

Car Parking in Co-operative Housing Society.

I have attempted to give some information on the subject of parking i.e. open space or stilt parking in a Co-operative Housing Society. The new Standard Bye Laws for flat owners purchase type societies have given effect to certain legal position after the judgment of the apex court in August 2010.

The concept of common area, stilt, open space, closed garage etc. have been given relevant meaning in the judgment. The most important aspect is that the common areas in the society cannot be sold by the Builder / Developer. Such sale can be challenged by a society.

The standard Bye Laws for the flat purchasers Co-operative Housing Society have been amended recently.

Bye Laws 78 refers to allotment of parking in open space and in stilt area in a Co-operative Housing Society. The Bye Law 78 has two clauses i.e. clause (a) and clause (b). My understanding is that clause (a) refers to the allotment by builder/developer clause (b) made by society to its Member does not give any right to such Member to sell or transfer the said allotted parking / stilt to anybody.

Other provisions relating to parking in a Co-operative Housing Society are summarized here under.

1. Available parking spaces may be allotted by the managing committee of the society on first come first served basis to its members.
2. The member who has been allotted the parking space by the society shall have no right to sell or transfer the parking space to anybody.
3. A member who has been allotted the parking space by the Builder/developer shall have the right:-
 - a. To utilize the parking for the purpose of parking his vehicle and cannot change the user of the same.
 - b. To allow temporarily to park vehicle by other person as he may desire.
 - c. Can transfer the parking space with his flat to the transferee of the flat.

- d. To transfer the parking space to any other eligible member of the society.
4. A society needs to mark and number the parking space available in society in its common area in a manner that does not inconvenience other members.
5. The Managing Committee shall make sure that the Members who have been allotted parking by it, use the same for the purpose of parking of their vehicle and not for any other purpose.
6. A member who has the motor vehicle is only eligible to be allotted the parking space by Society.
7. The Member who has been allotted the parking space by society has no right to change the user as well as allow some other person the temporary use of the parking space allotted to him.
8. The Society shall allot the parking space to the members only if such member has a four wheeler.
9. Normally a Member shall not be eligible for allotment of more than one parking space. However, if any parking space remains un-allotted for want of application for allotment of the additional parking space, may be allotted to a member. Such allotment of additional parking shall only be made on year to year basis, provided the same is not required by another member who has not been allotted even a single parking space.
10. The Managing Committee shall draw the lot for allotment of parking if the demand is more than availability.
11. The General Body of the society shall decide the parking charges for the four wheelers as well as the other vehicles. The charges may be different for first allotment and for additional allotments.
12. It is not necessary for a Co-operative Housing Society to allow the use of the parking space allotted to its member to his licensee or caretaker. The object of the society is to give facilities to its members but it cannot be required to facilitate giving premises on leave and license.

13. The member who has been allotted the parking shall be liable to pay the charges to the society irrespective of whether he has parked the vehicle for a particular period or not.
14. A member desiring to have a parking space should make an application to the Hon. Secretary of the Society giving details of vehicles and other details as may have been decided by the General Body of the Society.
15. The Hon. Secretary shall follow the procedure prescribed under the Bye-laws for disposal of the application for allotment of the parking space.
16. Every member having two wheelers and three wheelers shall have to take prior permission of the committee to park his/her vehicles in the compound of the building of the society. Such member has to pay the charges decided by the General Body for parking such vehicles.