

**English Version of Directive under section 79A of the MCS Act and
Rules Housing Societies in Maharashtra by Chief Secretary Co-operation
Government of Maharashtra**

Maharashtra Government Order No SAGRUYO 2007/case No.554/14 (S) Co-Operative Marketing and Textile Division. Dated 3rd Jan. 2009.

Whereas the - development of buildings belonging to Co-operative Housing Society is in progress on large scale in the State of Maharashtra, there are a large number of complaints received from the members in respect of the management. The nature of the most of the complaints received in respect of redevelopment of buildings of housings societies are as under:

- I. The members are not taken into confidence in the process of redevelopment.
- II. No transparency in the process of Tender.
- III. Arbitrary appointment of Architect.
- IV. Gross Violation of provisions of MCS Act, 1960 and Rules, 1961.
- V. No Coordination between Architect & Project Consultants.
- VI. No planning in process and Redevelopment.
- VII. No proper method is being followed while finalizing the Tenders.
- VIII. No uniformity in contracts entered into with developer.

Whereas there is no uniform and firm policy in deciding the above complaints and at different levels and to deal with various complaints received, in order to have a consultation with the respective authorities working in the field, the Commissioner for Cooperation and Registrar of Cooperative Societies Maharashtra State, Pune has appointed a study group under the chairmanship of joint Registrar Coop, Society. CIDCO. The said study group in consultation with all concerned in the field unanimously opined that there should be guiding Rules for re-development of buildings of Co-op. housing societies.



Therefore as per the section 79 A of the MCS Act, 1960, the Government has passed the following order in respect of redevelopment of buildings of co-operative societies. It shall be treated as "Co-operative Housing Societies Buildings Redevelopment Directives."

1) **Demand for a special General Body Meeting.**

Note of suggestions and implications of the said project and to take members not less than 1/4 of the total number of members of the cooperative Housing Society must give a requisition notice for convening a special General Body Meeting of members to the secretary of the society and the Managing Committee duly elected and constituted as per byelaws of the Co-operative Housing Society to consider aspect of redevelopment of building of the co-operative. Housing Society after taking policy decisions on various terms and conditions about the redevelopment of building of the society.

2) **Convening Special General Body Meeting.**

As directed in paragraph No. 1 above, within 8 days of the receipt of the Requisition Notice from the members, the Secretary of the Society shall convene a meeting of the Managing Committee to take note of above notice and shall convene within one month a special General Body Meeting and send the said notice with Agenda to all the Members with 14 clear days notice in advance. Their acknowledgement receipt for the notice and Agenda shall be kept in the office of the Society.

Before convening the special General Body Meeting, the Managing Committee of the society, shall obtain the panel of Architects and project consultants prepared by State Govt. or local self Govt. and call five Architects/ Project Consultants from the said panel who are well conversant with re-development and building and experts in the field with a request to prepare a Redevelopment Project Report and submit quotations to the society. The said quotations and Project Reports shall be kept before the special General Body Meeting.

The following Agenda shall be discussed in the Special General Body



Meeting and the decision shall be taken on the following various issues.

- (a) To take primary decision on redevelopment after considering suggestions and demands of members.
 - (b) To appoint an expert and experienced Architect and Project Management Consultant (PMC) from the panel of State Government/Local authorities and to finalise the scope of their work with the terms and conditions of their appointment.
 - (c) To outline in detail the working procedure, in respect of Redevelopment of the Societies buildings.
- 3) **To receive written suggestion regarding the redevelopment of the Building.**

The Members can submit to the committee their suggestions and recommendations for the project and also the names of known expert Architects and Project Management consultants eight days before the date of the meeting. However, these names shall be from the panel prepared by the Govt./ Semi Govt./ Local self-Govt. who shall have then" letter of consent of willingness to work for the project”.

4) **Decision to be taken at special general body meeting**

Quorum for the special General Meeting shall be 3/4 of the total numbers of members of the society. If there is no quorum the said meeting shall stand adjourned for eight days and the adjourned Meeting shall be convened accordingly. If there is no quorum at the adjourned special General Meeting it shall stand dissolved assuming that members are not interested in the redevelopment of the society's building.

If there is requisite quorum present at the Special General Meeting as directed above, the meeting shall take cognizance of all suggestions and recommendation objections and directions given by the members for redevelopment of the building. They shall be recorded in the Minutes of the Special General Meeting with their names. The Special General Meeting,



thereafter will take primary decisions in principle regarding the redevelopment programme and its implementation by passing a resolution by 3/4 of the majority of the members present at the meeting. After passing the resolution as said herein, the special General Meeting shall decide issues as under:

- (A) To finalise terms and conditions along with scope of work for appointment of an Architect and Professional Project consultant from the panel of State Govt./local self Govt. who will be entrusted with re-development work.
- (B) To present programme for redevelopment of the building to the members.

5) **Proceeding of Special General Meeting**

The Secretary of the Society will prepare the proceeding of the Special General Meeting and will circulate copy of the said proceeding to all members within 10 days. He shall keep the acknowledgement of members in the office for receiving minutes. Copy of the same shall be sent to the Registrar's office of Co-op. societies of the concerned ward where the society is registered.

6) **An appointment letter to Architect and Project Management consultant.**

The Secretary of the society will give within 15 days from the date of Special General Meeting the appointment letter to the Architect and project management consultant. The Committee will enter into contract, based on the terms and conditions and scope of work approved by special General Meeting with Architect and Project Management consultant.

7) **The initial work to be undertaken by Architect /Project Management consultant.**

- (a) To survey the land and building of the society.
- (b) To obtain the information as to conveyance of the Land & Building in favour of the society.



- (c) To obtain information about availability of FSI/TDR based on the prevailing Rules and Regulations of Government and as per type of ownership of Land, Rules and regulations of MHADA/SRA/BMC if the Land is under these categories.
- (d) To prepare a realistic feasibility report, after considering suggestions, recommendations, objections and directions of members of the society made by them in special General Meeting, giving details of availability of areas available for residences commercial, open space, garden, parking and specification of construction of Building.
- (e) The Project Management consultant/Architect to submit within two months from date of their appointment, the Report to the committee of the society.

8) Work after obtaining Feasibility Report of Redevelopment of Building.

- (a) In receipt of the feasibility report, the Secretary of the Society shall convene a Special General Meeting, of the members to consider the Feasibility Report of Architect/Project Management Consultant. Notice in respect of afore said meeting indicating the date, time and place, shall be displayed on the Notice Board of the society. It may be circulated to all the members. The said notice shall also intimate to the members that the copy of the said report is available at the office and the said report shall be kept for inspection in the office for 8 days before the date of the special General Meeting. The notice intimating availability of report shall also invite suggestions on the report within eight days of the date of notice. The acknowledgement of notice by members shall be kept in the office of the society.
- (b) The Secretary of the society shall send seven days before the date of joint Special General Meeting, suggestions received from members to the Architect / Project consultant for their consideration.
- (c) At the abovementioned joint Special General Meeting of members,



architect and project consultant, there shall be an over all consideration of suggestions and recommendations of members. The opinion of the architect shall also be considered. Any required changes shall be made and approved. The Special General Meeting shall approve the Feasibility Report by the majority. The Special General Meeting shall fix the date, time and place of the meeting for considering and finalizing the tentative draft of tender and notice of tender. The Special General Meeting will direct competitive tenders to the Architect and Project Consultant in which emphasis shall be placed on carpet area, corpus fund and other technicalities. Tender shall be invited from well-known experts and experienced developers. Members may give names of developers at the meeting. The Secretary will obtain a detailed report from the architect and Project Consultant on the tenders.

9) **To display List of tenders**

- a) The Secretary shall display on the notice board the list of tenders received on the last day of date of receipt of Tenders.
- b) 15 days after the last day of receiving tenders, the secretary of the society shall convene a special meeting of members of the Management Committee. At the said meeting representatives of developers who have made bid in tenders shall be allowed to remain present at the meeting where members of the society who so desire may remain present the meeting as observers. Received tenders shall be opened at the meeting in the presence of Architect/Project Consultants and/all within mentioned persons present at meeting. The Architect Project, Management Consultant shall scrutinize all the received tenders and prepare a comparative table, which shall provide details of bidders who have bid in the tenders, their quality, reputation, experience competitive rates with other terms and conditions offered by them. Out of these bidders, if they are more than, at least 5 or less than 5 if they are less than 5 bidders, the bidders shall be short listed from all the bidders who have made bid in the tenders. They shall be



presented in the Special General Meeting for approval at next Special General Meeting. The short listed bidders shall be invited to this meeting.

10) **Selection of Developer**

(a) ***Appointment of officer - representative of Registrar of co-operative societies***

The Managing Committee of the society within 8 days shall make an application to the Registrar of co-op, society to appoint his representative to attend the Special General Meeting and in whose presence the Developer shall be selected considering his experience, quality, his financial and technical capability and competitive rates with terms and conditions offered by him. On receipt of such an application, the Registrar will appoint his representative for the meeting.

(b) ***Special General Meeting for finalization of final Tender***

After the appointment of representative of Registrar and with his prior permission after fixing date, place and time of meeting with him, the Secretary of the society shall convene a Special General Meeting, within one month of his appointment giving 14 days notice of time, place and date of meeting and along with the agenda to all the members. The notice shall be sent by hand delivery or by post with their acknowledgement which shall be kept in the office of the society. The society shall invite representatives of the developers to remain present at the meeting.

The Registrar's office shall make arrangement for presence of his representative in such meeting. The society at its own cost shall provide for video recording of the meeting of the society. The Society shall ensure that no other persons other than the members shall be allowed to remain present and participate in the meeting. For this purpose, the society shall give Identification Card (I. D. Card) to every member for his identification. This is for the members to remain present at the meeting with Identity Card. Decisions regarding redevelopment, scheme and selection of Developer and



other decisions shall be made in presence of the authorised representative of Registrar, Co-operative Societies. Such approved proposal shall be sent to the competent authority for approval.

(c) *Absence of required quorum at special General Meeting*

Quorum for the Special General Meeting shall be 3/4 of the total number of members. If there is 1:10 quorum present at the special General Meeting it shall be adjourned for eight days. If there is no required quorum present at the adjourned Special General Meeting, it shall be deemed that the members of the society are not interested in the redevelopment of building and the meeting shall stand dissolved with remarks that the redevelopment of building proposal shall not be allowed to be presented again in Special General Meeting till completion of a one year period from the date of the dissolved Special General Meeting.

(d) *Work of the Special General Meeting in respect of selection of Developers*

The authorised officer of Registrars of Cooperative societies will remain present at above Special General Meeting convened for selection of developer as an observer. On necessary presence of representatives and the officer deputed by the Registrar, and if the proper quorum i.e. 3/4 of the total number of members of the society is present, the Special General Meeting Shall transact the following business:

- (I) Comparative information in respect of tenders of redevelopment by selected developers for presentation of their proposals.
- (II) Tenders to be presented in chronological order.
- (III) To approve terms and conditions of one of the developers and finalise and select the said tenders.
- (IV) To take approval of the selected tender.
- (V) To acquaint members about further work of the redevelopment. Consent of 3/4 members present at the meeting in writing is a must for appointment of a



developer. It should be noted that if the selected developer or his representative is not present at this meeting, it shall be presumed that they have the consent to work. The meeting will undertake other aspects of the redevelopment.

11) Development Agreement with Developer.

The managing committee of the society on passing of resolution of appointment of developers at the Special General Meeting shall execute Development Agreement within one month of date of the said with selected developer on the basis of terms and conditions approved by the members at the Special General Meeting under the consultation and guidance of the Architect/Project Management consultant. Development Agreement shall contain other terms as under in additions to terms and conditions recommended by the Architect and Project Management consultant and approved Special General Meeting.

- 1) Redevelopment of the building shall be completed within two years and not more than that and in particular circumstances it shall not exceed more than three years.
- 2) The Developer shall provide a Bank Guarantor of 20% of the total cost of the redevelopment project.
- 3) The Developer shall make provision for temporary alternate accommodation in the same area for the members who will be vacating the premises or shall make provision for monthly rental plus deposit to be paid to all the members of the society if they agree or shall make provision for temporary alternate accommodation in the Transit Camp.
- 4) Development agreement shall be registered under the Registration Act. 1908.
- 5) New members, on completion of Project shall be admitted in Special General Meeting as members of the Society.



- 6) Agreement must specify carpet area to be given.
- 7) Right to Redeveloped societies building given to the builder are not transferable.
- 8) Flat owners shall vacate the premises only after obtaining all legal documents and permission of the competent Authority for redevelopment of building.
- 9) In case of one who is in possession of flat/premises and who is owner of the same, his right of ownership shall not be disturbed.
- 10) If there arises any dispute in the redevelopment of the building agreement executed by the developer, Architect and Society, it shall be resolved under the provisions of sec. 91 of MCS Act, 1960 and such provision shall be made in the development agreement.
- 11) **Allotment** of flats shall be given in the new building in the same manner in which the original flats were located, and shall be allotted after the receipt of occupation certificate. If it is necessary to allot flats by lot system, it shall be allotted accordingly but only after completion of the building which is ready for occupation and members are ready and willing to occupy their premises. Allotment shall be done in presence of the authorized officer of Registrar. The developer shall make arrangement for video recording of the same.
- 12) The **office** bearer or any committee member of the society is prohibited from being appointed as developer or shall not be relative of the appointed developer.
- 13) Sanctioned plans shall be obtained for Municipal Corporation or Competent Authority who has right to sanction plans and these shall be put before the special General Meeting. If any member wants to have any certified document, he shall make an application and shall also pay the requisite amount for a copy of document to the secretary of the society. The Committee shall be responsible to providing required information to



the members.

This order is available on the website of the Government of Maharashtra (in Marathi)- No. 20090103114749001.

This order in Marathi is issued in the name of the Governor of Maharashtra.

It is signed by

(DR. Sudhir Kumar Goyal)

(Chief Secretary

Co-operation & Marketing

Copies to

(1) The Commission for Co-operatives & Registrar of Co-operative Societies

(2) District joint Registrar Cooperative Society (All)

(3) District Deputy Registrar Co-operative Societies (All)

