

PRESIDENT
Vimal Shah

IMMEDIATE PAST PRESIDENT
Paras Gundecha

PRESIDENT-ELECT
Dharmesh Jain

VICE PRESIDENTS
Mayur Shah
Nayan Shah
Deepak Goradia
Boman R. Irani

HON. SECRETARY
Nainesh Shah

HON. TREASURER
Sukhraj Nahar

CEO
S. Shahzad Hussain
I.A.S. (Retd.)

HON. JOINT SECRETARIES
Harish Patel
Ashok Mohanani
Sandeep Runwal
Bandish Ajmera

JOINT TREASURERS
Lakshman Bhagtani
Mukesh Patel

CO-ORDINATORS
Rasesh Kanakia
Jagdish Ahuja
Pujit Aggarwal
Parag Munot

COMMITTEE MEMBERS
Vikas Walawalkar
Jayesh Shah
Nayan Bheda
Sanjay Chhabria
Rajendra Chaturvedi
Shailesh Sanghvi
Tejas Vyas

INVITEE MEMBERS
Sandeep Raheja
Munish Doshi
Jitendra Jain
Domnic Romell

PAST PRESIDENTS
Sunil Mantri
Pravin Doshi
Moham Deshmukh
Mofatraj Munot
Niranjan Hiranandani
Rajni S. Ajmera
G. L. Raheja
Lalit Gandhi
Babubhai Majethia

MCHI-CREDAI UNITS

President, Thane
Suraj Parmar

President, Kalyan-Dombivli
Johar Zojwalla

President, Mira Virar City
Ashit Shah

President, Raigad
Vikas Bhamre

President, Navi Mumbai
Arvind Goel

Ref. No. MCHI/PRES/14-15/044

August 14, 2014

To,
Hon'ble Shri Harshavardhan Patil
Minister of Cooperation & Parliamentary Affairs
Government of Maharashtra
Mantralaya
Mumbai - 400 032

Sub: Detailed Representation regarding seeking effective and realistic directives under section 79A.

Respected Sir,

Please find enclosed herewith the detailed representation regarding day to day difficulties being faced by us while implementing the guidelines under Section 79A and seeking effective and realistic directives under section 79A.

Sir, I kindly request you to please give us time for our Managing Committee Members' meeting with you in which you may please call following officers to this meeting for fruitful discussions;

- (1) The Secretary for Co-operation Department, Govt. of Maharashtra
- (2) The Joint Registrar, Co-operation Department, Govt. of Maharashtra
- (3) The District Deputy Registrar. Government of Maharashtra,

In this regard, if the Secretary, Co-operation can ask for the data from Co-operation department about the date of Application for grant of 79A and grant of NOC then we will realize the abnormal delay that occurs.

Although, this issue is between the Co-operative Housing Society and concerned Dy. Registrar of that jurisdiction. The Concerned Dy. Registrar always tells the Society to send the Builder / Developer for discussion with them. We don't understand why should such a practice be encouraged?

Therefore, our request is to make clear cut guidelines in this regard so that there is no chance of mischief of any nature whatsoever and concerned NOC should be issued within certain time period.

Thanking you,

Yours Sincerely,
For MCHI-CREDAI



Vimal Shah
President

- Encl : 1) Detailed Representation highlighting flaws in the Guidelines issued under 79A
2) Guidelines from Government of Maharashtra dated 3rd January 2009
3) Suggestions for making guidelines effective and realistic under section 79A

MCHI-CREDAI (ISO 9001:2008)

Maker Bhavan II, 4th Floor, 18, Sir Vithaldas Thackersey Marg, New Marine Lines, Mumbai - 400 020.

Tel.: 4212 1421, Fax : 4212 1411 / 407 • Email: secretariat@mchi.net

Website : www.mchi.net

मि. मन्त्री, सहकार, महाराष्ट्र शासन,
मंत्रालय, मुंबई - ४०० ०३२.
१४/०८/२०१४



MAYFAIR HOUSING PVT. LTD.

Regd. Office : 1, Mayfair Meridian, Near St. Blaise Church, Ceaser Road, Andheri (W), Mumbai - 400 058, India, | CIN : U70100MH1986PTC041829
Tel : 6723 2300 | Fax : 6723 2358 | E-mail : info@mayfairhousing.com | Website : www.mayfairhousing.com

Ref. : MH-26/PG/2014

Date : 30th July 2014

To,
Shri. S.S. Hussain,
CEO,
MCHI – CREDAI,
Maker Bhavan II, 4th Floor,
18, V. Thackersey Marg,
New Marine Lines,
Mumbai – 400 020.

Co. op.
Respected Mr. Hussain,

Sub : Detailed Representation regarding seeking effective and realistic directives under section 79A.

.....

Please find enclosed herewith the detailed representation regarding day to day difficulties being faced by us while implementing the guidelines under Section 79A and seeking effective and realistic directives under section 79A.

Please organise the meeting with The Secretary, Co-operation and in this meeting -

- 1) Joint Divisional Registrar, Co-operation Housing Society
- 2) District Dy. Registrar

are required to be present.

In this regard if the Secretary, Co-operation can ask for the data from his department about the date of Application for grant of 79A and grant of NOC than we will realize the abnormal delay that occurs.

Although this issue is between Co-operative Housing Society and concerned Dy. Registrar, The Concerned Dy. Registrar always tells the Society to send the Builder / Developer for discussion with them. We don't understand why should such a practice be encouraged?

We want clear cut guidelines in this regard so that there is no chance of mischief of any nature whatsoever and concerned NOC should be issued in a certain time period.

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Our Request –

Please organise the meeting with The Secretary, Co-operation and in this meeting -

- 1) Joint Divisional Registrar, Co-operation Housing Society
- 2) District Dy. Registrar

are required to be present.

Thanking you,

Yours truly,

For **Mayfair Housing Pvt. Ltd.**,



(Nayan A. Shah)

CEO

- Encl :**
- 1) Detailed Representation highlighting flaws in the Guidelines issued under 79A
 - 2) Guidelines from Government of Maharashtra dated 3rd January 2009
 - 3) Suggestions for making guidelines effective and realistic under section 79A
 - 4) Supportive Judgement from Mr. R.S. Dalvi dated 8th March 2010

WED 30TH JULY 2014.

Subject: Seeking effective and realistic directives under section 79A
MAHARASHTRA CO-OP. SOCIETIES ACT 1960.

Dear Sir

The housing societies, who have initiated the redevelopment programs in wake of poor and dilapidated condition of their society buildings, have been experiencing the following intricacies and impediments in taking forward the redevelopment programs in compliance with the directives issued by the Govt. of Maharashtra under section 79A and subsequently non-clearance of file from the office of Registrar Co-op. Societies putting up by the societies for obtaining the NOC from them on exploitation of non-compliances of directives. We like to make some suggestions based on rational grounds to make it more effective, improve and more practical from the point of view of realization of its objects.

First, we like to deal with the directives under section 79A. Wherein relaxations are required to be considered.

1. $\frac{3}{4}$ members attendance in the special general body meeting :

The quorum for the special general body meeting convened for redevelopment of the building should be $\frac{3}{4}$ of the total members.

Suggestion: It is highly restrictive in nature missing ground reality prevailing in the housing societies. In the large number of the societies, many members of the society are residing either abroad or elsewhere in India, therefore, their consents for redevelopment should be taken into account if they are providing in writing supported by Photos, Pan Card and Aadhar card copies or by emailing their consents and followed by the confirmation if any sought from them. Therefore, the quorum should be constituted with the members who are present in the meeting and the members who have sent their consent by writing or email.

2. Acknowledgment of the notices and minutes : It is mentioned that the notice of the meeting and minutes should be furnished to each member 14 days prior to the meeting and acknowledgement thereof should be kept on record of the society.

Suggestion: It is happened that the notices and minutes of the meeting are sent to all the members but the issue of acknowledgment of their receipt are not taken care by the society seriously and diligently in good faith. Therefore, the condition of the taking the acknowledgement of the receipt of the notices and minutes should not be criterion unless the issue is brought up by the member and object it to show cause that his interest is adversely affected.

3. No provision of rectification : There is no as such provision of rectification or ratification for any non-compliance of the directives even if there is clear cut a mandate of the majority for redevelopment.

Suggestion: Any administrative lapse or societies failed in complying the directives but they have mandate of the majority members for redevelopment then the society is allowed to ratify or rectify by calling the special general body meeting.

4. No provision of appeal : There is no provision of appeal if the registrar is causing the impediment or holding up the process of the development.

Suggestion: If the registrar is not discharging his duty properly and disposing off the file satisfactorily then the society should have the option society to appeal before the higher authority after one month period of time from the date of filing the file.

Now we are dealing with the issues surfacing when the societies seek NOC from to the registrar.

1. No scrutinization of the file By the Registrar Authority. :

Suggestion: The file put up by the society before the Registrar Authority for seeking NOC from him. It always gets stuck up for months without any correspondence from him. Therefore, the registrar authority should acknowledge immediately on receipt of the file and within 15 days time it should scrutinize the file by giving in writing to the society the discrepancies or non-compliances are to be rectified or ratified by the societies.

2. No involvement of the developer as required by the registrar :

Suggestion: The registrars are indulged in the malpractice asking the societies to send the developer to complete the process. This malpractice should be penalized if brought to the notice of the police authority.

3. No Timeline for disposing off the file :

Suggestion: The timeline for disposing off the file should be of one month from the date of receipt of the file. If it is rejected, it should be communicated in writing to the society to have an opportunity for the societies to prefer an appeal before the higher authority.

4. No Accountability :

Suggestion: In case of no communication from the registrar within one month, the registrar should be made accountable and answerable for his non-action to the authority higher than him and the matter to be disposed off by higher authority by calling the registrar and the societies.

5. Complaints Entertained by the Registrar.

Suggestion: It is seen that the registrar is unnecessarily entertaining the complaints from one or a handful members to hold up the redevelopment program for his own gain. The registrar should focus on the mandate of the majority without entertaining these complaints.

Finally, MCHI is developers association and the developers are greatly associated with the redevelopment project of the co-operative housing societies, therefore, we feel MCHI has a greater role in impressing the Ministry to involve it in framing and improving the directives and also should engage it constantly in interaction with the Registrar Authorities to make these redevelopment project more transparent and realistic.

Thanks & Regards,

Directive under Section 79(A) of Maharashtra Co-operative Societies Act 1960 to all the Co-operative Housing Societies in the State of Maharashtra.

Regarding Redevelopment of Buildings of Co-operative Housing Societies.

GOVERNMENT OF MAHARASHTRA
No. CHS 2007/CR554/14-C
Co-operation, Marketing and Textiles Department

Date: 3rd January 2009

Whereas, buildings of Co-operative Housing Societies in the State of Maharashtra are being redeveloped on a large scale. A number of complaints were received from members against managements of Co-operative Societies in which redevelopment is taking place. In respect of most of the Co-operative Housing societies, nature of complaints relating to redevelopment is as under:-

1. Not taking the members in confidence in the process of redevelopment.
2. There is no transparency in tender process.
3. Appointing contractors arbitrarily.
4. To work by violating provisions of Co-operative Act, Rules and Bye-Laws.
5. No orderliness in the work of Architect and Project Consultant.
6. Not planning Redevelopment Project Report.
7. Not adopting proper procedure in finalizing tenders.
8. There is no similarity in agreements with Developers.

Whereas there is no concrete policy in respect of all above points of complaint and therefore Co-operation Commissioner and Registrar, Co-operative Societies, Maharashtra State, Pune had appointed a Study Group under the Chairmanship of Joint Registrar, Co-operative Societies (CIDCO) to study the complaints received at various levels and for consultations with all constituents working in the relevant fields. The said Study Group has expressed the opinion that it is essential to frame regulations for redevelopment of buildings of Co-operative Housing Societies after consultation with all the constituents in the field of Co-operative Housing.

Therefore the Government is issuing following directive under Section 79(A) of Maharashtra Co-operative Societies Act, 1960.

The following directive be termed as "Directive for Redevelopment of Building of Co-operative Housing Society".

1. Requisition for convening Special General Body Meeting for Redevelopment of Society's Building:-

Not less than $\frac{1}{4}$ members of the Society the building of which is to be redeveloped should submit a requisition to Secretary on the Managing Committee elected as per provisions of Bye-Laws and lawfully formed along with their scheme and suggestions for redevelopment of the Society's building for convening Special General Body Meeting to finalise the policy on redevelopment of the building.

2. Convening Special General Body Meeting :-

On receipt of an application as per Directive No. 1 above, Managing Committee should take a note thereof within 8 days and Secretary of the society should convene General Body Meeting of all the members of the society, Agenda of the Meeting should be furnished to each members 14 days prior to the day of meeting and acknowledgement thereof should be kept on record of the society.

Before convening the said meeting, Society should obtain list of Architects / Project Management Consultants on the panel of Government / Local Authority and obtain quotations from minimum 5 experienced and expert persons for

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preparing project report for redevelopment work of the building and one expert person from among them will be selected in the Special General Body Meeting.

Following business will be transacted in the said Special General Body Meeting:-

1. To take preliminary decision by taking into consideration demand of the members for redevelopment of society's building and suggestions received in respect of the same.
 2. To select expert and experienced Architect / Project Management Consultant on the panel of the Government / Local Authority for work of redevelopment of the building and to finalise items of work to be done by them and terms and conditions of work.
 3. To submit outline of the programme for redevelopment of the building.
- 3. To accept written suggestions from members relating to redevelopment of the building:-**

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 of the building in the name of experienced and expert Architect / Project Management Consultant known to them. However, that 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 of building of the Co-operative Housing Society 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.

On formation of quorum for the meeting, Suggestions, recommendations and objections from all the members with regard to redevelopment of the society's building will be taken into consideration and opinions expressed by all the members will be recorded in the minutes book with names of concerned members. Therefore a preliminary decision will be taken whether to redevelop society's building or not. Such decision must be taken with majority vote of more than $\frac{3}{4}$ of the members. On preliminary resolution about doing the work of redevelopment getting passed, following business will be transacted in the meeting.

- a) To selected expert and experienced Architect / Project Management Consultant from the panel of the Government / Local Authority for work of redevelopment of the building and to finalise items of work to be done by him and terms and conditions for the same.
- b) To submit an outline of the programme for redevelopment of building.

- 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 and a copy thereof should be furnished to all members and acknowledgement therefore be kept on record of the society. Also 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 selected in Special General Body Meeting and Society will enter into an agreement with Architect /

Project Management Consultant incorporating therein terms and conditions approved in Special General Body Meeting.

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

- a) To survey Society's building and land.
- b) To obtain information about conveyance of land to the society.
- c) To take into consideration prevailing policy of the Government and the regulations applicable from time to time depending on ownership of the land (MHADA/SRA/Municipal Corporation) and to obtain information about FSI and TDR, which would be available in relation to building and land of the society.
- d) To take into consideration suggestions and recommendations from the members for redevelopment of the building as also the residential area to be made available to the members, commercial area, vacant area, garden, parking, building specifications etc. and to prepare a realistic project report.
- e) Architect / Project Management Consultant should prepare the project report within two months of date of his appointment and to submit the same to committee of the society.

8. Action to be taken on receipt of redevelopment Project Report:-

- a) On receipt of Redevelopment Project Report as above, Secretary of the society will convene a joint meeting to approve the Project Report with majority vote by taking into consideration suggestions received from Committee Members and Architect / Project Management Consultant. Notice in that behalf will be published on the Notice Board of the Society mentioning time venue etc. of the meeting. It should be mentioned in the notice that a copy of the Project Report is available in the society's office for members to see and the notice should be served on all the members that they should submit their suggestions eight days prior to the next Committee Meeting and acknowledgement of such notice should be kept on record of the Society.
- b) Seven days prior to joint meeting, suggestions received from the members will be forwarded by Society's Secretary to the Architect / Project Management Consultant for his information.
- c) There will be a detailed discussion in the Joint meeting on the suggestions / recommendations from members and opinion thereon of the Architect / Project Management Consultant and 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 for discussion on draft tender form and finalising the same. While preparing draft tender form, in order to get competitive quotations from renowned experts and experienced developers, either carpet area or corpus fund fixed (not to be changed) and by finalising other technical matters, the Architect / Project Management Consultant will invite tenders. Society's members will be entitled to furnish information about it to the reputed and experienced developers known to them.

9. Preparing List of Bids Received:-

- a) On the Last day for receiving quotations, Secretary of the Society will prepare a list of offers received and display the same on the notice board of the society.
- b) After 15 days of the last day for receiving quotations, Secretary of the society will convene special meeting of Managing Committee of the society. Authorised representatives of bidders and members of the society desirous of remaining present can remain present for the meeting as observers. 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. and select minimum 5 bids and if the bids received are less than 5, all the bids for putting

up before Special General Meeting and concerned bidders will be informed about it immediately.

10. Selection of Developers:-

- a) Office of the Registrar to appoint Authorized officer for attending General Body Meeting:-
An application with list of the members should be sent within eight days to the registrar for appointment of Authorized officer to attend the Special General Meeting of the Society for selecting a Developer out of those selected by committee of the Society with the help of the consultant, by taking into consideration his experience, merit, financial capacity, technical capacity and competitive rate etc.
- b) Convening Special General Body Meeting for finalising tender:-
After appointment of authorized officer, with his prior permission Secretary of the Society will fix the time and venue convene Special General Body Meeting for appointment of Developer and Agenda of this meeting will be sent to all the members 14 days prior to the meeting by hand delivery and by registered post and keep acknowledgement thereof on record of the Society. Also, office of the Registrar will make arrangement to keep his authorized representative present for the meeting. Also arrangement will be made for video shooting of the meeting at the cost of the Society. Any person other than formal members will not be entitled to attend this meeting. Therefore members will be required to present at the venue of the meeting with their Identity Cards. At the time of submitting redevelopment proposal to the concerned authority for sanctioning, selection of Developer and other work should have been done in the presence of authorized officer from Registrar's office.
- c) If there is no quorum for Special General Body Meeting:-
If the quorum of $\frac{3}{4}$ members out of total members is not formed for Special General Body Meeting, the meeting will be adjourned for eight days. If quorum does not get formed for adjourned meeting, it will be deemed that the members have no interest in redevelopment of the building and the meeting will be cancelled and thereafter the said subject will not be taken up before the Special General Body Meeting for approval.
- d) In the Special General Body Meeting to be convened for selection of Developer, authorized representative from the office of the Registrar will be present and observe proceedings of the meeting. Also, on concerned representatives and authorized officer remaining present at the venue and at the time of meeting and on quorum of $\frac{3}{4}$ members getting formed, following business will be transacted in the meeting.
 - i) Providing comparative information in respect of tenders selected for presentation (for redevelopment work).
 - ii) Presentation by bidders one by one.
 - iii) To select Developer for redevelopment of the building, to finalise terms and conditions and finalise the tender.
 - iv) To obtain consent from the selected Developer.
 - v) Give information about further work. It will be essential to take written approval by $\frac{3}{4}$ majority vote of the members present for the meeting for selection of Developer. If the selected Developer or his representative does not remain present for the meeting, further action will be taken by presuming that they have given their consent for the project.

11. Agreement to be entered into with Developer:-

Subject to the terms and conditions approved by General Body Meeting of the Society, an agreement should be entered into with the Developer within one month under guidance from the Architect / Project Management Consultant. Along with the points suggested by the Architect / Project Management Consultant appointed by the Society, following points will also be included in the agreement.

- (1) The period for completing redevelopment project of the Society will not exceed more than two years and in exceptional cases, it will not exceed three years.
- (2) Developer will give a Bank Guarantee for amount equal to 20% of the project cost.
- (3) During the period of redevelopment, the Developer will make available to the members alternative accommodation in the same area as far as possible or arrange to pay monthly rent and deposit as acceptable to members or make available transit camp accommodation.
- (4) The said agreement will be registered under Registration Act, 1908.
- (5) On completion of redevelopment project, new members will be admitted in the Society only with approval of General Body Meeting of the Society.
- (6) Carpet area to be allotted should be clearly mentioned in the agreement.
- (7) Development right vested in the Developer will be non-transferable.
- (8) Members will vacate their respective premises only after all legal approvals are received for redevelopment of the building.
- (9) Rights of those who are in possession of the flats will remain unaffected.
- (10) If any dispute arises in the work of redevelopment, provision should be made in the agreement to resolve the same as per provisions of Section 91 of the Act.
- (11) After receipt of Occupation Certificate, flats in the redeveloped building should as far as possible be allotted as per present conditions floor-wise and if it becomes necessary to allot flats by drawing lots, on completion of construction, Developer should make arrangement drawing lots, and at that time flats should be allotted in the presence of Registrar's representative and this process be recorded by video shooting.
- (12) Any Committee member or Office Bearer of the Society should not be the Developer or relative of the Developer.
- (13) Building plans sanctioned by the Municipal Corporation / Competent Authority should be put up before the General Body Meeting for information and if any member wants copies of approved documents, he should submit application for the same to the Society and it will be binding on the Committee to furnish the information by charging necessary fee.

By order and in the name of the Governor of Maharashtra

(Dr. Sudhirkumar Goyal)
Principal Secretary
(Co-operation and Marketing)

Copy to:

- 1) Co-operation Commissioner and Registrar,
Co-operative Societies, Maharashtra State, Pune.
- 2) Divisional Joint Registrars, Co-operative Societies (All).
- 3) District Deputy Registrars, Co-operative Societies (All).
- 4) Select File (14-C).

Sr. No.	Lacunas observed in directive u/s.79(A)	My suggestions
1.	<p>Occasional refusal of application at the time of submission.</p> <p>There is no provision casting obligation upon the registrar to receive the application unconditionally without any refusal.</p>	<p>The registrar office should receive the file seeking appointment of his personnel for attending GBM for the selection of the developer for the redevelopment of the society building. The receipt of the file should be acknowledged without any refusal.</p>
2.	<p>No time limit for scrutiny and notifying discrepancies</p> <p>There is no provision in the guidelines under section 79A.</p>	<p>The registrar should scrutinize the file and notify the non-compliances or lapses or discrepancies to the society in writing within 15 days from the date of the receipt of the file.</p>
3.	<p>Provision for rectification or ratification</p> <p>There is no as such provision of rectification or ratification for any non-compliance of the directives or discrepancies even if there is clear cut a mandate of the majority for redevelopment.</p>	<p>Any administrative lapse or any discrepancy or society failed in complying the directives but the society has mandate of the majority members for redevelopment then the society should be allowed to ratify or rectify those administrative lapses or discrepancies or non-compliances by calling the special general body meeting. These lapses/non-compliances or failures should be informed by Registrar within 15 days from the date of the receipt of the application from the Society in writing clearly suggesting measures for rectification or ratification by calling G.B.M. This should be sent by registrar to Society by Registered AD to ensure the delivery.</p>
4.	<p>Provision for filling before any of other 3 Registrars / Provision for appeal</p> <p>There is no provision of approach to other registrar or appeal if the concerned registrar is causing the impediment or holding up the process of the development.</p>	<p>If the concerned registrar is not discharging his duty properly and disposing off the file satisfactorily within time limit of one month further no giving any reply then the society should have the option to approach any other registrar or appeal before the higher authority after one month period of time is elapsed from the date of filing the file.</p>
5.	<p>Timeline for disposing off the file</p>	<p>The timeline for disposing off the file should be of one month from the date of receipt of the file. If it is rejected, it should be communicated in writing to</p>

Sr. No.	Lacunas observed in directive u/s.79(A)	My suggestions
		the society to have an opportunity for the societies to go to other registrar or prefer an appeal before the higher authority.
6	Accountability	In case of no communication from the registrar within one month, the registrar should be made accountable and answerable for his non-action to the authority higher than him and the matter to be disposed off in the light of the above amendment by higher authority by calling the registrar and the societies .
7	Proper procedure for entertaining complainant	It is seen that the registrar is unnecessarily entertaining the complaints from one or a handful members to hold up the redevelopment program for his own gain. The registrar should focus on the mandate of the majority without entertaining these complaints, i.e. not to defer or reject the calling of the meeting because of 2-3 members' complaint or the complaint of the members who are less than 25% of the total members.

Amk

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10285 OF 2009

Harsha Co-op. Housing Society Ltd.
& Ors.

.. Petitioners

Vs.

Kishandas S. Rajpal & Ors.

.. Respondents

Mr. A. S. S. Murthy i/b Mr. A. P. Steenson i/b A. P. Steenson &
Associates for the Petitioners.

Mr. N. N. Bhadarshete for Respondent Nos.1 & 2.

Mr. R. M. Patne AGP for Respondent No.3.

CORAM : MRS. R. S. DALVI, J.
DATE : 8th March, 2010.

P.C.

1. The petitioners are the co-operative society, several of its members and the developers of the society premises. The respondents are father and son who constitute one member of the society (respondent). The society passed a resolution for development of its premises on 26.08.2008. This resolution came to be passed pursuant a notice of that meeting given on 20.08.2008 which in turn came to be given in view of letter signed by 7 out of 12

members of the society setting out 8 issues relating to proper functioning of the society which was required to be attended by the Chairman.

2. One of the matters on the Agenda of the Meeting mentioned in the notice of the meeting was the 'repair request all the members'. This was inter alia discussed at the meeting. The resolution of the society shows that the society building was in dilapidated condition and 'beyond repairs'. The members took a decision for the 'redevelopment of the society building'. In the said meeting the members discussed various offers of various developers and builders such as Mohini Shelters, Mayfair, sheth, Capital Square, Radhakishan Construction. The members discussed various offers and directed the committee members to investigate about short-listed developers and take steps for redevelopment of the society.

3. It was contended by the respondent that passing of such a resolution is illegal because under bye-law No.97 the Special General Body Meeting could not transact any business other than what was mentioned in the notice of the meeting.

4. A dispute therefore came to be filed for declaration that the resolution was illegal and for grant of injunction restraining the society from acting upon it. The injunction was refused by the Co-operative Court and granted by the Co-operative Appellate Court, Mumbai.

5. It is contended on behalf of the respondents that since the agenda was 'repair' of the building premises, 'redevelopment' of the premises and granting the contract to Mohini Shelters as developers of the society building was outside the purview of the bye-law No.97.

6. A reading of the letters received by the Managing Committee setting out the issues to be discussed, the notice of the meeting for that purpose and the actual meeting held to discuss the issues which inter alia was the repair of the society premises cannot show that the decision of the members upon deliberation of the meeting that the society premises was beyond repairs and must be redeveloped after investigation of the short listed developers is outside the purview of the bye-law No.97.

7. For each of the specific steps to be taken in ultimately deciding the repairs/redevelopment of the

society building and premises, separate matters on the agenda need not be shown and separate meetings need not be held.

8. The petitioner society is a small housing society consisting of 12 members. 11 out of those members have consistently agreed for redevelopment since the meeting held on 26.08.2008. In that meeting they required the investigation of the short-listed developers only. Pursuant to the wishes of the members, a short listed developer was deemed fit to develop the society building.

9. It is not disputed that the society building premises is dilapidated. Yet the respondents did not agree with the redevelopment of the society premises by the short-listed developer. That, of course, was his privilege and choice. However, since he was in an absolute minority, the wishes of the society members in an absolute majority was required to be exceeded to.

10. It is argued on his behalf that by Government Notification issued under Section 79-A of the Maharashtra Co-operative Societies Act (the Act), a registered architect on the panel of the Government was to be selected and the

procedure as shown therein required to be complied which is not done and which vitiated decision of the society.

11. The reliance upon the Government Notification is itself misplaced. When the members of the co-operative housing society which, under law of co-operation, decides by a majority of 11:1 members that the society premises be developed in a particular fashion by a particular developer, it would be contrary to principles of democracy by which the society is governed, for the sole dissenting member to interfere and require a procedure, not required by the majority of the members to be followed which would only consume time and be counter-productive. The Government Resolution would be required to be followed by the society where the members are unable to come to any decision by a resolution of their own.

12. The petitioners' society having been injuncted from carrying out the wishes of its members for the redevelopment of its society by the impugned injunction order sought to hold a fresh election for its new managing committee. The new committee came to be appointed by a fresh election on 25.09.2009. The new managing committee

gave a new notice to hold a Special General Meeting of the society on 30.10.2009. The respondent was given notice. Members at that meeting agreed with the earlier decision. Consequently the impugned order became infructuous. Nevertheless the impugned order is challenged.

13. The respondent as a member would have a right to appear at the meeting. Consequently though it was stated that he was given notice of the meeting but failed to appear, the Court directed the society and all the members once again meet and consider the aspect of the redevelopment of the society premises on 7th March, 2010. It was mentioned to the Court that the respondent had three other offers which were far superior and hence it was considered in the fitness of things to reconsider of all these offers together.

14. The society meeting has been held yesterday. The respondent as well as other members have attended. Four offers including the offer of Mohini Shelters together with certain amendments have been considered. The respondents have produced a columnar statement of the four offers.

15. It is contended on behalf of the respondent that, a look at the columnar statement shows that all of the respondent's three offers are better than that of Mohini Sheltors.

16. The columnar statement shows that all the three developers have offered to construct only the residential premises of the society whereas Mohini Sheltors has offered to construct commercial and residential premises. It need hardly be stated that the commercial premises on the ground floor of the building would itself enure for the benefit of the members.

17. The absolute advantage shown by way of absolute figure is in clause 8 of the columnar statement in which one of the offers of the respondent shows the corpus which will be created at the rate of 7,500 per square foot of the carpet area of the members. Advocate on behalf of the respondent mentioned that the respondent would obtain Rs.23.33 lacs and the entire society would obtain Rs.2.80 crores by that offer. To see the bonafides of the offer, the respondent was directed to call upon his offerer to deposit Rs.2.80 crores in the Court. Advocate on behalf of the

respondent stated that no such deposit can be made.

18. The other aspects of the offer in the columnar statement show percentage amount which are not tangible to reconsider.

19. The members have decided once again by a majority of 10:2 to confirm the offer of Mohini Shelters. The Court is not, therefore, required to interfere with the wishes of the majority of the members. The members do not seek to act upon the resolution passed in the meeting dated 26.08.2008. The impugned order has become infructuous. The injunction granted under impugned order is set aside. The members have resolved to redevelop their society building premises. The Court cannot interfere with such resolution. The Writ Petition is disposed of with the above clarification as the impugned order is infructuous. The columnar statement tendered by the respondent is taken on record.

(R. S. DALVI, J.)

SAINI BHAWAN
ANAND NIKETAN
HIMACHAL BHAWAN
SIMLA HOUSE

**AMAR HIMACHAL
CO-OP. HOUSING SOCIETY LTD.**

OPP. B.M.C. GARAGE,
GHATKOPAR MAHUL ROAD,
CHEMBUR, MUMBAI - 400 089.

Date 16 July 2014
To,
The Dy. Registrar
M Ward, Mumbai Co-op. Societies,
Konkan Bhawan
Belapur CBD
Navi Mumbai

Sub : Deputation of your representative for attending the SGM for selection of Developer for Redevelopment of our society's building.

ReF : Your letter dated 27/06/2014 for balance submittals.

Dear Sir,

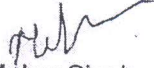
With reference to the above referred subject and your above referred letter please find enclosed herewith following documents :-

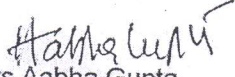
- 1 Notice and Minutes of the SGM for approval of Project Feasibility Report.
- 2 Notice and Minutes of the SGM for Selection of Project Management Consultant.
- 3 Appointment letter of Project Management Consultant.
- 4 Copy of Tender Documents
- 5 List of members typed on society's letter head with signature of Secretary / Chairman.

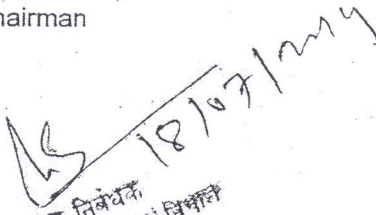
This is for your information and records.

Thanking you,

For Amar Himachal Co Hsg


Mr Mehar Singh
Hon. Secretary


Mrs Aabha Gupta
Chairman


उप निबंधक
संस्था, 'एम' विभाग
मुंबई.

AMAR HIMACHAL
CO-OP HOUSING SOCIETY LTD.

107, NANGI, SHALBA
CHANDIGARH-160002
TELEPHONE: 2615100, 2615101

Date: 26 June 2014

The Secy, Registrar
17, Market, Anandpur Sahib, Gurdwara
Nangian, Distt. Patiala
Distt. Patiala, Punjab

With reference to your representation for attending the 2014 AGM for approval of
Developer for redevelopment of our society's four buildings.

Dear Sir,


With reference to the above stated subject, we would like to inform you that despite your
representation for attending the AGM for selection of the developer, suitable date proposed by
society is 24 June or 25 June, 2014.

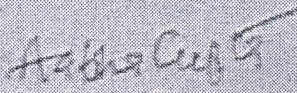
We are enclosing herewith the short summary of the steps taken by our society and other
supported documents for your perusal & reference.

We would like to request you to depute your representative and give an intimation as early as
possible.

Thanking you,

For Amar Himachal Co Hsg Socy Ltd


Mr Mehar Singh
Hon. Secretary


Mrs Aabha Gupta
Chairperson



Encl: File containing the document pertaining to redevelopment procedure

Handwritten notes:
26/6/14
2615100