

NOTE FOR INTERNAL DISCUSSION ONLY

1. By and under the Order dated 4th July 2019 bearing No. SGY 2018/Case 85/14C issued by the Government of Maharashtra, Cooperative, Marketing and Clothing Industry Department (“**said Order**”), certain amended guidelines were issued by the Government of Maharashtra under Section 79A of the Maharashtra Cooperative Housing Society Act, 1960 (“**MCS Act**”).
2. The said Order is regarding the redevelopment of cooperative housing society buildings.
3. The various stages and the procedure as mentioned in the aforesaid guidelines are mentioned hereinbelow:

| SR. NO. | PARTICULARS | PRESENT STATUS |
|---------|---|----------------|
| | <u>ORGANIZING AN EXTRAORDINARY GENERAL BODY MEETING:</u> | |
| | a) An application should be submitted by at least 1/5 th of the total number of the members of the society to the secretary of the managing committee (“ Secretary ”) elected according to the byelaws of the society. The said application shall, <i>inter alia</i> , mention a request for organizing an extraordinary general body meeting (“ EGM ”) for deciding the policy of the redevelopment of the buildings of the society, along with their plans and suggestions for the said redevelopment; | |

| | | |
|--|--|--|
| | <p>b) Within 8 days of receiving such an application, it shall be taken into cognizance in the management committee meeting, and the Secretary shall convene an EGM for all members within 2 (two) months on receipt of the aforesaid application. The agenda for this meeting shall be distributed to all the members at least 14 (fourteen) days prior to the meeting and receipts of this distribution shall be kept in the records of the society. Prior to organizing this meeting, the management committee of the society (“Managing Committee”) shall obtain quotations from at least 3 (three) Architects/ PMCs on the panel of government/local authority registered with the Architect Council under the Architect Act, 1972 for preparation of a project report. One out of these experts shall be selected in the EGM;</p> | |
| | <p>c) Making of a website: The society should also create a website to ensure transparency and for the benefit of all members. All information related to the redevelopment such as notices, minutes of meeting and report of the project management consultant (“PMC”) etc shall be uploaded on this website. Also, this information shall be displayed on the notice board(s) of the society for the information of the members. The Registrar should be informed of the said website.</p> <p><i>Note: (1) The notices and minutes of meeting regarding redevelopment shall be sent to the members of the society through email/ personally/ registered post. It will be necessary to collect the email ids and contact information of each member in order to send these notices and minutes of meeting by email.</i></p> <p><i>(2) All communication that occurs through notices and minutes of meeting of the Managing Committee and the EGM regarding the redevelopment shall be sent to the concerned Registrar’s office within 15 (fifteen) days of the meeting through email and hardcopy. The society should keep the receipts of proof of sending this information on record.</i></p> | |

| | | |
|--|--|--|
| | <p>d) Accepting written suggestions from the members regarding redevelopment: The members of the society shall be able to submit in written format their realistic plans, suggestions and recommendations, and names of experienced and expert empanelled architects/ PMCs that they know up to 8 (eight) days prior to the day of the meeting. However, they have to submit a letter from the said architect/ PMC stating that they are ready to do the said redevelopment project work.</p> | |
| | <p><u>ACTIVITIES TO BE CARRIED OUT IN THE EGM:</u></p> | |
| | <p>a) The demand of the members regarding the redevelopment of the buildings of the society and the notices received shall be taken into consideration and a primary decision shall be made.</p> <p>b) In order to carry out the redevelopment, (i) selection of expert and experienced architects/ PMCs on the panel of the Government/ Local Authority is to be done, (ii) a decision on the terms and conditions of the works to be carried out; and</p> <p>c) Presentation of the prospective timeline of the redevelopment project should be given.</p> | |
| | <p><u>PROCEDURE TO BE ADOPTED IN THE EGM:</u></p> | |
| | <p>Quorum:</p> | |
| | <p>a) The quorum of the EGM organized for the redevelopment of the society's buildings shall be 2/3rd of the total number of members.</p> | |

| | | |
|--|--|--|
| | <p>b) If the quorum is not complete, then, the meeting shall be adjourned, and shall be organized again within 1 (one) month by giving 7 (seven) days' notice. If there is insufficient quorum again, then it shall be considered that the members of the society are not interested in carrying out redevelopment and the meeting shall be adjourned, and this subject shall not be presented for approval before the Management Committee for a minimum period of 3 (three) months after that.</p> | |
| | <p>All suggestions, recommendations and objections presented by the members in the EGM regarding the redevelopment shall be taken into consideration and opinions of the members shall be included in the minutes of meeting along with their names. Any approval, opinion, feedback of any kind in oral/ written form from any absent member shall not be taken into consideration for this decision.</p> | |
| | <p>Voting: The primary decision whether to carry out redevelopment shall be taken by a majority vote in this meeting by at least 51% or more members out of the total number of members of the society. It is mandatory to obtain approval for this decision from at least 51% of the members of the total number of members of the society. Thus, this decision shall be taken by a majority of members not less than 51% of the total number of members of the Society.</p> <p>For e.g.: If the total number of members of a cooperative housing society is 100, then the quorum for the EGM organized for redevelopment shall be 66.66 i.e., 67 members, and approval of at least 51 members is needed for majority vote. Meaning if 67 members are present in the meeting, then approval from at least 51 out of the 67 members is needed for majority. Similarly, if 75 members are present, even then approval from at least 51 out of 75 members is needed for majority.</p> | |

| | | |
|--|---|--|
| | After the approval for decision to redevelop is taken, the following procedure will be carried out with the approval of the EGM: | |
| | a) In order to carry out the redevelopment, (i) selection of an expert and experienced architects/ PMCs on the panel of the Government/ Local Authority is to be done, (ii) deciding on the terms and conditions of the works to be carried out; and | |
| | b) Presenting the prospective timeline of the redevelopment project. | |
| | Minutes of the meeting: The Secretary of the society shall prepare the minutes of meeting of the EGM and send a copy to all the members within 7 (seven) days of the EGM, and present one copy to the Registrar. | |
| | <u>OBTAINING WRITTEN APPROVALS FROM THE MEMBERS FOR THE REDEVELOPMENT PROCEDURE:</u> | |
| | After the approval for redevelopment is passed by majority of at least 51% of the total members of the society, before doing any further procedure related to redevelopment, it will be mandatory for the Management Committee of the society to obtain written consent letters from the members who voted in favour of the redevelopment resolution. | |
| | <u>APPOINTMENT OF ARCHITECT/ PMC:</u> | |
| | The Secretary of the society shall issue an appointment letter to the architect/ PMC (“ said Architect/ PMC ”) selected in the EGM within 30 (thirty) days of the EGM; and | |

| | | |
|--|---|--|
| | the Management Committee shall execute a contract with the said Architect/ PMC under the terms and conditions approved in the EGM. | |
| | <u>PREPARATION OF A PROJECT REPORT BY ARCHITECT/ PMC:</u> | |
| | The said Architect/ PMC shall carry out the following work in the primary stages to prepare a redevelopment project report: | |
| | To obtain survey of the building and land of the society; | |
| | To obtain information about the conveyance deed of the society's land; | |
| | To obtain information about the FSI and TDR available for the building and land of the society according to the prevalent Government policy and by taking into consideration the rules issued by MHADA/ SRA/ Municipal Corporation, from time to time, applicable according to the ownership of the land. It will be mandatory for the concerned to act according to above; | |
| | To take into consideration the recommendations and suggestions of the members of the society about the redevelopment and take into consideration the residential area, commercial area, open space, garden, parking, construction specification etc to be made available to the members, and a realistic project report shall have to be prepared. | |
| | The said Architect/ PMC shall prepare the project report within 2 (two) months from the date of their appointment and present it to the Management Committee. | |
| | <u>PROCEDURE AFTER THE REDEVELOPMENT PROJECT REPORT IS OBTAINED:</u> | |

| | | |
|--|---|--|
| | <p>Call for meeting: The Secretary shall call a meeting of the Management Committee after the above redevelopment project report is received. The said Architect/ PMC shall be invited to the meeting, and the suggestions of the members shall be considered in the meeting, and the project report shall be approved.</p> | |
| | <p>Notice for meeting: The notice of the said meeting, time, and place etc shall be published on the notice board of the society. The notice should mention that the copy of the project report is available for viewing in the society's office, and that any suggestions should be presented at least 7 (seven) days before the Management Committee meeting. The notice should be sent to each member and its receipt shall be kept on record.</p> | |
| | <p>The suggestions, if any received from the members up to 7 (seven) days prior to the Management Committee meeting shall be sent by the Secretary to the said Architect/ PMC for consideration.</p> | |
| | <p>Approval of the project report: After a detailed discussion in the Management Committee meeting about the suggestions/ recommendations of the members and the opinion of the said Architect/ PMC, necessary changes (if any) shall be made to the project report and then, it shall be approved with a majority.</p> | |
| | <p>Preparation/ publication of a draft tender: A draft tender shall be prepared and the date, time, and place for the next meeting to finalize the tender shall be decided. While preparing the draft tender, in order to ensure that competitive bids are received from renowned experts and experienced developers, the said Architect/ PMC shall keep either carpet area or corpus fund constant (not changeable) and decide other technical details and ask for bids from contractors.</p> <p>The members of the Society shall be able to give this information to the renowned and experienced developers that they know.</p> | |

| | | |
|--|---|--|
| | <u>PROCEDURE AFTER THE BIDS ARE RECEIVED:</u> | |
| | Preparation of list of bids: The Secretary of the society shall prepare a list of all the bids received until the last date, and publish it on the notice board of the society; | |
| | Meeting of the Management Committee: The Secretary shall convene a meeting of the Management Committee within 15 (fifteen) days of the last day of tender. The bidders of the tender or their authorized representatives and the members of the society who wish to attend this meeting shall not be prohibited from doing so; | |
| | Opening and review of the bids received: The bids received shall be opened in the presence of everyone in the meeting. The said Architect/ PMC shall (a) review all the bids, (b) prepare a comparative chart, (c) examine the quality, fame, experience, and competitive pricing of all the bids, and (d) shall approve them to be presented in the EGM as long as a minimum of 3 (three) bids have been received. In order to ensure that the bids are competitive, it is necessary to receive at least 3 (three) bids. If less than 3 (three) bids are received, then initially an additional 1 (one) week maybe granted for other bids to be submitted. After the end of the week if there are still less than 3 (three) bids then those shall be presented to the EGM for approval. | |
| | <u>SELECTING THE DEVELOPER:</u> | |
| | Appointment of authorized officer by the Registrar for the General Body Meeting: | |

| | | |
|--|--|--|
| | <p>In order to ensure that the EGM (as mentioned below) is conducted in the presence of an officer authorized by the Registrar of the Cooperative Societies an application should be submitted within 7 (seven) days along with the member list to the Registrar for appointing an authorized officer (“said Officer”).</p> | |
| | <p>In order to select one developer from among the tenders chosen by the Management Committee of the society with the help of the said Architect/ PMC on the basis of experience, quality, financial capacity, technical capacity, and competitive rates etc, an EGM of the society shall be convened. It will be mandatory for the selected developer or their partners or helpers to have at least one project registered with MAHARERA.</p> | |
| | <p>Convening an EGM to select the developer:</p> | |

- | | |
|--|--|
| <p>a) Time period: After the authorized officer is appointed, in order to appoint a developer, the Secretary shall convene an EGM within 1 (one) month with prior permission and after deciding the date and time.</p> <p>b) The agenda of this meeting shall be circulated to the members at least 14 (fourteen) days prior to the meeting by hand delivery/ post and by email for members living outside India, and the corresponding receipts shall be kept on the society's record. The said agenda shall also be uploaded on the website created for the society's redevelopment.</p> <p>c) The said Officer shall ensure that the representatives of the bidders whose bids will be opened in the meeting are present.</p> <p>d) Video conferencing: The society shall, at its own expense, arrange for a video recording of this EGM.</p> <p>e) Anyone other than the authorized members shall not be allowed to be present in the meeting. In order to ensure this, it will be mandatory for the members present to carry their identification with them at the time of the meeting.</p> <p>f) It will be mandatory for the authorized officer from the architect/ project management committee to be present at the time of submitting the redevelopment proposal to the concerned authority, while selecting a developer and for other procedures.</p> | |
|--|--|

| | | |
|--|---|--|
| | <p>Quorum: The quorum of this EGM shall be 2/3rd of the total number of members. If the quorum is not complete, then the meeting shall be adjourned for 7 (seven) days. After 7 days, if there is insufficient quorum again, then it shall be considered that the members of the society are not interested in carrying out redevelopment and the meeting shall be cancelled, and this subject shall not be presented for approval before the Management Committee for a minimum period of 3 (three) months after this.</p> | |
| | <p>Procedure for selecting a developer in the EGM:</p> | |
| | <p>a) The authorized officer from the Registrar's office shall be present for the said meeting and shall observe the proceedings of the meeting.</p> | |
| | <p>b) Once the necessary representatives and the authorized officer is present at the site of the meeting, and when there is 2/3rd quorum as described above, the following activity shall be carried out in the meeting:</p> | |

| | | |
|--|---|--|
| | <ul style="list-style-type: none"> (i) Give comparative information about the selected bids to be presented (about the redevelopment works). (ii) Presenting the bids in order. (iii) Selecting 1 (one) developer/ contractor for redevelopment subject to terms and conditions and to finalise the bid. (iv) Get approval from the developer/ contractor selected. (v) Get information about further procedure: <p>In order to appoint a developer/ contractor, it will be mandatory to obtain written consent from present members who are <u>at least 51% of the total number of members of the society</u>. Approval, opinion, feedback of any kind in oral/ written form from any absent member shall not be taken into consideration for this decision. The selected developers/ contractors or their representatives who are not present in the meeting will be assumed to have consented to the said project and further procedure will be carried out.</p> | |
| | <p><u>CONTRACT TO BE EXECUTED WITH THE DEVELOPER:</u></p> | |
| | <p>A contract should be executed with the developer/ contractor subject to the terms and conditions approved by the Managing Committee of the society, and according to the guidance of the said Architect/ PMC.</p> | |

In addition to the points suggested by the said Architect/ PMC appointed by the society, the following points should also be added in the Development Agreement:

- (a) **Time period:** Depending on the size of the redevelopment project, the time period for completion of the redevelopment/ construction from the date of plinth construction certificate shall not be more than 2 (two) years and in exceptional cases not more than 3 (three) years.
- (b) **Bank guarantee:** The developer shall give a bank guarantee to the society of value 20% (twenty percent) of the total cost of the project;
- (c) **Transit accommodation/ rent:** During the redevelopment period, the developer shall arrange for accommodation of the members in the same area as far as possible, or he shall give a monthly rental and deposit acceptable to the members or shall make transit camps for such members.
- (d) **Permanent Alternative Accommodation Agreement:** The development contract with the developer and the permanent alternative accommodation agreement with the personal members shall be registered according to the Registration Act, 1908.
- (e) **New members:** Any new members will be inducted into the society after the redevelopment is complete, and with the approval of the General Body meeting.
- (f) **Carpet area:** The contract should clearly mention the carpet area to be given according to the Real Estate (Regulation and Development) Act 2016 (“**RERA**”).
- (g) **Development rights to be non-transferable:** The development rights given to the developer shall be non-transferrable.
- (h) The members shall vacate their units only after all legal approvals for the redevelopment are obtained and the permanent alternative accommodation agreement executed with the members is registered.
- (i) The members, who are in possession of the units, will have their rights protected.

- (j) **Dispute resolution:** It is mandatory to have a clause in the contract between the architect/contractor and the society that in case of any dispute in the redevelopment process, it shall be resolved according to the section 91 of the MCS Act.

- (k) **Allotment:** After the Occupation Certification is received, the units shall be distributed to the members according to the floor position prior to redevelopment as far as possible, and in case it is necessary to allot units on lottery basis, then the developer should arrange for such a lottery after the building is complete. The units shall be allotted in the presence of the Registrar's representative, and the process should be video recorded.

- (l) No member of any committee of the society, officer bearer shall be the developer or shall be related to the developer.

- (m) **Approval of plans:** The construction plans approved by the Municipal Corporation/competent authority shall be presented before the General Body meeting again, and if a member wishes to obtain a copy of the approved documents, then he should submit a written application. It will be mandatory for the Managing Committee to charge an appropriate fee and then give the documents.
