

# REDEVELOPMENT IN CO-OP HSG SOCIETIES

By. CA. Ramesh Prabhu

## CHAPTER 1

### INTRODUCTION ON REDEVELOPMENT

If your Society is planning for Redevelopment, then the members of the Society should be familiar with the process for undergoing Redevelopment. The following points will make understanding the redevelopment process better.

#### **What is Redevelopment?**

Redevelopment means demolishing the Old Structure and replacing the same with New Structure with new Dimensions and Space.

#### **What is the difference between Restoration and Redevelopment?**

In restoration, the existing Building is extensively repaired and restored to its original condition. In Redevelopment, the existing building is demolished and new structure of different dimensions is constructed.

#### **When should be redevelopment be considered?**

As per Bye-law no. 77, Structural Audit of the Building is to be conducted when the Building is more than 30 years old. The Report of such Structural Audit would reveal the condition of the Building and indicate whether the Society needs Redevelopment.

#### **Who is the authorised person to conduct Structural Audit?**

The Structural Audit is to be conducted only by a Government approved Architect.

#### **Can a Society go in for Redevelopment without conducting a Structural Audit?**

Conducting Structural Audit is mandatory since it is the first and the foremost step to be taken for deciding Redevelopment as Structural Survey is required to be carried out for both the building and the adjacent structures.

#### **Can a Society opt for Redevelopment if it is below 30 years of age?**

It all depends on the Structural Report and its findings.

#### **Can a Society opt for Redevelopment even if Structural Report does not recommend it?**

No, as the Society will be required to get necessary permissions from all the concerned Authorities.

**If the member of the Society are not satisfied with the Structural Audit, can the Society get a second Structural Audit Report from another Structural Auditor?**

Yes, by all means if the Society is prepared to bear the additional financial burden.

**Do members need to prove their contention for demanding a double check on the Survey Report?**

It is not necessary as a second opinion is always acceptable.

**What happens in a situation where two contradictory Reports are received?**

The General Body will decide which Reports needs to be accepted.

**Which is preferably – Restoration or Redevelopment?**

In case of Restoration of a Building by major repairs, though the beams and pillars of the Building are strengthened externally, the inner core composing of steel rods cannot be restored to its original condition. Hence, even after extensively repairing the Building, there are bound to be umpteen complaints about leakages requiring frequent repairs. In the case of Redevelopment, the entire structure being brand new, it will be free from complaints for at least 10 to 15 years

**What are the Advantages of Redevelopment?**

- Better planned and designed flats with earthquake structure with attached bathrooms in bedrooms will be available.
- Corpus fund received by each individual member will take care of increase in the maintenance cost of the Premises or could be utilised for other purposes.
- Additional area of 25-30% will be received as compensation from the Developer. Also, additional space, if available, could be purchased from the Developer at best available price.
- Modern facilities / amenities / gadgets like lifts, intercom system, smoke detectors, fire fighting alarm system, concealed plumbing, concealed wiring for electricity, telephone, cable TV etc. will be available.
- Stilt or under ground parking will be available which will ease space on the ground.
- Clubhouse, Swimming Pool, Gymnasium, Community Hall etc. will be available.

**What are the Disadvantages of Redevelopment?**

- Any lacuna in preparation of Redevelopment Deed would result in a great loss to the members who are eligible for many perks in consideration of giving permission for the project.

- For considerable period of time, members are required to give up possession of their flats which disrupts their age old routine.
- Residential Complexes if converted to Commercial Complexes are seldom preferred for housing purposes or dwellings.
- Additional new members would take longer time to gel with the original members, resulting in disputes on various issues.
- Additional members will require extra consumption of water creating scarcity or shortage of available water supply.
- Additional vehicles will require additional parking space.
- New construction loaded with all kinds of modern amenities which will in turn increase the cost of maintenance to be paid to the Society.
- The Tax burden is high and in case the Occupation Certificate (OC) is not procured, Municipal charges and Water charges are high
- There is increase in Property Taxes.
- Additional area received will attract Stamp Duty and Registration Charge at current Market Price.
- There is always a fear of half way stalled project resulting in Court case.

## CHAPTER 2

### STARTING REDEVELOPMENT PROCESS

For starting Redevelopment process, the following process should be carefully followed.

#### **When should a Society consider Redeveloping their Building?**

The Society should consider Redevelopment of the building only if an adverse Structural Audit Report is received from an approved Structural Auditor appointed by the Society to do Structural Survey /Audit of the Building as per Bye-Law no. 77 and his report should clearly mention the details of defects / remedies / cost of repairs etc.

#### **What precaution should the Society take at the time of considering Redevelopment of their Buildings?**

The Society should consider Re-development only if the Society has Conveyance Deed in their favour. Without Conveyance, the Society should not pass any resolution for re-development but should only move towards major repairs.

#### **What should the Society do in case of a Structural Audit Report?**

In case of adverse Structural Audit Report, the Society should circulate the said Report to all the members of the Society within one month of receipt of such report along with their recommendations and call for the consent of all the Members of the Society in writing within 14 days of circulation of Report giving their opinion whether they would like to go for Repairs or Redevelopment.

#### **Whether individual consent of all the members is required for redeveloping the society's buildings or only a Resolution by the General Body will be sufficient?**

A written consent is required from each and every member of the Society for carrying out Redevelopment. Unlike the S R A Project, in a Registered Co-operative Housing Society, 100% consent of all the members is required before the Society can go ahead with Redevelopment.

#### **What is the consequence if Consent is not received from all the members for carrying out Redevelopment?**

If all the members of the Society do not give their Consent for Redevelopment, then permission for Redevelopment will not be granted by the concerned authorities like the Dy. Registrar of Co-operative Societies and the BMC.

#### **Can a member change his decision after giving his Consent in writing for Redevelopment?**

Consent obtained from the members is irrevocable and embossed with Rs.100/- stamp. Hence, once Consent is given by a member, it cannot be revoked. Only if a member has a strong reason to retract his Consent, then he has to follow the Legal procedure for proving his point of discontent for retracting his Consent.

#### **Can a minority of members stall the process of Redevelopment?**

It depends on what proportion of minority is stalling the development and the reasons behind stalling the project. If the reasons for stalling the project are strong, then redevelopment cannot proceed unless the issues with them are settled.

#### **Can one or two members hold the Society to ransom on flimsy grounds?**

No member of the Society can hold the Society to ransom on flimsy grounds. The Society will have to initiate action against such members.

**What action can the Society initiate against those members who oppose such kind of a move that is supported by a huge Majority/**

Then Society can issue show cause notice to the members and take action even to the extent of Expulsion from the Society.

**Does a Society require to form a Redevelopment Committee or can a Managing Committee carry out the job independently?**

The General Body has the powers to decide on this issue. Appointing a Redevelopment Committee is not mandatory but is highly recommended to ensure transparency in the dealings.

**What are the Powers of the Redevelopment Committee?**

The General Body has to decide on the powers to be allocated to the Redevelopment Committee. Generally the following powers are to be given to the Redevelopment Committee:

- To approve or reject the proposal placed before them by the Managing Committee of the Society.
- To give suggestions, if any, regarding the Proposal placed before them by the Managing Committee.

**What is the tenure of the Redevelopment Committee?**

Generally the tenure of the Redevelopment Committee should be from the start of the Project to the completion of the Project to ensure the continuity of the control of the Project.

**Whether elections are to be held for selection of members for the redevelopment Committee?**

The Election Rules are not binding on the Redevelopment Committee. They should be selected by the General Body from amongst senior members of the Society who are educated to read and understand the various Documents and have active interest in redeveloping the Society.

**Can a Redevelopment Committee / member of a Redevelopment Committee be terminated?**

If the General Body feels that a member of the Redevelopment Committee or the entire Redevelopment Committee acts to the detriment of the interests of the Society and obstructs the working of the Managing Committee in carrying out Redevelopment, then on the recommendation of the General Body, the tenure of a member a Redevelopment Committee or the entire Redevelopment Committee can be terminated.

## CHAPTER 3

### REDEVELOPMENT DOCUMENTS

For successful completion of Redevelopment, the Office Bearers of the Society should be aware of the Documents to be kept ready and the Documents to be obtained from the Builder

#### **What is the list of important Documents required for starting Redevelopment?**

1. Society Registration Certificate.
2. 7/12 Extract.
3. Form no. 6 from Revenue Office.
4. Conveyance Deed / Lease Deed / Sale Deed.
5. Search Report and Title Certificate.
6. Index II
7. N. A. Order.
8. Development Agreement.
9. City Survey Plan.
10. Approved Building Plan.
11. Copy of I.O.D.
12. Commencement Certificate.
13. Occupation Certificate.
14. Completion Certificate.
15. Agreement for Sale.
16. Stamp Duty paid proof.
17. Registration Charges paid proof.
18. Appointment Letter.

#### **What are the Documents needed to be prepared for Redevelopment?**

1. Feasibility report.
2. Suggestions from members.
3. Public Notice for inviting the Tender.
4. Minutes of various Meetings.
5. Correspondence with different Authorities.
6. Obtaining required permission from Deputy Registrar, BMC, ULC Department, Na Department etc.
7. Tender Form.
8. Summary of Tenders received.
9. Approval of Tenders in the General Body meetings and preparation of Draft and Final Minutes.
10. Appointment letters to Advocate, Structural Engineers, Architect, Project Management Consultant etc.

#### **What are the various Documents and Agreements to be prepared in the process of Redevelopment?**

1. Redevelopment Agreement.
2. Indemnity Bond by the Developer.
3. Format of Bank Guarantee from the Builder.
4. Power of Authority from the Society to the Developer.
5. Agreement for alternate accommodation.
6. Consent Letters from the members to the Society.
7. Consent Letters from the members of the Society to Builder / Developer / BMC.
8. Memorandum of Understanding (MOU) between the Society and Builder / Developer.
9. Appointment Letter from the Society to the Builder / Developer.
10. Possession Letter from the Builder to the Members.
11. Application by new members to the Society for becoming members in Form no. 3.
12. Undertaking from the new members to the Society.
13. Format of the Resolution to admit new members.
14. List of Documents required to be collected from the Builder.
15. Revocation / Cancellation of Power of Attorney.

**What are the requirements from the Developer?**

1. Partnership Deed of the Developer duly registered OR Memorandum of Association (as the case may be)
2. Copy of Registration Certificate.
3. Name and address of the Partners / Directors along with their PAN.
4. Copy of PAN of the Firm.
5. Income Tax Return filed for the last 3 years of the Partners / Directors of the Company.
6. Service Tax Registration no.
7. Copy of Balance Sheet and P/L A/c to understand the financial strength of the Firm / Company.
8. Feasibility Report from the Developer as to how they would develop the Property at the offers given by them.

## CHAPTER 4

# SUCCESSFUL REDEVELOPMENT

### What are the points to be noted for successful Redevelopment?

1. The offer received from the Developer should commensurate with the potential of the Plot taken for redevelopment as per Architect's report.
2. The Builder should be strictly chosen on the basis of his Financial Capacity and Track Record and not on the basis of the highest offer received.
3. The Tenders received should be objectively evaluated by an able Architect appointed by the Society.
4. All the members of the Society should give their Consents to avoid disputes.
5. Complete details of the offers made by the Developer should be clearly understood by all the members of the Society and there should be transparency in the dealings.
6. Redevelopment Committee should be formed from amongst the other members of the Society by including two or three members from the Managing Committee to oversee the entire Redevelopment process to ensure that complete transparency is maintained by the Managing Committee of the Society.
7. All Agreements / Documents should be got scrutinised by a competent Advocate appointed by the Society to ensure that there is no lacuna.
8. Bank Guarantee for the total cost of the Redevelopment Project should be obtained from the Developer covering the full period of construction.
9. Penalty Clause should be inserted in the Redevelopment Agreement to ensure proper implementation of the Project by the Developer.
10. The Managing Committee and the Redevelopment Committee members should conduct regular inspection when the construction is in process to ensure that there are no deviations from the plans / offers.



## CHAPTER 5

### STEP BY STEP REDEVELOPMENT

The Office Bearers of the Society are requested to follow the following steps for redeveloping their premises successfully.

#### **1. Redevelopment-**

Redevelopment of the Building shall be considered by the Society only if an adverse Structural Audit Report is received from an approved Structural Auditor appointed by the Society to do Structural Survey / Audit of the Building as per Bye-Law no. 77 and his report should clearly mention the details of Defects / remedies / cost of Repairs.

#### **2. Conveyance-**

The Society should reconsider Redevelopment only if the Society has Conveyance Deed in their favour. Without Conveyance, the Society should not pass any Resolution for redevelopment but should move towards major repairs.

#### **3. Circulation of Structural Audit Report-**

In case of adverse Structural Audit Report, the Society shall circulate the said Report to all the members of the Society within one month of receipt of such report along with their recommendations and call for the consent of all the members of the Society in writing within 14 days of circulation of Report giving their opinion whether they would like to go for Repairs or Redevelopment. If 75% or more of the total members of the Society give their Consent for Redevelopment to the Managing Committee, the Managing Committee will start the process of Redevelopment.

#### **4. Starting Redevelopment-**

The Society in which Redevelopment work of the Buildings is required to be undertaken, an application of Requisition to hold a Special General Body Meeting to consider and discuss the Redevelopment Project and suggestions on the same, is to be submitted to the Hon. Secretary of the Managing Committee which is properly elected as per the provisions of the Society's Bye-Laws and also constituted as per the provisions of the MCS Act 1960. The Requisition application is to be signed by not less than 1/4<sup>th</sup> of the total members of the Society.

#### **5. SGM for Redevelopment-**

On receipt of requisition for calling the Meeting, the Managing Committee of the Society, within 8 days of the receipt of the application, should consider the same and within a

period of 1 month, the Hon. Secretary will call the General Body Meeting of the members of the Society giving 14 clear days notice for which acknowledgement will be collected from every member and maintained in the records of the Society. The quorum for the SGM shall be 3/4<sup>th</sup> of the total number of members of the Society. If the quorum is not attained, the SGM shall be adjourned for 8 days. (If there is no quorum in the adjourned meeting also, then the Meeting shall be dissolved considering that the members have no interest in the Redevelopment of the Society. In such a situation, the Redevelopment subject cannot be brought before any SGM for its approval for further one year).

In the Meeting, 3/4<sup>th</sup> of the members present in then Meeting should agree for Redevelopment and then a Resolution should be passed for going ahead for Redevelopment of the Building and authorising the Managing Committee to obtain permission from the Deputy Registrar of Co-operative Societies of their respective Ward Office for Redevelopment. A Resolution should also be passed authorising the Managing Committee to obtain quotations from experienced Architects / Project Management who are empanelled by Government / Local Authority, for the work of preparing Feasibility Report and framing Rules / Conditions for their work.

#### **6. Permission for Re-development-**

The Society shall forward a copy of the Structural Audit Report along with an extract of the Re-development Resolution passed in the SGM to the Dy. Registrar of Co-operative Societies of their respective Ward seeking permission for Re-development of their Building.

#### **7. Feasibility Report-**

Within one month from the date of receipt of permission for re-development from the office of the Dy. Registrar of Co-operative Societies, the Society should appoint an Architect or a Project Management Consultant to survey the Project Plot /Area / F.S.I. / T.D.R. / B.M.C. – MHADA rules applicable / technical / financial details including viability, comparison of repairs v/s re-development and submit a Feasibility Report. This Feasibility Report should be circulated to all the members of the Society within one month from the date of receipt of the Report along with the Managing Committee's views and their opinion / objections on the same should be called for in writing for discussion in the next Special General Body Meeting.

#### **8. SGM for Constitution of Re-development Committee-**

The Society should call for a SGM and since this being an important meeting the quorum for the meeting shall be at least 75% of the Members of the Society. The Managing Committee should discuss the Feasibility Report in the Meeting and if at least 3/4<sup>th</sup> of the Members present in the meeting agree for Re-development, then they should pass a Resolution to go for Re-development of the Building and authorise the Office Bearers to start the procedure to appoint Architect / Civil Engineer / Financial Consultant or Project Management Consultant. In the same meeting, the Society should form a "Re-development Committee" of at least 5 prominent / senior / original members of the Society,

representing each building of the Society, to oversee the working of the Managing Committee.

### **9. Appointment of Consultants-**

The Office Bearers shall shortlist Architect/Civil Engineer/ Financial Consultant / Project Management Consultant for appointment and recommend their names to the Re-development Committee to confirm their choices and fees chargeable by these professional/s. The Managing Committee should call for a SGM and introduce these Professionals to the Members of the Society and give their recommendations. A decision should be taken in this Meeting to appoint any or all them of them and fix their duties and fees.

### **10. Pooling of Documents for Re-development-**

The Society should ask the appointed Consultant/s to proceed and go ahead to get all the clearances required for re-development and submit his report on the availability of following documents with the Society:

- ✓ Society Registration Certificate.
- ✓ 7/12 Extract / Index II / Form no. 6 from Revenue Office.
- ✓ Conveyance Deed / Lease Deed / Sale Deed / Search Report / Title Deed.
- ✓ Non Agricultural Order.
- ✓ Property Card / City Survey Plan
- ✓ Copy of I.O.D / Commencement / Occupation / Completion Certificates.
- ✓ Proof of Payment of Stamp Duty / Registration Charges.
- ✓ Copy of paid Assessment Bill / Water Bill / Electric Bill.
- ✓ Approved Building Plan / all Architectural and R.C.C. Drawings.

### **11. Tender Floating-**

After the Technical problems are sorted out, the Society should call for a SGM no. 4 to apprise the members of the Society's standing on the various technical points referred to above and convey their views as well as the views of the Re-development Committee on the matter and seek the approval of the General Body to proceed further. In this meeting all the members of the Society should be asked to prepare and submit details of requirements / demands / choices / demands in writing so that the same could be incorporated in the tender Document. The General Body should pass a resolution and authorise the Managing Committee to proceed ahead and float Tenders by inviting different Agencies / Builders / Developers to give their offers through News paper Notice etc.

### **12. Opening of Tenders-**

Within one week from the last date for receipt of Tenders, the Society should call for a SGM no. 5 and open the Tenders in front of the Members of the Society present in the meeting along with the Society's Consultants and parties participating in the

Tender. The details of offers received should be read out in the meeting and a provisional merit list should be made in the meeting itself.

### **13. Comparison Statement-**

The consultants appointed by the Society should study the Tender offers in detail and prepare comparative charts and give their recommendations to the Managing Committee who should satisfy themselves about the recommendations of the Consultants and put it up before the Re-development Committee for their observations. The best offer should be short listed merit-wise and details circulated to all the members of the Society calling for their views.

### **14. Selection of Developer / Builder-**

The Society should call for a SGM no. 6 and after discussing the merits and demerits of all the offers, should select one Developer / Builder for carrying out the redevelopment of the Society. In this Meeting, the members should agree on the following issues:

- ✓ The additional area that they should get as not only in terms of percentage increase in their existing carpet area but also in actual number of Square Feet.
- ✓ The amount of corpus payable to each member should be clearly expressed in amount of Rupees besides linkage to their existing carpet area. The break-up and the due dates for payment of the same should also be clearly specified.
- ✓ The amount of rent payable for alternate accommodation should be clearly specified in terms of amount of Rupees besides linkage to the existing carpet area. The break-up and due dates for payment of the same should be clearly specified.
- ✓ The amount of shifting charges and the re-shifting charges should be specifically stated.
- ✓ The members should pass a resolution authorising the Managing Committee to issue Letter of Intent to the Developer subject to above Terms and Conditions.

### **15. Letter of Intent-**

The Society should circulate the agreed Terms and Conditions to all the members of the Society and obtain Irrevocable Letter of Consent addressed to the Society, the Builder, BMC, Dy. Registrar of Co-operative Societies and other concerned parties. When at least 90% of the Members give Consent Letters to the Society, the Society should give a Letter of Intent to the selected Developer / Builder and request him to furnish plans of the new buildings to be constructed, amenities to be provided and allotment of flats to members as per the new plan.

#### **16. Re-development Agreement-**

On receipt of the plan for the new buildings, the Managing Committee and the Re-development Committee members should first approve the same and satisfy themselves that the same is as per their offer. Then, the Society should call for a SGM no. 7 for approving the plan of the flats / building and amenities offered by the Builder. When the same are approved in the General Body, the Society should pass a resolution to sign a Redevelopment Agreement with the Developer also fix the date for vacating the old flats and receiving the compensations.

#### **17. Handing over the property for re-development-**

The Developer should then proceed to get the plans approved and obtain I.O.D. from B.M.C. After fulfilling the terms mentioned in the I.O.D., the Developer should obtain Commencement Certificate up to plinth. After these conditions are complied with, the Society should call SGM no. 8 and pass a Resolution for vacating the Flats and fixing a date for handing over the vacant possession to the Developer and fixing dates for receiving compensations from the Developer. The Managing Committee should issue instructions to the members to vacate their Flats by signing individual agreements with the Developer and after receiving his dues from the Developer.

#### **18. Conveyance / Occupation Certificates-**

After construction of the Buildings are completed, the Society should follow up and ensure that the Developer gives Conveyance, Occupation Certificate and regular Water Connection within 4 months from the date of handing over of the new flats to the members of the Society.

## CHAPTER 6

### REDEVELOPMENT IN A NUTSHELL

Govt. of Maharashtra  
No. S.G.Y.2007/L.No. 554 /14-C  
Co-op. Marketing and Textile Dept.  
Date: 3rd January 2009

#### COMPLAINTS RECEIVED SUCH AS.....

- Members are not taken into confidence.
- Transparency not observed in the Tendering process.
- Appointment of Contractors in a haphazard manner.
- Breaches of the provisions of the MCS Act, /rules and Bye-laws in the working of the society.
- Lack of Co-ordination between appointed Engineer and Project Consultants.
- Non preparation of Feasibility Report.
- Proper procedure not followed in the selection of Tender.
- Disparities in the Development Agreement.

#### The Commissioner for co-operation and Registrar of Co-op. Societies, Maharashtra State, Pune, held discussions with...

- Concerned experienced professionals
- Appoints a Study Group under the Chairmanship of the Jt. Registrar of Co-op. Societies, CIDCO
- In conclusion under Section 79 (A) of the M.C.S. Act 1960, the Government has issued Order known as "Order of Redevelopment of the Coop Hsg Society's Buildings"

#### The "Order of Redevelopment of Coop Hsg Society's Building....says

- For conducting SGB, Application of requisition signed by not less than 1/4th of total members to be considered
- Suggestions on Redevelopment Project to be submitted to the Hon. Secretary for discussion purpose.
- Most important the M C is required to be a properly elected body constituted as per the provisions of the MCS Act 1960

#### Duties of M C & SGBM....before holding SGBM.....

- M C to call quotations from minimum five Architects or (PMC) Project Management Consultants who are empanelled with the Government or any local competent Authority.
- Special General Body Meeting to select the P M C.
- To submit the proposed Redevelopment project of the building

#### Duties of Members...

- Submit your inputs, suggestions, recommendations and also names of known experienced and expert Architects/PMC's in writing along with their approval letter min 8 days before date of the meeting
- Min 3/4th Attendance required at SGBM
- Primary resolution required to be passed

**After the approval of the Resolution for Redevelopment, Meeting will consider following business:**

- approve the Terms and Conditions along with the scope of the work to be carried
- Minutes of the Meeting to be circulated within 10 days to members with acknowledgement
- Copy of the minutes to be sent to office of the Registrar.
- Issue letter of Appointment to the Architect / PMC selected by the SGM within 15 days of the meeting

**P M C .....Scope of Work**

- Carry out survey of the Land and Building
- Seek information regarding the conveyance
- Seek information about available F.S.I. and T.D.R
- Study Rules of the MHADA / S.R.A. / Municipal Corporations, as applicable from time to time
- To prepare a feasible project & later prepare Project Report within 2 months from the date of their appointment

**AFTER RECEIPT OF THE REDEVELOPMENT PROJECT REPORT**

**Copy of the Project Report to be made available to the members for the inspection.**

- Members should submit their suggestions, min 8 days before Managing Committee Meeting
- Suggestions received from the members to be sent to the Architect / PMC for their consideration, 7 days before the Jt. Meeting
- Hon. Secretary of the society to call a joint meeting of M C and appointed Architect / PMC by issuing notice and obtaining acknowledgement of the same
- Obtain approval from majority towards the submitted Project Report

**Further....**

- Architect / PMC to prepare provisional draft of the Tender
- Tenders to be floated inviting competitive offers
- One of the primary requirement to be Unchangeable, either carpet area or corpus fund – in case of Developer.
- Publish list of the Tenders received till the last day on the Notice Board of the society.
- Within 15 days of the last date of the receipt of the Tenders, Hon. Secretary to call Sp Meeting of the Managing Committee to be attended by the official representatives of the Developers interested members

## **TENDER'S .....**

- All the received Tenders will be opened in the presence of all the people participating in the meeting.
- Architect / PMC will conduct scrutiny of all the Tenders and prepare a comparative chart
- selection of minimum 5 Tenders to be placed before the SGM
- Concerned other non present Tenderers to be informed accordingly.

## **SGB.....Selection of Builder**

- Within 8 days, Society to apply to the Registrar, C.S. to appoint Authorised Officer for attending Sp.G B Meeting
- The Registrar to appoint Authorised Officer.
- Selection of Developer on the basis of experience, caliber, Market status, technical expertise and competitive rates

## **Within one month of the appointment of the Authorised Officer**

- ✓ Hon. Secretary with prior permission fix day, date, time and venue of the SGM
- ✓ Notice of SGM to be hand delivered as well as sent to every member by Registered A.D. Post acknowledgements be kept in Society's Records.
- ✓ Representative of the Registrar's Office will ensure presence of Official Representative of the Tenderers
- ✓ Within 8 day, Society to apply to the Registrar, C.S. to appoint Authorised Officer for attending Sp.G B Meeting
- ✓ The Registrar to appoint Authorised Officer.

## **MOST IMPORTANT...**

- Video Shooting of the SGM, at the expenses of the society
- Only bonafide member of the society shall be eligible to attend the SGM.
- Members would require to carry their individual identification papers to attend the meeting
- Complete business of selection of Developer (Contractor) and allied matters be carried out in presence of the Authorised Officer.
- In case of no quorum meeting will be dissolved considering that members have no interest in the Redevelopment of the society building
- Subject cannot be brought before any SGM for its approval for further one year.

## **Business in the SGM for selection of the Contractor.**

- Authorised Officer from the office of the Registrar will attend the SGM with the presence of sufficient 3/4th quorum
- Comparative information will be presented regarding the selected Tenders to be considered. (With regards to Redevelopment work).
- Tenders to be presented in serial order.
- Selection of one Developer, with Terms and Conditions, for Redevelopment
- Finalise Tender with approval from selected Developer
- Present information about the further work.



- Procedure of inviting application for booking the salable flats/ shops and fix the method to select the applicant.

**Also.....**

- Agreement should be registered under Registration Act 1908
- Agreement shall have specific mention of the agreed Carpet Area
- Building Plans which are approved by the Municipal Corporation / Competent Authority shall be again placed before the General Body Meeting for information. A member wishing to have a copy of the approved Documents can get the same on his written application. The committee is bound to issue the information on charging a reasonable fee.

**Selection Process...**

- 3/4th majority of the present members shall give in writing their approval
- Selected Contractor or their representatives who do not register their presence for the S G M will be considered as having given their consent for the Redevelopment proposal and further process will be carried.
- Managing Committee shall make an Agreement with the Contractor within one month.

**Important Points regarding Agreement with Contractor**

- Suggestions from appointed Architect / P M C along with other important issues should be included
- Completion period of Redevelopment shall not be more than 2 years and in special cases not more than 3 years in case of any exigencies
- Contract terms & conditions given to the Contractor will be non transferable
- Agreement between contractor, Architect and society shall have a condition that disputes, if any, on the Redevelopment work shall be settled u/s Rule No. 91 of the Rules
- No member of the Committee or Office bearer shall be a Contractor or his relative

**Finally.....Prime Points for a Successful Venture**

- Implement Democratic Process to carry out the procedure
- Project always to be..... By the People for the People
- Original Members to have first Say
- Transparency and coordination to be maintained.
- Maintain control on the process and procedure.

# APPENDIX 1

**All the Co-op. Hsg. Societies in the State of Maharashtra u/s 79(A) of MCS Act 1960 to pass order regarding Redevelopment of Cooperative Housing Societies**

**Govt. of Maharashtra  
No. S.G.Y.2007/L.No. 554 /14-C  
Co-op. Marketing and Textile Dept.  
Date : 3<sup>rd</sup> January 2009**

.....

Since there are large number of projects under process for Re-development of the Buildings of the Co-op. Hsg. Societies in the State of Maharashtra. We are in receipt of the numerous complaints received from the members against the Management of the Co-op. Hsg. Societies which are undergoing the Re-development process. The nature of complaints received from majority of the Co-op Housing Societies undergoing redevelopment are as given below.

1. While carrying out the process, members are not taken into confidence.
2. Transparency not observed in the Tendering process.
3. Appointment of Contractors in a haphazard manner.
4. Breaches of the provisions of the MCS Act, /rules and Bye-laws in the working of the society.
5. Lack of Co-ordination between appointed Engineer and Project Consultants.
6. Non preparation of Feasibility Report.
7. Proper procedure not followed in the selection of Tender.
8. Disparities in the Development Agreement.

And

Since, there are no laid down guidelines and / or firm procedures declared, based on the various complaints received and discussion held with the concerned experienced professionals the Commissioner for co-operation and Registrar a Co-op. Societies, Maharashtra State, Pune had appointed a Study Group under the Chairmanship of the Jt. Registrar of Co-op. Societies, CIDCO to consider various types of complaints on the subject and discuss the same with all the concerned parties in the Sector. The Study Group after discussion with all the parties in the Co-op. Housing field opined that Rules and Regulations for the Redevelopment of the buildings of co-op. Hsg. Societies are very essential.

As such, under Section 79 (A) of the M.C.S. Act 1960, the Government is issuing following Orders which are as under :

The following order will be called as “Order of Redevelopment of the Co-op. Hsg. Society’s Buildings”.

**1) TO CALL A SPECIAL GENERAL BODY MEETING OF THE SOCIETY TO DISCUSS THE REDEVELOPMENT OF THE SOCIETY’S BUILDING/S.**

For the co-op. Hsg. Societies in which the Redevelopment work of the buildings is required to be undertaken, an application of requisition to hold a Special General Body Meeting of the members of the society to consider and discuss the Redevelopment Project and suggestions on the same, is to be submitted to the Hon. Secretary of the Managing Committee which is properly elected as per provisions of the society’s Bye-laws and also constituted as per the provisions of the MCS Act 1960. The requisition application is to be signed by not less than 1/4<sup>th</sup> of the total members of the society.

**2) TO CALL THE SPECIAL GENERAL MEETING**

As per Sr. No.1, on receipt of requisition for calling the meeting, the Managing Committee of the society, within 8 days of the receipt of the application, should consider the same and within a period of 1 month the Hon. Secretary will call the General Body Meeting of the members of the society giving 14 clear day notice for which acknowledgement will be collected from every member and maintained in the records of the society.

Before holding of the meeting the committee shall call quotations from minimum five Architects or Project Management Consultants who are empanelled with the Government or any local competent Authority. After considering all the quotations received, the Special General Meeting will select one of the Experts.

The SGM will consider the business as per following Agenda.

- (1) To take primary decision, after considering the demands and suggestions from the members, on the Redevelopment of the Society Building/s
- (2) To select expert and experienced Architect / Project Management Consultant, who are empanelled by Government / local Authority, for the work of Redevelopment and frame Rules / conditions of their work.
- (3) To submit the project of proposed Redevelopment of the building.

**3) TO RECEIVE WRITTEN SUGGESTIONS FOR THE MEMBERS ON THE REDEVELOPMENT OF BUILDING**

The members of the society can submit their inputs, suggestions, recommendations and also names of known experienced and expert Architects/Project Management Consultants for the redevelopment project. However this should be submitted to the Committee, in writing, 8 days before the date of the meeting. Further approval letter of the referred Architects / Project Management Consultants shall also be submitted stating that they are interested to take up work of Redevelopment.

**4) DECISIONS TO BE TAKEN IN THE SPECIAL GENERAL MEETING (SGM)**

The quorum for the SGM called to consider subject of Redevelopment of the society's building will be 3/4<sup>th</sup> of the total number of the members of the society. In case of no quorum, the meeting will be adjourned for 8 days and if there is no quorum attained for the adjourned meeting under such circumstances such adjourned meeting will be dissolved considering that the members have no interest in the Redevelopment of the society's building/s. On condition of attaining required quorum the suggestions, objections, recommendations and references placed by the members regarding Redevelopment of society's building/s will be considered and noted in the minutes of the meeting along with the observations made by all the members. Thereafter a majority of 3/4<sup>th</sup> of the members present at the meeting is required to pass a primary resolution regarding the decision for Redevelopment of the society building. After the approval of the Resolution for Redevelopment the Meeting will consider following business.

- (a) To approve the Terms and Conditions along with the scope of the work to be carried out by the eligible Architect / PMC who can be selected from the Panel of Govt./ Local Authority for the Building Redevelopment work.
- (b) To submit proposal of Building Redevelopment Project.

**5) TO CIRCULATE MINUTE OF THE MEETING TO ALL THE MEMBERS.**

The Hon. Secretary of the society should prepare the minutes of the SGM and circulate it to all the members within 10 days. The acknowledgement against receipt of the copy of minutes taken from the members should be kept on record. Further, one copy of the minutes should be sent to the office of the Registrar.

**6) TO ISSUE LETTER OF APPOINTMENT TO THE ARCHITECT / PMC**

The Hon. Secretary of the society as per the decision taken in the Special General Body shall issue Letter of Appointment to the Architect / PMC selected by the SGM within 15 days of the meeting. Further the committee will sign the Agreement containing Terms and conditions passed in the SGM, with the Architect / PMC.

**7) THE INITIAL WORK TO BE CARRIED OUT BY THE ARCHITECT / PMC.**

- a) To carry out survey of the Land and Building.
- b) To seek information regarding the conveyance of the society's land.
- c) To seek information about available F.S.I. and T.D.R. for the building and land considering Rules of the MHADA / S.R.A. / Municipal Corporations, as applicable from time to time, according to ownership of the land and current provisions of the Government.
- d) To prepare a feasible project report considering suggestions, references and recommendations made by the society members about the redevelopment taking into account the residential area, commercial area, open spaces, Garden, Parking, the specification of construction etc.
- e) The Project Report shall be prepared and submitted to the committee by the Architect / PMC within 2 months from the date of their appointment.

#### **8) BUSINESS AFTER RECEIPT OF THE REDEVELOPMENT PROJECT REPORT**

- a) After receipt of the Redevelopment Project Report and considering the suggestions presented by society members, the Hon. Secretary of the society will call a joint meeting of committee members and Architect / PMC to obtain approval from majority towards the submitted Project Report. A proper Notice mentioning the day, date, time, place etc. of the meeting will be displayed on the Notice Board of the society. The Notice will also inform that the copy of the Project Report is available to the members for the inspection. Also the members will be informed that they can submit their suggestions, before 8 days of the Committee Meeting. This Notice about members suggestions shall be given to every member and their acknowledgement, shall be kept in the records of the society.
- b) The Hon. Secretary shall send all the suggestions received from the members to the Architect / PMC for their consideration, 7 days before the Jt. Meeting.
- c) The said Jt. Meeting will consider the suggestions, recommendations received from members along with the opinion expressed by the Architect / PMC, and after detailed discussion on all the related matters and after incorporating the required corrections, the Project Report will be approved by the meeting. The provisional draft of the Tender will also be prepared and day, date and venue will be finalized for the next joint meeting for discussing and finalising the draft of the Tender document. The Architect / PMC will prepare the draft Tender for inviting competitive offers, where in the one of the primary requirements (Unchangeable) carpet area or corpus fund will be decided and considering the other technical aspects tenders will be invited. This will help to receive competitive Tenders from well known, expert and experienced Developers. The members of the society can forward this information to their choice of renowned and experienced Developers.

#### **9) TO PUBLISH LIST OF TENDERS RECEIVED**

- (a) The Hon. Secretary of the society will prepare list of the Tenders received till the last day of receipt and publish it on the Notice Board of the society.
- (b) Within 15 days of the last date of the receipt of the Tenders, the Hon. Secretary of the society will call the Special Meeting of the Managing Committee. The meeting will be attended by the official representatives of the Developers where interested members of the society can attend as observers. All the received Tenders will be opened in the presence of all the people participating in the meeting. The Architect / PMC will conduct scrutiny of all the Tenders and prepare a comparative chart. The expertise, status, experience and competitive rates offered etc. will be examined by the Architect / PMC and a selection of minimum 5 Tenders and in case of less than 5 Tenders received, list of all of them shall be prepared to be placed before the SGM. The concerned Tenderers shall also be immediately informed accordingly.

#### **10) SELECTION OF A DEVELOPER**

##### **a) The office of Registrar to appoint an Authorised Officer for the SGM.**

With the help of the appointed Architect / PMC, selection of the developer to be carried out from those selected tenders, wherein the selection of one developer on the basis of experience, caliber, financial status, technical expertise and competitive rates is to be carried out in the Special General Body Meeting, where the committee will make an application, attached with the members list, within a period of 8 days, to the Registrar, C.S. to appoint an Authorised Officer to attend a Special General Meeting which is called to select one Developer from amongst the Tenderers selected by the Consultants. The Registrar will take decision on the application and appoint Authorised Officer.

##### **b) To call SGM to finalise the Tender.**

The Hon. Secretary of the society, for appointing the developer, shall within one month of the appointment of the Authorised Officer and with his prior permission fix day, date, time and venue of the SGM. The Notice of the said SGM will be issued 14 days before the date of the SGM which shall be hand delivered as well as sent to every member by Registered A.D. Post and the acknowledgements will be kept in the Society's Records. Similarly the Representative of the Registrar's Office will ensure the presence of the Official Representative of the Tenderers, whose Tenders shall be considered at the SGM. The Arrangement for Video Shooting of the SGM, at the expenses of the society, shall also be made. Only bonafide member of the society shall be eligible to attend the

SGM. Members would require to carry their individual identification papers to attend the meeting. While submitting Redevelopment proposal for approval to the concerned competent Authority it is necessary that, the complete business of selection of Developer and allied matters are carried out in presence of the Authorised Officer.

**c) If there is no quorum for SGM.**

The quorum for the SGM shall be 3/4<sup>th</sup> of the total number of members of the society. If the quorum is not attained, the SGM shall be adjourned for 8 days. In case of no quorum for the said adjourned meeting, the meeting will be dissolved considering that the members have no interest in the Redevelopment of the society building. The subject cannot be brought before the any SGM for its approval for further one year.

**d) The business in the SGM for selection of the Developer.**

Authorised Officer from the office of the Registrar will attend the SGM to observe the business of the meeting. On the designated day, date and time of the meeting, only in the presence of the required representative and Authorised Officer and with the presence of sufficient 3/4<sup>th</sup> quorum as mentioned, the meeting will undertake the following business.

1. To give comparative information about the selected Tenders to be considered. (With regards to Redevelopment work).
2. To present Tenderers in serial order. (Tender Presentation )
3. To select one Developer, with Terms and Conditions, for the Redevelopment of the building and finalise the Tender.
4. To get approval from the selected Developer.
5. To give information about the further work.

For appointment of Developer, 3/4<sup>th</sup> majority of the present members shall give in writing their approval. The selected developers or their representatives who do not register their presence for the S G M will be considered as having given their consent for the Redevelopment proposal and further process will be carried.

**11) DEVELOPMENT AGREEMENT**

The Managing Committee as per the Terms & Conditions passed in the S G M in consultation with the appointed Architect / P M C and seeking their guidance, shall make an Agreement with the Developer within one month.

The Agreement as per the suggestions of the appointed Architect / P M C along with other important issues should also include the following points.

1. The completion period of Redevelopment shall be of not more than two years and in special cases not more than 3 years in case of any exigencies.
2. The Developer will give Bank Guarantee of 20% price of Redevelopment Project.
3. The Developer will try to give alternate accommodation to the members in the same area till the Redevelopment Project is complete. Otherwise he will pay monthly rent and Deposit agreeable to members or make available Transit Camps.
4. The Agreement will be registered under Registration Act 1908.
5. All the new members shall be admitted in the society after completion of the Redevelopment Project and after approval of General Body Meeting of the society only.
6. The Agreement shall have specific mention of the agreed Carpet Area.
7. The Development rights given to the Developer will be non transferable.
8. The flat owners will vacate their flats only after receipt of all the legal permissions for the Redevelopment work.
9. Those in possession of their flats will not loose their rights.
10. Agreement between contractor, Architect and society shall have a condition that disputes, if any, on the Redevelopment work shall be settled u/s Rule No. 91 of the Rules.
11. After receipt of the Occupation Certificate for the Redeveloped building the distribution of the flats should be preferably made in accordance to the prevailing arrangement of present floors. In case when the Allotment of flats is required to be made by lots, only after completion of the building the Developer should make available the lottery system after completion of the Redevelopment Project. The developer should arrange for draw of lots for the distribution of flats in presence of Registrar's representative and video shooting of the complete process will be made.
12. No member of the Committee or Office bearer shall be a Developer or his relative.
13. The Building Plans which are approved by the Municipal Corporation / Competent Authority shall be again placed before the General Body Meeting for information. A member wishing to have a copy of the approved Documents can get the same on his



written application. The committee is bound to issue the information on charging a reasonable fee.

By Order and in the name of the Governor

(Dr. Sudhir Kumar Goyal)  
Principal Secretary  
Textile & Co-operation

**Note: Above circular is the liberal translation of the original Marathi Circular**