law; a contract having no legal force or binding effect.

**Will:** Wish; desire; pleasure; inclination; choice; the faculty of conscious, and especially of deliberate, action. When a person expresses his "will" that a particular disposition be made of his property, his words are words of command, and the word "will" as so used is mandatory, comprehensive, and dispositive in nature.

**Without Prejudice:** Where an offer or admission is made "without prejudice", or a motion is denied or a suit dismissed "without prejudice", it is meant as a declaration that no rights or privileges of the party concerned are to be considered as thereby waived or lost except in so far as may be expressly conceded or decided.

**Written Statement:** A legal written statement submitted to court of law by the Plaintiff and/or Defendant.

**Writ:** A legal or formal written document by which one is summoned or required to do something.

## MEASUREMENTS & CONVERSION TABLES

During British regime, entire land of India was physically surveyed, measured and City & Village plans were prepared and made available to public. This valuable original old record, is still preserved in the office of the Surveyor General of India at Kolkata. It is necessary that one must be acquainted with measurements & conversions of various units commonly used in real estate transactions. Originally they were based on British unit system. Now Metric unit system is in use. Since old documents contain measurements in British unit system, it is felt necessary to give adequate information on its conversions from British unit system to Metric unit system for guidance.

### CONVERSION TABLE

BRITISH UNITS	METRIC UNITS
<b>A. (LENGTH MEASUREMENTS)</b>	<b>(LENGTH MEASUREMENTS)</b>
12 Inches = 1 Foot	1 Foot = 0.3048 Mtr.
3 Feet = 1 Yard	3.28 Feet = 1 Meter
220 Yards = 1 Furlong	1.09 Yards = 1 Meter
8 Furlongs = 1 Mile	1 Yard = 0.91 Meter
	1 Mile = 1.61 Kilometer
<b>B. (SQUARE MEASUREMENTS)</b>	<b>(SQUARE MEASUREMENTS)</b>
121 Sq. Yards = 1 Guntha	10.764 Sq. Feet = 1 Sq. Meter
40 Gunthas = 1 Acre	1 Sq. Yard = 0.836 Sq.mtr.
144 Sq. Inches = 1 Sq.ft.	1.20 Sq. Yards = 1 Sq. Meter
9 Sq. Foot = 1 Sq.Yds.	4840 Sq. Yards = 4046.86 Sq. mtr
4840 Sq. Yards = 1 Acre	2.471 Acres = 1 Hectar
640 Sq. Acres = 1 Sq.mile	
1 Acre = 4046.86 Sq.Mtr	1 Ares = 100 Sq.Mtr
1 Guntha = 101.17 Sq. Mtr	100 Ares = 1 Hectare
1 Bigha = 1600.00 Sq.Mtrs	10000 Sq. Meters = 1 Hectare
1 Acre = 2.53 Bighas	1 Hectare = 2.47 Acres
	1 Hectare = 6.25 Bighas

## STAMP DUTY AND ADJUDICATION OF DOCUMENTS

### 1) STAMP DUTY

As per the provisions of Bombay Stamp Act 1958 and its subsequent clarifications & guide lines, it is mandatory for a purchaser / seller to register the document of any real estate transaction i.e. agreement to sale, conveyance, power of attorney etc. by paying adequate stamp duty to the Govt.

The working of Stamp Duty and Registration Charges are based on the following:-

- i) The Stamp Duty is charged and payable on Market Value as per Rates prescribed in Ready Reckoner published by the Govt. from time to time or as per agreement value whichever is higher.
- ii) The amount of Stamp Duty is exclusive of Registration Fees.
- iii) For Commercial & Industrial premises i.e. Shop/ Industrial unit/Basement the rates of Stamp Duty is 5% (Five percent) of the market value or agreement value which ever is higher.
- iv) The Registration Fees is 1% (One percent) of the Market Value or Agreement Value, which ever is higher, subject to Maximum of Rs. 30,000/- w.e.f. 01.04.2003.

The rates of fair market value for Gr. Mumbai are published by the office of the Dy. Inspector General of Registration & Dy. Controller of Stamps Mumbai, at the end of each year, applicable for next year following month of January there from; and are valid for a period ONE year. The list of zone wise market value rates together with zonal plans are available/displayed in the office of Sub-registrar of assurances, for the information of public.

## 2) WHICH DOCUMENTS/INSTRUMENTS ATTRACT STAMP DUTY?

Any Document by which any right or liability of either of the party is exchanged, transferred, expanded/extended, limited attracts the stamp duty; which includes: -

- a) Agreement to Sell
- b) Deed of conveyance & Deed of assignment.
- c) Lease Deed
- d) Deed of Exchange
- e) Mortgage Deed
- f) Deed of Partition
- g) Power of Attorney (with or without consideration)
- h) Gift Deed
- i) Transfer of property by Court Order / Decree.
- j) Agreement of Leave & License.
- k) Agreement of Tenancy for Residential & Commercial Premises.
- l) Transfer of property by Court Order / Decree.
- m) Agreement of Leave & License.
- n) Agreement of Tenancy for Residential & Commercial Premises.
- o) Development Agreement
- p) All Transfer Documents

## 3) WHERE STAMP DUTY IS NOT APPLICABLE?

Following documents are exempted from the payment of stamp duty:

- a) Any document by which the rights are transferred by will.
- b) Transfer of rights by NOMINATION in registered co-op. Hsg. societies.
- c) Bill of exchange, Letter of Credit, Cheque, Promissory Note, Insurance Policy, Transfer Shares & Debentures.

#### 4) TABLE OF STAMP DUTY RATES FOR RESIDENTIAL PREMISES

Ready Reckoner of stamp duty payable under Article 25 (d) of Schedule 1 of the Bombay Stamp Act 1958 relating to residential premises in Mumbai, in a co-operative housing society registered or deemed to have been registered under the Maharashtra Co-operative Society Act 1960 or to which provisions of the Maharashtra Ownership Flats (Regulation of Promotion of Construction, Sale, Management and Transfer Act, 1963, or the provisions of the Maharashtra Apartment Ownership Act 1970, whatever is applicable. The Stamp Duty for residential premises, is comparatively lesser than the non-residential premises; which is determined on the slabwise value of the premises; as shown in Table No.1, appearing hereafter.

#### STAMP DUTY RATES OF RESIDENTIAL (OWNERSHIP) FLATS

For residential flats in the limits of Greater Mumbai to which the provisions of the Maharashtra Ownership Flats Act – 1963 & or the Maharashtra Apartment Ownership Act – 1970 are applicable, it is mandatory to pay the Stamp Duty & Registration charges and to register such Sale-Purchase Document with the concerned Sub-Registrar of Assurances. Following Table will show the Stamp Duty payable for **Residential Flats** related to the Market value stated in the Ready Reckoner from time to time:

TABLE – I

Sr. No.	Market Value of Ownership Flat	Stamp Duty payable thereof
1	Value upto Rs. 2,50,000.00	Rs. 100.00
2	Value between Rs. 2,50,001.00 to 5,00,000.00	Rs. 100 + 3% of the value above Rs. 2,50,000.00
3	Value of Rs. 5,00,000.00	Rs. 7600.00
4	Value above Rs. 5,00,000.00	Rs. 7600 + 5% of the value above Rs. 5,00,000.00

*Note : Stamp Duty for Non-Residential property is straight away 5% of the Market Value described in the Ready Reckoner.*



## 5) **PERCENTAGE OF STAMP DUTY FOR DIFFERENT USERS**

The Stamp duty is generally 10% (Ten) of the fair market value of the property determined by the stamp duty officer, based on the rates decided & published by the State Govt. from time to time. More details are as under:-

### i) **Residential Premises Flats/House:**

Residential premises mean any premises used and occupied for the living purpose such as house, bungalow, dwelling unit, flat etc., either under construction or ready for occupation. It can be seen from the above table that the Stamp duty for residential premises works out to less than 10%.

### ii) **Commercial Premises:**

Generally commercial premises are: i) Offices ii) Shops iii) Places of Trading & Mercantile etc. or any such premises of non-residential use. The stamp duty for such commercial premises is straight way 5% (Five percent) of fair market value rates as published by the Govt., without any concession or relief whatsoever.

### iii) **Industrial Premises:**

Factory units, galas in industrial estate, godowns & storage units where manufacturing or storage activities are permitted or premises are to be used for the said purpose are covered under this category. The stamp duty is 5% (Five percent) straight away, of fair market value as decided by Govt., applicable to the respective local zone, without any relief.

*Note : For Multi-storied Residential & Commercial buildings except for first 5 Floors Stamp duty will be increased for every block of 5 floors thereon at the rate of 5%.*

## 6) **VALUATION OF PROPERTY FOR ADJUDICATION:**

Generally the purchaser / seller pays 10% (Ten) stamp duty on the value incorporated in the document of transaction; and lodge the document for registration, which some time might be less than the fair market value; resulting loss of revenue to the Govt.

The State govt. has created separate cell for valuation of property for the payment of Stamp duty. The officer of "valuation cell" is known as "Town planner (Stamp duty & valuation)" who is empowered under section 32 (a) of Bombay Stamp Act 1958 to evaluate & determine the fair market value of the registered documents.

If the officer feels that the transaction is under valued and thereby party has paid less stamp duty he can issue a show cause notice to the purchaser, informing the under valuation and call upon the party to pay the difference between the Stamp duty payable as per fair market value decided and actual stamp duty paid. Such difference is recovered by charging penalty at the rate of 2% per month from the date of registration / execution of documents.

To avoid unnecessary harassment it is advisable to get the documents adjudicated from the concerned adjudicating authority appointed by the State Govt.

## 7) ADJUDICATION OF DOCUMENT

For the convenience of public State Govt. has appointed Adjudicating Authority. The party concern can get advance information of valuation and payment of adequate stamp duty before execution of the document; by getting their document adjudicated from the Collector of Stamps who determines the stamp duty payment which will be payable at the time of execution of the instrument.

### **Process of Adjudication:**

- i) The party concerned can make such application to the Collector of Stamps along with original & 2 Xerox copies of unsigned document, Form No. II, in the form of affidavit duly notarized and adjudication fees of Rs.50/-. The Collector of stamps works out stamp duty and returns the document with due endorsement.
- ii) Validity of unsigned adjudicated document is up to 31<sup>st</sup> December of that respective year only, within which the document should be registered with payment of adequate stamp duty.
- iii) In the event of document signed before adjudication, it must be adjudicated within ONE month, from the date of signing the documents, other wise it will attract 2% interest per month by way of penalty.

**8) ADJUDICATION AUTHORITIES:**

The document can be adjudicated by either of the following authorities appointed by the State Govt.

- i) **Dy. Inspector General of Registration (DIG) of Mumbai**  
Old Custom House, 3<sup>rd</sup> Floor, Shahid Bhagat Singh Marge, Near Hornimal Circle, Mumbai – 400 023.  
Tel : 22665170, 22630742
- ii) **The Addl. Collector of Stamps (Enforcement-1 & 2 for Mumbai)**  
General Stamp Office, Town Hall Building, Ground Floor, Shahid Bhagatsingh Marg, Near Horniman Circle, Mumbai – 400 023.  
Tel : 22656904, 22664585.

**9) STAMP DUTY PAYMENTS & FRANKING CENTRES:-**

For the public convenience many Banks are now authorised to accept the Stamp Duty Payment and franking the documents at various centres throughout Gr. Mumbai.

*Note :The State Government has recently announced that the payment of Stamp Duty can be now paid online.*

**10) REBATES (DEPRECIATION) PERMISSIBLE FOR STAMP DUTY PAYMENTS:**

As per the provisions of Stamp Act, the party is entitled for rebate/depreciation in payment of Stamp duty for OLD premises; constructed prior to 5 years or more. Property under construction or constructed within last 5 years are not entitled for any rebate or concessions whatsoever. Following table will show the rebate (depreciation) permissible in terms of percentage related to the age of the premises – buildings, as in force at present:

**TABLE – II**

COMPLETED AGE OF BUILDING IN YEARS		VALUE IN PERCENTAGE AFTER DEPRECIATION FOR R. C. C./PUCCA STRUCTURES	PERCENTAGE OF DEPRICIATION
Between	0 to 2 YEARS	100%	NIL
	2 to 5 YEARS	95%	5%
	5 to 10 YEARS	90%	10%
	10 to 20 YEARS	80%	20%
	20 to 30 YEARS	70%	30%
	30 to 40 YEARS	60%	40%
	40 to 50 YEARS	50%	50%
	50 to 60 YEARS	40%	60%
	Above 60 YEARS	30%	70%

**11) AREA OF PREMISES CONSIDERED FOR STAMP DUTY CALCULATIONS:**

The Stamp duty is payable on net BUILT-UP AREA only, and not on Carpet area or Super built-up area.

When only carpet area or super built-up area is mentioned in the agreement, built-up area for stamp duty is calculated as per following method: -

Formula :- Carpet area + (plus) 20% of Carpet area = Built-up Area.

## REGISTRATION OF DOCUMENTS

Except the documents/instruments mentioned in item No. 3 in Part - I above, it is compulsory to register the document with registrar/sub-registrar of the zone, under Indian Registration Act 1908; without which title of the immovable property can not be transferred.

### 1) REGISTRATION CHARGES:

Registration charges are minimum ONE percent (1%) of fair market value of property determined by the Collector of Stamps or maximum Rs.30,000/- (Rs. Thirty Thousand Only), which ever is less.

### 2) PROCESS OF REGISTRATION:

For registration purpose both the parties (Transferor & Transferee) has to attend the office of registrar / sub-registrar of the zone; and has to sign the registration endorsement on the original document before the registration authority.

For any reasons both the parties could not attend at a time, the purchaser / transferee can lodge the documents with the registration authority and complete the process. However the other party has to attend the office of registering authority within 4 (Four) months from the date of lodging of such documents, and has to sign the registration endorsement before the registrar / sub-registrar. It is advisable that both the parties should attend registration at-a-time, for convenience of all concerned.

### 3) PREPARATION OF DOCUMENT FOR REGISTRATION

The Original agreement/document must be printed or typed preferably on one side of 90 GSM either on plain or ledger paper. Thin butter paper should be provided between two pages, when document is printed or typed on both the sides of the paper. This service is available at registration office.

**4) CHECK-LIST OF DOCUMENTS REQUIRED FOR REGISTRATION OF DOCUMENTS:**

- a) ORIGINAL Document duly franked – Stamp duty paid along with certified copy of Power of Attorney wherever required and the relevant Annexures mentioned in the document.
- b) Passport, election card, identity card or such proof for identification and PAN Cards of the parties attending registration.
- c) Demand Draft of Registration fees in favour of Sub-Registrar concerned
- d) Two witnesses with identification proof i.e. PAN Card etc.
- e) Clearance / NOC from the competent authority under section 20, 26 or 27 under Urban land (C & R) Act, 1976, wherever required.
- f) No Objection Certificate from appropriate tax authority in Form No.37-I, in case market value of immovable property exceeds Rs.75,00,000/- in Gr. Mumbai limits.

*Notes : i) The earlier requirement of Income Tax clearance Certificate under section 230A of Income Tax Act is now deleted as per Finance Act 2001, which has come in to effect from 1<sup>st</sup> June 2001.*

**5) IMPORTANT QUESTIONS & ANSWERS:-**

**Q. WHO SHOULD PAY STAMP DUTY AND IN WHOSE NAME STAMP SHOULD BE PURCHASED?**

- A.** Unless specifically mentioned in the document, as per section 30 of the Bombay Stamp Act, the stamp duty is to be paid by the Purchaser. The stamp / paper must be purchased in either name of the parties executing the document. As per section 34 of the Bombay Stamp Act. If the stamp paper is purchased in the name of advocate or constituted attorney such document shall be treated as not duly stamped & inadmissible in evidence.



**Q. IN CASE OF TRANSFER OF TENANTED PROPERTY HOW THE VALUATION IS MADE?**

**A.** The Stamp authority, in such cases will value, the property at 108 months total rent plus construction cost or the agreement value which ever is higher.

**Q. WHAT IS THE ADVANTAGE OF STAMP DUTY PAYMENT AND REGISTRATION OF DOCUMENT?**

**A.** The payment of proper stamp duty & registration of document there of bestows legality to the instrument, and are admitted in evidence in court of law; and not otherwise.

**Q. WHETHER STAMP DUTY CAN BE PAID IN INSTALMENTS?**

**A.** The stamp duty should be paid in ONE installment.

**RATES OF STAMP DUTY AND REGISTRATION FEES  
AND REGISTRATION OFFICES IN GR. MUMBAI**

Type of Documents	Stamp Duty	Registration Fees
<b>Conveyance Deed</b> <b>Sale Deed,</b> <b>Agreement for sale</b>	As per Article 25 of Schedule I of The Bombay Stamp Act, 1958. i) For Non-residential property like Shop/Office/Industrial Unit etc. a& Land, Stamp Duty is 5% of Market Value under Article 25(b).  ii) For Residential flats in a co-operative housing society and buildings covered under Article 25(d), rates depends on it's market value, and are as follows: Upto Rs. 2,50,000/- Stamp Duty is Rs.100/- Between Rs. 2,50,001 to 5,00,000/- Stamp Duty is Rs. 100/- + 3% of the value above Rs. 2,50,000/- Above Rs. 5,00,000/- Stamp Duty is Rs. 7,600/- + 5% of the value above Rs. 5,00,000/-	1% of Market Value or Rs. 30,000/- which ever is less

<b>Leave &amp; Licence Agreement</b> w.e.f. <b>12-04-2010</b>			Stamp Duty is charged as per the following Table based on Annual Average Rent / Compensation as described below				Rs. 1000/- minimum or mentioned below  Registration is compulsory	
License Period	Annual Rent Upto Rs. 2,50,000		Annual Rent Rs. 2,50,001 to Rs. 5,00,000		Annual Rent Rs. 5,00,001 to Rs. 20,00,000		Annual Rent Rs. 20,00,001 & Above	
	Resi.	Non-Resi.	Resi.	Non-Resi.	Resi.	Non-Resi.	Resi.	Non-Resi.
	Rupees		Rupees		Rupees		Rupees	
0-12 Months	600	1200	1200	2400	2000	4000	5000	10000
13-24 Months	1200	2400	2400	4800	4000	8000	10000	20000
25-36 Months	1800	3600	3600	7200	6000	12000	15000	30000
37-48 Months	2400	4800	4800	9600	8000	16000	20000	40000
49-60 Months	3000	6000	6000	12000	10000	20000	25000	50000
AAR* : Annual Average Rent means Average Rent for a period of 12 months, irrespective of period of leave & license, and includes any Advance rent paid or to be paid and further includes any deposit made or to be made, with or without any interest. (Calculation of AAR is same whether licence period is for 1 month or for 60 months)								

<b>Lease Deed</b>	As per Article 36 of Schedule I of The Bombay Stamp Act, 1958, read with Article 25.  (i) If the lease is for a period upto five years then the same duty is as per conveyance under article 25, on <b>10 per cent</b> of the market value of the property.	1% of Market Value or Rs.30,000/- whichever is less.
<b>Power of Attorney</b>	As per Article 48 of Schedule I of The Bombay Stamp Act, 1958, read with Article 25 & Article 5 (g-a). (A) General or Specific Power of attorney given to execute or authorise one or more transactions without any consideration or money received, Stamp Duty is Rs. 100/- for each person authorised. (B) Power of attorney given for consideration or money received to execute or authorise selling of an immovable property. Stamp Duty is same as on Conveyance deed as per Article 25. (C) Power of attorney given to promoter or developer for construction, development or sale or transfer of any immovable property, Stamp Duty is 1% of Market value of the Property as per Article 5 (g-a)	i) Fees for Attestation Rs. 25/-  (ii) Fees for Registration of General or Specific Power of Attorney Rs.100/-  (iii) Fees for other types of Power of Attorney is 1% of Market Value or Rs.30,000/- whichever is less.
<b>Type of Documents</b>	<b>Stamp Duty</b>	<b>Registration Fees</b>
<b>Transfer of Development Rights (TDR)</b>	Stamp Duty is 3% of the value of Transaction.	Registration is not compulsory.

<b>Affidavit, Declaration</b>	Stamp Duty Rs.100/- as per Article 4 Schedule I of The Bombay Stamp Act, 1958. No Stamp Duty for affidavit or declaration made for any purpose to be filed or used before any Government Authority or in Court or before the officer of any Court, as per Govt. Notification dt. 01.07.2004	Registration Fees is Rs.100/-. However Registration is not compulsory, unless insisted.
<b>Agreement for Loan Guarantee in Favour of the Bank. Counter Guarantee in Favour of the Bank.</b>	Stamp Duty is Rs.100/- as per Article 5(h) of Schedule I of The Bombay Stamp At, 1958.	Registration is not compulsory unless insisted.
<b>Indemnity Bond</b>	Stamp Duty is Rs.200/- as per Article 35 of Schedule I of The Bombay Stamp Act, 1958.	Registration Fees Rs.100/-. However Registration is not compulsory if notarised.
<b>Indemnity Bond</b>	Stamp Duty is Rs.200/- as per Article 35 of Schedule I of The Bombay Stamp Act, 1958.	Registration Fees Rs.100/-. However Registration is not compulsory if notarised.
<b>Undertaking</b>	<ul style="list-style-type: none"> <li>i) General without any consideration, Stamp Duty is Rs.100/-</li> <li>iii) Undertaking with consideration, Stamp Duty is 1 % of the value of consideration</li> </ul>	<ul style="list-style-type: none"> <li>i) Registration Fees Rs. 100/-</li> <li>ii) 1% or Rs. 30,000/- whichever is less.</li> </ul>

<b>Housing Loan</b>	As per Article 6 of Schedule I of The Bombay Stamp Act, 1958, If loan amount does not exceed Rs. 5,00,000 stamp duty is 0.1% of loan amount subject to minimum Rs. 100. If loan amount exceed Rs. 5,00,000 the stamp duty will be 0.2% of loan amount (maximum no limit)	1% of loan secured or Rs. 30,000/- whichever is less.  Registration is not compulsory, unless insisted.
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*Note: Above information is for general guidance only. Since there are often changes in the policy it is advisable to cross check all the figures from the concerned Registration office*

### AREA WISE REGISTRATION OFFICES IN GR. MUMBAI

<b>MUMBAI CITY DISTRICT (ISLAND CITY)</b>	
<b>Designation and Office addresses</b>	<b>Division of Mumbai City District</b>
<b>Joint Sub-registrar of Assurance, Mumbai City – 1</b> Ground Floor, Old Custom House, Shahid Bhagat Singh Road, Fort, Mumbai 400023. Tel.: 2263 4001. <b>BBE-1</b>	Bhuleshwar, Byculla, Colaba, Dadar-Naigaum, Dharavi, Fort, Girgaum, Lower Parel, Mahim, Malabar Hill and Khambala Hill, Mandvi, Matunga, Mazgaon, Parel-Sewri, Princess Dock, Salt Pan, Sion, Tardeo, Worli.
<b>Joint Sub-registrar of Assurance, Mumbai City – 2</b> Ground Floor, Old Custom House, Shahid Bhagat Singh Road, Fort, Mumbai 400023. Tel. 2261 3878 <b>BBE-2</b>	
<b>Joint Sub-Registrar of Assurance, Mumbai City – 3</b> Ground Floor, Old Custom House, Shahid Bhagat Singh Road, Fort, Mumbai 400023. Tel. 2264 1985 <b>BBE-3</b>	

**MUMBAI SUBURBAN DISTRICT (WESTERN SUBURBS)****Joint Sub-registrar of Assurance,****Andheri Taluka – 1,**

Family Court Bldg, Gr. Flr.,  
Opp. MHADA Building,  
Bandra Kurla Complex, Bandra (East),  
Mumbai 400 051. Tel.: 2659 2019

**BDR-1****Joint Sub-registrar of Assurance,****Andheri Taluka – 2,**

Family Court Bldg, Gr. Flr.,  
Opp. MMRDA Building,  
Bandra Kurla Complex, Bandra (East),  
Mumbai 400 051. Tel.: 2659 0920.

**BDR-4****Joint Sub-registrar of Assurance,****Andheri Taluka – 3,**

Family Court Bldg, Gr. Flr.,  
Bandra Kurla Complex,  
Bandra (East), Mumbai 400 051.  
Tel.: 2659 2836.

**BDR-9****Joint Sub-registrar of Assurance,****Andheri Taluka – 4,**

Family Court Bldg, Gr. Flr.,  
Opp. MMRDA Building,  
Bandra Kurla Complex,  
Bandra (East), Mumbai 400 051.  
Tel.: 2659 2907

**BDR-15****Joint Sub-registrar of Assurance,****Borivali Taluka – 1,**

Gr. Floor, Shree Shreemal House,  
Jain Mandir Road, Off. Aarey Road,  
Goregaon (West), Mumbai 400 062.  
Tel.: 2877 4683

**BDR-12****Villages of Andheri Taluka.**

Ambivali,  
Andheri,  
Bandivli,  
Bandra East,  
Bandra-A, Bandra-B,  
Bandra-C, Bandra-D,  
Bandra-E, Bandra-F,  
Bandra-G, Bandra-H,  
Bandra-I,  
Bapnala,  
Brahmanwada,  
Chakala,  
Gundhvali,  
Ismaliya,  
Juhu,  
Kole-Kalyan,  
Kondivata,  
Madh,  
Majas,  
Marol,  
Mogra,  
Mulgaon,  
Oshiwara,  
Parigha-Creek, Parjapur,  
Sahar, Varivali, Versova,  
Vile Parle (e), Vile Parle (w)

**Villages of Borivali Taluka.**

Aarey, Akse,  
Akurli, Borivli, Charkop, Chincholi,  
Dahisar, Dindoshi,



<b>WESTERN SUBURBS</b>	
<b>Joint Sub-registrar of Assurance, Borivali Taluka – 2 &amp; 3</b> 1 <sup>st</sup> Floor, New Tahsildar Office Bldg. Natakwala Lane, Opp. Lord Krishna Bank, Borivali (West), Mumbai 400 092. Tel.: 2861 7775 <p style="text-align: right;"><b>BDR-5 &amp; 6</b></p>	Eksar, Erangal, Gorai, Goregaon, Gundgaon, Kandivali, Kanheri, Klerabad, Kurar,
<b>Joint Sub-registrar of Assurance, Borivali Taluka – 4,</b> Gr. Floor, Shree Shreemal House, Jain Mandir Road, Off. Aarey Road, Goregaon (West), Mumbai 400 062. Tel.: 2877 4685 <p style="text-align: right;"><b>BDR-10</b></p>	Magaathane, Malad East, Malad North, Malad South, Malvani, Mandapeshwar,
<b>Joint Sub-registrar of Assurance, Borivali Taluka – 5</b> 1 <sup>st</sup> Floor, New Tahsildar Office Bldg. Natakwala Lane, Opp. Lord Krishna Bank, Borivali (West), Mumbai 400 092. Tel.: 2861 7778. <p style="text-align: right;"><b>BDR-11</b></p>	Manori, Maroshi, Marve, Pahadi-Goregaon East,
<b>Joint Sub-registrar of Assurance, Borivali Taluka – 6,</b> Gr. Floor, Shree Shreemal House, Jain Mandir Road, Off. Aarey Road, Goregaon West, Mumbai 400 062. Tel.: 2877 4684 <p style="text-align: right;"><b>BDR-12</b></p>	Pahadi-Goregaon West, Pahadi-Eksar, Poisar, Sai, Shimpoli,
<b>Joint Sub-Registrar of Assurance, Borivali – 7</b> Shop No. 5, Kusum Bharati Building, Opp. Tata Steel, Borivali (East), Mumbai – 400 066. Tel : 2854 3637 <p style="text-align: right;"><b>BDR-16</b></p>	Tusli, Valnai, & Wadhvan

**MUMBAI SUBURBAN DISTRICT (EASTERN SUBURBS)**

<b>Villages of Kurla Taluka.</b>	
<b>Joint Sub-registrar of Assurance, Kurla Taluka – 1,</b> New Administrative Bldg., Ramkrishna Chemburkar Marg, Chembur, Mumbai 400071. Tel.: 2529 5141 <b>BDR-3</b>	Aanik, Asalpha, Bhandup, Borla, Chembur, Chandivli, Deonar, Ghatkopar, Ghatkopar-Kirol, Hariyali, Kanjur, Kirol, Kopri, Kurla-1-2-3-4 Mahul, Manbudruk, Mandale, Mankhurd, Marvali, Mulund East, Mulund West, Mohili, Nahur, Nanale, Paspoli, Powai, Saki, Tirandaz, Tungva, Turbhe, Vadhvali, Vikhroli.
<b>Joint Sub-registrar of Assurance, Kurla Taluka – 2,</b> Shop No. 3, Exim Link Complex, Link Road, Bhandup (West), Mumbai 400 078. Tel.: 2566 1122 <b>BDR-7</b>	
<b>Joint Sub-registrar of Assurance, Kurla Taluka – 3,</b> New Administrative Bldg., Ramkrishna Chemburkar Marg, Chembur, Mumbai 400071 Tel.: 2524 6642 <b>BDR-13</b>	
<b>Joint Sub-registrar of Assurance, Borivali Taluka – 4,</b> Shop No.3, Exim Link Complex, Link Road, Bhandup West, Mumbai 400 078 Tel.: 2566 1133 <b>BDR-14</b>	

## FORMATION OF CO-OPERATIVE HOUSING SOCIETY

### PREAMBLE

Non-availability of vacant plot of lands, rising land prices, increasing construction cost, and acute shortage of housing stock due to Rent Act, Urban Land (Ceiling & Regulation) Act, independent dream house/bungalow construction have gone beyond the reach of a common man.

With the result construction of multi ownership apartments on co-operative basis has become a necessity. To facilitate to construct such multi ownership apartments, like other co-operative activities, formation of Co-operative Housing Society have emerged as suitable solution. Such projects are undertaken by private sector developers as well as by the registered co-op. housing societies, in any metropoly or developing town.

### TYPES OF SOCIETIES

The Co-operative Housing Societies are divided in 4 classifications i.e.

- 1) Open Plot Society (Tenant Co-Partnership Society).
- 2) Flat Owners Society (Tenant Co-operative Society).
- 3) Tenants Society.
- 4) Housing Board Society.

### OPEN PLOT SOCIETIES

In this classification the co-operative housing society has to purchase an open plot of land to construct the flats for their members thereon.

### FLAT OWNERS SOCIETIES

The Co-operative Housing Society formed by the members who have purchased the flats in a building constructed by a builder / developer is known as Flat Owners Society.

### TENANTS SOCIETIES

When the tenants of existing building, join together and form the co-operative housing society, can be registered under this category.

## HOUSING BOARD SOCIETY

The flat owners of the building constructed by Maharashtra Housing & Area Development Authority (MHADA) when form the co-operative housing society it is known as Housing Board Society.

*Note: Other than above categories the flat purchasers of a building if so desired can form an Association of Apartments or Condominium; which are not fully protected under the provisions of co-operative housing society Act. Hence such bodies are rarely formed.*

The Bombay District Co-operative Housing Federation a Registered Body having its office at "Vikas Premises" 1<sup>st</sup> Floor, 11 G.M. Vaidya Marg (Bank Street) (at Homiman Circle) Fort, Mumbai – 400 023 (Tel: 2661043 & 2660068) has prepared exhaustive Book-Let giving all the information and Format applications on "HOW TO FORM HOUSING CO-OPERATIVE SOCIETY". All format applications, bye-laws, rules & regulations are available from their office

### HOW THE CO-OPERATIVE SOCIETY CAN BE FORMED:

It is essential that the prospective flat purchaser has to enter in to agreement for purchase of flat before initiating the process of formation of Co-op. Hsg. Society, of the respective category mentioned above. Following preliminaries are to be completed for the formation of such body:-

- 1) Minimum 10 members are essential for formation of a Co-op. Hsg. Society.
- 2) Firstly the Promoter of proposed co-op. hsg. society should prepare the list of the prospective members.
- 3) The said members should call for a meeting and elect one of them as a "Chief Promoter", and also should propose the name of "The proposed society", and pass necessary resolutions thereof; together with for opening of Bank Account and should record the minutes of the meeting in separate Minutes Book.
- 4) The Chief Promoter has to apply to the Dy. Registrar of Co-op. Societies for "Reservation of Name" & "Opening of Bank Account" in the name of proposed society.
- 5) After receipt of such permission for reservation of name & opening of bank account from the Dy / Asst. Registrar of Co-operative Societies, the Chief Promoter along with any one member should open joint

- savings bank account in any urban Co-operative Bank, in their vicinity.
- 6) All the prospective members should contribute a specific amount in equal, for expenses, share capital, entrance fees etc. and should deposit the same in the said savings bank account, to be operated by the chief promoter jointly.
  - 7) The permission so granted for reservation of name & opening of bank account is valid for 3 months only.

### **APPLICATION FOR REGISTRATION OF SOCIETY:**

After obtaining approval for "Reservation of Name", the Chief Promoter has to prepare proposal for registration in prescribed formats for submission to the registration authority which should accompany the documents as per following check list, together with registration Fees, within 3 (three) months from the date of issue of approval of "Reservation of Name" of proposed society; failing which the application for registration of society can not be accepted, unless earlier permission is renewed or obtained a fresh one.

### **CHECK LIST OF DOCUMENTS**

*(TO BE SUBMITTED ALONG WITH APPLICATION FOR REGISTRATION)*

#### **A. FOR TENANT CO-PARTNERSHIP HOUSING SOCIETIES (OPEN PLOT)**

1. Application for registration of society in Form A along with Statement A, enclosures to application for Registration as per Rule 4 (1) of MCS Rules, 1961. (4 copies)
2. Court fee stamp of Re.1/- to be affixed to application form 'A'.
3. Information about promoter members of the proposed society in Statement 'C' (vide Govt. Circular dated 2.5.1980). (4 copies)
4. Information about proposed society in statement 'B' (vide Govt. Circular dated 2.5.1980). (4 copies)
5. Statement of accounts as per Form D.
6. Model Bye-Laws. (4 copies)
7. Bank Balance Certificate from the District Central Co-op. Bank Ltd./Maharashtra State Co-op. Bank Ltd.
8. Detailed scheme of the working of the proposed society.

9. R.B.I. / Treasury Challan of payment of Registration Fee of Rs.500/- (for backward class co-op. housing society, Registration Fee of Rs.5/-)
10. True certified copy of Agreement for Purchase of Land or Purchase Deed of Land.
11. One copy of 7/12 extract or property register card extract, where it is applicable.
12. N.O.C. from the Competent Authority about release of land under Urban Land Ceiling Act or certificate of non applicability of provisions of Urban Land Ceiling Act or Undertaking from the Chief Promoter.
13. In case of Govt. land or land from Semi Govt. authorities, a copy of allotment letter from the authorities regarding grant of land.
14. No objection certificate from the Charity Commissioner if the land belongs to the Trust.
15. Certificate from the concerned authority that land is in Residential Zone.
16. Title Clearance Certificate from Advocate.
17. Certificate from Registered Architect to the effect that adequate plots are available with the proposed society for construction.
18. Affidavit on Rs.20/- court fee stamp paper from at least 10 promoter members to the effect that they are residing in the area of operation of the society (proposed) made before Competent Authority.
19. Affidavit from the Chief Promoter on court fee stamp paper of Rs.20/- duly made before the Competent Authority in Form 'X'.
20. Affidavit from the Chief Promoter on Stamp paper of Rs.20/- duly executed before the Competent Authority in Form 'Y'.
21. Where the promoter members are firms / companies a letter of authority from such firms / companies authorising the promoter to sign on behalf of Firm / Company.
22. In case the proposed society intends to take loan from Maharashtra Co-op. Housing Finance Society Ltd., or any other financing institutions, for construction at least 20% members from backward classes must be enrolled as members. When 20% backward class members are not available, a certificate from the Dist. Social Welfare Officer to the effect that no persons of Backward Class are available, be obtained and enclosed with the Registration Proposal.
23. In case of such proposed societies, 90% promoter members must sign the statement A to be attached to the Registration Proposal.



24. A copy of the order regarding name reservation of proposed society be enclosed. (If the period of reservation of name has expired, a copy of order extending the same be enclosed.)

**B. FOR TENANT CO-OPERATIVE HOUSING SOCIETIES (FLAT OWNERS)**

1. Application for registration of society in Form A along with statement A, enclosure to application for Registration as per Rule 4 (1) of MCS Rules, 1961. (4 copies)
2. Court fee stamp of Re. 1/- to be affixed to application form 'A'.
3. Information about proposed society in Statement 'B' (vide Govt. Circular dated 2.5.1980). (4 copies)
4. Information about promoter members of the proposed society in Statement 'C' (vide Govt. Circular dated 2.5.1980). (4 copies)
- 4A. A Statement of Accounts as per Form D.
5. Model Bye-Laws. (4 copies)
6. Bank Balance Certificate from the District Central Co-op. Bank Ltd./ Maharashtra State Co-op. Bank Ltd.
7. Detailed scheme of the working of the proposed society.
8. R.B.I. / Treasury Challan of Registration Fee of Rs.500/-. (For backward class co-op. housing society, Registration Fee of Rs.5/-)
9. True certified copy of Purchase Deed of Land / Agreement for Purchase of Land / Agreement for Development of Land.
10. One copy of 7/12 extract or property card extract, where it is applicable.
11. N.O.C. from the Competent Authority about release of land under Urban Land Ceiling Act or certificate of non applicability of provisions of Urban Land ceiling Act or Undertaking from Chief Promoters.
12. In case of Govt. land or land from Semi Govt. authorities, a copy of allotment letter from the authorities regarding grant of land.
13. No objection certificate from the Charity Commissioner, if the land belongs to the Trust.
14. N.O.C. from the Housing and Area Development Board if the land or building is owned by the Housing and Area Development Board and list of flat purchasers.
15. Certificate from the Local planning authority that the land is in Residential Zone.
16. Title Clearance Certificate from the Advocate.

17. A true copy of the approved Building plans.
18. Letter of authority granting permission to commence construction work / Completion Certificate (as applicable).
19. Certificate from a Registered Architect in support of construction work scheme, area & value of project.
20. Affidavit on Rs.20/- Stamp Paper from at least 10 promoter members to the effect that they are residing in the area of operation of the society (Proposed) made before Competent Authority.
21. Affidavit from the Chief Promoter on Stamp Paper of Rs.20/- executed before the Competent Authority in form 'Y'.
22. Affidavit from the Chief Promoter on Stamp Paper of Rs.20/- duly made before the Competent Authority in Form 'Z'.
23. Certified True copy of Registered agreement made between the Builder promoter and purchasers of flat.
24. A certified list of sold and unsold flats from the Builder. If the flats have been sold, its cost, the names of purchasers and their addresses to be furnished by the Builder Promoter.
25. Where the promoter members are firms / companies, a letter of authority from such firms/companies authorising the Promoter to sign on behalf of firm/company.
26. Affidavit from the Chief Promoter in lieu of 'Z' form, the Chief Promoter and other promoters who are signing the registration proposal should execute an Indemnity Bond on Rs.5/- stamp paper, before the Competent Authority.
27. Along with an Affidavit in 'Z' form, the Chief Promoter and other promoters who are signing the Registration proposal should execute an indemnity Bond on Rs.100/- stamp paper before the Competent Authority.
28. In case the promoter Builder is not co-operating in forming the society, true copies of tax-bill from the Local Bodies or the Corporation and receipt of payment thereof be attached, along with the registration proposal in place of Architect Certificate.
29. In case of such proposed societies, names of 60% of the flat holders of the total number of flats constructed or proposed to be constructed as per the plan approved, must be included in statement 'A' to be attached to the Registration proposal and out of these 60% promoters, 90% promoters must sign, the application.
30. A copy of the order regarding reservation of name of proposed society be enclosed. (If the period of reservation of name has expired, a copy of order extending the same is enclosed.)

## REGISTRATION OF SOCIETY OF LESS THAN 10 MEMBERS

Even though it is mandatory that there should be minimum 10 (ten) members / promoters for the formation of co-op. housing society under the provision of Maharashtra Co-op. Societies Act 1960. In certain cases when it is not possible to have 10 members in a building, construct the building with 10 flats, it is possible to form a co-op. hsg. society with a special permission from the State Govt. provided it should comply with the following requirements: -

Carpet area of each flat should not exceed 650 Sq. Ft. (60.39 Sq. Mtrs.)

It should be certified by the architect that flats proposed / or existing are less than 10 numbers, and full F.S.I. is proposed to be consumed / or consumed.

## AMENDMENT IN BYE LAWS OF THE CO.OP. SOCIETIES FOR MAINTENANCE, INSURANCE & REPAIRS

Recently Govt. has amended the Bye Laws with new mandatory provisions. The following table shows the amendments made to some of the bye-laws specifically to bye-law Nos.159, 160, 161 & 162 related to mandatory compliance of the provisions as stated in the text of the said amendments for the information and guidance of the co. operative housing societies to understand their liabilities in respect to proper maintenance of the building and necessary insurance cover particularly for repairs to the property:-

Bye Law No.	Text
159	Subject to the provisions of the bye-law No. 158(a), (b) and (c) the Committee shall proceed to carry out the repairs and maintenance of the property of the society. It shall be the responsibility of the committee to see that the <b>repairs</b> are carried out as <b>per</b> the contract.
160	The following repairs and maintenance of the property of the society shall be carried out by the society at its costs: (a) (i) All internal roads, (ii) compound walls, (iii) External water pipe lines, (iv) Water pumps, (v) Water storage tanks, (vi) Drainage lines, (vii) Septic tanks, (viii) Stair cases, (ix) Terrace and parapet walls, (x) Structural repairs of roofs of all flats, (xi) Staircase lights, (xii) Leakages of water including leakages due to rain water, and leakage due to external common pipe line and drainage line, (xv) Electric lines upto main switches

	<p>in the flats, (xvi) Lifts, (xvii) The damaged ceiling and plaster thereon in the top floor flats, on account of the leakage of the rain water through the terrace.</p> <p>(b) All the repairs, not covered by the bye-laws no. 160(a) shall be carried out by the members at their cost.</p>
161	The society shall insure its building / buildings necessarily against risk of fire and earthquake.
162	No member of the society shall destroy, deface or cut down any trees in the compound of the society. Any action, in contravention of the above provision may render the member concerned liable for action.

*Note: The Govt. has now made technical audit compulsory of the building constructed prior to 30 years; wherein the society has to get premises inspected from the consulting Structural Engineer at regular interval as will be specified considering age of building and as per recommendations of the consulting Structural Engineers the society has to carry out necessary repairs under his supervision. However it is advisable to get building inspected, checked and to carry out timely repairs to keep building in healthy condition, throughout its life span.*

*All the information related to technical audit and report is explained in the separate chapter for the benefit of co-operative housing societies.*

## MAINTENANCE OF STRUCTURES

### (DO'S & DON'TS)

Any product requires maintenance from the very next day, to keep it in healthy and working conditions. Invariably it is seen that there is lack of awareness, about this aspect. No matter how much sound body or structure is, if not maintained in time, it deteriorates. Timely repairs and maintenance is the only solution. Unattended repairs and leakages, are main causes of deterioration of building.

The housing cost is gone beyond affordable limits of common man. Many times purchasers has to spend their life savings and also have to carry burden of loan liability for considerable period thereafter. Therefore they are reluctant to contribute immediate further funds for repairs and maintenance. On the other hand it is also seen that people are spending freely on interiors and decoration of their premises, but surprisingly refuse to contribute for general and common repairs for maintenance of the building. With the result huge contribution is required for the repairs at a later stage.

In Mumbai you can see thousands of deteriorated and defaced buildings waiting merely even for external paint & rectification of leakages from plumbing and sanitation services. There are no two opinions that the structures can remain healthy for occupation and use, only by timely repairs and maintenance, and for the purpose following points should be remembered, observed, and to act upon: -

### CHECK LIST FOR MAINTENANCE:-

#### Do's:-

- 1) Get a **general check up** done of the entire building at ever 5 years by the **structural engineering** experts possessing the necessary expertise and **experience** and **obtain** their opinion on general evaluation of structural health of the building.
- 2) Provide waterproof cement paint in two coats for external face of building in the following manner: -



PAINT TO BE USED		PERIOD OF PAINTING
i)	Cement Based Paint	Every 3 years
ii)	Acrylic Based Paint	Every 5 years
iii)	Elastomeric Paint	Every 7 years

*Note: The waterproof cement based paints can effectively arrest the leakages & seepages from the external face of the building during monsoon, and protect R.C.C. frame to a great extent.*

- 3) Check all drainage & water supply service lines and its connections at every 2 years.
- 4) Get septic tank and soak-pit checked, cleaned and provide with insecticide treatment every YEAR from Municipal Corporation. This service is free of cost; and binding on Municipal Corporation.
- 5) Check Terrace water proofing and attend repairs if any at every 5 years.
- 6) Provide peripheral permanent compound wall around the property. (Generally it is provide by the builder being mandatory requirement) and keep it in good condition. Compound Gates should be checked and serviced regularly to keep it in working conditions.
- 7) Provide full compound open spaces around the building up to compound wall (except garden patches) with cement concrete paving and should be repaired as and when required.
- 8) Common service areas within the building, courtyards, trees etc. should be kept clean & maintain the same regularly. Staircase steps and common corridors should be kept unobstructed. Storing of junk materials thereon should be strictly prohibited, as the same causes inconvenience & is hazardous also.
- 9) Common compound and corridor's, lighting should be regularly checked and be kept in good working conditions.
- 10) The LIFTS should be operated by the liftman only; as far as possible. Yearly contract of maintenance should be given to lift company for unobstructed working.
- 11) It is mandatory to provide two water pumps for lifting the water from underground water tank to over head storage tank. Each pump should



be operated alternately. This will keep pumps in working conditions. Yearly contract should be given for maintenance of pumps to avoid inconvenience.

- 12) At least once in 2 years get underground & overhead water storage tanks cleaned. The covers of tanks should be inspected every year. Preferably covers of underground water storage tank should be provided with lock & key facility to keep it free from out side infections.
- 13) Society's office with toilet facility for domestic workers / drivers, should be provided on ground floor in marginal open spaces. Municipal Corporation approves such proposals free of F.S.I.
- 14) Safety grills for windows (if to be provided) should be compulsorily identical; as different designs & shapes of grills deface the building.
- 15) Collect sizable contribution towards sinking/repair-fund from the members regularly, which will help substantially for subsequent repairs.
- 16) Give list of Do's & Don'ts to each occupant of building and list of which should be permanently displayed on notice board of society.
- 17) Keep the terrace clean for all the time. Check it regularly and specially pre-monsoon, during-monsoon and after monsoon every year.

#### **Don'ts:-**

- 1) Do not allow any unauthorised additions there by over loading existing structure for which it is not designed.
- 2) Do not allow any internal changes / alterations, specifically change in positions of toilet blocks or kitchens and the same should be maintained in alignment with other floors.
- 3) Do not allow extensions of toilet or wet areas over dry areas.
- 4) Do not tolerate any leakages any time.
- 5) Do not permit additions and alterations if the same are not approved from the municipal authority, architect & structural engineer.

- 6) Do not permit such works (item 5 above) without advice and supervision of qualified & experienced architect, structural engineer and contractor/s.
- 7) Do not allow to carry out any work of repairs or additions & alterations by petty contractors.
- 8) Do not permit following works unless backed by professional engineering support as described in item (6) above:-
  - i) Replacement of floor finish
  - ii) Repairs of internal, external plastering, and R.C.C. members.
  - iii) Any modifications to existing plan, according to which building exists.
  - iv) Toilet or Kitchen renovations.
  - v) Structural alterations required for interior designing & decoration.
  - vi) Any R.C.C. repairs which involves use of steel, cement, sand & stone/metal.
- 9) Never allow terrace gardening in any manner whatsoever; the soil for such gardening, will add permanent dead load on the building, besides it will remain wet and inaccessible for repairs; and any deterioration resulting there from can not be detected timely.

## REPAIR PERMISSIONS

In earlier two chapters, the information on i) Why Building deteriorates and become weak and ii) Maintenance of Structures with Do's & Dont's, is provided. It is also necessary to know regarding the nature of Repairs and its permissions required from the local civic authority thereof. One should understand that timely repairs only, can keep buildings in healthy conditions. It is seen that largely the repairs are ignored and delayed for this or that reason, or some time due to abnormal delay in granting permissions by the local municipal authority.

However such permissions are based on the nature of repairs. It is also noticed that, some time people are carrying out the work of additions or alterations under the disguise of repairs and ultimately land in to troubles. Repairs amounting to structural changes or additions or alterations requires regular permissions with scrutiny and procedures, which are inevitable and are always in the interest of the applicant.

Very few people know that certain type of repairs do not require permissions from the Corporation. The nature of repairs and its permissions are described below. The Municipal Corporation of Gr. Mumbai has prepared following guide lines for the information of public. The repairs are classified in three categories:-

- i) Repairs where permission is NOT required from M.C.G.M.
- ii) Repairs prohibited.
- iii) Repairs which REQUIRE permissions from M.C.G.M

### 1) **REPAIRS NOT REQUIRING PERMISSION FROM M.C.G.M.**

Following repairs do not require permission from M.C.G.M.:-

- i) Providing guniting to structural members or walls.
- ii) Plastering, pointing, and Painting.
- iii) Changing of floor tiles.

- iv) Repairing of W.C., Bath, Toilets and Washing places.
- v) Repairing or replacing of drainage pipe joints, taps, manholes and other sanitary fittings.
- vi) Repairing or replacing of sanitary/water, plumbing, and electrical service lines.
- vii) Repairing and or replacement of roof with same material.

## 2) REPAIRS PROHIBITED

Certain repairs are prohibited which are detrimental to the structural stability of the building. So, never attempt following, unless same is permitted by the authority.

- i) Lowering of plinth.
- ii) Removal of load bearing walls.
- iii) Constructions of Lofts / Mezzanine floors supported on partition walls which are not load bearing walls.

## 3) REPAIRS WHICH REQUIRE PERMISSION FROM M.C.G.M.

Repairs involving the removal, alteration or re-erection of any part of the building covered under section 342 of M M C Act, permission from M.C.G.M. is required to be taken, such as for: -

- i) Changes in horizontal and vertical existing dimensions of the structure, and thereby increase in area.
- ii) Replacement of any structural R.C.C. member such as columns, beams etc and load bearing walls.
- iii) Construction / extension of mezzanine floor / loft.
- iv) Flattening of roof in R.C.C. or repairing and replacing of roof with different materials.
- v) Enclosure of balcony.

## 4) PEOCEDURE FOR OBTAINING PERMISSIONS.

Wherever the permissions are required from M.C.G.M. as listed in item (3) above, the applicant has to apply to the appropriate civic

authority of the Corporation along with the documents as stated hereunder:-

**Owner / Occupier shall: -**

- i) Appoint a registered Structural Engineer, and Architect under whose supervision the work will be carried out.
- ii) Submit the application for permission to the concerned officer in format through the registered structural engineer, architect so appointed.
- iii) Submit the following documents along with the application:-
  - a) Supervision memo from the structural engineer, & architect.
  - b) N.O.C. from the Society / Owner, for proposed work.
  - c) Copy of the last property tax assessment bill paid.
  - d) Copy of the licence, factory permit etc., in case of industrial premises.
  - e) Plan showing the details of proposed repairs, additions or alterations.
  - f) Certificate from the structural engineer to the effect that proposed work does not affect the structural stability of the building.

*Note: - On completion of the work the applicant has to submit the completion certificate from the structural engineer and architect appointed.*

**5) TIME LIMIT FOR GRANTING PERMISSIONS**

If application is submitted with all required documents and the same is in order, the concern officer of the Corporation has to issue such permissions within 30 days, which is a mandatory time limit.

Please note that such permission does not empower you to carry out the work in an unauthorised premises / portions, nor does it construe authorisation of the premises in which such work is to be carried out.

## 6) WHOM TO APPROACH FOR PERMISSIONS

Nature Of Work	Officer authorised to grant permission
i) Construction of mezzanine floor	Executive Engineer (Building Proposal) of respective zone of The M.C.G.M.
ii) Replacement of structural members	
iii) Change in horizontal and vertical existing dimensions, resulting increase in area.	
iv) Flattening of roof in R.C.C. or repairing & replacing roof in different materials	
i) Construction of lofts.	Assistant Engineer (Buildings & Factories) of the respective Ward Office with approval of concerned Executive Engineer (Special)
ii) Enclosure of Balcony & its merger in the adjoining room.	
iii) Interior decoration works involving changes, without replacement of any structural member.	

## 7) DONT'S:

As a precautionary measures, remember again, following Dont's:-

- a) Do not carry out any unauthorised additions there by over loading existing structure for which it is not designed.
- b) Do not make any internal changes / alterations, specifically change in positions of toilet blocks or kitchens. The same should be maintained in alignment with other floors.
- c) Do not try extensions of wet areas over dry areas.
- d) Do not tolerate any leakages, attend immediately.
- e) Do not carry out additions and alterations if the same are not approved from the municipal authority, architect & structural engineer.



- f) Do not carry out such works without advice and supervision of qualified & experienced architect, structural engineer and contractor.
- g) Do not carry out any work of repairs or additions & alterations by petty contractors.
- h) Do not carry out following works unless backed by professional engineering support as described in item (f) above:-
  - i) Replacement of floor finish.
  - j) Repairs of internal, external plastering, and R.C.C. members.
  - k) Any modifications to existing plan, according to which the building exits.
  - l) Toilet or Kitchen renovations.
  - m) Structural alterations required for interior designing & decoration.
  - n) Any R.C.C. repairs which involves use of steel, cement, sand & stone/metal.

## COLLAPSES OF BUILDINGS

In last two decades, some R.C.C. frame buildings had collapsed in Greater Mumbai Limits; causing loss of life and property. "Govinda Towers" at Bandra was a recent casualty. To realize the importance of timely repairs and proper maintenance of the building to keep it healthy throughout its life span, it is essential to know the causes and reasons of deterioration of building as well as reasons of unfortunate collapses thereof of which details are as under :-

### A) MAIN REASONS:-

Based on the reports of investigating committees, their recommendations and opinions of experts in the field following are main reasons of building collapses: -

- a) Uneven settlement of foundation.
- b) Use of inferior workmanship and or quality materials resulting in poor concrete, lacking in required durability.
- c) Aging of structure.
- d) Excessive ground water level, leading to erosion of soil bearing capacities.
- e) Structural designing on erroneously judged or assumed bearing capacity of soil.
- f) Over loading after occupation, by additions and alterations for which the structure is NOT designed.
- g) Carrying out structural repairs amounting to alterations, removal and inflicting damage and or cutting in to or removing structural members for interior design / decoration requirements.
- h) Excavations near building.
- i) Collapse of adjoining building.
- j) Earth quake or any blast giving lateral thrust to the structure.

- k) Lack of maintenance and timely repairs of excessive leakages, resulting continuous corrosion of steel reinforcement causing deterioration.
- l) Unauthorised additional construction and changes in original plan / structure.
- m) Changes in the orientation and or increasing size of toilet blocks, and installation of additional water storage tanks on lofts thereby increasing load on existing structure.
- n) Leakages & seepages due to damaged drainage pipelines & defective septic tanks and soak pits.
- o) Inordinate delay in attending and or not attending necessary repairs.

**B) CLASSIFICATIONS:-**

Primarily collapse of building are classified under the following three categories:-

- i) Collapse during construction.
- ii) Collapse after construction within 2/3 years.
- iii) Collapse after 10 years.

The collapse in item no. i) & ii) above can be due to faulty construction and or basic fundamental errors in structural designs, error in judgement of supervision on construction by site engineer or inferior quality of materials supplied by owner / developer and or contractor. The collapse in item iii) can be due to weakening of the building due to reasons, which can be a subject matter of in-depth investigations depending upon each individual case.

**C) SHORT COMINGS:-**

- 1) For last 4 decades due to multi ownership unit pattern of construction, housing is taken over by the developers/builders who have only transitional interest in the project, mainly executed as profit oriented business, with primarily two basic parameters i) Maximum earnings & ii) Speedy construction.
- 2) The developer / builder has come to stay thus, has become master of the game of construction development, resulting in loss of control by

professionals on construction. In house provision of professionals in builder's organisation, further deteriorated relations and controls between developers & practicing professionals. There is no code of conduct in practice for developers & contractors who are principal agencies in building construction.

- 3) Surprisingly even registration is NOT made mandatory for these agencies, in private sector mass housing constructions, inspite of repeated representations from Professionals' Associations to the Govt. & Municipal Corporations.
- 4) Besides actions against builders / developers and professionals if involved in any unfortunate collapse, in reality the occupant / consumer is the real sufferer.

This can be avoided and structures can remain healthy for a long time, provided timely repairs are carried out and the structure is maintained properly through out. All the occupants has to realise the consequences of such events, and take the steps in time in their own interest.

## COMPULSORY TECHNICAL AUDIT & REPORT FOR AGE OLD SOCIETY BUILDINGS

Before understanding grave importance of compulsory “**Technical Audit**” of age old Buildings, (30 or more years’ old) it is essential to know the reasons for this enactment, which is directly related to the deterioration and collapse of structure, which are elaborated below in brief for creating desired awareness amongst all concerned:-

### 1) **Deterioration of Buildings :-**

Following are general reasons and causes of deterioration of buildings :-

- a) Continuously neglected and or unattended repairs and leakages.
- b) Unauthorised Structural alterations & additions.
- c) Disturbing R.C.C. frame members for interior decoration.
- d) Creating wet areas over dry areas. These are some of the main causes of deterioration and weakening of buildings.

It is known fact that any product requires maintenance from the very next day. Invariably it is seen that there is lack of awareness, about this serious aspect. No matter how much sound body or structure is, if not maintained in time, it deteriorates continuously resulting extreme damage to the buildings. Timely repairs and maintenance is the only solution to keep your buildings healthy and fit for use and occupation throughout its life span.

### 2) **Collapse of Buildings :-**

Based on earlier reports of Experts and Investigation Committees on building collapses, in Gr. Mumbai, following various reasons are revealed for structural failure:-

- a) Uneven settlement of foundation.

- b) Use of inferior quality materials & workmanship endangering the structural stability of the building.
- c) Aging of structure.
- d) Excessive ground water level, leading to erosion of soil bearing capacity.
- e) Structural designing on erroneously judged or assumed soil bearing capacity.
- f) Over loading the structure after occupation, by additions and alterations for which the structure is NOT designed.
- g) Carrying out structural repairs amounting to alterations, removal and inflicting damage and or cutting in to or removing structural members for interior design / decoration requirements.
- h) Large excavations near building.
- i) Collapse of adjoining building.
- j) Earth quake or any blast giving lateral thrust to the structure.
- k) Lack of regular maintenance and timely repairs, resulting excessive leakages, and thereby causing continuous corrosion and deterioration of steel reinforcement.
- l) Unauthorised additional construction and changes in original plan / structure.
- m) Changes in the orientation and or increasing size of toilet blocks, creating wet areas over dry areas, installation of additional water storage tanks on lofts and terraces thereby increasing dead load on existing structure.
- n) Inordinate delay in attending timely repairs, causing uncontrolled deterioration.

### **TECHNICAL AUDIT & REPORT**

In last two decades, due to various reasons many R.C.C. buildings had collapsed in Greater Mumbai limits causing loss of Life and property. "Laxmi Chhaya Towers" at Borivali was last major casualty. The State Government



realising the seriousness has taken positive steps and ultimately introduced an enactment (which was published in the Maharashtra Government Gazette (Maharashtra Act No. VI-2009) on 14-01-2009) making **“Technical Audit mandatory”** for buildings which have completed more than 30 years of age, and thereby made it compulsory for the Housing Societies to get their buildings checked for the Structural Stability from a qualified and registered Structural Engineer, and also carry out the required repairs based on the recommendations of such Technical Audit Report given thereof.

For the aforesaid purpose, necessary amendmends were also made by adding Section No. 353-B in Mumbai Municipal Corporation Act. 1888. Subsequently M.C.G.M. had issued a Circular under No. CHE/Gen-431/DP dt. 09-06-2009, giving proper directions and guide lines in the matter in the public interest.

It is to be mentioned here that the directives given in the aforesaid enactment, are crystal clear where in it is explained in detail as to when the Technical Audit should be carried out and what are responsibilities and liabilities of the occupants. Some of the important clauses are reproduced here from the aforesaid Govt. Gazette for the information and guidance of consumer at large:-

- Time Limit :-  
*“Section (2) : The Structural Stability Certificate shall be submitted within one year from the expiry of a period of thirty (30) years referred to in sub-section (1), and every ten (10) years thereafter or such earlier period as the Commissioner may determine having regard to the condition of the building and the corrective repairs carried out by the owner or occupier”.*
- Penal Provisions :-  
*“Section (5) : Any owner or occupier, as the case may be, who fails to carry out corrective repairs for securing structural stability, within a period of (6) months from the date of report of the Structural Engineer, shall be punished with the fine as provided in section 471, which reads the penalty as under Twenty-five thousand rupees (25000) or the amount equal to property tax of the building, for one year, whichever is higher”.*

- **Scope and Procedure of Technical Audit :-**

In simple term Technical Audit is an assessment of 'Structural Stability' of the building and remedial measures suggested thereto by qualified consulting structural engineer, wherein generally following procedures are adopted by the structural engineer to assess the extent of damages thereto in the following manner :-

- **Classification of Buildings :-**

To understand and assess the intensity of distresses in the buildings experienced Structural Engineers generally classify such buildings in the following manner according to the present state of structure :-

- i) The building is structurally sound and fit for habitation.
- ii) Deterioration in various components is just commenced (1<sup>st</sup> stage)
- iii) Deterioration in various components is fast (2<sup>nd</sup> stage)
- iv) Deterioration in various components of the building has been reached to its maximum limit (3<sup>rd</sup> stage)
- v) The building is totally deteriorated, became dangerous and thus become unfit for human habitation, hence required to be demolished to avoid loss of life and property.

- **Scope of Technical Audit :-**

Following are the duties of Structural Engineer and his scope of technical audit :-

- i) To carry out thorough physical inspections of buildings externally and internally, and to take actual photographs of distresses for record.
- ii) To note visible distresses and damages particularly in respect to R.C.C. frame, external & internal plastering, plumbing, seepages & leakages, sinking of flooring if any, etc. and to carry out load & other tests if required so.
- iii) To inspect and study the Structural design and drawings according to which the building is constructed.
- iv) To assess gravity of actual damages.

- v) To recommend and suggest remedial measures to the Society to be carried out as regards to the nature of repairs, and strengthening work etc.
- vi) To Advice & guide Society for appointing respective construction / repairing agencies of repute to carry out repairs, and estimated cost of the repairing work if desired so.
- vii) To suggest any other special recommendations as will be decided by the consulting structural engineer, for the purpose.

*Note : The "Technical Audit" covering above information will give fair idea as to what steps should be taken by the Society on priority basis, to increase life span of building.*

● **Contents Of Technical Audit Report :-**

Based on the aforesaid procedures adopted for preparing Technical Audit, following are salient features and or general contents of such Report :-

- i) Letter of appointment & scope of work of Structural Engineer.
- ii) Name and address of the client.
- iii) Property description i.e. schedule of property, Number of Buildings, Floors & User etc.
- iv) Surrounding Locality & location of building under reference.
- v) Day, Date and Time of Site visit / Inspection and names of the Society office bearers present thereof.
- vi) Comments on Inspection of documents i.e. Building Plans got approved by the Architect, Structural design and drawings, Stability Certificates issued by previous consulting Structural Engineer, from time to time under whose supervision the building is completed.
- vii) General Observations of site conditions.
- viii) Details of distresses, damages, its' probable causes and nature of deterioration supported by actual photographs if required so

- ix) Remedial Measures suggested for Repairs / Strengthening works thereof.
- x) Time limit recommended for carrying out remedial measures.
- xi) Special instructions to clients if any.
- xii) Any other information, and additional suggestions deem fit other than the contents mentioned above.
- xiii) Details of professional fees payable by the client and mode of payment.

- **Importance and benefits of technical audit :**

The technical audit report is a very important document and can be useful for the following purposes :-

- 1) For obtaining finance/ loan for the purchase of premises/ building.
- 2) For preparing cost estimate of repairing work.
- 3) For preparing redevelopment scheme.

*Note : It is essential for the society to obtain two copies of technical audit report in original, of which one copy should be kept as permanent record and the other copy can be used for appropriate purposes.*

## REDEVELOPMENT OF SOCIETY BUILDING

Prior to 1940, construction activities in Mumbai were mainly for creating mass housing stock in the form of Chawl type structures on rental basis strictly for income purpose by Land Lords. After 1940 dwelling units i.e. self-contained flats type of housing slowly became popular. However after 2<sup>nd</sup> world war, often seen 'To Let' boards suddenly disappeared from housing horizon, resulting acute shortage of housing, in all metropolis in India. Mumbai was badly affected.

### • Effect of Maharashtra /Bombay Rent Control Act.

The State Govt. then enacted 'Rent Act' with objective for promoting rental premises for the benefit of consumers at large. But due to some of its stringent provisions, Tenants were over protected. It has become practically impossible for Land Lord to evict erring Tenants on the grounds any breaches committed by the tenant resulting enormous court litigations. Provision of major increase in monthly rent, has created total frustration amongst Land Lord, thus they become reluctant to spend any money on maintenance and repairs of the buildings, to keep it in tenantable conditions. It is revealed that by and large property and water taxes, in most of the cases are found more than the rent received. Hence maintenance of rented buildings practically come to an end.

This apathy resulted in to continuous deterioration of buildings, and with passage of time rental premises / buildings became non repairable. Slowly such age old structures started showing acute distresses resulting in to regular collapses, thereby huge loss of life & property. Govt. then established Maharashtra Repairing Board, as a principal repair agency for such dilapidated cessed buildings. Except temporary relief nothing much was achieved by the cosmetic repairs carried out. Redevelopment / Reconstructions thus remain only solution to protect loss of life and property.

### • Provisions for Redevelopment in city Limits under D.C.R. 1991:-

To improve the situation, and to make redevelopment Scheme of cessed tenanted buildings financially viable, the State Govt. made special provisions in Development Control Regulations (D.C.R.) of 1991, for dilapidated buildings in island city of Mumbai (City limits: Colaba to Sion-Mahim Only) giving additional incentive F.S.I. of 0.67 over and above regular

permissible F.S.I. of 1.33, with over all cap of maximum 2.5 F.S.I. with a provision of giving free houses on ownership basis to the tenants in reconstructed buildings with minimum carpet area of 16.72 M<sup>2</sup> and maximum of 70.00 M<sup>2</sup>. The text of relevant provisions of DCR-1991, is reproduced here for ready reference of readers:-

**Rule No. 33 : Additional Floor Space Index which may be allowed in certain categories:-**

**33 (6) : Reconstruction of buildings destroyed by fire which have collapsed, or which have been demolished, etc :**  
Reconstruction in whole or in part of a building (not being a building wholly occupied by warehousing user and also not being a ground floor structure), which existed or after 10<sup>th</sup> June 1977 which has ceased to exist in consequence of an accidental fire, natural collapse, or demolition for the reason, of the same having been declared unsafe by or under a lawful order of the Corporation or the Bombay Housing and Area Development Board or is likely to be demolished for the reason of the same having been declared unsafe by or under a lawful order of the said Corporation or the said Board and duly certified by them, shall be allowed with an F.S.I. in the new building not exceeding that of the original building (or the F.S.I. permissible under these regulations, whichever is more. (This provision is made for reconstruction of Non-cessed buildings) This F.S.I. will be subject to the Regulations in Appendix II of D.C.R. 1991 .

**33 (7) : Reconstruction or redevelopment by Co-operative Housing Societies, or of old buildings belonging to the Corporation :**  
For reconstruction / redevelopment to be undertaken by co-operative housing societies in respect of cessed properties located in the Island City which attract the provision of Maharashtra Housing and Area Development Act, 1976, or by Co-operative Housing Societies of landlord, and occupiers of a cessed building of 'A' category subject to the provisions of the said Act and for reconstruction/redevelopment of buildings of the Corporation constructed before 1940. The floor space index shall be 2.00 or the consumed floor space index of the existing old building whichever is more. This F.S.I. will be subject to the Regulation, in Appendix III (of DCR-1991) so



far as construction or redevelopment by such Co-operative Housing Societies is concerned.

#### **Amendment made To 33(7) in 1999 :-**

However in 1999, the State Govt. sanctioned modifications to Rule No. 33(7) of the D.C.R. and its Appendix-III, vide Notification published in Govt. Gazette dt. 25-01-1999, thereby earlier F.S.I. 2.00 (as per D.C.R.-1991) was increased to 2.5 subject to all other conditions mentioned in earlier provisions, wherein minimum carpet area for rehousing component was increased from 16.72 M<sup>2</sup> (180.00 Sft.) to 20.90 M<sup>2</sup> (225.00 Sft.)

#### **Rule : 33(9) : Cluster (Re) Development in Island City:**

To facilitate planned redevelopment with required infrastructure on larger scale the State Govt. has issued Notice u/s 37 (1AA) of M.R.T.P. Act. on 30-06-2008, thereby proposing amendmends to rule No. 33(9) of D.C.R. 1991, to encourage "Cluster Type Re- Development" of age old buildings in Island City of Mumbai. With aforesaid Notification suggestions & objections of public are called for by the State Govt., with intension to publish final Notification before 15<sup>th</sup> August 2008. Following are some of important amendmends and guide lines proposed:-

- i) The redevelopment or reconstruction under this scheme may be permitted under joint venture by Tenants, Land Lords, Developer etc. with MHADA/MCGM.
- ii) Minimum plot area (amalgamated plot) for Cluster Development shall not be less than 4000.00 Sq. Mtrs.
- iii) Present cap of F.S.I. 4.00 permissible under DCR-1991, is now proposed to be removed. However for utilization of F.S.I. beyond 4.00, prior permission of State Govt. is mandatory.
- iv) The proposed Layout on such plot, shall provide sufficient marginal open spaces recreational ground, and other amenities required as per D.C.R-1991.
- v) The size of dwelling units proposed for rehousing / rehabilitation of existing Tenants shall be minimum 27.88 Sq. Mtrs. i.e. 300.00 Sft. Carpet area. However the slum dwellers shall be eligible only 25.00 M<sup>2</sup> (269.00 Sft) of Carpet area.

- vi) The Developer has to pay premium at the rate of Rs. 7000/- per Sq, Mtr. to Municipal Corporation as development charges for the F.S.I. proposed to be used beyond present F.S.I. of 1.33, which will be utilized by the Corporation to improve local infrastructure. This development Cess (charges) shall be enhanced at the rate of 10% at every three years.
- vii) The above provisions shall be applicable for Cluster Type Re-Development for privately owned buildings, Cessed buildings, and building belongs to State Govt. as well as Municipal Corporation of Greater Mumbai.
- viii) Front & marginal open spaces for building with height upto 24 Mtrs. in rehab or component or composit building shall be 3.6 Mtrs.
- ix) The distance between any two rehabilitated buildings, in the Layout shall not be less than 4.5 Mtrs.
- xi) In case height of building is more than 24 Mtrs, marginal open spaces shall be 6 Mtr or as per requirements of CFO, which ever is more.

*Note : The above provisions of Rule 33(9) of Development Control Regulations are based on Notice dt. 30-06-2008 published by State Govt.*

## NEW GUIDE LINES OF STATE GOVERNMENT FOR REDEVELOPMENT OF SOCIETY BUILDINGS

Under Section 79(A) of Maharashtra Co-op. Society's Act, 1960, Co-operation & Textile Dept. of the Government of Maharashtra, vide Notification No. CHS 2007/CR-554/14-C dt. 3<sup>rd</sup> January 2009, issued the directives and guide lines, for the Redevelopment of Buildings owned by the Co-op. Housing Societies, which are applicable throughout Maharashtra. In the first part of the said Notification the State Government has considered various impediments, grievances, and problems faced by the Members with the Society Management. The usual objections against Society Management are described below:-

- 1) Not taking Members in confidence for the purpose.
- 2) Non transparency in the process of Tenders / Contracts.
- 3) Exparty appointments of Contractors, and other agencies.
- 4) Flouting rules and regulations of Co-operative Act and Byelaws.
- 5) Non Co-ordination between agencies i.e. the Architect, Project Consultants, and the Society etc.
- 6) Not to honour or follow the Project Report prepared for Redevelopment Scheme.
- 7) Not to follow procedures laid down for finalisation of Contracts /Tenders.
- 8) Non uniformity in the terms & conditions of re-development Agreement / Contract to be executed with the Developer, and other agencies.

The above impediments infact forced the State Govt. to issue the directives to the Societies more particularly described in detail in the said Notification. However for the benefit of the Members & Management of the Societies some of the major terms & conditions required to be considered and to be incorporated in the Development Agreement, at a glance are as under:-

- 1) The redevelopment project should be completed within a period of 2 (Two) years, but in specific and unavoidable circumstance it shall not be more than 3 (three) years.
- 2) The Developer has to give Bank Guarantee of 20% of the cost of the project, to the Society at the time of execution of Agreement of redevelopment.
- 3) For temporary shifting of the members during construction period, the Developer at his cost has to provide temporary alternative accommodation and or have to pay Rent/compensation based on the following parameters:-
  - i) To provide temporary alternative accommodation to the Members preferably in the same or nearby vicinity.
  - ii) To Shift Members in the Transit Camp, if it is to be constructed in the same plot.
  - iii) To Offer reasonable Rent / compensation & Deposit to Members for transit Accommodation, in distant locality.
- 4) Re-Development agreement must be registered in the office of concerned Registration authority which is obligatory under Registration Act, 1908.
- 5) The Management shall admit new Members (out of sale component only) on completion of project, with the consent of the General Body.
- 6) Carpet Area of each flat in new building should be distinctly mentioned and incorporated in the Re-Development Agreement, individual Agreement and in Letter of allotment to members as the case may be.
- 7) Development Rights given to the Developer under the contract are not transferable.
- 8) Members shall vacate their existing premises only after all approvals & permissions are obtained by the Society/Developer from concerned authorities.
- 9) Members occupation rights (of their respective premises) shall remain intact throughout.

- 10) Under the provision of Section 91 of Co-operative Society Act, 1960, specific clause of arbitration is essential in the agreements between the Society, Developer and Architect of the project, for settling the disputes arised if any.
- 11) The distribution / allotment of re-constructed flats should be made only after Occupancy Certificate is granted by the Civic Authority. The said allotment should be made as far as possible on the same floors. In case of allotment is decided by draw / lottery system, then the same should be carried out in the presence of the representative of Registrar of Co-op. Societies, with video shooting of the entire allotment proceedings.
- 12) The developer to be appointed should NOT be a relative of any Members or Office Bearers of the Society.
- 13) It is obligatory for the Managing Committee to produce and place before the General Body plans of redevelopment scheme approved by the Civic authority. On demand in writing from any Member/s the Managing Committee is duty bound to give certified true copies of such approvals & plans to the applicant member by charging reasonable fees as decided by the Management.

*Note : Besides aforesaid basic guidelines it is essential for the societies to read and understand full text of aforesaid Notification published by the government, which is reproduced hereafter.*

महाराष्ट्र राज्यातील सर्व सहकारी गृहनिर्माण  
संस्थाना महाराष्ट्र सहकारी संस्था अधिनियम,  
१९६० चे कलम ७९(अ) अन्वये द्यावयाचे निर्देश  
सहकारी गृहनिर्माणसंस्थांच्या इमारतींचा  
पुनर्विकास करण्याबाबत.

महाराष्ट्र शासन

क्रमांक : सगृत्यो २००७/प्र.क्र. ५५४/१४-स,

सहकार पणन व वस्त्रोद्योग विभाग.

दिनांक :- ३ जानेवारी, २००९

ज्याअर्थी, महाराष्ट्र राज्यामध्ये सहकारी गृहनिर्माणसंस्थांच्या व्यवस्थापनाबाबत सभासदांच्या अनेक तक्रारी प्राप्त झालेल्या होत्या. बहुतांशी सहकारी गृहनिर्माणसंस्थांच्या पुनर्विकास करताना प्राप्त होणाऱ्या तक्रारींचे स्वरूप खालीलप्रमाणे आहे:-

- १) पुनर्विकास प्रक्रियेत सभासदांना विश्वासात न घेणे.
- २) निविदा प्रक्रियेमध्ये पारदर्शकता नसणे.
- ३) मनमानीपणे ठेकेदारांच्या नियुक्त्या करणे.
- ४) सहकारी कायदा, नियम व उपविधितील तरतुदींचे उल्लंघन करून कामकाज करणे.
- ५) वारतुविशारद व प्रकल्प सल्लागार यांनी करावयाच्या कामात सुसूत्रता नसणे.
- ६) पुनर्विकास प्रकल्प अहवालाचे नियोजन न करणे.
- ७) निविदा अंतिम करण्यासाठी योग्य त्या कार्यपध्दतीचा अवलंब न करणे.
- ८) विकासाकांशी करावयाच्या करारनाम्यात समानता नसणे आणि,

ज्याअर्थी, वरील सर्व मुद्यांच्या तक्रारींच्या संदर्भात ठोस धोरण नसल्यामुळे याबाबत वेगवेगळ्या स्तरावर प्राप्त झालेल्या तक्रारी व प्रत्यक्षात संबंधित क्षेत्रात काम करणाऱ्या सर्व घटकांशी विचारविमर्श करण्यासाठी सहकार आयुक्त व निबंधक, स.सं., महाराष्ट्र राज्य, पुणे यांनी सहनिबंधक, स.सं., सिडको यांच्या अध्यक्षतेखाली एका अभ्यास गटाची नियुक्ती केली होती. सदरील अभ्यासगटाने सहकारी गृहनिर्माण क्षेत्रातील सर्व घटकांशी विचार विनिमय करून सहकारी गृहनिर्माण संस्थांच्या इमारतीचा पुनर्विकासासाठी नियमावली करणे आवश्यक आहे असे मत व्यक्त केले. त्याअर्थी, महाराष्ट्र सहकारी संस्था अधिनियम १९६० मधील कलम ७९(अ) नुसार शासन पुढीलप्रमाणे निर्देश देत आहे.

खालील निर्देशास सहकारी गृहनिर्माणसंस्थेच्या इमारतीच्या पुनर्विकासासाठी निर्देश असे समजण्यात यावे.

१. संस्थेच्या इमारतीच्या पुनर्विकासासाठी विशेष सर्वसाधारण सभा बोलवण्याची मागणी.

ज्या सहकारी गृहनिर्माणसंस्थेच्या इमारतीचा पुनर्विकास करवयाचा आहे, अशा संस्थेच्या किमान १/४ पेक्षा कमी नाही इतक्या सभासदांनी संस्थेच्या उपविधिनुसार निवडून आलेल्या व कायदानुसार गठित झालेल्या संस्थेच्या व्यवस्थापक समितीचा पुनर्विकासासंबंधीच्या त्यांच्या योजना



व सुचनांसह संस्थेच्या इमारतीचा पुनर्विकास करण्याबाबत धोरण ठरविण्यासाठी विशेष सर्वसाधारण सभेचे आयोजन करण्याबाबत अर्ज सादर करणे आवश्यक असेल.

## २. विशेष सर्वसाधारण सभा बोलावणे.

वरील निर्देश क्र. १ प्रमाणे अर्ज प्राप्त झाल्यावर आठ दिवसांत व्यवस्थापक समिती सभेत त्याबाबत नोंद घेवून एक महिन्याचे आत संस्थेचे सचिव संस्थेच्या सर्व सभासदांची सर्वसाधारण सभा बोलावतील. सभेची विषयपत्रिका संस्थेच्या प्रत्येक सभासदास १४ दिवस अगोदर द्यावी व त्याची पोहोच संस्थेच्या दफ्तरी ठेवावी.

सदर सभा बोलावण्यापूर्वी संस्थेची समिती शासकिय / स्थानिक प्राधिकरणाकडील पॅनलवरील वास्तुविशारद / प्रकल्प व्यवस्थापन सल्लागार यांची यादी प्राप्त करून अशा किमान ५ अनुभवी व तज्ञ व्यक्तींकडून इमारतीच्या पुनर्विकास कामाचा प्रकल्प अहवाल / प्रोजेक्ट तयार करण्यासाठी दरपत्रक (कोटेशन) प्राप्त करून घेतील व त्यातून एका तज्ञ व्यक्तीची विशेष सर्वसाधारण सभेत निवड करण्यात येईल. सदरच्या विशेष सर्वसाधारण सभेत विषयावर खालीलप्रमाणे कामकाज होईल.

१. संस्थेच्या इमारतीचा पुनर्विकास करण्याबाबत सभासदांची मागणी व प्राप्त सूचना विचारात घेवून प्राथमिक निर्णय घेणे.
२. इमारत पुनर्विकासाच्या कामासाठी शासनाचे / स्थानिक प्राधिकरणाकडील पॅनलवरील तज्ञ व अनुभवी वास्तुविशारद / प्रकल्प व्यवस्थापन सल्लागार यांची निवड करणे व त्यांनी करावयाच्या कामाच्या बाबी व अटी / शर्ती निश्चित करणे.
३. इमारत पुनर्विकासासंबंधी कार्यक्रमाची रूपरेषा सादर करणे.
३. इमारत पुनर्विकासासंबंधी सभासदांच्या लेखी सूचना स्विकारणे.

अ) संस्थेच्या सभासदांना संस्थेच्या इमारतीच्या पुनर्विकासासंबंधीच्या वास्तवदर्शिय योजना, सूचना व शिफारशी याबाबत तसेच त्यांचे माहितीतील अनुभवी व तज्ञ वास्तुविशारद / प्रकल्प व्यवस्थापन सल्लागार यांची नावे लेखी स्वरूपात समितीकडे सभेच्या तारखेपूर्वी आठ दिवस अगोदर सादर करता येतील. परंतु त्या वास्तुविशारद / प्रकल्प व्यवस्थापन सल्लागारांचे पुनर्विकासाचे कामकाज करण्याबाबत इच्छुक असल्याचे पत्र सादर केले पाहिजे.

## ४. विशेष सर्वसाधारण सभेत घ्यावयाचे निर्णय.

सहकारी गृहनिर्माणसंस्थेच्या इमारतीच्या पुनर्विकासासाठी आयोजित केलेल्या विशेष सर्वसाधारण सभेचा कोरम हा एकूण सभासद संस्थेच्या ३/४ इतका राहिल. कोरमची पूर्तता न झाल्यास सभा पुढील आठ दिवसांसाठी तहकूब करण्यात येईल व सदरच्या सभेस पुनःश्च कोरम नसल्यास सभासदांना संस्थेच्या इमारतीच्या पुनर्विकासासाठी रस नाही, असे समजून सदरची सभा ही रद्द करण्यात येईल.

सभेसाठी कोरमची पूर्तता झाल्यानंतर संस्थेच्या पुनर्विकासासाठीच्या सर्व सभासदांच्या सूचना, शिफारशी व हरकती या विचारात घेतल्या जातील व सर्व सभासदांची याबाबत नमूद केलेली मते ही सभेच्या इतिवृत्तांत नावासह नमूद करण्यात येतील. त्यानंतर संस्थेच्या इमारतीच्या पुनर्विकास करावयाचा किम्वया कसे, याबाबतचा प्राथमिक निर्णय उपस्थित सभासदांच्या ३/४ पेक्षा जास्त बहुमताने मंजूर करण्यात येईल. पुनर्विकास करण्याबाबतचा प्राथमिक ठराव मंजूर झाल्यानंतर सदर सभेत पुढील प्रमाणे कामकाज होईल.

अ) इमारत पुनर्विकासाच्या कामासाठी शासनाचे/स्थानिक प्राधिकरणाकडील पॅनलवरील तज्ञ व अनुभवी वास्तुविशारद /प्रकल्प व्यवस्थापन सल्लागार यांची निविड करणेसाठी त्यांनी करावयाच्या कामाच्या बाबी व अटी/शर्ती निश्चित करणे.

ब) इमारत पुनर्विकासासंबंधीच्या कार्यक्रमाची रुपरेषा सादर करणे.

५. सभावृतांत सर्व सभासदांना देणे.

संस्थेचे सचिव यांनी वरील विशेष सर्वसाधारण सभेचे इतिवृत्त तयार करून दहा दिवसाचे आत सर्व सभासदांना त्याची प्रत देवून, त्याची पोहोच दमरी ठेवावी. तसेच एक प्रत निबंधक कार्यालयास पाठवावी.

६. वास्तुविशारद/प्रकल्प व्यवस्थापक सल्लागार यांना नियुक्तीपत्र देणे.

संस्थेचे सचिव विशेष सर्वसाधारण सभेत निविड झालेले वास्तुविशारद/प्रकल्प व्यवस्थापक सल्लागार यांना सभेच्या तारखेनंतर १५ दिवसांच्या आत त्यांच्या नियुक्तीबाबतचे पत्र देतील व सर्वसाधारण सभेमध्ये मंजूर झालेल्या शर्ती व अटीनुसार समिती आर्किटेक्टशी, प्रकल्प व्यवस्थापन सल्लागार यांच्याशी करार करेल.

७. सुरुवातीच्या टप्प्यात वास्तुविशारद / प्रकल्प व्यवस्थापक सल्लागार यांनी करावयाची कामे:

अ) संस्थेची इमारत व जमीन यांचे सर्वेक्षण करणे.

ब) संस्थेच्या जमीनीचे अभिहरतांतरणारसंबंधी माहिती घेणे

क) शासनाचे प्रचलित धोरणानुसार जमीनीच्या मालकीप्रमाणे म्हाडा/एस. आर. ए/महानगपालिका यांची त्या त्या वेळी लागू असणारी नियमावली विचारात घेवून संस्थेच्या इमारती व जमिनीनुसार उपलब्ध होणारा एफ.एस.आय व टी.डी.आर यांची माहिती प्राप्त करून घेणे.

ड) संस्थेच्या सभासदांच्या पुनर्विकासाबाबतच्या सूचना, शिफारशी विचारात घेवून, सभासदांसाठी उपलब्ध करावयाचे निवासी क्षेत्र, व्यापारी क्षेत्र, मोकळी जागा, बगीचा, पार्किंग बांधकामाचे स्पेसिफिकेशन इ. बाबी विचारात घेवून, वास्तववादी प्रकल्प अहवाल तयार करणे.

इ) प्रकल्प अहवाल वास्तुविशारद / प्रकल्प व्यवस्थापन सल्लागार यांनी त्यांचे नियुक्तीचे दिनांकापासून दोन महिन्यांचे आत तयार करून तो संस्थेच्या समितीकडे सादर करावा.

८. पुनर्विकास प्रकल्प अहवाल प्राप्त झाल्यानंतरची कार्यवाही :

अ) संस्थेचे सचिव वरीलप्रमाणे पुनर्विकास प्रकल्प अहवाल प्राप्त झाल्यावर समिती सदस्य व वास्तुविशारद/प्रकल्प व्यवस्थापन सल्लागार यांची सभासदांच्या सूचना विचारात घेवून, प्रकल्प अहवालास बहुमताने मान्यता घेण्यासाठी संयुक्त सभा बोलावतील. या संबंधीची नोटीस सभेची वेळ, ठिकाण इत्यादींसह संस्थेच्या नोटीस बोर्डवर प्रसिध्द करतील. सदर नोटीशीमध्ये प्राप्त अहवालाची प्रत संस्थेच्यासभासदांना संस्थेच्या कार्यालयात पाहण्यासाठी उपलब्ध ठेवली असल्याबाबत व पुढील होणाऱ्या समितीसभेपूर्वी आठ दिवस अगोदर सूचना सादर करणेबाबतची नोटीस प्रत्येक सभासदांस देवून त्याची पोहोच दमरी ठेवण्यात येईल.

ब) वरील प्रमाणे संयुक्त सभेपूर्वी सात दिवस अगोदर सभासदांकडील प्राप्त सूचना संस्थेचे सचिव वास्तुविशारद / प्रकल्प व्यवस्थापन सल्लागार यांचेकडे विचारार्थ पाठवतील.

क) सदर संयुक्त सभेत सभासदांकडील सूचना / शिफारशी व वारस्तुविशारद / प्रकल्प व्यवस्थापन सल्लागार यांचे मत या सर्व बाबींवर सर्वकष चर्चा होवून आवश्यक ते बदल करून प्रकल्प अहवालास बहुमताने मान्यता देण्यात येईल व निविदा मसुदा तयार करून त्यासंबंधी चर्चा/विचार विनिमय करून निविदा मसुदा अंतिम करण्यासाठी पुढील संयुक्त सभेची तारीख, वेळ व ठिकाण निश्चित करण्यात येईल.

निविदा मसुदा तयार करतांना वारस्तुविशारद/प्रकल्प व्यवस्थापन सल्लागार नामांकित तज्ञ व अनुभवी विकासकांकडून, स्पर्धात्मक निविदा प्राप्त होण्यासाठी कार्पेट एरिया व कॉरपस फंड यापैकी एक बाब कायम (न बदलणारी) ठेवून व इतर तांत्रिक बाबी निश्चित करून, निविदा मागवतील. संस्थेच्या सभासदांना त्यांचे माहितीतील नामांकित व अनुभवी विकासकांना याबाबत माहिती देता येईल.

#### ९. प्राप्त निविदांची यादी जाहिर करणे

अ) संस्थेचे सचिव निविदा मिळण्याच्या शेवटच्या दिवशी किती निविदा प्राप्त झाल्या, याची यादी तयार करून ती संस्थेच्या नोटीस बोर्डावर प्रसिध्द करतील.

ब) संस्थेचे सचिव निविदा मिळाल्याच्या शेवटच्या तारखेनंतर १५ दिवसाचे आत संस्थेचे व्यवस्थापक समितीची विशेष सभा बोलावतील. सदर सभेस निविदाकार यांचे अधिकृत प्रतिनिधी व संस्थेतील इच्छुक सभासद यांना दर्शक म्हणून उपस्थित राहता येईल. प्राप्त निविदांची छाननी सदर सभेमध्ये प्राप्त झालेल्या निविदा या सर्वासमक्ष उघडण्यात येतील. वारस्तुविशारद/प्रकल्प व्यवस्थापक (P.M.C.) सर्व निविदांची छाननी करून तुलनात्मक तक्ता तयार करतील व प्राप्त निविदाधारकांची गुणवत्ता, प्रतिष्ठा, अनुभव व स्पर्धात्मक दर इत्यादी बाबी तपासून कमीत कमी ५ किंवा ५ पेक्षा कमी निविदा प्राप्त असल्यास जेवढ्या आहेत तेवढ्या निविदा विशेष सर्वसाधारण सभेमध्ये ठेवण्यासाठी मंजूर करतील व त्याबाबत संबंधित निविदाकारांना तात्काळ कळविण्यात येईल.

#### १०. विकासकांची निवड करणे.

अ) सर्वसाधारण सभेसाठी निबंधक कार्यालयाकडून प्राधिकृत अधिकारी नियुक्त करणे.

संस्थेच्या समितीने प्रकल्प सल्लागार याचे मदतीने निवड केलेल्या निविदांमधून एका विकासकाची त्यांचा अनुभव, गुणवत्ता, आर्थिक क्षमता, तांत्रिक क्षमता व स्पर्धात्मक दर इ. विविध कसोट्यांवर निवड करण्यासाठी संस्थेची विशेष सर्वसाधारण सभा सहकारी संस्थांचे निबंधक कार्यालयाचे प्रतिनिधीचे उपस्थित होण्यासाठी प्राधिकृत अधिकारी नियुक्त करणेबाबत निबंधकाकडे सभासद यादीसह आठ दिवसात अर्ज सादर करावा. त्यावर निर्णय घेवून निबंधक प्राधिकृत अधिकारी यांची नेमणूक करतील.

ब) निविदा अंतिम करण्यासाठी विशेष सर्वसाधारण सभा बोलावणे.

संस्थेचे सचिव विकासक नेमणूकीसाठी एक महिन्याचे आत प्राधिकृत अधिकारी नियुक्तीनंतर त्यांचे पूर्व परवानगीने वेळ व ठिकाण निश्चित करून विशेष सर्वसाधारण सभा बोलावतील व या सभेची विषयपत्रिका सर्व सभासदांना सभेच्या १४ दिवस आगोदर हस्तवितरण व डाक देय पोस्टाने पाठवून त्याची पोहोच संस्थेच्या दमरी ठेवतील. तसेच निबंधक कार्यालयाचे प्रतिनिधी सभेपुढे ज्या निविदा सादर करावयाच्या आहेत त्यांचे अधिकृत प्रतिनिधी यांना उपस्थित ठेवण्याची व्यवस्था करतील. त्याचप्रमाणे संस्थेच्या खर्चाने सभेचे व्हिडिओ चित्रिकरण करण्याची

व्यवस्था करतील. सदर सभेत अधिकृत सभासदांव्यतिरिक्त कोणासही उपस्थित राहता येणार नाही. यासाठी सभासदांनी सभेच्या ठिकाणी ओळखपत्रासह उपस्थित राहणे आवश्यक राहिल. संबंधित प्राधिकरणाकडे पुनर्विकास प्रस्ताव मंजुरीसाठी सादर करतांना विकासकाची निवड व इतर कामकाज निबंधक प्राधिकृत अधिकारी यांचे उपस्थितीत होणे आवश्यक राहिल.

**क) विशेष सर्वसाधारण सभेचा कोरम नसल्यास.**

विशेष सर्वसाधारण सभेचा कोरम हा एकूण सभासद संख्येच्या ३/४ इतका राहिल. कोरमची पूर्तता न झाल्यास सभा पुढील आठ दिवसांसाठी तहकूब करण्यात येईल व सदरचे सभेस पुनःश्च कोरम नसल्यास सभासदांना संस्थेच्या इमारतीच्या पुनर्विकासाठी रस नाही, असे समजून सभा रद्द करण्यात येईल व सदरचा विषय पुन्हा पुढे एक वर्षापर्यंत विशेष सर्वसाधारण सभेपुढे मान्यतेसाठी आणता येणार नाही.

**ड) विकासक निवडीबाबतचे विशेष सर्वसाधारण सभेतील कामकाज.**

सदर सभेत निबंधक कार्यालयातील प्राधिकृत प्रतिनिधी उपस्थित राहतील व सभेतील कामकाजाचे निरीक्षण करतील. तसेच सभेच्या ठिकाणी व वेळी आवश्यक प्रतिनिधी व प्राधिकृत अधिकारी उपस्थित झाल्यावर व वरील प्रमाणे ३/४ इतका कोरम पूर्ण झाल्यावर सभेचे कामकाज पुढील प्रमाणे होईल.

- i. सादरीकरणासाठी निवड केलेल्या निविदांसंबंधी तुलनात्मक माहिती देणे (पुनर्विकास कामासंबंधी)
- ii. निविदाकार यांचे क्रमाने सादरीकरण. (निविदा प्रेझेंटेशन)
- iii. इमारत पुनर्विकासासाठी एका विकासकाची अटी/शर्तीसह निवड करणे व निविदा अंतिम करणे.
- iv. निवड झालेल्या विकासकाकडून संमती घेणे.
- v. पुढील कामकाजाबाबत माहिती देणे.

विकासक नियुक्तीस उपस्थित सभासदांच्या किमान ३/४ इतक्या बहुमताने लेखी मान्यता घेणे आवश्यक राहिल. निवड झालेले जे विकासक किंवा त्यांचे प्रतिनिधी सभेसाठी उपस्थित राहणार नाहीत त्यांची सदर प्रकल्पासाठी संमती आहे असे ग्राह्य धरून पुढील कार्यवाही करण्यात येईल.

**ई) विकासकाशी करावयाचा करारनामा.**

संस्थेने व्यवस्थापकसमितीच्या सर्वसाधारण सभेने मंजूर केलेल्या अटी व शर्तीस अधिन राहून वास्तुविशारद / प्रकल्प व्यवस्थापन सल्लागार यांच्या मार्गदर्शानुसार विकासकांबरोबर करारनामा एक महिन्याचे आत करावा. करारनाम्यात संस्थेचे नियुक्त वास्तुविशारद/पी.एम.सी. यांनी सुचविल्याप्रमाणे इतर मुद्यांसोबत खालील मुद्यांचाही समावेश राहिल.

- १) संस्थेचा पुनर्विकास प्रकल्प पूर्ण करावयाचा कालावधी दोन वर्षांपेक्षा जास्त असणार नाही व अपवादात्मक परिस्थितीत तीन वर्षांपेक्षा जास्त असणार नाही.
- २) विकासक पुनर्विकास प्रकल्पाच्या किंमतीच्या २०% बँक गॅरंटी संस्थेस देईल.
- ३) विकासक पुनर्विकास कालावधीत सभासदांना शक्यतो त्याच क्षेत्रात प्रकल्प पूर्ण होईपर्यंत निवासार्थी पर्यायी सोय उपलब्ध करून देईल किंवा सभासदांना मान्य होईल असे मासिक भाडे व डिपॉझिट देण्याची व्यवस्था करील किंवा अशी संक्रमण शिबीरे उपलब्ध करून देईल.

- ४) सदरवा करारनामा हा रजिस्ट्रेशन अक्ट १९०८ प्रमाणे नोंदणीकृत करण्यात येईल.
- ५) संस्थेमध्ये नवीन सभासद हे पुनर्विकास प्रकल्प पूर्ण झाल्यावर संस्थेच्या सर्वसाधारण सभेच्या मान्यतेनेच घेण्यात येतील.
- ६) करारनाम्यात देय कारपेट एरियाचा स्पष्ट उल्लेख असावा.
- ७) विकासकास दिलेले विकास हक्क हे अहस्तांतरणीय असातील.
- ८) इमारत पुनर्विकासासाठी सर्व कायदेशिर मान्यता मिळाल्यानंतरच गाळेधारक सभासद गाळ रिकामे करतील.
- ९) ज्यांच्या ताब्यात सदनिका आहेत त्यांचे हक्क अबाधित राहतील.
- १०) पुनर्विकास कामात कोणताही वाद निर्माण झाल्यास तो अधिनियमांतील कलम ९१ अन्वये सोडविण्याची तरतुद सदर ठेकेदार व वास्तुविशारद आणि संस्थेमधील कन्सल्टंटमध्ये असणे आवश्यक आहे.
- ११) रहिवास दाखला (ऑक्ज्युपेशन सर्टिफिकेट) मिळाल्यावर पुनर्विकसित इमारतीतील सदनिकांचे वाटप करतांना शक्य तेथे सध्याचे स्थितीनुसार मजल्यांच्या क्रमाने वाटप करण्यात यावे, व सोडत पध्दतीने सदनिका वितरण करणे आवश्यक झाल्यास, इमारत पूर्ण झाल्यानंतर विकासकाने सदनिकांचे सोडतीची व्यवस्था करावी व त्यावेळी निबंधकांचे प्रतिनिधींच्या उपस्थितीत सोडतीने सदनिका वितरण करावे व त्याचे व्हिडीओ चित्रीकरण करावे.
- १२) संस्थेचा कोणीही समिती सदस्य किंवा पदाधिकारी विकासक किंवा त्याचा कोणीही नातेवाईक नसावा.
- १३) महानगरपालिका / सक्षम प्राधिकरणाने मंजूर केलेल्या बांधकामाचे नकाशे परत सर्वसाधारण सभेपुढे माहितीसाठी सादर केले पाहिजेत व जर एखाद्या सभासदास मान्यताप्राप्त कागदपत्रांची प्रत हवी असल्यास त्यांनी संस्थेकडे त्याबाबत लेखी अर्ज करावा, व योग्य ती फी आकारून माहिती पुरविणे समितीवर बंधनकारक राहिल.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने

(डॉ. सुधीरकुमार गोयल)  
प्रधान सचिव (सहकार व पणन)

प्रत:-

- १) सहकार आयुक्त व निबंधक, शकारी संस्था, महाराष्ट्र राज्य पुणे.
- २) विभागीय सहनिबंधक, सहकारी संस्था (सर्व)
- ३) जिल्हा उपनिबंधक, सहकारी संस्था (सर्व)
- ४) निवड नस्ती (१४-स)

## REDEVELOPMENT SCHEMES : CHALLENGES & IMPEDIMENTS OF SOCIETY

Redevelopment of occupied building of housing Society is a challenging task in itself. By and large it is experienced in General Body Meetings that there is hardly any unity amongst Members, where lot of time is wasted on petty personal issues, without discussions and decisions on very important issues of repair, maintenance, reconstruction etc.

Even though the Managing Committee is responsible to look after day-to-day affairs, at the end of the day, ultimately Committee Members are blamed for any thing happening in the society. Conveniently Members forget his/her responsibilities and liabilities towards common cause of the Society. Whether one likes or not every member has to trust and be co-operative with each other to maintain unity in the common interest of the Society. Many a times the office bearers has to undergo acid tests one after another, when issue of redevelopment is involved. Proposal gets delayed year after year due to petty personal disputes, and lack of trust and confidence in the Management. To make redevelopment possible & feasible, the Society has to face and solve number of following challenges :-

### a) Challenges:-

- i) Lack of trust and unity amongst each other.
- ii) Lack of awareness of ground realities.
- iii) Opposition for the sake of opposition on any issue by Member/s.
- iv) Inability to assemble and agree in one voice to take vital decision.
- v) Refusal of handing over Society records to new Committee by previous officer bearers.
- vi) Member's personal difficulties, and disputes among each other.



- vii) Clearance/Release of Mortgaged flats from Financial Institution,
- viii) Unpractical demands as regards additional areas, corpus funds, refusal for shifting to transit accommodation etc.
- ix) To obtain 100% consent of all the Members for proposed redevelopment, as well as to make them agree to accept uniform amenities and benefits at par with each other as regards additional area, reserved parking space and other incentives are concerned.
- x) To Convince those members, who are not interested to join the redevelopment Scheme.
- xi) Withdrawal of earlier consent, given by the existing member for proposed redevelopment.
- xii) Facing of court litigation against the Society for redevelopment filed if any even by single aggrieved Member.
- xiii) To refuse to shift to transit camp on site, or at elsewhere location, during course of reconstruction.
- xiv) Eleventh hour refusal of handing over vacant position of the flat occupied by a Member required for demolition of building.
- xv) Demand of rent-free accommodation at specific floor, specific location & specific locality.
- xvi) To Refuse to pay upto date arrears of taxes, maintenances etc.
- xvii) Obtaining consent from Tenants of the Society if any in existing building or situating within the plot.
- xviii) Passing of unanimous resolution in the Managing Committee as well as in the General Body Meeting required for intended redevelopment.

**b) Impediments :-**

Besides solving above challenges the Society has to over come following technical and Legal impediments which pertains to Documents of ownership Records which are foremost important for any redevelopment Scheme.

### **Legal Documents :-**

- i) To obtain Conveyance of the property if not executed in favour of the Society so far.
- ii) To transfer the ownership of property in favour of Society if it is not reflected in Property Register Card of City Survey Office, even though Conveyance and Index-II are obtained.
- iii) To obtain fresh P. R. Card/s reflecting ownership of Society therein, with plot area in figures & words duly certified by the City Survey Officer. P. R. Cards are valid for only one year.
- iv) To obtain corrected P. R. Cards from City Survey Office, if there is correction in area i.e. difference in area recorded in Conveyance & on corresponding P. R. Card and actual area on site. (Discrepancy : Less or more area).
- v) To obtain Renewal of Lease, if earlier lease period is over or likely to be over soon, when the plot is Lease Hold where the Lessor is either a private party or any statutory authority.
- vi) Non availability of originals of documents of ownership.
- vii) To obtain Certified True Copies of ownership documents (Conveyance/ Lease) from the Registration authority, in case the same are misplaced not traceable or destroyed.
- viii) To obtain written Consent from the Lessor for proposed redevelopment scheme (in case the property is lease hold), particularly for the use of additional F.S.I. or loading of T.D.R. if such permissions are not incorporating in the original lease document.
- ix) To obtain up to date fresh City Survey Plan of the property from City Survey Office.

### **Technical Documents :-**

- i) Non availability of approved plans (including I.O.D. & Commencement Certificate) according to which building is constructed.
- ii) Non availability of Occupancy Certificate and or Building Completion Certificate, of the building/s in reference.

- iii) Non availability of Structural plans and calculations according to which building is designed. (This document is most essential for carrying out extensive repairs and or for vertical/horizontal extension when proposed to the existing building).
- iv) Non availability of City Survey Plan as well as Physical Survey plan, showing existing boundaries, its dimensions and actual area available on site.
- v) Non availability of names & address of component agencies i.e. original Vendor/s (Owner) Developer and or Contractor who had constructed the building, as well as of Architect, Structural Engineer, Site Engineer under whose supervision the building work is carried out.

*Notes : 1) It is absolutely essential that the Society must possess aforesaid Legal & Technical documents without which redevelopment proposal is not easily possible.*

*2) The Society before going ahead with redevelopment, should obtain above Legal & Technical Records from Owner, City Survey Officer & Municipal Corporation respectively, as the case may be.*

*3) It is advisable that the Society should appoint or engage services of professionals to obtain aforesaid documents from respective authorities, since the procedures involved in obtaining such documents is very laborious task and costly too.*

## INCENTIVES FOR REDEVELOPMENT FOR SOCIETY BUILDINGS

The Government of Maharashtra sanctioned the modification to the Development Control Regulations for Greater Mumbai-1991, under section of 37(1AA) (c) of MRTP-Act, vide Govt. Notification No. CMS-4311/452/CR-58/2011/UD-11 dt. 6<sup>th</sup> January 2012, granting certain encouraging incentives in respect to redevelopment of age old buildings owned by co-operative Housing Societies in the limits of Greater Mumbai (City and Suburban limits), to enable to make redevelopment proposal financially viable. The said incentives are described in brief for the benefit of Co-operative Housing Societies as under:-

### 1) Additional 0.33 F.S.I. in Suburbs and Extended suburbs :-

The Government of Maharashtra vide its Notification under No. 7PB-4308/776/CR-127/2008/UD-11 dated 24-10-2011 (making certain modifications in its earlier Notification dated 10-04-2008) sanctioned the modification proposal under section 37(2) of MRTP Act and thus the pending issue of granting additional 0.33 F.S.I. for Mumbai-Suburban areas, is finally cleared and now **0.33 additional F.S.I. (1.00 + 0.33) is permissible for the development in the Suburban and Extended Suburban** areas of Greater Mumbai against payment of premium. The modified Notification and area wise premium applicable is as under:-

### GOVERNMENT OF MAHARASHTRA

Urban Development Department,

Mantralaya, Mumbai 400 032.

Dated : 24<sup>th</sup> October 2011.

### NOTIFICATION

TPB - 4308/776/CR-127 / 2008 / UD-11:

Whereas, the Development Control Regulations of Greater Mumbai, 1991 (hereinafter referred to as "the said Regulations") have been sanctioned by the Government vide Urban Development Department Notification No. DCR - 1090/RDP/UD-11, dated 20<sup>th</sup> February, 1991, under section 31(1) of Maharashtra Regional and Town Planning Act, 1966 (hereinafter referred to as "the said Act") to come into force with effect from 25-03-1991;

And whereas, as per Regulation No. 32, Table No. 14,(1)(B) (iii) & (2)(B) for the area in suburbs and extended suburbs of Gr. Mumbai including Gaothan and excluding the area mentioned in Table No. 14,(1)(B)(i) & (ii), the permissible floor space indices in Residential and Commercial Zone is 1.00.

And whereas, as per the provision of Appendix VII (A) under regulation 34 of the said Regulations, the FSI of receiving plot shall be allowed to be exceeded by not more than 0.8 earned either by way of DR in respect of reserved plots or by way of land surrendered for road widening or construction of new road. Also as per the provisions of Appendix VII (B), in respect of regulation No. 33(10) & 33(14), TDR receiving plot shall be eligible for not more than 100% additional FSI in whichever combination TDR's are received, provided at least 20% of FSI shall be mandatorily kept for use of TDR generated as surplus from Slum Rehabilitation Scheme;

And whereas, as per the provisions of Regulation 33 of the said Regulations, additional Floor Space Index may be allowed in certain categories like Educational, Medical, Institutional, Star category Residential hotels etc.

And whereas, in ongoing Budget Session of 2008, Hon'ble Finance Minister in the Budget Speech has announced the Governments intention to increase the permissible FSI in suburban area of Gr. Mumbai from 1.00 to 1.33, subject to payment of premium;

And whereas in exercise of the powers vested under section 37(1) of the said Act read with provision contained in section 154 of the said Act, Government vide order of even No. dated 10-04-2008 issued directions to the Municipal Corporation of Greater Mumbai (hereinafter referred to as "the said Corporation"); to initiate modification in Regulation No. 32 of the said regulation and pending sanction to these modification by Govt. under section 37(2) of the said Act, the same was brought into effect from the date of order;

And whereas, Shri. Amit Maru & others had filed Public Interest Litigation No. 94/2008 in the Hon. Bombay High Court challenging notification issued by State Govt. vide Order No. even dated 10-04-2008 regarding increase of 0.33 FSI over & above 1.00 FSI in the suburban district of Mumbai. In the said PIL the Hon. High Court has passed the interim order on 23-05-2008 and directed to give only development permission to the proposals submitted for sanction and not issue commencement certificate of the development proposal in this regards;



And whereas, meanwhile the Govt. vide order of even No. dated 12-05-2008 had given clarification on certain points in the said directives to the said Corporation and Govt. vide letter of even No. dated 05-06-2008 has informed the said Corporation to include in the said modifications, the rules regarding the levy of premium for condonation of deficiency at the rate of 10% of normal premium, as levied for TDR generated from SRA Schemes;

And whereas, the said Corporation has failed to publish a notice regarding the said modification in the official gazette within a period of 90 day from the date of said directives as stipulated under section 37 of the said Act;

And whereas, by considering the clarification and the letter issued to the said Corporation and by considering other points, Govt. has proposed modification in Development Control Rule No. 32 of the said regulations (hereinafter referred to as "the said modification") and issued notice u/s 37 (1A) of the said Act on 11<sup>th</sup> July 2008 and appointed the officer (hereinafter referred to as "the said Officer") u/s 162 of the said Act to submit the report to Govt. on received suggestions / objections;

And whereas, the said notice u/s 37(1A) was published in Govt. Gazette dated 17<sup>th</sup> July, 2008 and daily newspaper 'Asian Age' dated 25-7-2008. Total 25 suggestions / objections were received;

And whereas, the said officer, after giving hearing to all suggestions/ objections had submitted the report through the Director of Town Planning, Pune to Govt. on 12-09-2008. Also the Director of Town Planning has submitted his report to Govt;

And whereas, after considering the report of the said officer and the Director of Town Planning, Maharashtra State, Pune, the State Govt. had sanction the said modification proposal with some changes (more specifically shown in "schedule" below) vide order of even No. dated 3-10-2008 under section 37(2) of the said Act (hereinafter referred to as the "said modifications");

And whereas, the hearing proceeding were carried out in the Public Interest Litigation No. 94/2008 in the Hon. Bombay High Court regarding the notification issued by the State Govt. in the said matter. The Hon'ble High Court by is order dated 10-06-2010 has declared the notification issued by the State Govt. under section 37(2) of the said Act as null and void.



And whereas, after considering the order of Hon'ble High Court and circumstances in the case and in the large interest of the public & immediate action to be required and as both houses of the State Legislature were not in session, the ordinance has been passed by the Hon'ble Governor on 21-09-2010 and has published as Maharashtra Ordinance No. XIII of 2010 in Maharashtra Govt. Gazette, Extra Ordinary, Part IV, dated 21-09-2010 (hereinafter referred to as "the said Ordinance"), to make provision of charging premium in the said Act, to take retrospective effect from 11-1-67;

And whereas, in the Winter Session-2010, in both houses of State Legislature the said Ordinance has been converted into the Act (Maharashtra Act No. XXIX of 2010) as published in the Maharashtra Govt. Gazette dated 21-12-2010, and by doing so the necessary changes in the said Act had been occurred and said retrospective effect for charging premium was given from 11-1-67;

And whereas, the State Govt. has amended the Act to incorporate the provisions of charging premium with retrospective effect from 11-1-67, order issued by the State Govt. u/s 37(1) and the notice issued u/s 37(1A) of the said Act is lawful. Therefore, after consulting and taking legal opinion of the Principal Secretary, Law and Judiciary Department of Govt. of Maharashtra, the Government find its necessary to sanction the said modification and issue notification u/s 37(2) of the said Act.;

Now, therefore, in exercise of the powers vested in it under section 37(2) of the said Act, the Government hereby sanctions the said modification proposal as described in the schedule given below:-

## SCHEDULE

### SANCTIONED MODIFICATIONS

Rule No. 32, Table No. 14, (1)(B)(iii)			
Provision	FSI	Tenement Density	
		Max.	Min.
The remaining area in suburbs & extended suburbs including Gaothan.	1.00	450	200
Provided that FSI may be permitted to exceed upto 1.33 subject to following conditions:- 1) Additional 0.33 FSI is optional and non-transferable. It is to be granted as on application and to be used on the same plot.			

- 2) The total maximum permissible FSI, with 1.33 FSI, Road FSI and TDR shall be restricted to 2.00.
- 3) As per concept of TDR, additional FSI shall be permissible on gross plot area.
- 4) Additional FSI available as per Regulation 33, shall be related to basic FSI of 1.00 only.
- 5) Premium shall be charged for additional 0.33 FSI, as per the rates mentioned in Annexure. However, the Govt. may revise these rates from time to time.
- 6) Premium shall be shared between the State Govt. and MCGM on 50:50 basis. The MCGM shall utilize the premium through Escrow Account for implementation of Development Plan and infrastructure. However, Govt. shall have right to change this ratio, depending upon the need for providing funds from Govt. for infrastructure projects in Mumbai.
- 7) In Mumbai Suburban District, construction upto 1.00 additional FSI is permissible through use of TDR. 0.33 FSI being optional and part of overall ceiling of use of 1.00 TDR, and disclosure made for use of TDR / FSI, while making agreements with purchasers under MOFA Act, shall be held valid for use of 0.33 FSI.
- 8) No vertical extension of existing building by utilizing 0.33 FSI shall be permitted with erection of columns in the required marginal open space.
- 9) Tenement density shall be relatively increased as per the increase in FSI above 1.00.
- 10) 0.33 additional FSI shall not be permitted in Bandra-Kurla Complex, SRA Schemes under Regulation 33(10), CRZ areas and the matters which are subjudice.
- 11) As per the provisions of Appendix VIIB under DCR 33(10) and 33(14), the extent of slum TDR shall be at least 20% of total permissible additional FSI (in any combination of additional FSI and TDR)
- 12) The relaxation of premium i.e. 10% of normal premium shall be charged while condoning deficiencies in open spaces (as applicable for use of slum TDR).
- 13) Additional 0.33 FSI shall not be applicable for industrial user.

### Premium rates for additional 0.33 FSI.

Sr. No.	Land rates/sq.mt. as per Ready Reckoner 2008	Illustrative list of area covered under these rates (Not all the areas)	Proposed Premium rates/ sq.mt.
1	Upto Rs. 7000/- sq.mt.	Manori, Gorai, Turbhe, Mankhurd.	70% of land rate
2	Rs.7001-10000/- sq.mt.	Madh, Aarey Dindoshi (pt), Erangal, Akse, Marve, Mahul, Chembur(pt) Deonar.	Rs. 4900/- + 30% of R/R rates exceeding Rs.7000/- sq.mt.
3	Rs.10001-15000/-sq.mt.	Gorai(pt), Pahadi, Eksar(pt), Malad, Malwani(pt), Kurar(pt), Borivali(pt), Dahisar(pt), Anik(pt), Ghatkopar(pt)	Rs. 5800/- + 30% of R/R rates exceeding Rs. 10000/- sq.mt.
4	Rs.15001-20000/- sq.mt.	Chakala(pt), Vileparle(pt), Kandivali(pt), Oshiwara(pt), Kurla(pt), Mulund (pt)	Rs. 7300/- + 30% of R/R rates exceeding Rs. 15000/- sq.mt.
5	Rs.20001-25000/- sq.mt.	Bandra (E), (pt)	Rs. 8800/- + 30% of R/R rates exceeding Rs. 20000/- sq. mt.
6	Rs.25001-35000/- sq.mt.	Bandra (E), (pt)	Rs.10300/- + 30% of R/R rates exceeding Rs. 25000/- sq.mt.
7	Rs.35001-50000/-sq.mt.	Bandra (E), (pt)	Rs.13300/- + 20% of R/R rates exceeding Rs. 35000/- sq.mt.
8	Rs.50001-70000/- sq.mt.	Bandra (E), (pt)	Rs.16300/- + 20% of R/R rates exceeding Rs. 50000/- sq.mt.
9	Rs.70001-100000/- sq. mt.	Bandra (E), (pt)	Rs.20300/- + 10% of R/R rates exceeding Rs. 70000/- sq.mt.
10	Above Rs. 100000/- sq. mt.	Bandra (E), (pt)	Rs. 23300/- + 10% of R/R rates exceeding Rs.100000/- sq. mt.

### 2) Fungible Compensatory F.S.I.:-

As per sanctioned modification to the Development Control Regulation for Gr. Mumbai-1991 vide Govt. Notification dt. 6<sup>th</sup> January 2012, Fungible Compensatory additional F.S.I. henceforth will be permitted over and above present admissible F.S.I. for all type of developments in the Greater Mumbai Limits with the special permission of the Municipal Commissioner

subject to the terms and conditions mentioned therein against the payment of premiums. The salient features of the said permissible incentive Fungible compensatory F.S.I. related to user/zone are described as under:-

**a) Extent of Permissible Fungible Compensatory F.S.I.:-**

<u>Zone &amp; Users</u>	<u>Fungible F.S.I. permissible</u>
i) Residential Development	: 35% overadmissible F.S.I.
ii) Commercial Development	: 20% over admissible F.S.I.
iii) Industrial Development	: 20% over admissible F.S.I.

**b) Computation of Admissible & Fungible Compensatory F.S.I.:-**

In view of item No. (a)(i) to (iii) above following will be permissible F.S.I. for different users in City and Suburban limits of Gr. Mumbai :-

**• City Limit :-**

<u>Admissible F.S.I.</u>	<u>Fungible F.S.I.</u>	<u>Total Permissible F.S.I.</u>
i) Residential Zone 1.33	+ 35%	= 1.7955
ii) Industrial & Commercial Zone 1.33	+ 20%	= 1.596

**• Suburban Limits :-**

i) Residential Zone 1.00	+ 35%	= 1.35
ii) Industrial & Commercial Zone 1.00	+ 20%	= 1.20

**c) Payment of Premium :-**

The incentive Fungible Compensatory F.S.I. will be permitted by the Corporation against the payment of premium. The premium rates are directly linked to the property rates of different areas mentioned in Ready Reckoner for the purpose of Stamp Duty declared by the State Government from time to time. The said premium will be charged according to the percentage decided by the Government for different users and development is described as under:-

- i) Residential Development : 60% of the Stamp Duty Ready Reckoner Rate of the respective Location.

- ii) Industrial Development : 80% of the Stamp Duty Ready Reckoner Rate of the respective Location.
- iii) Commercial Development: 100% of the Stamp Duty Ready Reckoner Rate of the respective Location.

**d) Applicability of Premium:-**

- i) In the case of redevelopment under regulation No. 33(7), 33(9) & 33(10) (excluding clause No. 3.11 of Appendix-IV of Development Control Regulation-1991) the Fungible compensatory F.S.I. admissible on rehabilitation (of Tenant / Members) component shall be granted **without charging of Premium.**
- ii) The redevelopment under D. C. Regulation No. 33(5) i.e. Low Cost Housing Schemes of MHADA, as well as redevelopment proposals of existing buildings in suburbs and extended suburbs by availing of Transfer of Development Rights (TDR), the fungible compensatory F.S.I. admissible on F.S.I. consumed in existing building for only rehabilitation component shall be granted **without charging premium.**
- iii) **The premium will be charged** for fungible compensatory F.S.I. to be used or utilized for Salable Component of aforesaid redevelopments mentioned in item (d) (i) & (ii) above.

**3) Important Provisions of Fungible Compensatory F.S.I. :-**

- i) In the redevelopment schemes, the Fungible compensatory F.S.I. to be utilized for the Rehabilitation Component **shall not be permitted** to be used in Free Sale component as well for to give any additional area over and above the eligible area to the Tenants / Occupants.
- ii) The Fungible Compensatory F.S.I. **is not admissible / permissible** for the development of lands affected by CRZ (Costal Regulation Zone). The development in CRZ shall be in accordance as per MOEF Notifications and its amendmends from time to time, and shall be governed by earlier policy thereof.
- iii) The Fungible compensatory F.S.I. can be used **as “Regular F.S.I.”.**
- iv) The use and consumption of Fungible compensatory F.S.I. in proposed development shall be permitted in accordance to the terms and conditions in the said modification of Development Control Regulations for Gr. Mumbai-1991, vide Notification dt. 06-01-2012.



**REDEVELOPMENT SCHEMES :  
LOADING OF TRANSFER OF DEVELOPMENT RIGHTS  
(T.D.R. UTILISATION IN SUBURBS ONLY)**

**A) DEFINATION :**

T.D.R. is a non monetary compensation in the form of Floor Space Index (F.S.I.) credit equivalent to the Gross area of plot reserved for public purpose in the Development Plan and additional amenities such as D. P. Roads etc. against owners' handing over of such plot/area under public reservation, 'Free of Cost' to the Municipal Corporation of Greater Mumbai subject to the terms & conditions more specified in Appendix VII, Regulation No. 34, Page No. 83-85 of DCR 1991.

**B) AVIALABILITY OF TDR :**

- 1) Transfer of Development Rights are available to the Owner/Lessee of the land only in case of prospective development of Reservation, i.e. where development of Reservation has not been implemented.
- 2) T.D.R. is available for Reserved lands which are retainable/non retainable under U.L. (C.&R.) Act 1976, as well as for all reserved lands to which the provisions of U.L. (C.&R.) Act 1976 are not applicable.
- 3) T.D.R. is also available where a plot of land reserved for any proposal specified in section 22 of M.R.T.P. Act 1966.

**C) WHO CAN UTILISE TDR:**

Such Transfer of Development Right in the form of F.S.I. credit can be utilized/used by the Owner/Lessee of the land for his own use or he can transfer and or assign the said development rights to any person/s.

**D) PERMISSIBLE F.S.I. CREDIT AGAINST TDR:**

The F.S.I. Credit in the form of Development Right Certificate shall be equal to the gross area of the plot. Such F.S.I. credit will be proportionately increased or decreased according to the permissible F.S.I. of the zone from where such T.D.R. is generated more particularly described as under:-



**ORIGIN****PERMISSIBLE F.S.I. CREDIT**

- |    |                             |      |
|----|-----------------------------|------|
| 1) | Island City.                | 1.33 |
| 2) | Suburbs & Extended Suburbs. | 1.00 |

**E) EXTENT OF UTILISATION OF TDR:**

F.S.I. credit so available in the form of Transfer of Development Rights Certificate (D.R.C.) will be allowed to be utilized on the Receiving plot, over & above its normal permissible F.S.I. However, such F.S.I. credit shall not exceed more than 100% of the receiving plot, subject to its utilization in the following manner:-

- 1) 40% of the F.S.I. Credit generated out of public reservations.
- 2) 40% of the F.S.I. Credit in respect of land surrendered for Road widening & for New Development Plan (D.P.) Roads.
- 3) 20% of T.D.R. generated out of slum Redevelopment Schemes.

*Note:- However, Owner/Lessee can avail 100% utilization of T.D.R. generated out of Slum Redevelopment schemes either in Receiving Zones or in any Non-Receiving corridors, prescribed in DCR-1991.*

**F) WHERE TDR CAN BE UTILISED :**

F.S.I. Credit in the form of TDR shall be allowed to be utilized within the peripheral area of the Same Ward of its origin and/or towards North of the origin, either in Western Suburbs or Eastern Suburbs as the case may be.

**G) WHERE T.D.R. CAN NOT BE UTILISED :**

- 1) Where permissible F.S.I. is less than 1.00
- 2) Where permissible F.S.I. is more than 2.00
- 3) On plots falling within 50 Mtrs. On roads on which no new shops are permitted more particularly prescribed in Sub-Regulation (2) of Regulation 52 of D.C.R. 1991.
- 4) Coastal Zones defined by the Corporation/State Government.
- 5) No Development Zones.
- 6) Tourism Development Zone.
- 7) Anywhere in the Island City of Mumbai.

- 8) Areas wherein development is controlled by the following Special Planning Authorities:-  
 a) M. M. R. D.A.      b) M.H.A.D.A.
- 9) In the following Non-Receiving Corridors:

**Western Corridor**

- i) Between the tracks of Western Railway and the Swami Vivekanand Road (S.V. Road)  
 ii) Between the tracks of Western Railway and Western Express Highway.

**Eastern Corridor**

Between the tracks of Central Railway (Main Line) and Lal Bahadur Shastri Marg, (L. B. S. Marg).

**• USERS PERMISSIBLE IN RECEIVING ZONES FOR UTILISATION OF T.D.R.**

Sr. No.	Zone in which T.D.R. is Generated	Users permitted in Receiving Areas
1	Residential	Only Residential users and in Residential Zones <b>only</b> .
2	Commercial (C-1)	Commercial (C-1) users if the plot is situated in C-1 Zone.
3	Commercial (C-2)	Commercial (C-2) users if the plot is situated in C-2 Zone.
4	Industrial (I-1), (I-2), (I-3)	Residential only in Residential Zone.

**• T.D.R. GENERATED FROM R-2 ZONE TO BE UTILISED IN C-1 ZONE**

Sr. No.	Frontage of plot in Generating zone	Percentage of TDR be permitted in Receiving Zone
1	Plots fronting on Roads having width between 12m to 15m.	80%
2	Plots fronting on Roads having width between 15m to 18m.	90%
3	Plots fronting on Roads width more than 18m.	100%

## **DOCUMENTS TO KEEP AS PERMANENT RECORD: BY SOCIETIES / OWNERS / PURCHASERS**

It is seen that the Owner/Society do not keep all the documents related to their real estate transactions in their possession as a "Permanent Record". With the result they face unnecessary hardship at a later stage. After a long span of time such documents are not readily available from the concerned parties. In your own interest you should possess the original documents, described in the following checklist.

### **CHECK LIST:**

- Deed of conveyance, 7/12 Utara & Property Register Card.
- Agreement to sale, deed of sale & transfer.
- Agreement of development rights when builder is a developer.
- Power of Attorney, Undertakings, Affidavits & Indemnity Bonds etc.
- Letter of approval of plans, & related clearances.
- Set of approved / completion plans, & N.A. permission.
- Commencement Certificate / Development permission.
- Occupation permission / Building Completion Certificate.
- Drainage Completion Certificate, & Water Connection Certificate.
- Structural Stability Certificates issued by the R.C.C. specialist.
- Set of structural design & plans as per R.C.C. work executed.
- Plan of Electrical Layout, & Plumbing & sanitation layout.
- Layout of fire fighting installations.
- Architect's Completion Certificate together with statement of carpet area / built-up area of all flats / building.

### **List of component agencies : Names, Addresses and Telephone Nos.**

- Architect, Structural Engineer, and Advocate/Solicitor
- Contractors, Builders / Developer and Land Owner.

*Notes: i) Take out two sets of copies of the above documents, laminate the documents wherever required and keep one set as "Master Record" & other as "Working Record".*

## LIST OF PROFESSIONALS' ASSOCIATIONS IN MUMBAI

Following Associations can give professional services and guidance in the field of their expertise. :-

SR. NO.	NAME & ADDRESS OF ASSOCIATION	DESCRIPTION OF PROFESSIONALS
1	<b>PEATA (INDIA)</b> <b>Practising Engineers, Architects and Town Planners Association (INDIA)</b> 4 & 5, Nagree Terrace, Ground Floor, Sonawala Agyari Lane, Off. M. Chotani Road, (Near Municipal Garden), Mahim, Mumbai – 400 016. Tel.: 2444 5998 / 2444 2897 Fax: 444 2983	Architects, Structural Engineers & Town Planners and Arbitrators.
2	<b>The Indian Institution of Architects (India)</b> Prospect Chambers Annexe 5 <sup>th</sup> Floor, Dr. D.N. Road, Fort, Mumbai – 400 001. Tel : 2046972	Architects.
3	<b>Indian Society of Structural Engineers</b> 24, Pandit Niwas, 3 <sup>rd</sup> Floor, R.B.S.K. Bole Marg, Dadar (W), Mumbai – 400 028. Tel.: 422 1015 Tel/Fax 422 4096	Structural Engineers.
4	<b>The Institution of Engineers (India)</b> (Maharashtra State Centre) 15, Haji Ali Park, K. Khadye Marg, Mahalaxmi, Mumbai – 400 034. Tel.: 492 3650 / 494 2943 Fax: 494 2942	Engineers.
5	<b>The Indian Institute of Interior Designers</b> 109-Surner Kendra, 1 <sup>st</sup> Floor Behind Mahindra Towers, Pandurang Budhakar Marg, Worli, Mumbai – 400 018. Tel: 2495 0653 Fax: 2495 3684	Interior Designers.

## RENTAL BASED ASSESSMENT & PROPERTY TAXES (OLD SYSTEM)(Guide Lines of Municipal Corporation of Gr. Mumbai)

Assessment Tax is a revenue earned by Civic authority for the services being rendered to public viz. water, sewerage, education, streets etc., which is based on Ratable Value decided by the assessment department. The department publishes periodically the tables of ratable value for different localities, which remain in force till the date taxes are amended. Following preliminary information in the form of questions and answers will give fair idea as to how the taxes are worked out and recovered.

### **Q. Which properties / premises attract assessment taxes ?**

**A.** All the private properties, (lands or lands with buildings there on) either free hold or lease hold, attract assessment taxes. The vacant lands or lands under construction are assessable. After the construction is completed the premises are assessed together with land component, from the date of occupation permission granted.

### **Q. Which properties / premises do not attract assessment taxes ?**

**A.** Following properties / premises are exempted from assessment taxes: -

- i) The lands or land with buildings owned, occupied / used by the State or the Central Govt.
- ii) Lands/Premises owned by Civic authority. (Municipal Corporation)
- iii) Lands reserved for non-buildable public reservations in the development plan i.e. play grounds, gardens, roads etc.
- iv) The lands / premises owned and used by public charitable trusts viz. temples, hospitals, schools etc. are partially exempted from the assessment taxes.

### **Q. How the taxes are worked out ?**

**A.** The taxes are worked out on the basis of Ratable Value of the properties/premises determined by the assessment department.

### **Q. What is ratable value ?**

**A.** The value of property reduced by statutory deduction is Ratable Value. The statutory deduction is 10%.- The ratable value (R.V) is based on fair and

reasonable Annual Rent of the property / premises presumably it would earned, deducting 10% statutory deduction.

For example: -

	i)	If yearly Rent is	:	Rs.1000/-
Less:	ii)	10% statutory deduction	:	Rs. 100/-
		Ratable Value is	:	Rs. 900/-

**Q. Whether the Ratable Value can be challenged ?**

**A.** Yes. It is experienced that the ratable value determined by the department in initial stage (when the first notice is served to assessee) is always on higher side unless challenged, and therefore the assessee has to lodge objection for the ratable value, Under section 167 of BMC Act 1888, within 15 days in writing with the department, otherwise ratable value so decided is treated as final.

*Note:* It is advisable that the assessee should lodge objection in time. In spite of objections, if R.V. is not changed the assessee can appeal to the higher authority failing which he can challenge the same in the court of law.

**Q. What is the percentage of taxes in relation to ratable value ?**

**A.** Generally the taxes are 75% to 80% of the ratable value for residential premises. For commercial premises it is double and one half times for industrial premises.

**Q. How the taxes are recovered ?**

**A.** The taxes are recovered in two half-yearly equal installments viz.: -

- i) April to September (1<sup>st</sup> installment).
- ii) October to March/every year (2<sup>nd</sup> installment)

**Q. What actions Civic authority can take for non payment of taxes ?**

**A.** The Civic authority under the provisions of MMC Act-1880 with due process of law and the provisions thereof can recover the taxes by: -

- i) Charging the Penalty with interest
- ii) Attaching and or auctioning the properties / premises

*Notes:* a) Non payment of taxes is an offence and Assessee is liable for legal prosecution. b) The landlord in whose name the property is assessed is always liable for payment of taxes.



**Q. Whether any rebate / refund is permissible for vacant premises ?**

**A.** For vacant premises land lord can claim refund in general taxes only, for vacancy period subject to: -

- i) The vacancy is intimated to the department in time i.e. on or before 15<sup>th</sup> of April & October of every year.
- ii) The vacancy is verified by the department, if the tax bills are paid up to date.

*Note : Subject to above compliances the department can refund 2/3 amount of general taxes to the assessee. if the notice of vacancy is given in time.*

**Q. What are the contents of tax bill ?**

**A.** Tax bill consists of following: -

- i) Name & address of Assessment authority & Assessee.
- ii) Description of property, Ward number.
- iii) Period of taxation, user of premises.
- iv) Year from which the property is assessed.
- v) Amount, date and time limit of payment.
- vi) Heads of Taxes : i.e. General Tax, Water Tax, Water Benefit Tax, Sewerage Tax, Sewerage Benefit Tax, Mun. Education Cess, State Education Cess, Employment Guarantee Cess, Tree Cess , and Street Tax as per predetermined percentages.

**Notes:**

- i) *The Municipal Corporation can charge additional taxes for larger residential premises under "Larger Premises Tax," in case the carpet area of flat is 125 Sq. Mtrs. or above.*
- ii) *The above text is based on the information collected, on present working of the assessment department of Municipal Corporation of Gr. Mumbai. The entire process is very much complicated and involves lot of technical compliance from time to time. It is advisable to consult the expert in the filed for proper assessment & benefits thereof.*
- iii) *This Chapter is for reference purpose. New Tax System now in force based on Capital Value is described in the next Chapter*

## CAPITAL VALUE BASED NEW PROPERTY TAX SYSTEM FOR GR. MUMBAI

Originally the Property Tax System adopted by Municipal Corporation was based on first year' Rental Value of premises which was in force for over last century. With the result particularly old buildings in island city were paying much less Property Tax comparatively as against higher taxes of newly constructed buildings in suburbs and extended suburbs, as such there was vast difference between the Property Taxes in island city and suburban areas.

There were continuous efforts by the State Government to bring out new Tax Reforms giving suitable justifications and directives for property taxation to the Municipal Corporation on equality basis, to be determined on the age of buildings and its market capital value published by the Govt. through Ready Reckoner every year. Obviously there was strong opposition for this new capital value based system from the Corporation as well as all political parties to keep satisfied their vote banks.

For last decade there was great resistance from the Consumers residing in suburban areas (based rental value) since they have to pay much more taxes than the island city buildings. Ultimately this resistance has paid the dividends, and State Government practically forced Municipal Corporation to charge Property Taxes, based on Capital Value System. Therebefore the Corporation was issuing provisional bills as per old system till the new system is finally decided.

The Municipal Corporation at last tabled waterdown new Property Tax System based on Capital value before The Standing Committee, on Thursday 10<sup>th</sup> May 2012, made effective from 1<sup>st</sup> April 2010 which is now approved by the standing committee also.

Now the Corporation will issue new bills based on Capital Value with retrospective effect (April 2010) within 3 months. A provision is made in the new system that MCGM will return the excess money charged in provisional bills with 6.25% interest thereon to the consumer. Now the waterdown taxation system for residential units will be based on 0.348% of the Ready Reckoner rates, according to which tax payer on his/her own can easily calculate the Property Tax as per following formula:-

- **Formula :-**

Capital value = Built-up area (Carpet area X 1.2) X Ready Reckoner Rate X User Type (Residential / Commercial) X Construction type X Age of Building X Floor

Property Tax = Capital value X 0.348% of Ready Reckoner Rate.

- **Example :-**

Capital Value =  $50M^2$  (Carpet area) X 1.20 X Rs.1,00,000/- (Approx Ready Reckoner Rate) X 1 X 1 X 1 X 1 = Rs. 60,00,000/-

Property Tax = Rs. 60,00,000/- (Capital Value) X 0.348%  
= Rs. 20,880/- year.

It can be seen from the new system that the rates of property taxes for age old buildings in island city will increase even upto 100% and simultaneously the Property Taxes in suburban areas will be reduced upto 50% accordingly and thus taxation in island city and suburbs will be brought to equality as far as possible, in near future.

- **Sailent Features of New Capital Value Tax System :-**

- i) At present the premises having carpet area less than 50 Sq. Mtrs. are excluded from the new system. This has given great relief to the tenaments specially residing in old chawls and smaller premises.
- ii) The tax will be charged to individual terraces, refuse areas and covered parking areas in proportion thereof, which were exempted earlier from the tax. The refuse areas will be charged at 25% of its total area whereas Open terraces will be charged at 10% of its area. Parking areas will be charged at 0.25% and Society office will be charged at 0.1% of the Ready Reckoner Rates.
- iii) For Temples, Religious buildings, School buildings, the tax will be charged as applicable to Residential users.
- iv) Private Hospitals will be charged according to rates applicable to commercial users.
- v) The Property Tax for old Commercial premises will be increased upto 3 times.
- vi) No additional Tax will be levied to commercial premises given on lease, rent or Leave and License basis.

- vii) Special package is being worked out for taxation for rehabilitation component in Slum Redevelopment Schemes.
- viii) The premises which are taxed on provisional basis w.e.f. 1<sup>st</sup> April 2010, the additional amount so recovered will be returned to the tax payer with 6.25% interest thereon.
- ix) M.C.G.M. is deliberating a suggestion not to charge penalty for delayed payments applicable as per new system till March 2013.
- x) Every tax payer can self assess the Property Tax of his/her premises on MCGM's web site, which will bring about desired transparency in the whole exercise.

### **Public Interest Litigation :-**

As per news item published in the Times of India dt. 17-05-2012, a PIL is admitted against aforesaid new Tax System based on Capital Value, by the bench of Hon'ble of Mumbai High Court. In the event Hon'ble High Court may grant stay order for the operation of new capital value based Property Tax System, and in the event it will remain in abeyance till the final judgement. Till such time the Municipal Corporation may recover Property Taxes on provisional basis as being in operation since April 2010.

## CAPITAL GAIN TAX ON TRANSFER OF PROPERTY

In case the old or new property is sold with profit the Capital Gain Tax is levied by the Tax Authority on the amount of profit, applicable for long term or short term assets as the case may be. In this chapter the summary of Capital Gain tax & its benefits are described related to real estate transactions of urban and agricultural properties only, of which the fundamental details are as under :-

### 1) CAPITAL GAIN:

Capital Gain is a profit on sale and transfer of immovable asset, which is an amount of difference between the cost of acquisition of asset and its subsequent sale price.

### 2) CAPITAL ASSETS:

Capital assets are classified in two categories i.e. **i) Short term and ii) Long Term capital assets**; depending upon the period of holding such assets which is computed from the date of its acquisition to the date of its transfer.

As per the present provisions of Income Tax Act, following **Table** will show the nature of Short Term & Long Term capital assets.

Nature of Asset	Short Term Asset	Long Term Asset
All assets other than shares in a company.	Held for LESS than 36 months (Three years).	Held for MORE than 36 months (Three years).

### 3) CAPITAL GAIN TAX:

Under section 45 to 55A of Income tax Act, capital gain tax is charged on the amount of difference of profit gained by sale and transfer of immovable property in favour of purchaser whenever the sale price of the asset is higher than the acquisition cost of the original asset.

### 4) TOTAL EXEMPTIONS FROM CAPITAL GAIN TAX:

The transactions not regarded as “transfer” of capital asset, which are totally exempted from the tax payment, are as under: -

- i) Distribution of capital asset either by partial or total partition of Hindu undivided family.

- ii) Transfer of capital asset under gift or will.
- iii) Transfer of agricultural land in India prior to 1.3.1970.

## 5) CAPITAL GAIN / CAPITAL LOSS:

On transfer of an immovable property, if the sale price is more than the cost of acquisition or Fair Market Value as on 1.4.81 as the case may be the surplus is '**Capital Gain**'. Conversely, on such transaction, if the sale price is less than the cost of acquisition or Fair Market Value as on 1.4.81 as the case may be, the deficit is '**Capital Loss**'.

For example, if two properties are sold and one of the sales results in 'Capital Gain' and the other results in 'Capital Loss' then the capital gain and capital loss can be set off (adjusted) against each other. After the adjustment, if the resultant amount is 'capital gain' (surplus) the capital gain tax is payable; and if the resultant amount is 'capital loss' (deficit), the same relating to long term asset (Long Term Capital Loss) can be carried forward (for a specified period as per budget proposals every year) to be adjusted against the capital gain of the future years.

For the purpose of levy of Capital Gain Tax, immovable property means land, building and any rights on such immovable property as defined under the Transfer of Property Act, 1882. The surrender of tenancy is also considered as transfer of immovable property and entire amount received by the tenant reduced by any incidental expenses is subject to Capital Gain Tax.

Any immovable property if held as 'stock-in-trade' of a business, on sale, the profit or loss is business income / loss and not considered as a capital gain or capital loss.

## 6) COMPUTATION OF CAPITAL GAINS:

### a) Deduction For Short Term Capital Gains:

For arriving at the capital gains the following amounts are deducted from sale price for computation purpose: -

- i) The actual cost of acquisition of capital asset (i.e. cost of purchase price of original asset).
- ii) The other expenditure incurred in connection of transfer of the capital asset such as:
  - a) Amount of stamp duty paid.
  - b) Payment of registration charges.



- c) Legal fees paid.
- d) Brokerage amount paid.
- e) Any expenditure incurred for improvement of the Capital Asset.

**b) Deductions of Long Term Capital Gains:**

In the case of long term gain for the assets held prior to 1.4.1981, other than above deductions (described in item (a) (ii) above) the assessee can get benefit of enhanced valuation by valuing the asset based on fair market value as on 1.4.1981, which can be further increased by the Cost Inflation Index, reproduced below: -

**The cost inflation indices as notified by the Central Government**

Financial Year	Cost of Inflation Index	Financial Year	Cost of Inflation Index
1981 - 1982	100	1996 - 1997	305
1982 - 1983	109	1997 - 1998	331
1983 - 1984	116	1998 - 1999	351
1984 - 1985	125	1999 - 2000	389
1985 - 1986	133	2000 - 2001	406
1986 - 1987	140	2001 - 2002	426
1987 - 1988	150	2002 - 2003	447
1988 - 1989	161	2003 - 2004	463
1989 - 1990	172	2004 - 2005	480
1990 - 1991	182	2005 - 2006	497
1991 - 1992	199	2006 - 2007	519
1992 - 1993	223	2007 - 2008	551
1993 - 1994	244	2008 - 2009	582
1994 - 1995	259	2009 - 2010	632
1995 - 1996	281	2010 - 2011	711
		2011 - 2012	785

**c) Index Cost:** The formula for calculating indexed cost of acquisition is as under: -

$$i) \text{ Cost of Acquisition } \times \frac{\text{Cost of Inflation Index for Sale of Property}}{\text{Cost of Inflation Index for year of purchase}}$$

$$ii) \text{ Cost of Improvements } : \text{_____}$$

**Cost of Improvements** (ignoring cost of improvements Incurred prior to 1.4.1981) X  
 Cost Inflation Index for the year in which the improvement took place.

Cost of Inflation Index for the year in which the asset is transferred.

The following examples will show the computation of Index Cost of acquisition and Capital Gain thereof: -

**Illustration-I (Property acquired before 1.4.1981)**

A residential flat is purchased by Mr. 'X' in the year 1975 for a total consideration of Rs. 1,00,000/-. The value of the said flat is to be ascertained by comparable sale instances as on 1.4.1981 to determine the fair market value which is worked out say at Rs. 1,85,000/- and the said flat was sold by 'Mr. X' in September, 1998 for Rs. 12,00,000/- with further expenses on sale at Rs. 1,00,000/- by way of Stamp duty, Registration charges, Legal Fees, Brokerage etc. 'Mr. X' carried out improvement in the flat in 1990-1991 at the cost of Rs.2,00,000/- .

(i)	Sale price in September, 1998	= Rs. 12,00,000/-
		(XX)
(ii)	Deduct Cost of Acquisition	
A)	(a) Cost of purchase of flat in 1975	= Rs. 1,00,000/-
	(b) Fair Market Value worked out as on 1.4.1981	= Rs. 1,85,000/-
	(c) Indexed Cost as on the date of sale i.e. in September, 1998	
	1,85,000 X 351/100	= Rs. 6,49,350/-
B)	(a) Cost of improvement in June 1990 F.Y. 1990-91	= Rs. 2,00,000/-
	(b) Indexed cost of improvement as on the date of sale i.e. in September, 1998.	
	2,00,000 X 351/182	= Rs. 3,85,715/-
C)	Cost incidental to sale in September, 1998	= Rs. 1,00,000/-
<hr/>		
	Total Cost of Acquisition (A+B+C)	= Rs.11,35,065/-
		(YY)
<hr/>		
	<b>Long Term Capital Gain (XX - YY)</b>	<b>= Rs. 64,935/-</b>
<hr/>		

### **Illustration-II** (Property acquired after 1.4.1981)

The same residential flat at (I) above was purchased by 'Mr. X' on 1.10.1984 (F.Y.1984-85) for a total consideration at Rs. 2,20,000/- and was sold for Rs. 12,00,000/- in the month of September, 1998 incurring incidental expenses on sale at Rs.1,00,000/- for Stamp Duty, Registration etc. Further, 'Mr. X' incurred expenditure of Rs. 2,00,000/- on the improvements in the flat in the month of June, 1990 (F.Y. 1990-91).

#### **Computation of Long Term Capital Gain**

i. Sale price in September, 1998	= Rs. 12,00,000/- (AA)
ii. Deduct cost of Acquisition	
(A)(a) Cost of purchase of flat in 1.10.1984	= Rs. 2,20,000/-
(b) Indexed Cost in September, 1998	
2,20,000 X 351/125	= Rs. 6,17,660/-
(B)(a) Cost of improvement in June 1990 (F.Y. 1990-91) Rs. 2,00,000.	
(b) Indexed cost of improvement in F.Y. 1998-1999.	
2,00,000 X 351/182	= Rs. 3,85,715/-
(C) Cost of incidental to sale in September, 1998	= Rs. 1,00,000/-
Total Cost of Acquisition (A+B+C)	= <u>Rs. 10,13,475/-</u> (BB)
<hr/>	
<b>Long Term Capital Gain (AA – BB)</b>	<b>= Rs. 1,86,525/-</b>

#### **Capital Gain on Depreciable Assets: -**

In case of depreciable capital assets such as Factory Bldg. etc., where depreciation is claimed by the assessee, Capital Gain is worked out as per sec. 50 of Income Tax Act – 1961. Following illustration will explain further: -

#### **Illustration – III**

The assessee company purchased plot admeasuring 1000 Sq. Mtrs. in 1970 at a cost of Rs. 50,000/-. Factory building admeasuring 800 Sq. Mtrs. was constructed on plot in 1974. Factory was sold in October 1994 for Rs. 40

Lacs. Depreciation on building was claimed by the company from 1974 to 1994. Written down value (WDV) is Rs. 1,28,000/-. Land rate prevalent in the locality in 1981 is Rs. 100 per Sq. Mtr. Computation of Capital Gain: -

As per Sec. 50 of Income Tax Act, 1961, the factory building held by the assessee is a depreciable asset.

Land Value in 1981	=	1000 X 100	=	Rs. 1,00,000/-
Indexed Land Value in 1994	=	100000 X 259/100	=	Rs. 2,59,000/-
Sale Value	=		=	Rs.40,00,000/- (a)
Indexed Land Value	=		=	Rs. 2,59,000/- (b)
W.D.V. of Factory Building under Section 50(1)(ii) of I. Tax Act.	=		=	Rs. 1,28,000/- (c)
<b>Net Gain</b>	=	<b>a-(b + c)</b>	=	<b>Rs.36,13,000/-</b>

## 7) EXEMPTIONS FROM LONG TERM CAPITAL GAIN

### A) CAPITAL ASSETS:

For long term capital gains, in certain cases where profit is earned by sale or transfer of capital asset, the assessee is entitled for further, partial / full exemption from the payment of capital gain tax; provided:

i) If the total amount of Net capital gain is invested in Fixed Deposit Scheme for not less than 5 (FIVE) Years with financing institutions like NABARD or in Govt. Securities as directed by the Govt. from time to time. The interest earned on such deposits during the fix period shall be taxable and is added to the income. However the amount of Net capital gain so invested will not be added to income and shall be totally exempted from the tax liability at the end of the term of such fix deposit.

ii) Capital gain arising out of sale & transfer of house property(Residential House) will be fully exempted subject to compliance of following conditions:-

- a) The residential house (Original Asset) must be hold for a period MORE than 3 (Three) years, from the date of its acquisition.

- b) If the profit gains are used / invested for purchase of new residential house within:-
- 1(ONE) Year before the sale / transfer of original asset.
  - 2 (TWO) Years after the date of transfer / sale of original asset.
  - 3 (THREE) Years from the date of sale / transfer of original asset, for construction of house.

#### **B) AGRICULTURAL LAND: CAPITAL GAINS:**

The agricultural lands transferred after 1.3.1970, and the capital gain arising out of sale will not be included in the gross total income, provided the following conditions are complied with: -

- i) The agricultural land which is in use by assessee or his parents for agricultural purpose for minimum period of 2 (Two Years) prior to the date of sale & transfer.
- ii) If gains are used / invested in purchasing of another agricultural land within 2 (Two) years from the date of sale of original asset.
- iii) If the cost of land so purchased equals or exceeds the amount of capital gain.

- Notes: 1) The above basic information is a compilation based on the provisions of Income Act, and procedures in practice for fair idea of the tax planning.*
- 2) Since the tax provisions are final and binding, It is advisable that each Assessee should consult his Tax Consultants and take advice before claiming any such benefits thereof, to avoid inconvenience and hardship at later stage.*

## SHORT NOTES ON THE CONSUMER PROTECTION ACT, 1986.

This is a Central Govt. Act applicable in all states of India, to provide for the protection of the interests of consumers and for that purpose to make provision for the establishment of consumer councils and other authorities for the settlement of consumers' disputes and for matters connected therewith.

### A) Definitions: -

- (1) **“Complaint”** means any allegation in writing made by a complaint that: -
- (i) as a result of any unfair trade practice adopted by any trader, the complainant has suffered loss or damage;
  - (ii) the goods mentioned in the complaint suffer from one or more defects;
  - (iii) the services mentioned in the complaint suffer from deficiency in any respect;
  - (iv) a trader has charged for the goods mentioned in the complaint a price in excess of the price fixed by or under any law for the time being in force or displayed on the goods or any package containing such goods, with a view to obtaining any relief provided by or under this Act;
- (2) **“Consumer”** means any person who,-
- (i) buy any goods for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any user of such goods other than the person who buys such goods for consideration paid or promised or partly paid or partly promised or under any system of deferred payment when such use is made with the approval of such person, but does not include a person who obtains such goods for resale or for any commercial purpose; or
  - (ii) hires any services for a consideration which has been paid or promised or partly paid and partly promised, or under any system of deferred payment and includes any beneficiary of such services other than the person who hires the services for



consideration paid or promised, or partly paid and partly promised, or under any system of deferred payment, when such services are availed of with the approval of the first mentioned person;

- (3) "**Consumer Dispute**" means a dispute where the person against whom a complaint has been made, denies or disputes the allegations contained in the complaint;
- (4) "**Defect**" means any fault, imperfection or shortcoming in the quality, quantity, potency, purity or standard which is required to be maintained by or under any law for the time being in force or as is claimed by the trader in any manner whatsoever in relation to any goods;
- (5) "**Deficiency**" means any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which is required to be maintained by or under any law for the time being in force or has been undertaken to be performed by a person in pursuance of a contract or otherwise in relation to any service;
- (6) "**District Forum**" means a Consumer Disputes Redressal Forum established under Cl. (a) of Sec. 9; of the Act.
- (7) "**National Commission**" means the National Consumer Disputes Redressal Commission established under Cl. (c) of Sec. 9;
- (8) "**Person**" includes,
  - (i) a firm whether registered or not;
  - (ii) a Hindu undivided family;
  - (iii) a co-operative society;
  - (iv) every other association of persons whether registered under the Societies Registration Act, 1860 (21 of 1860), or not;
- (9) "**Service**" means service of any description which is made available to potential users and includes the provision of facilities in connection with banking, financing, insurance, transport, processing, supply of electrical or other energy, board or lodging or both, entertainment, amusement or the purveying or news or other information, but does not include the rendering of any service free of charge or under a contract of personal service;

(10) **“State Commission”** means a Consumer Disputes Redressal Commission established in a State under Cl. (b) of Sec. 9; of the Act.

(11) **“Unfair Trade Practice”** means a trade practice which, for the purpose of promoting the sale, use or supply of any goods or for the purpose of promoting the sale, use or supply of any goods or for the provision of any services, adopts one or more of the following practices and thereby causes loss or injury to the consumers of such goods or services, whether by eliminating or restricting or competition or otherwise, namely,-

The practice of making any statement, whether orally or in writing or by visible representation which,-

- i) falsely represents that the goods are of a particular standard, quality grade, composition, style or model;
- ii) falsely represents, that the goods are of a particular standard, quality or grade;
- iii) falsely represents any rebuilt, second-hand, renovated, reconditioned or old goods as new goods;
- iv) represents that the goods or services have sponsorship, approval, performance, characteristics, accessories, uses or benefits which such goods or services do not have;
- v) represents that the seller or the supplier has a sponsorship or approval or affiliation which such seller or supplier does not have;
- vi) makes a false or misleading representation concerning the need for, or the usefulness of, any goods or services;
- vii) gives to the public any warranty or guarantee of the performance, efficacy or length of life of a product or of any goods that is not based on any adequate or proper test thereof:

Provided that where a defense is raised to the effect that such warranty or guarantee is based on adequate or proper test, the burden of proof of such defense shall lie on the person raising such defense;

- viii) To make the public a representation in a form that purports to be:-
- i) a warranty or guarantee of a product or of any goods or services, or
  - ii) a promise to replace, maintain or repair an article or any part thereof or to repeal or continue a service until it has achieved a specified result, if such purported warranty or guarantee or promise is materially misleading or if there is not reasonable prospect that such warranty, guarantee or promise will be carried out;
- ix) materially misleads the public concerning the price at which a product or like products or goods or services have been, or are, ordinarily sold or provided and, for this purpose, a representation as to price shall be deemed to refer to the price at which the product or goods or services has or have been sold by sellers or provided by suppliers generally in the relevant market unless it is clearly specified to be the price at which the product has been sold or services have been provided by the person by whom or on whose behalf the representation is made;
- x) give false or misleading facts disparaging the goods, services or trade of another person.

## B) CONSUMER DISPUTES REDRESSAL AGENCIES :

Establishment of Consumer Disputes Redressal Agencies: -

These shall be established for the purposes of this Act, the following agencies namely: -

- a) A Consumer Disputes Redressal Forum to be known as the “**District Forum**” established by the State Government with the prior approval of the Central Government in each district of the State by notification;
- b) A Consumer Disputes Redressal Commission to be known as the “**State Commission**” established by the State Government

with the prior approval of the Central Government in the State by notification; and

- c) A **National** Consumer Disputes Redressal Commission established by the Central Government by notification.

### **C) JURISDICTION OF THE DISTRICT FORUM :**

- (1) Subject to the other provisions of this Act, the district forum shall have jurisdiction to entertain complaints where the value of the goods or services and the compensation, if any, claimed is less than rupees one lakh.
- (2) Complaint shall be instituted in a district forum within the local limits of whose jurisdiction:-
  - (a) the opposite party or each of the opposite parties, where there are more than one, at the time of the institution of the complaint, actually and voluntarily resides or carries on business, or personally works for gain, or
  - (b) any of the opposite parties, where there are more than one, at time of the institution of the complaint, actually and voluntarily resides, or carries on business, or personally works for gain, provided that in such case either the permission of the district forum is given, on the opposite parties who do not reside, or carry on business, or personally works for gain, as the case may be, acquiesce in such institution; or
  - (c) the cause of action, wholly or in part, arises.
- (3) No proceedings complying with the procedure laid down in subsections (1) and (2) shall be called in question in any court on the ground that the principles of natural justice have not been complied with.
- (4) For purposes of this section, the district forum shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit in respect of the following matters, namely –
  - (i) the summoning and enforcing attendance of any defendant or witness and examining the witness on oath;

- (ii) the discovery and production of any document or other material object producible as evidence;
  - (iii) the reception of evidence on affidavits;
  - (iv) the requisitioning of the report of the concerned analysis or test from the appropriate laboratory or from any other relevant source;
  - (v) issuing of any commission for the examination of any witness; and
  - (vi) any other matter which may be prescribed;
- (5) Every proceeding before the district forum shall be deemed to be a judicial proceeding within the meaning of Secs. 193 and 228 of the Indian Penal Code (45 of 1860), and the district forum shall be deemed to be civil court for the purposes of Sec. 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

#### **(D) FINDINGS OF THE DISTRICT FORUM**

- (1) If, after the proceeding conducted under Sec. 13, the district forum is satisfied that the goods complained against suffer from any of the defects specified in the complaint or that any of the allegations contained in the complaint about the services are approved, it shall issue an order to the opposite party directing him to take one or more of the following things, namely, -
- (a) to remove the defect pointed out by the appropriate laboratory from the goods in question;
  - (b) to replace the goods with new goods of similar description which shall be free from any defect;
  - (c) to return to the complainant the price, or, as the case may be, the charges paid by the complainant;
  - (d) to pay such amount as may be awarded by it as compensation to the consumer for any loss or injury suffered by the consumer due to negligence of the opposite party.

**(E) APPEAL: -**

Any person aggrieved by an order made by the district forum may prefer an appeal against such order to the state commission within a period of thirty days from the date of the order, in such form and manner as may be prescribed:

Provided that the state commission may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing it within that period.

**(F) COMPLAINT UNDER CONSUMER PROTECTION ACT & CHECK-LIST OF DOCUMENTS TO BE SUBMITTED:-**

Aggrieved party can lodge his complaint with respective Redressal Forum with following documents and information: -

- i) Application / Complaint with full name & address of the complainant, in regional language of the State. However it should be preferably in English for convenience.
- ii) Full name & address of the opponent.
- iii) Information about when and where cause of the complaint arose.
- iv) Detailed particulars and nature of complaint.
- v) Prayer of reliefs sought including monetary claims, compensations; and its total value.
- vi) Certified true copies all relevant documents on which complaint is based and to be attached as Exhibits, with serial number.

- Notes:*
- i) *The complaint with all annexures should be filed with the Forum, in TRIPLICATE keeping one copy for your record with One extra full set for each of the opponent/s.*
  - ii) *The complaint can be submitted by hand delivery to the office of the forum. Do not forget to take receipt of acknowledgement on your office copy.*
  - iii) *The complaint can be sent by the Registered Post (A.D.) also.*



**G) LIST OF CONSUMER DISPUTE REDRESSAL FORUMS :**

SR. NO.	FORUM	FOR CLAIM AMOUNT UPTO
	<b>DISTRICT LEVEL</b>	
1	a) <b>For Island City of Mumbai</b> (Colaba to Sion) <b>Bombay District Consumer Disputes Redressal Forum,</b> Madhu Industrial Estate 1 <sup>st</sup> Floor, Pandurang Budhkar Marg, Worli, Mumbai – 400 013	Rs. 5,00,000/-
	b) <b>For Suburban Limits</b> (Bandra to Dahisar & Chunabhatti – Kurla to Mulund) <b>Bombay Suburban District Forum Consumer Disputes Redressal Forum</b> Sudarshan Building, Room No. 1, 2 and 3, Gokhale Road South, Off Bhavani Shankar Road, Dadar, Mumbai – 400 028.	Rs. 3,00,000/-
	c) <b>THANE DISTRICT</b>  <b>Consumer Disputes Redressal Forum,</b> The Collector Office Building 1 <sup>st</sup> Floor, Thane, Dist. Thane.	Rs. 3,00,000/-
2	<b>STATE LEVEL</b>  <b>FOR MAHARASHTRA</b> <b>Maharashtra State Consumer Disputes Redressal Commission</b> Old Administrative Staff College, Room No. 102, Behind Capital Cinema, Waudby Road, Mumbai – 400 001.	Above Rs.5,00,000/- & up to Rs. 20,00,000/-
3	<b>NATIONAL LEVEL : FOR ALL INDIA JURISDICTION</b>  <b>The President National Consumer Disputes Redressal Commission,</b> "A" Wing, 5 <sup>th</sup> Floor, Janpath Bhavan, New Delhi – 110 001.	Above Rs. 20,00,000/-

## **H) OTHER CONSUMER GUIDANCE ORGANISATIONS**

You can also seek advice, guidance and lodge your complaints with following Consumer Organisations also: -

- 1 **Consumer Guidance Society of India (CGSI)**  
"J" Block, Mahapalika Marg,  
Opposite Cama Hospital,  
Mumbai 400 001.  
Tel. No.2262 1612
  
- 2 **Mumbai Grahak Peth Panchayat (MGP)**  
Grahak Bhavan, (J.V.P.D. Market)  
Sant Dhyaneshwar Marg,  
Juhu Vile Parle Scheme, Juhu (W),  
Mumbai – 400 056.  
Tel. No. 2620 9319.
  
- 3 **Council For Fair Business Practices (CFBP)**  
Great Western Building  
130/132, Shahid Bhagat Singh Marg,  
Opposite Lion Gate, Fort,  
Mumbai – 400 039.  
Tel. No. 2284 4783.

## SHORT NOTES ON THE MAHARASHTRA OWNERSHIP FLATS ACT, 1963

(As Modified up to 28<sup>th</sup> May 1998, with extract of proposed Amendments Bill introduced in Legislative Assembly on 23.07.2005)

The Act regulates the promotion of construction, sale, management and transfer of flats purchased on ownership basis, in the State of Maharashtra. The general liabilities of Promoter (Builder/Developer) and Flat purchasers as defined along with respective provisions as defined in Amendments Bill are reproduced hereafter in short.

### A) DEFINITIONS:-

- 1) **Competent Authority:** - Means a 'Competent Authority' appointed u/s 5-A of the Mah. XLV of 1963. The Resident Deputy Collector of a District shall be the Competent Authority for the District, for the purposes of exercising the powers and performing the duties under sections 5, 10 and 11 of the Act.
- 2) **Flat:-** Means a separate and self contained set of premises used or intended to be used for residence, or Office, Show-Room or Shop or godown [or for carrying on any industry or business] (and includes a garage), the premises forming part of a building [and includes an apartment].
- 3) **Promoter:** - Means a person and includes a partnership firm or a Body or an Association of persons, whether registered or not, who constructs or causes to be constructed a block of building of flats or Apartments, for the purpose of selling some or all of them to other persons, or to a Company, Co-op. Hsg. Society or other association of persons, and includes his assigns, and where the person who builds and the persons who sells are different persons, the term includes both.
- 4) **Registrar:** - Means the 'Registrar' as defines in the Maharashtra Co-operative Societies Act, 1960, or as the case may be, in the Companies Act, 1956.

## **B) COMPETENT AUTHORITY: POWERS & JURISDICTION**

- 1) The Competent Authority shall be deemed to be a 'Public Servant' within the meaning of section 21 of the Indian Penal Code.
- 2) All proceedings before a Competent Authority shall be deemed to be the judicial proceedings for the purposes of sections 193 and 228 of the Indian Penal Code.
- 3) Every Competent Authority shall be deemed to be a Civil Court for the purposes of sections 345 and 347 of the Code of Criminal Procedure, 1973.
- 4) No suit, prosecution or any legal proceedings shall lie against any Competent Authority in respect of anything which is in good faith done or purported to be done by him under this Act.

## **C) OBJECTS AND REASONS FOR AMENDMENTS**

1. The Maharashtra Ownership Flats (Regulation of the promotion of construction, sale, management and transfer) Act, 1963, has been enacted to regulate the promotion of the construction, the sale, the management and the transfer of flats on ownership basis in the State. The said Act has been enacted to effectively prevent the sundry abuses and malpractices which had been on increase, consequent upon the acute shortage of housing in the several areas of the State.
2. It has come to notice of the Government that the objective behind enactment of the law is not fully achieved and its implementation has not been effective enough to curb certain malpractices and sundry abuses by the promoters or developers of the properties. Therefore, to make provisions of the said Act more effective and to safeguard interests of the purchaser of the flats, the Government of Maharashtra considered it expedient to carry out certain amendments to the existing provisions of the said Act. The following important amendments proposed to be carried out are as follows:-

## **D) MAJOR AMENDMENTS PROPOSED**

In the Amendments Bill introduced in the Legislative Assembly on 23<sup>rd</sup> July 2005, it is proposed to provide that the Resident Deputy Collector of the District shall be the 'Competent Authority' for that District who would, on failure on the part of the promoter is empowered :-

**(Formation & Registration of Co-op. Hsg. Society)**

- 1) To form a co-operative society of the persons who have purchased the flats from the promoter, on application received from such purchasers, after verifying the records in reference thereto direct the District Deputy Registrar, Deputy Registrar or, as the case may be, the Assistant Registrar of Co-operative Societies to register the co-operative society of such flat owners;

**(Execution of Conveyance)**

- 2) To execute a conveyance within the prescribed period as provided in section 11, on receiving an application from the flat owner members of a co-operative society, and after giving opportunity of hearing to concern promoter, the Competent Authority shall issue a certificate to such society certifying that the said society was entitled to have a conveyance registered and that it is a fit case for execution of a 'unilateral conveyance' as a 'deemed conveyance' in favour of the society, by the Registration Officer under the Registration Act, 1908.

**(Disqualification of Promoter & Punishment)**

- 3) To serve as a deterrent, a provision is being made for disqualifying a promoter convicted under the said Act (except under section 12A) for a period of five years so as to debar him from being granted any permission by the local authorities under the relevant laws for undertaking construction of flats; and an amendment to sub-section (3) of section 13 is also being made to enhance the amount of fine from Rs. 10,000/- to Rs. 50,000/-

**E) STATUS OF COMPETENT AUTHORITY**

The proceedings before the Competent Authority are given the status of judicial proceedings for the purposes of sections 193 and 228 of the Indian Penal Code and every Competent Authority is to be deemed to be a Civil Court for the purpose of sections 345 and 347 of the Code of Criminal Procedure, 1973.

**F) GENERAL LIABILITIES OF PROMOTER (BUILDER): -**

The promoter who constructs or intends to construct a building of flats, on demand or on 7 days notice from flat purchaser, shall:-

- i) Make full disclosure of the marketability of title of the property / land on which the flats are constructed or proposed to be constructed, including any encumbrances, rights, claims, interest by any third party, in or over such land.

- ii) Give inspection of the approved plans of the building, and development permission granted by the local planning authority.
- iii) Disclose the specifications of building, agreements entered in to with other component agencies viz. architect, contractor etc. particulars of design and materials to be used etc.
- iv) Execute the agreement as per the terms and conditions of model agreement prepared by the State Govt. under above act.
- v) Disclose the list of amenities, fittings and fixtures to be provided.
- vi) Specify the date of handing over the possession.
- vii) Not to allow to enter or to give possession of premises without completion certificate or occupation permission issued by the local planning authority.
- viii) Give information of all maintenance out goings including taxes, charges etc. till handing over of the accounts to the society.
- ix) Give following particulars: -
  - a) Carpet area of flat including balcony area.
  - b) Nature, extent & description of common areas and services / facilities.
  - c) Purchase price and schedule of payment payable by the flat purchaser.
- x) Attend for the registration of agreement before registration authority in time limit.
- xi) Display copy of approved plans & specifications at site.
- xii) Give certified true copies of documents to flat purchasers.
- xiii) Not to make any additions or alterations to the premises without the consent of the flat purchaser.
- xiv) Attend and rectify the defects at own cost, if noticed within 3 years from the date of handing over of possession.
- xv) Refund the total payment so received to the flat purchaser with 9% simple interest, in case the promoter fails to deliver possession of flat due to reasons beyond his control.
- xvi) Submit application to appropriate authority for formation of registered co-op. housing society and get the society registered.



- xvii) Convey the title of property together with the building there on to the registered housing society or such body, formed by the purchasers of flats by execution of conveyance within prescribed time limit.

### **G) LIABILITIES OF FLAT PURCHASERS**

The purchaser who intends to purchase flat on ownership basis from the promoter (builder) shall:-

- i) Pay adequate stamp duty & registration charges as per the provisions incorporated in the agreement before execution of the document, and lodge the same for registration with appropriate registration authority.
- ii) Pay the payments to the promoter as per the schedule of payment as prescribed in the agreement, in time.
- iii) Pay the payments of municipal taxes, water and electricity charges, ground rent (if any) and other public charges, levies, maintenance charges etc. to the promoter in accordance with the provisions incorporated in the agreement, to the promoter till the management is taken over by the society, and there after to the society, strictly in time.
- iv) Observe and discharge all the obligations incorporated in the agreement according to which the purchaser has agreed to purchase the said flat.
- v) Join as member in the formation of co-op. housing society of flat purchasers in a building and for registration of such body thereof.

#### **Notes:**

- i) *The above text is based on the provisions incorporated in the Maharashtra Ownership flats (Regulation of the promotion of construction, sale, management and transfer) Act 1963, as modified up to 28<sup>th</sup> May 1998, and Amendments Bill introduced in Legislative Assembly on 23.07.2005 and provisions mentioned in the amended Act. are final and binding.*
- ii) *The flat purchaser should consult his legal expert and take his advice in the matter and get fully satisfied before entering in to agreement with the promoter.*

## **COSTAL REGULATION ZONE (CRZ) POLICY & GUIDELINES**

(Extract of Notification issued by  
The Environmental (Protections) Rules, 1986  
Ministry of Environment & Forest  
(Department of Environment, Forests and Wildlife)  
New Delhi, the 19<sup>th</sup> February, 1991  
Updated upto 12<sup>th</sup> April 2001 with  
Amendments of Draft Notif. dt 11/1/02 )

### **POLICY**

The Central Government declared the coastal stretches of seas, bays, estuaries, creeks, rivers and backwaters which are influenced by tidal action (in the landward side) upto 500 meters from the High Tide Line (HTL) and the land between the Low Tide Line (LTL) and the HTL as Coastal Regulation Zone; and imposes with effect from the date of this Notification, the following restrictions on the setting up and expansion of industries, operations or processes, etc. in the said Coastal Regulation Zone (CRZ).

#### **1) HIGH TIDE LINE (HTL):-**

For the purposes of this notification, the 'High Tide' Line means the line on the land upto which the highest water line reaches during the spring tide. The High Tide Line shall be demarcated uniformly in all parts of the country by the demarcating authority or authorities so authorised by the Central Government, in accordance with the general guidelines issued in this regard.

#### **1-A) DISTANCE TO OBSERVE FOR CONSTRUCTION FROM H.T.L.**

- (i) The distance from the High Tide Line shall apply to both sides in the case of rivers, creeks and back waters and may be modified on a case by case basis for reasons to be recorded while preparing the Coastal Zone Management Plans. However, this distance shall not be less than 50 meters or the width of the creek, river or backwater whichever is less.

The distance upto which development along rivers, creeks and back-waters is to be regulated shall be governed by the distance upto which the tidal effect of sea is experienced in rivers, creeks or back-waters, as the case may be, and should be clearly identified in the Coastal Zone Management Plans.

- (ii) The distance from the High Tide Line shall apply to both sides in the case of rivers, creeks and back waters and may be modified on a case by case basis for reasons to be recorded while preparing the Coastal Zone Management Plans. However, this distance shall not be less than 100 meters or the width of the creek, river or backwater whichever is less. The distance upto which development along rivers, creeks and backwaters is to be regulated shall be governed by the distance upto which the tidal effect of sea is experienced in rivers, creeks or back-waters, as the case may be, and should be clearly identified in the Coastal Zone Management Plans.
- (iii) The distance mentioned in Clause(ii) above, may be reduced to 50 meters or the width of the river, creeks and backwaters, whichever is less, for specified structure, by the Central Government or an authority designed by it for constriction of dwelling units for 'Local Inhabitants' if the following conditions are satisfied, namely:-
  - (a) The area is not classified as CRZ – (I)
  - (b) The availability of ground water is assured by the concerned authority in the State / Union Territory and proper facilities for treatment and disposal of waste water and sewage are certified by the concerned local authority
  - (c) The proposed construction is not used for any commercial activity; and
  - (d) At least one of the following conditions is fulfilled:-
    - (i) The area is classified as CRZ-II
    - (ii) The density of population, as per the 1991 census, in the Panchayat / Ward area is not less than four hundred persons per square kilometer.
  - (iii) The built up area in the Panchayat /Ward is already one-third or more of the total area of the Panchayat / Ward:

- (iv) The costal land is a barrier island, sand bar or spit sandwiched between the sea or bay and rivers, creeks or backwaters between rivers, creeks or backwaters provided that the average width of the barrier island, sand bar or spit is less than 1000 meters
- (v) It is an area with an elevation of more than 10 meters from the Mean Sea Level at any point within 100 meters of the inland tidal water body
- (vi) The term 'Local Inhabitant' used in this clause and elsewhere in the said Notification shall be construed as a person or his descendants, who have inhabited in the area prior to 19<sup>th</sup> February, 1991.

## 2) **PROHIBITED ACTIVITIES IN CRZ:**

The following activities are declared as **prohibited** within the Coastal Regulation Zone, namely:-

- (i) Setting up of new industries and expansion of existing industries, except (a) those directly related to water front or directly needing foreshore facilities and (b) Projects of Department of Atomic Energy;
- (ii) Manufacture or handling or storage or disposal of hazardous substances as specified in the Notifications of the Government of India in the Ministry of Environment and Forests No. S.O. 594(E) dated 28<sup>th</sup> July 1989, S.O. 966(E) dated 27<sup>th</sup> November, 1989 and GSR 1037(E) dated 15<sup>th</sup> December, 1989; **except** transfer of hazardous substances from ships to ports, terminals and refineries and vice-versa in the port areas:  
**Provided that**, facilities for receipt and storage of petroleum products and Liquefied Natural Gas as specified in Annexure-III appended to this notification and facilities for regasification of Liquefied Natural Gas, may be permitted within the said Zone in areas not classified as CRZ-I (i), **subject to** implementation of safety regulations including guidelines issued by the Oil Industry Safety Directorate in the Government of India, Ministry of Petroleum and Natural Gas and guidelines issued by the Ministry of Environment and Forests **and subject to** such further terms and conditions for implementation of ameliorative and restorative measures in relation to the environment as may be stipulated by the Government of India in the Ministry of Environment and Forests
- (iii) Setting up and expansion of fish processing units including warehousing (excluding hatchery and natural fish drying in permitted

areas); **Provided that** existing fish processing units for modernisation purposes may utilise 25% (twenty five percent) additional plinth area required for additional equipment and pollution control measures only **subject to** existing Floor Space index/ Floor Area Ratio norms **and subject to** the condition that the additional plinth area shall not be towards seaward side of existing unit and also subject to the approval of State Pollution Control Board or Pollution Control Committee.

- (iv) Setting up and expansion of units/mechanism for disposal of waste and effluents, except facilities required for discharging treated effluents into the water course with approval under the Water (Prevention and Control of Pollution) Act, 1974; and except for storm water drains;
- (v) Discharge of untreated wastes and effluents from industries, cities or towns and other human settlements. Schemes shall be implemented by the concerned authorities for phasing out the existing practices, if any, within a reasonable time period not exceeding three years from the date of this notification;
- (vi) Dumping of city or town waste for the purposes of land filling or otherwise; the existing practice, if any, shall be phased out within a reasonable time not exceeding three years from the date of this Notification;
- (vii) Dumping of ash or any wastes from thermal power stations;
- (viii) Land reclamation, bunding or disturbing the natural course of sea water except those required for construction of ports, harbours, jetties, wharves, quays, slipways, bridges and sea-links and for other facilities that are essential for activities permissible under the notification or for control of coastal erosion and maintenance or clearing of water ways, channels and ports or for prevention of sandbars or for tidal regulators, storm water drains or for structures for prevention of salinity ingress and sweet water recharge, **provided that** reclamation for commercial purposes such as shopping and housing complexes, hotels and entertainment activities shall not be permissible;
- (ix) Mining of sands, rocks and other substrata materials, except (a) those rare minerals not available outside the CRZ area and (b) exploration and extraction of Oil and Natural Gas.

**Provided that** in the Union Territory of the Andaman and Nicobar islands, mining of sands may be permitted by the Committee which shall be constituted by the Lieutenant Governor of the Andaman and



Nicobar Islands consisting of Chief Secretary; Secretary, Department of Environment; Secretary, Department of Water Resources; and Secretary, Public Works Department. The said Committee may permit mining of sand from non-degraded areas for construction purposes from selected sites, in a regulated manner on a case to case basis, for a period upto the 30<sup>th</sup> day of September, 2002. The quantity of sand mined shall not exceed the essential requirements for completion of construction works including dwelling units, shops in respect of half yearly requirements of 2001-2002 and 2002-2003 annual plans. The permission for mining of sand may be given on the basis of a mining plan from such sites and in such quantity which shall not have adverse impacts on the environment

Mining of sands, rocks and other substrata materials, except (a) those rare minerals not prescribed under the Atomic Energy Act, 1962 viz, ilmenite, rutile, zircon, leucosene and monazite and minerals garnet and sillimanite occurring in close association there to, **subject to** EIA studies and **subject to** mining plan being approved by the Atomic Minerals Directorate for Exploration & research and (b) exploration and extraction of Oil and Natural Gas.

- (x) Harvesting or drawal of ground water and construction of mechanisms therefore within 200 m of HTL. **Provided that** in the Union Territory of the Andaman and Nicobar islands, drawal of ground water can be permitted from specific sites if no other source of water is available and when done manually through ordinary well or hand pumps, with the approval of Secretary, Department of Environment, Andaman and Nicobar Administration on a case to case basis, within 500 to 200m from the High Tide Line for local inhabitants for drinking purpose only.

**Provided that** drawal of ground water is permitted, where no other source of water is available and when done manually through ordinary wells or hand pumps, for drinking and domestic purposes, in the zone between 50 to 200 m from High Tide Line in case of seas, bays and estuaries and within 200 m or the CRZ, whichever is less, from High Tide Line in case of rivers, creeks and backwaters subject to such restrictions as may be deemed necessary, in areas affected by sea water intrusion, that may be imposed by an authority designated by State Government / Union Territory Administration.

- (xi) Construction activities in CRZ - I **except** as specified in Annexure -I of this notification;



- (xi) Any construction activity between the Low Tide Line (LTL) and High Tide Line (HTL) **except** facilities for carrying treated effluents and waste water discharges into the sea, facilities for carrying sea water for cooling purposes, oil, gas and similar pipelines and facilities essential for activities permitted under this Notification; and
- (xiii) Dressing or altering of sand dunes, hills, natural features including landscape changes for beautification, recreational and other such purpose, **except** as permissible under this Notification.

### 3) PERMISSIBLE ACTIVITIES IN CRZ: (REGULATIONS)

All other activities, except those prohibited in item 2 above, (Prohibited Activities) will be regulated as under:

1. Clearance shall be given for any activity within the Coastal Regulation Zone, only if it requires water front and foreshore facilities.
2. The following activities will require environmental clearance from the Ministry of Environment and Forests, Government of India, namely:-
  - (i) Construction activities related to projects of Department of Atomic Energy or Defence requirements for which foreshore facilities are essential such as, slipways, jetties, wharves, quays; **except for** classified operational component of defence projects for which a separate procedure shall be followed.

*Note: Residential buildings, office buildings, hospital complexes, workshops shall not come within the definition of operational requirements except in very special cases and hence shall not normally be permitted in the CRZ;*

- (ii) Operational constructions for ports and harbours and light houses and constructions for activities such as jetties, wharves, quays and slipways, pipelines, conveying systems including transmission lines;
- (iia) Exploration and extraction of oil and natural gas and all associated activities and facilities thereto;
- (iii) Thermal Power Plants (only foreshore facilities for transport of raw materials facilities for intake of cooling water and outfall for discharge of treated waste water/cooling water).
- (iv) Housing Schemes in CRZ area

- (v) Mining of rare minerals
- (vi) Specified activities / facilities in SEZ
- (vii) All other activities with investment exceeding **Rupees Five Crores**, **except** those activities which are to be regulated by the concerned authorities at the State/Union Territory level in accordance with the provisions of paragraph 6, sub-paragraph (2) of Annexure 1 of the notification.

#### **4) COSTAL ZONE MANAGEMENT PLAN:**

- (i) The Coastal States and Union Territory Administrations shall prepare, within a period of one year from the date of this Notification, Coastal Zone Management Plans identifying and classifying the CRZ areas within their respective territories in accordance with the guidelines given in Annexure I and II of the Notification and obtain approval (with or without modifications) of the Central Government in the Ministry of Environment & Forests;
- (ii) Within the framework of such approved plans, all development and activities within the CRZ other than those covered in item 2 and item 3(2) above shall be regulated by the State Government, Union Territory Administration or the local authority as the case may be in accordance with the guidelines given in Annexure-I and II of the Notification; and
- (iii) In the interim period till the Coastal Zone management Plans mentioned in above are prepared and approved, all developments and activities within the CRZ shall not violate the provisions of this Notification. State Governments and Union Territory Administrations shall ensure adherence to these regulations and violations, if any, shall be subject to the provisions of the Environment (Protection) Act, 1986.

#### **5) PROCEDURE FOR MONITORING AND ENFORCEMENT OF THE NOTIFICATION:**

The Ministry of Environment & Forests and the Government of State or Union Territory and such other authorities at the State or Union Territory levels, as may be designated for this purpose, shall be responsible for monitoring and enforcement of the provisions of this notification within their respective jurisdictions.

## **ANNEXURE – I**

### **A) CLASSIFICATION OF COASTAL REGULATION ZONE:**

For regulating development activities, the coastal stretches within 500 meters of High Tide Line on the landward side are classified into four categories, namely:-

#### **Category I (CRZ-I):**

- (i) Areas that are ecologically sensitive and important, such as national parks/marine parks, sanctuaries, reserve forests, wildlife habitats, mangroves, corals/coral reefs, areas close to breeding and spawning grounds of fish and other marine life, areas of outstanding natural beauty/historically/heritage areas, areas rich in genetic diversity, areas likely to be inundated due to rise in sea level consequent upon global warming and such other areas as may be declared by the Central Government or the concerned authorities at the State/Union Territory level from time to time.
- (ii) Area between Low Tide Line and the high Tide Line.

#### **Category-II (CRZ-II):**

The areas that have already been developed upto or close to the shoreline. For this purpose, "developed area" is referred to as that area within the municipal limits or in other legally designated urban areas which is already substantially built up and which has been provided with drainage and approach roads and other infrastructural facilities, such as water supply and sewerage mains.

#### **Category-III (CRZ-III):**

Areas that are relatively undisturbed and those which do not belong to either Category-I or II. These will include coastal zone in the rural areas (developed and undeveloped) and also areas within Municipal limits or in other legally designated urban areas which are not substantially built up.

#### **Category-IV (CRZ-IV):**

Coastal stretches in the Andaman & Nicobar, Lakshadweep and small islands, except those designated as CRZ-I, CRZ-II or CRZ-III.

## B) CATEGORY WISE NORMS FOR REGULATION OF ACTIVITIES

The development or construction activities in different categories of CRZ area shall be regulated by the concerned authorities at the State/Union Territory level, in accordance with the following norms:

### CRZ – I

No new construction shall be permitted in CRZ- I **except** (a) Projects relating to Department of Atomic Energy and (b) Pipelines, conveying systems including transmission lines and (c) facilities that are essential for activities permissible under CRZ-I.

Between the LTL and the HTL, activities as specified under paragraph 2 (xii) may be permitted. In addition, between LTL and HTL in areas which are not ecologically sensitive and important, the following may be permitted: (a) Exploration and extraction of Oil and Natural Gas, (b) activities as specified under proviso of sub-paragraph (ii) of paragraph 2, and (c) Construction of dispensaries, schools, public rain shelters, community toilets, bridges, roads, jetties, water supply, drainage, sewerage which are required for traditional inhabitants of the Sunderbans Bio-sphere reserve area, West Bengal, on a case to case basis, by the West Bengal State Coastal Zone Management Authority and d) Salt harvesting.

### CRZ – II

- (i) Buildings shall be permitted only on the landward side of the existing road (or roads approved in the Coastal Zone Management Plan of the area) or on the landward side of existing authorized structures. Buildings permitted on the landward side of the existing and proposed roads/existing authorized structures shall be **subject to** the existing local town and Country Planning Regulations including the existing norms of Floor Space Index/Floor Area Ratio:

Provided that no permission for construction of buildings shall be given on landward side of any new roads (except roads approved in the Coastal Zone Management Plan) which are constructed on the seaward side of an existing road.

Provided further that the above restriction on construction based on existing / new roads shall not apply to the housing schemes of State Urban Development Authorities implemented in phases for which construction activity was commenced prior to 19.2.91 in at least one phase and all relevant approvals from State/Local Authorities were obtained prior to 19.2.91

- (ii) Reconstruction of the authorised buildings to be permitted subject to the existing FSI/FAR norms and without change in the existing use.
- (iii) The design and construction of buildings shall be consistent with the surrounding landscape and local architectural style.

### CRZ – III

- (i) The area upto 200 meters from the High Tide Line is to be earmarked as 'No Development Zone'. Provided that the said area does not fall within any notified port limits or any notified Special Economic Zone (SEZ). No construction shall be permitted within this zone except for repairs of existing authorised structures not exceeding existing FSI, existing plinth area and existing density, and for permissible activities under the notification including facilities essential for such activities. An authority designated by the State Government/Union Territory Administration may permit construction of facilities for water supply, drainage and sewerage for requirements of local inhabitants. **However, the following uses may be permissible in this zone** – (a) agriculture, (b) horticulture, (c) gardens, (d) pastures, (e) parks, (f) play fields, (g) forestry and (h) salt manufacture from sea water.
- (ia) Construction of dispensaries, schools, public rain shelters, community toilets, bridges, roads and provision of facilities for water supply, drainage, sewerage, which are required for the local inhabitants, may be permitted on a case to case basis, by the Central Government or Coastal Zone Management Authority constituted for the State / Union Territory.  
Provided that construction of units of mechanisms for domestic sewerage treatment and disposal shall be permissible notwithstanding anything contained in Sub-paragraph (iv) of item No.2 if this notification.
- (ib) Construction of dwelling units for use by local inhabitants may be permitted on a case to case basis by the central Government or the Coastal Zone Management Authority constituted for the State / Union Territory. **Provided that**, such construction shall be **subject to** following condition:-
  - (i) The height of an individual unit shall be restricted to 4.5m and total plinth area shall be limited to 100 (one hundred) sq.m.
  - (ii) The individual dwelling unit must be constructed by the local inhabitant for this bonafide residential purpose.



- (iii) Where settlements are existing in clusters, new dwellings may be allowed adjacent to the existing cluster of settlement landward side of the structures **provided that** the total number of dwelling units shall not be more than twice the number of existing dwelling units.
  - (iv) **Subject to** the conditions listed at (i), (ii) and (iii) above, all other conditions as laid down in clause (III) on the marginal heading CRZ-III of sub paragraph (2) of paragraph relating to construction of dwelling units shall apply.
  - (v) In CRZ-III of notified SEZ construction of recreational facilities including golf courses, desalination plants, hotels and non polluting industries in the fields of information technology and other service Industries shall be permitted.
- (ii) Development of vacant plots between 200 and 500 meters of High Tide Line in designated areas of CRZ-III, with prior approval of Ministry of Environment and Forests (MEF) is permitted for construction of hotels/beach resorts for temporary occupation of tourists/visitors **subject to** the conditions as stipulated in the guidelines at Annexure-II.
- (iii) Construction/reconstruction of dwelling units between 200 and 500 meters of the High Tide Line is permitted so long it is within the ambit of traditional rights and customary uses such as existing fishing villages and gaothans. Construction or Reconstruction of dwelling with between 200 & 500 meters of the High Tide Line for the local inhabitants shall be permitted. Building permission for such construction/reconstruction will be **subject to** the conditions that the total number of dwelling units shall not be more than twice the number of existing units; total covered area on all floors shall not exceed 33 percent of the plot size; the overall height of construction shall not exceed 9 meters and construction shall not be more than 2 floors (ground floor plus one floor). Construction is allowed for permissible activities under the notification including facilities essential for such activities. An authority designated by State Government/Union Territory Administration may permit construction of public rain shelters, community toilets, water supply, drainage, sewerage, roads and bridges. The said authority may also permit construction of schools and dispensaries, for local inhabitants of the area, for those



panchayats the major part of which falls within CRZ if no other area is available for construction of such facilities.

- (iv) Reconstruction / alterations of an existing authorised building permitted subject to (i) to (iii) above. Provided that the horizontal extension of exiting dwelling units may be allowed on the ground floor on the landward side **subject to** the condition that the total plinth area of the dwelling unit shall not exceed 100(one hundred) square meters.

#### **CRZ – IV**

##### **Andaman & Nicobar Islands:**

- (i) No new construction of buildings shall be permitted within 200 meters of the HTL.
- (ii) The buildings between 200 and 500 meters from the High Tide Line shall not have more than 2 floors (ground floor and first floor), the total covered area on all floors shall not be more than 50 per cent of the plot size and the total height of construction shall not exceed 9 meters;
- (iii) The design and construction of buildings shall be consistent with the surrounding landscape and local architectural style.
- (iv) (a) Corals from the beaches and coastal waters shall not be used for construction and other purposes.  
(b) Sand may be used from the beaches and coastal waters, only for construction purpose upto the 30<sup>th</sup> day of September 2002 and thereafter it shall not be used for construction and other purposes.
- (v) Dredging and underwater blasting in and around coral formations shall not be permitted; and
- (vi) However, in some of the islands, coastal stretches may also be classified into categories CRZ-I or II or III with the prior approval of Ministry of Environment and Forests and in such designated stretches, the appropriate regulations given for respective Categories shall apply.

#### **ANNEXURE – II**

##### **GUIDELINES FOR DEVELOPMENT OF BEACH RESORTS / HOTELS IN THE DESIGNATED AREAS OF CRZ-III FOR TEMPORARY OCCUPATION OF TOURIST / VISITORS, WITH**

## **PRIOR APPROVAL OF THE MINISTRY OF ENVIRONMENT & FOREST (MEF).**

### **A) Permissible areas & Activities:-**

Construction of beach resorts/hotels with prior approval of MEF in the designated areas of CRZ-III for temporary occupation of tourists/visitors shall be **subject to** the following conditions:-

- (i) The project proponents shall not undertake any construction, within 200 meters in the landward side from the High Tide Line and within the area between the Low Tide and High Tide Lines. **Provided that** the Central Government may after taking into account geographical features and overall Coastal zone Management Plans and for reason to be recorded in writing, permit any construction subject to such conditions and restrictions as it may deem fit:
  - (ia) Live fencing and barbed wire fencing with vegetative cover may be allowed around private properties **subject to** the condition that such fencing shall in no way hamper public access to the beach;
  - (ib) No flattening of sand dunes shall be carried out;
  - (ic) No permanent structures for sports facilities shall be permitted except construction of goal posts, net posts and lamp posts.
  - (id) Construction of basements may be allowed subject to the condition that no objection certificate is obtained from the State Ground Water Authority to the effect that such construction will not adversely affect free flow of ground water in that area. The State Ground Water Authority shall take into consideration the guidelines issued by the Central Government before granting such no objection certificate.

**Explanation:** - Though no construction is allowed in the no development zone for the purposes of calculation of FSI, the area of entire plot including 50% of the portion which falls within the no development zone shall be taken into account.
- (ii) The total plot size shall not be less than 0.4 hectares and the total covered area on all floors shall not exceed 33 per cent of the plot size i.e. the FSI shall not exceed 0.33. The open area shall be suitably landscaped with appropriate vegetal cover;
- (iii) The construction shall be consistent with the surrounding landscape and local architectural style;
- (iv) The overall height of construction upto highest ridge of the roof, shall

- not exceed 9 meters and the construction shall not be more than 2 floors (ground floor plus one upper floor);
- (v) Ground water shall not be tapped within 200m of the HTL; however within the 200 meter to 500 meter zone, it can be tapped only with the concurrence of the Central/State Ground Water Board;
  - (vi) Extraction of sand, leveling or digging of sandy stretches (except for structural foundation of building), swimming pool shall not be permitted within 500 meters of the High Tide Line.
  - (vii) The quality of treated effluents, solid wastes, emissions and noise levels, etc. from the project area must conform to the standards laid down by the competent authorities including the Central/State Pollution Control Board and under the Environment (Protection) Act, 1986;
  - (viii) Necessary arrangements for the treatment of the effluents and solid wastes must be made. It must be ensured that the untreated effluents and solid wastes are not discharged into the water or on the beach; and no effluent/solid waste shall be discharged on the beach;
  - (ix) To allow public access to the beach, at least a gap of 20 meters width shall be provided between any two hotels/beach resorts; and in no case gaps shall be less than 500 meters apart; and
  - (x) If the project involves diversion of forest land for non-forest purposes, clearance as required under the Forest (Conservation) Act, 1980 shall be obtained. The requirements of other Central and State laws as applicable to the project shall be met with, and.
  - (xi) Approval of the State/Union Territory Tourism Department shall be obtained.

**B) Prohibited areas:-**

In ecologically sensitive areas such as marine parks, mangroves, coral reefs, breeding and spawning grounds of fish, wildlife habitats and such other areas as may notified by the Central/State Government / Union Territories, construction of beach resorts/hotels shall not be permitted.

### **ANNEXURE ... III**

List of Petroleum Products Permitted for Storage in Coastal Regulation Zone **except CRZ- I-(i)**

- (i) Crude Oil;
- (ii) Liquefied Petroleum Gas;
- (iii) Motor Spirit;

- (iv) Kerosene;
- (v) Aviation Fuel;
- (vi) High Speed Diesel;
- (vii) Lubricating Oil;
- (viii) Butane;
- (ix) Propane;
- (x) Compressed Natural Gas;
- (xi) Naphtha;
- (xii) Furnace Oil;
- (xiii) Low Sulphur Heavy Stock.
- (xiv) Liquefied Natural Gas (LNG)

### **SPECIAL CONSIDERATIONS IN CRZ-II FOR GR. MUMBAI**

Special considerations are given for Development and Redevelopment projects in Greater Mumbai and Slum Rehabilitation Schemes, as per the new Notification issued by the Ministry of Environment & Forests, Govt. of India published in the Gazette of India dt. 06-01-2011. The modified provisions made in respect to development and redevelopment of cesses buildings and SRS Schemes in CRZ-II, the special considerations mentioned in said Notification, dt. 06-01-2011, and guidelines issued thereof in short are stated below.

**In CRZ-II areas :-** The development or redevelopment shall continue to be undertaken in accordance with the norms laid down in the Town and Country Planning Regulations as they existed on the date of issue of the notification dated the 19th February, 1991, unless specified otherwise in this notification appearing hereafter:-

### **SLUM REHABILITATION SCHEMES IN CRZ:-**

1. In the Greater Mumbai area, there are large slum clusters wherein lakhs of families are residing therein. The living conditions in these slums are deplorable and the civic agencies are not able to provide basic infrastructure such as drinking water, electricity, roads, drainage and the like, because the slums come up in an unplanned and congested manner. The slums in the coastal area are at great risk in the event of cyclones, storm surges or tsunamis, in view of the difficulties in providing rescue, relief and evacuation operations thereof.

2. To provide a safe and decent dwelling units to the slum dwellers, the State Government is directed to implement slum redevelopment schemes as identified as on the date of issue of this Notification directly or through its parastatal agencies like

Maharashtra Housing and Area Development Authority (MHADA), Shivshahi Punarvasan Prkalp Limited (SPPL), Mumbai Metropolitan Region Development Authority (MMRDA) and the like :-

Provided that,-

(i) Such redevelopment schemes shall be undertaken directly or through joint ventures or through public private partnerships or other similar models ensuring that the stake of the State Government or its parastatal entities shall not be less than 51%.

(ii) The Floor Space Index (FSI) or Floor Area Ratio (FAR) for such redevelopment schemes shall be in accordance with the Town and Country Planning Regulations prevailing as on the date, on which the project approval is granted by the competent authority.

(iii) It shall be the duty of the project proponent undertaking the redevelopment through conditions (i) & (ii) above along with the State Government, to ensure that all legally regularized tenants are provided houses in situ or as per norms laid down by the State Government in this regard.

### **REDEVELOPMENT OF DILAPIDATED, CESSED AND UNSAFE BUILDINGS IN CRZ**

1. In the Greater Mumbai, there are, also a large number of old and dilapidated, cessed and unsafe buildings in the CRZ areas, and due to their age these structures are extremely vulnerable and disaster prone and therefore there is an urgent need for the redevelopment or reconstruction of these identified buildings.

#### **2. These projects shall be taken up subject to the following conditions and safeguards:-**

(i) Such redevelopment or reconstruction projects as identified on the date of issue of this notification, shall be allowed to be taken up involving the owners of these buildings either above or with private developers in accordance with the prevailing regulations, directly or through joint ventures or through other similar models.

(ii) The Floor Space Index or Floor Area Ratio for such redevelopment schemes shall be in accordance with the Town and Country Planning Regulations prevailing as on the date on which the project approval is granted by the competent authority

(iii) Suitable accommodation to the original tenants of the specified buildings shall be ensured during the course of redevelopment or reconstruction of the buildings by the project proponents, undertaking the redevelopment authority to condition No. 2(i) above.

Imp :-

Notwithstanding anything contained in this notification, the developmental activities for slums and for dilapidated, cessed and unsafe buildings as specified above shall be carried out in an accountable and transparent manner by the project proponents mentioned therein which shall include the pre-condition measures, wherever applicable, as specified in the said Notification.

*Note: At present permissible Floor Space Index (F.S.I.) for redevelopment of dilapidated, unsafe, and cessed buildings in City Limits, and for Slum Rehabilitation Schemes is 2.5.*



## **M. O. E. F. ENVIRONMENTAL CLEARANCE (EC) FOR CONSTRUCTION OF NEW TOWNSHIPS & SETTLEMENT COLONIES**

(Extract of Environment Impact Assessment Notification dt.27.01.1994 & amendments in Draft Notification dt.15.09.2005, issued by Ministry of Environment & Forests (MOEF) Govt. of India)

### **1) OBJECT:**

The Govt. of India considers it necessary in the public interest to impose certain restrictions and prohibitions on New Projects or activities, as indicated in the list of projects in Schedule-I published in the said Notification.

According to said Notification it is mandatory to obtain Environmental Clearance (EC) prior to undertake any such Projects in any part of India, in accordance to the procedure specified in the said Notification from the Central Govt. or the State Level Environment Impact Assessment Authority concerned as the case may be.

In this chapter procedure & policy related to construction of Residential, Non- Residential projects, New Township & Settlement Colonies as stated in item No.31 & 32 of Schedule-I are described here in short.

### **2) CATEGORIZATION OF PROJECTS & ACTIVITIES FOR PRIOR ENVIRONMENTAL CLEARANCE :**

#### **i) CATEGORY – A**

All new Projects and activities including expansion and modernization of existing projects and activities, as specified in schedule – I (para (1) and para (2)) of the said Notification are covered under this category.

#### **ii) CATEGORY – B**

All projects or activities under sub paragraph (II) of paragraph – 2 of said Notification are covered under this category.

#### **iii) CATEGORY – A/B**

All projects or activities included as Category – A/B in the schedule, including Category – B projects or activities, which fulfill the General Conditions stipulated in the schedule are covered under this category.

## **SCHEDULE-I**

### **LIST OF PROJECTS REQUIRING ENVIRONMENTAL CLEARANCE FROM THE CENTRAL GOVERNMENT**

1. Nuclear Power and related projects such as Heavy Water Plants, nuclear fuel complex, Rare Earths.
2. River Valley projects including hydel power, major Irrigation and their combination including flood control.
3. Ports, Harbours, Airports (except minor ports and harbours).
4. Petroleum Refineries including crude and product pipelines.
5. Chemical Fertilizers (Nitrogenous and Phosphatic other than single superphosphate).
6. Pesticides (Technical).
7. Petrochemical complexes (Both Olefinic and Aromatic) and Petrochemical intermediates such as DMT, Caprolactam, LAB etc. and production of basic plastics such as LLDPE, HDPE, PP, PVC.
8. Bulk drugs and pharmaceuticals.
9. Exploration for oil and gas and their production, transportation and storage.
10. Synthetic Rubber.
11. Asbestos and Asbestos products.
12. Hydrocyanic acid and its derivatives.
- 13 (a) Primary metallurgical industries (such as production of Iron and Steel, Aluminum, Copper, Zinc, Lead and Ferro Alloys).
- (b) Electric arc furnaces (Mini Steel Plants).
14. Chlor-alkali industry.
15. Integrated paint complex including manufacture of resins and basic raw materials required in the manufacture of paints.
16. Viscose Staple fiber and filament yarn.
17. Storage batteries integrated with manufacture of oxides of lead and lead antimony alloys.
18. All tourism projects between 200m—500 meters of High Water Line and at locations with an elevation of more than 1000 meters with investment of more than Rs.5 crores.
19. Thermal Power Plants.

20. Mining projects (major minerals) with leases more than 5 hectares.
21. Highway Projects except projects relating to improvement work including widening and strengthening of roads with marginal land acquisition along the existing alignments provided it does not pass through ecologically sensitive areas such as National Parks, Sanctuaries, Tiger Reserves, Reserve Forests
22. Tarred Roads in the Himalayas and or Forest areas.
23. Distilleries.
24. Raw Skins and Hides
25. Pulp, paper and newsprint.
26. Dyes.
27. Cement.
28. Foundries (individual)
29. Electroplating
30. Meta amino phenol.
31. **New Construction Projects.**
32. **New Industrial Estates.**

**3) ENVIRONMENTAL CLEARANCE NOT APPLICABLE TO CERTAIN PROJECTS:**

**Nothing contained in the said Notification shall apply to:-**

- i) Any item following under entry (item) Nos. 3,18,20,31 and 32 of the Schedule-I, to be located or proposed to be located in the areas covered by the said Notification.
- ii) Entry No.31 & 32 are related to 'New Construction Projects' and 'New Industrial Estates' respectively. Non applicability of E.C. in these entries are defined as under:-
- iii) Entry No.:31 (New Construction Projects):- Any Construction project falling under entry No.31 of Schedule-I, including new Townships, industrial townships, settlement colonies, commercial complexes, hotel complexes, hospitals and office complexes proposed for 1000 (One Thousand) persons or below, OR discharging sewage of 50,000 (Fifty Thousand) litres per day or below, OR with an investment of Rs.50,00,00,000/- (Rs. Fifty Crores) or below.
- iv) Entry No.32 (New Industrial Estates):- Any industrial estate falling under entry No.32, of the Schedule-I, including industrial estates accommodating industrial units in an area of 50 Hectares or below, but excluding the industrial estates irrespective of area if their pollution potential is high.

## **Explanations:-**

- i) New construction projects which were undertaken without obtaining the clearance required under this notification, and where construction work has not come up the plinth level, shall require clearance under this notification with effect from the 7<sup>th</sup> day of July, 2004.
- ii) In the case of new Industrial Estates which were undertaken without obtaining the clearance required under this notification and where the construction work has not commenced or the expenditure does not exceed **25%** of the total sanctioned cost, shall require clearance under this notification with effect from the 7<sup>th</sup> day of July, 2004.
- iii) Any project proponent intending to implement the proposed project under sub-paras (g) and (h) in a phased manner or in modules, shall be required to submit the details of the entire project covering all phases or modules for appraisal under this notification.

## **SCHEDULE-II**

The Environmental Clearance process comprises of maximum of four stages and all of which may not be applicable to particular cases. These stages in sequential order are:-

Stage-1: **Screening** (except for category 'A' projects and activities)

Stage-2: **Scoping**

Stage-3: **Public Consultation**

Stage-4: **Appraisal**

## **PROCEDURE FOR SEEKING ENVIRONMENT CLEARANCE OF PROJECTS.**

- (1) The application shall be made to the Secretary Ministry of Environment and Forests (MOEF) New Delhi in Form 'A' specified in Schedule-II annexed to the notification and shall be accompanied by a detailed project report which shall, inter alia, include an Environmental Impact Assessment Report and an Environment Management plan prepared in accordance with the guidelines issued by the State Department of Environment from time to time.
- (2) Cases rejected due to submission of insufficient or inadequate data and Action Plans may be reviewed as and when submitted with complete

data and Action Plans. Submission of incomplete data for the second time would itself be a sufficient reason to reject the case summarily.

- (3) The applicant shall obtain 'No Objection Certificate' from the concerned Pollution Control Board. The State Pollution Control Board shall issue No Objection Certificate to establish only after completing public hearing as specified in Schedule-IV annexed to the said notification.
- (4) The reports submitted with the application and No Objection Certificate from the State Pollution Control Board shall be evaluated and assessed by the State Government, in consultation with a Committee of experts which shall be constituted by the State Government as specified in Schedule-III of the notification.
- (5) The said Committee of experts shall have full right of entry and inspection of the site or, as the case may be, factory premises at any time prior to, during or after the commencement of the preparations relating to the plant.
- (6) The State Government Department dealing with the subject of Environment shall prepare a set of recommendations based on technical assessment of documents and data furnished by the applicant supplemented by data collected during visits to sites, if undertaken and interaction with affected population and environment groups, if necessary.
- (7) The assessment shall be completed within a period of ninety days from receipt of the requisite documents and data from the applicant and decision conveyed within thirty days thereafter.
- (8) The environmental clearance granted shall be valid for a period of five years from commencement of the construction or operation of the project.

**Caution:** Concealing factual data or submission of false, misleading data reports, decisions of recommendations would lead to the project being rejected. Approval, if granted, earlier on the basis of false data, can also be revoked.

**(FORM A)**

**APPLICATION FORM**

1. (a) Name and Address of the project proposed :  
(b) **Location of the project:**  
(c) Name of the Place:  
(d) District, Tehsil:  
(e) Latitude/Longitude:  
(f) Nearest Airport/Railway Station:  
(g) Alternate sites examined and the reasons for selecting the proposed site  
(h) Does the site conform to stipulated land use as per local land use plan?
2. **Objectives of the project:**
3. (a) **Land Requirement:**
  - i) Agriculture Land:
  - ii) Forest land and Density of vegetation.
  - iii) Other (specify):

(b) (i) Land use in the Catchment within 10 kms radius of the proposed site:  
(ii) Topography of the area indicating gradient, aspects and altitude:  
(iii) Erodibility classification of the proposed land:

(c) Pollution sources existing in 10 km radius and their impact on quality of air, water and land:

(d) Distance of the nearest National Park/Sanctuary/Biosphere Reserve/Monuments/heritage site/Reserve Forest:

(e) Rehabilitation plan for quarries/borrow areas:

(f) Green belt plan

(g) Compensatory afforestation plan
4. **Climate and Air Quality:**



- a) Windrose at site
- b) Max/Min/Mean annual temperature
- c) Frequency of inversion
- d) Frequency of cyclones/tornadoes/cloud burst
- e) Ambient air quality data
- f) Nature & concentration of emission of SPM, Gas (CO, CO<sub>2</sub>, NO<sub>x</sub>, CH<sub>n</sub> etc.) from the project

**5. Water balance:**

- a) Water balance at site
- b) Lean season water availability; Water Requirement
- c) Source to be tapped with competing users (River, Lake, Ground, Public supply):
- d) Water quality
- e) Changes observed in quality and quantity of groundwater in the last years and present charging and extraction details
- f)(i) Quantum of waste water to be released with treatment details  
(ii) Quantum of quality of water in the receiving body before and after disposal of solid wastes
- g) Quantum of waste water to be released on land and type of land
- h) (i) Details of reservoir water quality with necessary Catchment Treatment Plan:  
(ii) Command Area Development Plan

**6. Solid wastes:**

- (a) Nature and quantity of solid wastes generated
- (b) Solid waste disposal method

**7. Noise and Vibrations:**

- a. Sources of Noise and Vibrations
- b. Ambient noise level
- c. Noise and Vibration control measures proposed
- d. Subsidence problem, if any, with control measures

**8. Power requirement** indicating source of supply: Complete environmental details to be furnished separately, if captive power unit proposed

**9. Peak labour force** to be deployed giving details of

- i) Endemic health problems in the area due to waste water/air/soil borne diseases:

ii) Health care system existing and proposed

10. (a) Number of villages and population to be displaced  
(b) Rehabilitation Master Plan:

11. **Risk Assessment Report** and Disaster Management Plan:

12. (a) Environmental Impact Assessment  
(b) Environment Management Plan:  
(c) Detailed Feasibility Report:  
(d) Duly filled in questionnaire

**Note:** Report prepared as per guidelines issued by the Central Government in the MOEF from time to time:

13. **Details of Environmental Management Cell:**

I hereby give an undertaking that the data and information given above are due to the best of my knowledge and belief and I am aware that if any part of the data/information submitted is found to be false or misleading at any

stage, the project be rejected and the clearance given, if any, to the project is likely to be revoked at our risk and cost.

Signature of the applicant  
With name and full address

Given under the seal of Organisation on behalf  
of Whom the applicant is signing.

Date:

Place:

**Explanation:** - In respect to item for which data are not required or is not available as per the declaration of project proponent, the project would be considered on that basis.

### SCHEDULE-III

[See Sub. Para(2), Para 3 of Schedule- II]

### **COMPOSITION OF THE EXPERT COMMITTEES FOR ENVIRONMENTAL IMPACT ASSESSMENT**

1. The Committees will consist of experts in the following disciplines:
  - i. Eco-system Management
  - ii. Air/Water Pollution Control
  - iii. Water Resource Management
  - iv. Flora/Fauna conservation and management
  - v. Land Use Planning
  - vi. Social Sciences/Rehabilitation
  - vii. Project Appraisal
  - viii. Ecology
  - ix. Environmental Health
  - x. Subject Area Specialists
  - xi. Representatives of NGOs/persons concerned with environmental issues.
2. The Chairman will be an outstanding and experienced ecologist or environmentalist or technical professional with wide managerial experience in the relevant development sector.
3. The representative of Impact Assessment Agency will act as a Member-Secretary.
4. Chairman and Members will serve in their individual capacities except those specifically nominated as representatives.
5. The Membership of a Committee shall not exceed 15.

### SCHEDULE IV

(See para 3, subparagraph (2) of Schedule- II)

### **PROCEDURE FOR PUBLIC HEARING**

- (1) **Process of Public Hearing:** - Whoever apply for environmental clearance of projects, shall submit to the concerned State Pollution Control Board twenty sets of the following documents namely: -
- i. An executive summary containing the salient features of the project both in English as well as the local language along with Environmental Impact Assessment (EIA). However, for pipeline project, Environmental

- Impact Assessment report will not be required. But Environmental Management Plan including risk mitigation measures is required.
- ii. Form XIII prescribed under Water (Prevention and Control of Pollution) Rules, 1975 where discharge of sewage, trade effluents, treatment of water in any form, is required.
  - iii. Form I prescribed under Air (Prevention and Control of Pollution) Union Territory Rules, 1983 where discharge of emissions are involved in any process, operation or industry.
  - iv. Any other information or document which is necessary in the opinion of the Board for their final disposal of the application.

(2) **Notice of Public Hearing:** - (i) The State Pollution Control Board shall cause a notice for environmental public hearing which shall be published in at least two newspapers widely circulated in the region around the project, one of which shall be in the vernacular language of the locality concerned. State Pollution Control Board shall mention the date, time and place of public hearing. Suggestions, views, comments and objections of the public shall be invited within thirty days from the date of publication of the notification.

(ii) All persons including bona fide residents, environmental groups and others located at the project site/sites of displacement/sites likely to be affected can participate in the public hearing. They can also make oral/written suggestions to the State Pollution Control Board.

**Explanation:** - For the purpose of the paragraph person means: -

- a. any person who is likely to be affected by the grant of environmental clearance;
- b. any person who owns or has control over the project with respect to which an application has been submitted for environmental clearance;
- c. any association of persons whether incorporated or not like to be affected by the project and/or functioning in the filed of environment;
- d. any local authority within any part of whose local limits is within the neighbourhood wherein the project is proposed to be located.

(3) **Composition of public hearing panel:** - The composition of Public Hearing Panel may consist of the following, namely: -

- i) Representative of State Pollution Control Board;
- ii) District Collector or his nominee;
- iii) Representative of State Government dealing with the subject;

- iv) Representative of Department of the State Government dealing with Environment;
- v) Not more than three representatives of the local bodies such as Municipalities or Panchayats;
- vi) Not more than three senior citizens of the area nominated by the District Collector.

**(4) Access to the Executive Summary and Environmental Impact Assessment report:-**

The concerned persons shall be provided access to the Executive Summary and Environmental Impact Assessment report of the project at the following places, namely:-

- i) District Collector Office;
- ii) District Industry Centre;
- iii) In the Office of the Chief Executive Officers of Zila Praishad or Commissioner of the Municipal Corporation/Local body as the case may be;
- iv) In the head office of the concerned State Pollution Control Board and its concerned Regional Office;
- v) In the concerned Department of the State Government dealing with the subject of environment.

**(5) Time period for completion of public hearing:**

The public hearing shall be completed within a period of 60 days from the date of receipt of complete documents as required under paragraph (1).

## **FOREIGN DIRECT INVESTMENT (FDI) IN TOWNSHIPS, HOUSING, BUILT-UP INFRASTRUCTURE AND CONSTRUCTION-DEVELOPMENT PROJECTS**

(Extract from Press Note – 2 (2005) dt. 3.3.2005, issued by Ministry of Commerce & Industry, Department of Industrial Policy & Promotion SIA (F. C. Division) New Delhi.)

**A) OBJECT:-**

To promote investment in townships, housing, built-up infrastructure and construction-development projects as an instrument to generate economic activity, create new employment opportunities and add to the available housing stock and built-up infrastructure, the Government of India had decided to allow **Foreign Direct Investment (FDI)** up to 100% under the automatic route in township, housing, built-up infrastructure and construction-development projects which includes commercial premises, hotels, resorts, hospitals, educational institutions, recreational facilities, city and regional level infrastructure subject to the following guidelines:

**B) ELIGIBILITY:-**

Land Component: Minimum area to be developed under each project would be as under:-

- i. Serviced Housing Plots: Minimum land area of 10 hectares
- ii. Construction-development projects: Minimum built-up area of 50,000 sq. mtrs.
- iii. Combination project: Any one of the above two conditions would suffice.

**C) INVESTMENT:-**

The Investment would further be subject to the following conditions:-

- i. Minimum capitalization of US\$ 10 million for wholly owned subsidiaries and US \$ 5 million for joint ventures with Indian



partners. The funds should be brought in within 6 (six) months of commencement of business of the Company.

- ii. Original investment cannot be repatriated before a period of 3 (three) years from the completion of minimum capitalization. However, the investor may be permitted to exit earlier, with prior approval of the Government through the FIPB.

**D) TIME LIMIT:-**

At least 50% of the project must be developed within a period of 5 (five) years from the date of obtaining all statutory clearances. The investor would not be permitted to sell undeveloped plots.

**Explanation:-** "Undeveloped Plots" means, where roads, water supply, street lighting, drainage, sewerage, water and other conveniences, as applicable under prescribed regulations, have not been made available. It will be necessary that the investor provides this infrastructure and obtains the completion certificate from the concerned local body/ service agency before he would be allowed to dispose of 'Serviced Housing Plots.'

**E) DEVELOPMENT REGULATIONS:-**

- i. The project shall conform to the norms and standards, including land use requirements and provision of community amenities and common facilities, as laid down in the applicable building control regulations, bye-laws, rules, and other regulations of the State Government/ Municipal/Local Body concerned.
- ii. The investor shall be responsible for obtaining all necessary approvals, including those of the building/layout plans, developing internal and peripheral areas and other charges and complying with all other requirements as prescribed under applicable rules/bye-laws/regulations of the State Government/ Municipal/Local Body concerned.

**F) MONITORING AUTHORITY:-**

The State Government/Municipal/Local Body concerned, which approves the building/development plans, would monitor compliance of the above conditions by the developer.

## गावचा नमुना नंबर ७/१२ विहित नमुना

गा.न.नं.७, ७-अ, व १२

सर्व्हे / गट नंबर	हिस्सा नंबर		कब्जेदार			गांव-
क्षेत्र लावणी लायक पोट खराबा .....	एकर हेक्टर	गुंटे आर				तालुका-
						इतर हक्क
एकूण						
आकार..... जुडी अथवा..... जादा आकार..... पाणी.....	रूपये	पैसे				
एकूण						
वर्ष	लागवड करणाराचे नाव	क्षेत्र	रीत	पिके आणि लागवड	क्षेत्र	शेरा
अस्सल बरहुकूम खरी नकल असे. तयार तारीख _____					सही	
					तलाठी - सजा _____	


## ANNEXURE – B

हक्काचे पत्रकाचा विहित नमुना (नमुना नं. ६)			मीजे - _____ तालुका - _____
नोंदीचा अनुक्रम नंबर	हक्काचा प्रकार	फेरफार झालेले सर्व्हे नंबर व हिस्सा नं.	तपासणी अंमलदाराची किंवा शेरा सही
<p>अस्सल बरहुकूम खरी नकल असे. तयार तारीख _____</p> <p>टीप: उतारा कारणापुरता दिला असे.</p> <p style="text-align: right;">सही</p> <p style="text-align: right;">तलाठी - सजा _____</p>			

**ANNEXURE – C**

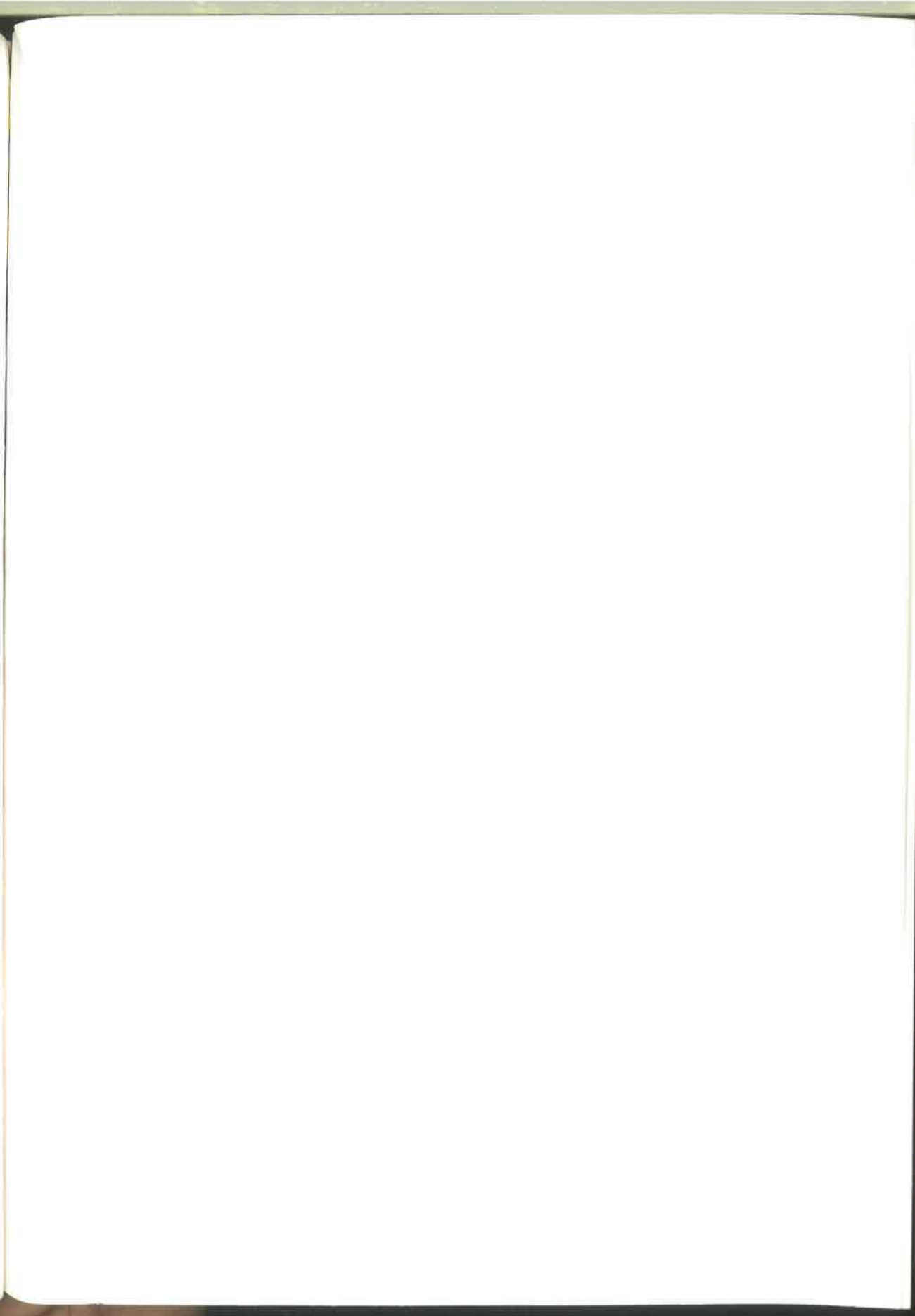
**EXTRACT FROM THE PROPERTY REGISTERED CARD**

**CITY SURVEY:** \_\_\_\_\_ **TALUKA:** \_\_\_\_\_ **DIST.:** M.S.D.

City Survey No.	Area Sq. Mtrs.	Tenure	Particulars of assessment for rent paid to Government and when due for revision	
Easement				
Holder in origin of the title so far as traced				
Lease				
Other Encumbrances				
Other Remarks				
Date	Transaction	Vol. No.	New Holder (H) Lessee (L) or Encumbrances (E)	Attestation
				<div data-bbox="744 1311 1063 1483" style="border: 1px solid black; padding: 10px; width: fit-content; margin: auto;">                     True copy  Sd/-                 </div>

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- 12) The Consumer Protection Act – 1986.
- 13) Relevant Notifications of Government of India.
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