

# Changing Scenario of Society Redevelopment Implication of GST & STAMP DUTY

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# Types of Properties for Redevelopment

**1. Ownership Land**

**2. Lease hold land**

**3. Slum Redevelopment properties**

**4. Old cessed properties in island city of Mumbai**

**5. Redevelopment of cotton textile mill land**

**6. Redevelopment of heritage properties**

**7. MHADA properties**

## **Common methods of Redevelopment of society**

**1. By giving rights to Developer / Builder**

**2. By selling property to Developer / Builder**

**3. Self Redevelopment**

**4. Individual Member to Developer / Builder**

**Society  
Redevelopment**

**Tender process**

**Without Tender  
process**

**TENDER PROCESS**



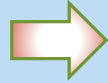
➤ **Preparation of Draft tender form**

➤ **To finalise carpet area or Corpus fund & other technical matters.**

➤ **Society furnish information to experience developers**

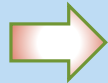
# Basic requirements for redevelopment of society

## Conveyance of land



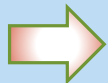
Unless land is conveyed in the name of society, property cannot be redeveloped. Necessary to utilize additional TDR-FSI.

## Managing committee duly constituted



As per bye-laws of the society managing committee should be elected and execute the bond within stipulated period of 45 days under section 73(1AB) of MCS Act 1960.

## Consent of individual members



**Raja construction v. Sahara co-operative housing societies**  
Court directed that objection of few members to be ignored. It is more important to note that decision was in respect of building and public safety.

**CIRCULAR**



Dated – 03<sup>rd</sup> January 2009



**Directions under section 79 (A) of Maharashtra Co-operative Societies Act 1960**



**Regarding Redevelopment of buildings of Co-operative Housing Societies**

## **Directions under section 79 (A) of Maharashtra Co-operative Societies Act 1960**

### **1. Requisition for Convening Special General Body Meeting for Redevelopment of Society's Building.**

- **Not less than  $\frac{1}{4}$  members of the society to requisition to secretary seeking redevelopment of society.**
- **Submit their scheme & suggestions for redevelopment & to finalise the policy on redevelopment of society**

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

- **To take preliminary decision for redevelopment of society's building and on suggestions received.**
- **To select expert and experienced Architect / Project Management Consultant on the panel of the Government / Local Authority for work of redevelopment.**
- **To submit outline of the programme for redevelopment of the building.**



## **Directions under section 79 (A) of Maharashtra Co-operative Societies Act 1960**

### **3. To accept written suggestions from members.**

- **Members of the Society will be entitled to submit in writing to the committee eight days prior to the meeting their realistic scheme, Suggestions and recommendations for redevelopment.**
- **Architect / Project Management Consultant should submit a letter that he is desirous of doing work of redevelopment.**

### **4. Decisions to be taken in the Special General Body Meeting.**

- **Quorum for the Special General Body Meeting convened for redevelopment will be  $\frac{3}{4}$  of the total members of the society.**
- **If quorum is not formed, meeting will be adjourned for eight days and if there is no quorum for the adjourned meeting, it will be deemed that members are not interested in redevelopment of the building and meeting will be cancelled.**



## **Directions under section 79 (A) of Maharashtra Co-operative Societies Act 1960**

### **5. Providing minutes of Meeting to all members.**

- **Secretary of the Society should prepare minutes of Special General Body Meeting as above within ten days.**
- **A copy thereof should be furnished to all members and one copy should be forwarded to the office of the Registrar.**

### **6. Issuing Appointment Letter to the Architect / Project Management Consultant.**

- **Secretary of the society will within 15 days of the meeting issue Appointment Letter to the Architect / Project Management Consultant and Society will enter into an agreement with Architect / Project Management Consultant incorporating therein terms and conditions approved.**

## **Directions under section 79 (A) of Maharashtra Co-operative Societies Act 1960**

### **7. Work to be done in the initial stage by Architect / Project management consultant.**

- **Survey, Obtain Information of conveyance of land, Take suggestions and recommendations from the members of the society, prepare project report within two months of date of his appointment, obtain information about policy of the government & FSI TDR in relation to redevelopment.**

### **8. Action to be taken on receipt of redevelopment Project Report.**

- **Secretary of the society will convene a joint meeting to approve the Project Report with majority vote. Suggestions received from the members will be forwarded to the Architect / Project Management Consultant for his project report will be approved with necessary changes.**
- **Thereafter draft of tender form will be prepared and date of next joint meeting will be fixed.**

## Directions under section 79 (A) of Maharashtra Co-operative Societies Act 1960

### **9. Secretary of the Society.**

- will prepare a list of offers received and display the same on the notice board of the society.
- will convene special meeting of Managing Committee of the society. Tenders so received will be opened in the presence of all and the Architect / Project management consultant will scrutinize all tenders and prepare a comparative chart and after checking merit, reputation, experience and comparative rate etc.

### **10. Selection of Developers.**

- comparative information in respect of tenders selected for presentation (for redevelopment work)
- Presentation by bidders one by one.
- To select Developer for redevelopment of the building, to finalise terms and conditions and finalise the tender.
- $\frac{3}{4}$  member majority vote of the members for selection of developer

## **Directions under section 79 (A) of Maharashtra Co-operative Societies Act 1960**

### **11. Agreement to be entered into with Developer.**

- Period for completing redevelopment project not exceed more than two years and in exceptional cases, will not exceed three years.**
- Developer will give a Bank Guarantee for amount equal to 20% of the project cost.**
- Developer will make available to the members alternative accommodation in the same area or arrange to pay monthly rent and deposit as acceptable to members or make available transit camp accommodation.**
- The said agreement will be registered under Registration Act, 1908.**

# List of Documents to be executed between Society and Developer

1. Memorandum of understanding

2. Development Agreement

3. General Power of Attorney

4. Indemnity Bond by Developer

5. Bank Guarantee by Developer

6. Power of Attorney by Society  
for sale of flats

7. Agreement for allotment of flat  
of same area with members

8. Agreement for allotment of  
flat with additional area

9. Individual Tripartite permanent  
alternate accommodation  
agreement

10. Ownership Agreement for sale

11. Indemnity by tenant / society

# List of Approvals / NOC from Government

1. From Construction

2. From Airport Authority

3. From Tree authority

4. From Railway Authority

5. From Chief fire officer

6. From Power distribution authority

7. From water supply authority

8. From Sewage Department

9. Plinth level notice to local authority

10. From Lift inspector

# Redevelopment of Society – GST impact

**Builders /  
Developers**

Redevelopment flats

Development Potentials

**Society**

Allocation of redeveloped flats

**Existing  
Members**

Saleable flats

**Customers**

**Value of Flat**

## **Options**

- 1. Value of Development rights**
- 2. Cost of construction**
- 3. Ready reckoner rate**
- 4. Value of similar saleable flat**



# Taxability of Redeveloped flats

## ➤ Value of development rights:

- Supply includes all barter & exchange
- Flats allotted to society members will be a taxable supply liable to GST where consideration is received in kind in the form of development potentials
- Time of supply:
  - Receipt of development rights amounts to advance receipt of consideration in kind
  - Hence, date when rights are received will be time of supply
  - Receipt voucher has to be issued by developer to society on receipt of development right
- Valuation to be done as per Valuation Rules under GST
- Taxable under works contract service category @ 18%

➤ **Cost of construction**

- S.13 (2) Date of issue of invoice, date of receipt of payment, date of provision of service.
- S.15 (1) Price actually paid / payable.

➤ **Ready Reckoner rate**

- S.15 (4) value as prescribed
- R.27 - Open market value

➤ **Value of similar saleable flat**

- R.28 - Value of service of like, kind and quality.

➤ **Taxability of saleable flats**



- **Taxable on transaction value**
- **Taxable value under construction service category @ 12%**

➤ **Various allowances paid to society members**



- **Schedule II (5) (e) deems agreeing to the obligation**
  - **to refrain from an act; or**
  - **To tolerate an act or a situation; or**
  - **To do an act**

# Other GST implications

**Transfer of Development rights by land owner and society to developer**

**GST in hands of builder not applicable**

**GST in the hands of Society/Complex owners ??**

**Registration for development, plan passing and permission from local authority by builder**

**GST will payable Charge by the builder.**

**GST in hands of Society/Complex owners not applicable**

**Payment towards society's Corpus Fund**

**GST in hands of builder not applicable**

**GST in the hands of Society/Complex owners will not be charge**

# Calculation of stamp duty in redevelopment

Actual used area = X

Plot Area = Y

## Method - 1

Plot area = \_\_\_\_\_

(-)Actual used = \_\_\_\_\_

Balance FSI = \_\_\_\_\_

Market value = Balance FSI \* Land Rate

## Method - 2

Construction cost = FSI X Cost per sq.ft = **A**

Hardship Allowance = **B**

Rent \_\_\_ months = (Total unit \* per month rent \* total months)

**C**

Garages = (If applicable) **D**

Car Parking = (Standard rate \* total no. \* Const Cost) **E**

Society Corpus = **F**

Shifting Charges = (Fix amount \* Units) **G**

Society Office = (Area \* Const Cost) **H**

Watchman Cabin = (Area \* Const cost) **I**

(Subject to cost for additional construction)

Total Value = A + B + C + D + E + F + G + H + I

whichever is “higher”.

# STAMP DUTY CIRCULAR

Dated – 30<sup>th</sup> March 2017



1. Incidental agreement executed in compliance of Development agreement, Stamp duty on Incidental agreement is according to Section 4 of Maharashtra Stamp Act.
2. If the incidental agreement is not in compliance of the development agreement i.e if individual agreement is executed between members and developers transferring the unit, the stamp duty is to be charged on construction cost.

3. Cases where the following criterion has been complied with stamp duty shall be charged as per Section 4 of Maharashtra Stamp Act,

- If tripartite agreement has been executed between society, member & developer.
- Condition of Separate transfer document of new flat mentioned in Original Development agreement.
- Limited objective in transferring the build up area in the transfer document.
- If housing society is confirming party in transfer document of member.

➤ **This criteria is applicable only to the area agreed in the development agreement.**

➤ **In case the member is getting additional area/ purchasing more than the said agreed area, the stamp duty is charged as per the Ready Reckoner Rate for such additional area or consideration amount whichever is higher.**



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