



MAHARASHTRA REAL ESTATE REGULATORY AUTHORITY

महाराष्ट्र स्थावर संपदा नियामक प्राधिकरण

Date : 12/08/2022

Order No. 35/2022

No. MahaRERA/Secy/File No. 27/22/2022

Sub: - Submission of proforma of the allotment letter and agreement for sale at the time of registration of a real estate project in compliance of Clause (g) of Sub-section 2 of Section 4 of the Real Estate (Regulation and Development) Act, 2016.

Whereas, Government of India has enacted the Real Estate (Regulation and Development) Act, 2016 (the Act) and all sections of the Act have come into force with effect from 01.05.2017.

And whereas, the Government of Maharashtra vide Notification No. 23 dated 08.03.2017 has established the Maharashtra Real Estate Regulatory Authority, hereinafter referred to as "MahaRERA" or as "the Authority".

And whereas, the Government of Maharashtra has notified the Maharashtra Real Estate (Regulation and Development) (Registration of Real Estate Projects, Registration of Real Estate Agents, Rates of Interest and Disclosures on Website) Rules, 2017 (the Rules) for carrying out the provisions of the Act.

And whereas, the Authority has notified the Maharashtra Real Estate Regulatory Authority (General) Regulations, 2017 (the Regulations) to carry out the purposes of the Act.

And whereas, under Section 34 of the Act, one of the function of the Authority is to register and regulate real estate projects and real estate agents registered under the Act.

And whereas, the Authority under Section 37 of the Act, and Regulation 38 of the Regulations is vested with the powers to issue directions to the promoters, real estate agents and allottees from time to time as it may consider necessary.

And whereas, the Chairperson MahaRERA is vested with the powers of general superintendence and directions in the conduct of the affairs of MahaRERA under Section 25 of the Act.

And whereas, Sub-rule (1) of Rule 10 of the Rules states that for the purpose of Sub-section 2 of Section 13 of the Act, the agreement for sale shall be in conformity

MAHARERA HEADQUARTERS

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महारेरा मुख्यालय

हाऊसफिन भवन प्लॉट नं. सी-२१ ई-ब्लॉक, बांद्रे- कुर्ला कॉम्प्लेक्स, बांद्रे (पूर्व), मुंबई - ४०० ०५१.

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with the provisions of the Act, the Rules and Regulations made thereunder and shall be in accordance with the model form of agreement at Annexure 'A'.

And whereas, Sub-rule (2) of Rule 10 of the Rules states that any application letter, allotment letter or any other document signed by the allottee, in respect of the apartment, plot or building, prior to the execution and registration of the agreement for sale for such apartment, plot or building, as the case may be, shall not be construed to limit the rights and interests of the allottee under the agreement for sale under the Act or the Rules and Regulations made there under.

And whereas, Clause (g) of Sub-section 2 of Section 4 of the Act mandates every promoter to upload along with the application made to MahaRERA for registration of a real estate project, the proforma of the allotment letter, agreement for sale and the conveyance deed proposed to be signed with the allottees.

And whereas, every promoter at the time of the booking and issue of allotment letter shall be responsible to make available to the allottee the information as more specifically mentioned in Sub-section 3 of Section 11 of the Act.

And whereas, considering the provisions of the Act the Rules and Regulations made thereunder as well as the salutary purpose of the Act, MahaRERA, had constituted a committee under the Chairmanship of Member -1, MahaRERA with representatives from Self-Regulatory Organization of promoters and Mumbai Grahak Panchayat as its Members in order to formulate and finalize a model allotment letter.

And whereas, the committee after due deliberations, having considered the suggestion and objections received from stakeholders as well as the provisions of the Act, the Rules and Regulations made thereunder has finalized the model allotment letter.

And whereas, the Authority in its meeting held on 27.05.2022 has approved the model allotment letter.

And whereas, in view of the approval accorded by the Authority to the model allotment letter, Order No. 30/2022 bearing No. MahaRERA/Secy/File No. 27/136/2022 dated 03.06.2022 was brought into force.

And whereas, in the above-referred Order the proforma of the allotment letter proposed to be signed by the promoters with the allottees was annexed as Annexure '1'.

And whereas, subsequent to the uploading of Order No. 30/2022 dated 03.06.2022 at MahaRERA website it was felt just and necessary by MahaRERA that Clauses 3 and 12 of the proforma of the allotment letter annexed as Annexure '1' to the said Order required certain modification.

And whereas, on the required modification being undertaken, the amended model allotment letter was submitted for approval of the Authority.

And whereas, the Authority in its meeting held on 24.06.2022 has approved the model allotment letter.

And whereas, there have been representations from various stake holders to permit certain amendments and changes in the model allotment letter in view of the differing circumstances of different properties offered for sale. The Authority after having considered this has concluded that in the interest of transparency and fair dealing permissions can be given to make amendments to the model allotment letter on the condition that deviations are brought to the notice of the allottees in simple and understandable language. This would not only provide flexibility in the conduct of business but would also ensure information symmetry to enable the allottees to make an informed decision.

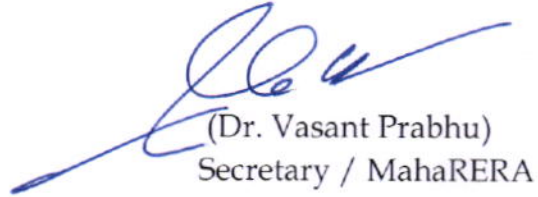
And whereas, in view of the above the following directions are issued: -

- (a) The proforma of the allotment letter proposed to be signed by the promoters with the allottees shall be in accordance with model allotment letter as approved by the Authority in its meeting held on 24.06.2022 the copy where of is annexed hereto as Annexure '1'.
- (b) Promoters shall henceforth upload the allotment letter, as at Annexure '1' hereto when applying for registration of a real estate project.
- (c) If promoters choose to execute with an allottee an allotment letter that is not in accordance with the proforma of the allotment letter as approved by the Authority in its meeting held on 24.06.2022, than the deviations/modifications in the proforma of the allotment letter as proposed by promoters shall be highlighted in different colour and accordingly be uploaded along with a deviation sheet mentioning/indicating therein the deviations/modifications while seeking registration of the real estate project so as to enable the allottees to make an informed decision.
- (d) Promoters shall also upload as is being presently done, the proforma of the agreement for sale proposed to be signed with the allottees that may be as per the model form of agreement at Annexure A of Rule 10 of the Rules or the proforma of the agreement for sale as may be modified and adapted by promoters on case to case basis having regard to the facts and circumstances of each case.
- (e) In the event there are any deviations / modifications in the proforma of the agreement for sale as proposed by promoters and the model form of agreement at Annexure A of Rule 10 of the Rules, then such deviations / modifications

shall be highlighted in different colour and accordingly be uploaded along with a deviation sheet mentioning/indicating therein the deviations/modifications while seeking registration of the real estate project so as to enable the allottee to make an informed decision.

- (f) Non-compliance of the above or if the deviations / modifications proposed by promoters in the proforma of the allotment letter or the proforma of the agreement for sale as uploaded is / are contrary to the provisions of the Act, the Rules and Regulations made thereunder, then the application of the promoter for registration of the real estate project shall be liable to be rejected subject to compliance of the mandate as provided in the proviso to Section 5 of the Act.
- (g) This Order shall supersede Order No. 31/2022 bearing No. MahaRERA/Secy/File No. 27/164/2022 dated 01.07.2022.
- (h) This Order shall come into force with immediate effect.

By order of the Authority



(Dr. Vasant Prabhu)
Secretary / MahaRERA