

New Redevelopment Rules under Sect.79 (A) of MCS ACT, 1961 w.e.f. 4Th July, 2019

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NEW REDEVELOPMENT RULES

UNDER SECT.79 (A) OF MCS ACT, 1961

W.E.F. 4TH JULY, 2019

Redevelopment of properties of old and dilapidated buildings has been a subject of great interest since last many years both for the tenants/members and the Developers as well. With the real estate prices touching a new high, residents in old buildings are now discovering that they have an opportunity to unlock immense value from their property by offering it to the Developers for redevelopment.

However, there are many factors/questions that arise during the ongoing process of redevelopment and hence, the Government of Maharashtra, Co-Operation, Marketing and Textile Department, Mantralaya, pronounced a modified and new policy on redevelopment of old and dilapidated buildings wide its recent Government Resolution (GR) No. सगृयो-2018/प्र.क्र. 85/14-स Dated 04 July, 2019 issued under Section 79 (A) of Maharashtra Co-operative Societies Act 1960 modifying the earlier Directives issued wide its No. सगृयो-2007/प्र.क्र.554/14-स, CHS 2007/CR554/14-C Dated 3.1.2009.

These new redevelopment rules shall be applicable to all types of redevelopment projects in the State of Maharashtra undertaken under various provisions of DCPR 2034 like self-redevelopment, by appointing a contractor to carryout redevelopment, tenanted premises, cluster redevelopment, redevelopment through the Developers or redevelopment undertaken by Federations and many more types. The earlier Directives dated 3.1.2009 were applicable only for the redevelopment projects undertaken exclusively through the Developers.

It is expected that the new Directives are to be diligently followed by all concerned while any project that is proposed for the redevelopment. The Directives as contained in the original GR in Marathi by the Government of Maharashtra are for its prompt implementation.

KEY FEATURES OF NEW REDEVELOPMENT RULES

The key features of new redevelopment rules have been appended below. However, the Societies and all other concerned are requested to follow the original Government Resolution (GR) reproduced at the end of this article to have word to word awareness and understanding about the new redevelopment rules for its scrupulous implementation.

To begin with the redevelopment proposal, the Competent Authority shall declare that the building is in the state of collapse or danger for rehabilitation then the Society can take decision regarding redevelopment in the Special General Body Meeting (SGBM).

These Directives are applicable to redevelopment projects undertaken by the Developers through the execution of the Development Agreement or by appointing the Contractors for the projects under self-redevelopment as also cluster redevelopment in the Federal Society or redevelopment through the group of the Societies etc.

Authorized Officer or the Administrator appointed by the Dy. Registrar to look after the working of the Society shall not have any power to take the decision of the redevelopment of the property of the Co-operative Housing Societies.

Not less than 1/5 of the members of the Societies shall submit requisite application for calling SGBM to decide to undertake the redevelopment of the property of the Society.

The Secretary of the Society after taking note of it in the Managing Committee Meeting within 8 days shall call SGBM within 2 months.

The Society shall call at least 3 quotations for preparing Feasibility Report from Project Management Consultants (PMC) who are on the panel of Government/Local Authority and one expert PMC amongst them shall be selected in the SGBM. The Agenda of the SGBM shall be circulated to the members before 14 days with due acknowledgement obtained.

For the information of all the members, the Society shall create a website and upload therein the Feasibility Report received from PMC as also periodically update the website with all the information related to the redevelopment like Notices, Minutes of various Meetings of the Managing Committee, SGBMs etc. The Dy. Registrar shall be informed of the creation of the said Website with its URL.

Notices and Minutes of the SGBMs shall be sent to the members by e-mail/in person or by Registered Post as also shall be placed on the Notice Board.

The quorum of the SGBM shall be 2/3 of the total number of members of the Society. If no quorum then the said SGBM shall be adjourned and shall be again scheduled within next 1 month. If again no quorum then the said SGBM shall be cancelled by assuming that the members are not interested in redevelopment and the said subject shall not be brought for the approval before the SGBM for up to next 3 months.

At the said SGBM, the decision regarding the redevelopment shall be taken with not less than minimum 51% of the total number of members physically present and select an expert and experienced PMC, fix the scope of work with terms and conditions followed by a letter of acceptance from PMC.

Any type of consent, opinion, remarks whether written or oral submitted by any absentee member shall not be considered by the said SGBM.

Thus, the said decision shall be approved by the majority of not less than 51% of the number of total members of the Society present at the said SGBM out of minimum of 2/3 number of members present at the SGBM to fulfil the quorum. The Managing Committee shall obtain written Consent Letter from the members agreeing for the redevelopment.

The Minutes of the SGBM shall be communicated to the Dy. Registrar within 15 days of the said SGBM through e-mail and hard copy.

SGBM shall select an expert and experienced PMC from the panel with the Government/Local Authority for redevelopment and shall determine their scope of the work with terms and conditions.

A Letter of Appointment shall be issued to the selected PMC within 30 days from the date of SGBM held and a Work Contract Agreement shall be executed by the Society with PMC detailing therein, the terms and conditions approved in the SGBM.

The Secretary shall prepare the Minutes of the SGBM and circulate the copy of it to all members within 7 days from the date of the said SGBM held with a copy to the Office of the Dy. Registrar.

The PMC shall conduct the survey of the building and land of the Society, verify the records of conveyance of land and shall gather the information about FSI and TDR available as per the existing policy under DCPR 2034 and MHADA Rules.

PMC shall prepare Feasibility Report with details like commercial area, open land, garden area, parking, specifications of construction etc. within two months from the date of their appointment and the same shall be submitted to the Society.

The PMC shall prepare Draft Tender and the terms and conditions and other details shall be fixed. The PMC shall invite Tenders for getting competitive offers from the Developers by fixing/locking the quantum of either Carpet Area or the Corpus Fund (not changeable) in the Draft Tender.

The members of the Society can recommend to the renowned and experienced Developers known to them. In case of the Self- Redevelopment also, while preparing the Feasibility Report and inviting Tenders from the Contractors, the Society and PMC shall follow the same procedure mentioned above.

The Secretary of the Society shall prepare the list of the Tenders and publish the same on the Notice Board of the Society. The PMC shall prepared comparative chart of the Tenders that are received and if minimum 3 Tenders received, the approval shall be given for the acceptable Tender by the SGBM.

To select the Developers from the Tenders selected, an Authorized Officer from the Dy. Registrar's Office shall be invited for attending the SGBM with an arrangement of video shooting of the entire proceeding of the said SGBM. None other than the bonafide

members shall be allowed to be present in the said SGBM with their identity cards verified. It is necessary that minimum one project of the selected Developers must have been registered with MahaRERA.

The quorum of the SGBM shall be 2/3 of the total members of the Society for selection of the Developers. A comparative data regarding the Tenders selected shall be presented in the SGBM and an eligible Developer shall be selected with the terms and conditions as prescribed in the Tender.

It shall be necessary to take written consent of not less than minimum 51% members of the total members of the Society present in the SGBM for the appointment of the Developers.

The Development Agreement with the Developers shall be executed within 3 months with the assistance from the PMC in accordance with the terms and conditions approved by the Society with a specific mention of the completion period of the project of redevelopment shall not be more than 2 years and in exceptional case not more than 3 years from the date of first Commencement Certificate (CC) issue by the MCGM.

The Developer shall provide 20% of the total cost of the redevelopment project as Bank Guarantee to the Society as also shall either provide residential facility to the members in the same area during the redevelopment period or shall pay a monthly rent and deposit or shall make available transit camps.

The Development Agreement, Power of Attorney and Permanent Alternate Accommodation Agreement (PAAA) with the individual member shall be registered under the Registration Act, 1908.

The flat buyers from the saleable quota of the Developers shall be admitted as members in the Society only after the completion of the redevelopment project and with due approval of SGBM.

Carpet Area shall be mentioned in the Agreement as per the provisions under the MahaRERA Act. The development rights given to the Developers shall be non-transferable. The members shall vacate and handover their flats for the redevelopment only after all legal approvals are sought from the competent authorities and the tripartite PAAs are executed with the individual members.

Any dispute that arises shall be settled as per the provisions under Section 91 of the MCS Act. After the Occupancy Certificate (OC), received, the allotment of flats shall be preferably as per the existing floor number and if it is necessary to allot the flats by lottery system, it shall be arranged in the presence of the Authorized Officer from the Dy. Registrar's Office with video shooting of the said proceedings. Thus, the Authorized Officer from the Dy. Registrar's Office shall remain present at two SGBMs i.e. (i) at the time of selecting the Contractor for self-redevelopment or the selection of the Developers and (ii) at the time of allotment of flats.

Any member or his relative or any of the Office Bearers shall not be the selected as the Developers.

Building plans sanctioned by the MCGM shall be placed before the SBGM for information and a certified copy of the same on demand by any member shall be provided by charging prescribed fees.

Cluster Redevelopment through the Co-operative Housing Federation of the affiliated Societies in the name of Co-operative Housing Federation and having ownership rights of the common areas can be redeveloped.

The quorum for the SBGM arranged for the cluster redevelopment of the buildings affiliated to the Co-operative Housing Federation shall also be 2/3 of the total affiliated members of the Federation.

All the affiliated Societies of the Federation shall call for the SBGM of each Society for the redevelopment of their buildings. The SBGM of each Society by completing quorum of the 2/3 members of the total members of that Society, the resolution shall be passed by majority of the members present not less than minimum 51% of the total number of members of the Society.

Here also, the written/oral or any other type of approval, opinion, remarks of any absentee member in the SBGM shall not be considered.

Similarly, each Society by taking the written consent of all members voted in favour of the resolution passed, shall submit the same to the Managing Committee of the Federation or it shall be necessary to vote in favour of the resolution passed by the members not less than 60% of the total members together with all Societies affiliated to the Federation. After taking primary decision of the cluster redevelopment of the Societies as above, the further procedure shall be similar to the procedure of the redevelopment of the Co-operative Housing Societies mentioned above.