

NOTIFICATION

URBAN DEVELOPMENT AND URBAN HOUSING DEPARTMENT

Sachivalaya, Gandhinagar.

Dated the 15th July, 2019.

Gujarat
Ownership
Flats Act,
1973.

No:- GH/98/2019/AHM/102018/1524/Th.1 :-The following draft of rules, which is proposed to be issued under clause (e) of sub-section (2) of section 44 read with section 41A of the Gujarat Ownership Flats Act, 1973 (Guj.13 of 1973) is published as required by sub-section (1) of the said section 44 of the said Act, for the information of all persons likely to be affected thereby; and notice is hereby given that the said draft rules shall be taken into consideration by the Government on or after the expiry of a period of thirty days from the date of publication of this notification in the *Official Gazette*.

2. Any objection or suggestion which may be received by the Secretary to the Government of Gujarat (Housing), Urban Development and Urban Housing Department, Block No.14, Saradar Bhavan, Sachivalaya, Gandhinagar, from any person with respect to the said draft rules before the expiry of the aforesaid period, shall be considered by the Government.

DRAFT NOTIFICATION

No:- GH/98/2019/AHM/102018/1524/Th.1 :- In exercise of the powers conferred by clause (e) of sub-section (2) of section 44 read with section 41A of the Gujarat Ownership Flats Act, 1973 (Guj.13 of 1973), the Government of Gujarat hereby makes the following rules further to amend the Gujarat Ownership Flats Rules, 1974, namely:-

1. (1) These rules may be called the Gujarat Ownership Flats (Amendment) Rules, 2019.

(2) They shall come into force on the date of their publication in the *Official Gazette*.

2. In the Gujarat Ownership Flats Rules, 1974 (hereinafter referred to as “the said rules”), in rule 2, after clause (d), the following clause shall be inserted, namely:-

“(e) “concerned authority” means,-

(a) in relation to a city, a municipal corporation constituted under the Gujarat Provincial Municipal Corporations Act, 1949 (Bom. LIX of 1949);

(b) in relation to a municipal area, a municipality constituted under the Gujarat Municipalities Act, 1963 (Guj. 34 of 1964);

(c) in relation to a Panchayat area, the Village Panchayat constituted under the Gujarat Panchayats Act, 1993 (Guj. 18 of 1993);

(d) in relation to a Urban Development area, Urban Development Authority as constituted under the Gujarat Town Planning and Urban Development Act, 1976 (President’s Act No. 27 of 1976).”

3. In the said rules, after rule 17, the following rules shall be added, namely:-

"18. Conditions for Re-development Project/ Work.- The terms and conditions governing the re-development work/project of a building to be carried out by the Developer shall be as under, namely:-

- (1) (a) The period of twenty-five years of a building shall have completed from the date of issuance of the permission for development by the concerned authority, or
(b) The building is declared dilapidated, ruinous or dangerous in any way to any person occupying, resorting to or passing by such structure or any other structure or place in the neighborhood thereof by the concerned authority, and
- (2) Consent of not less than seventy-five per cent. of the members of the building for re-development of the building shall be necessary.

19. Procedure for re-development.- (1) The Managing Committee or the Body of a Co-operative Society or Association by whatever name called which is managing the affairs of the building, either *suo-moto* or on an application received from one-fourth members of the flats or the apartments, as the case may be, with regard to undertaking the re-development of the building for the reasons as provided in section 41 A of the Act, the Managing Committee or the Body shall convene the special general meeting of the co-operative society or association within a period of one month from the date of such application to take the policy decision on re-development of the building.

(2) The rules and the by-laws of the society or apartments made under the relevant law with respect to convening meetings of the General Body or the Managing Committee, notice, circulation of agenda items, quorum at the meetings, taking policy decisions, entering into

agreement, supplying minutes of the meeting to the members, etc. shall apply to the matters relating to re-development project.

(3) The Managing Committee shall place before the General Body the agenda item for taking policy decision relating to re-development of building; and for appointment of the Architect / Project Management Consultant to prepare the re-development project. The special general body meeting shall take a decision with the consent of not less than seventy-five per cent. of the total members of the body for re-development of the building and select a Architect / Project Management Consultant to prepare the re-development project ; and authorize the Managing Committee to take all further necessary action/steps for re-development project. After taking decisions as aforesaid, all members of the building shall be informed with reference to the policy decision of re-development of the building taken in the meeting.

20. Project Report. – (1) The Architect / Project Management Consultant appointed by the Managing Committee as per the special general meeting decision, shall prepare the project report within two months from the date of appointment and submit the same to the Managing Committee. The project report shall contain carpet area to be provided to the members, providing alternative accommodation and payment of rent, vacant area, garden, parking, building specifications, common areas, recreation facilities and amenities, provisions of corpus fund and bank guarantee, time-limit for completion of the re-development project, obtaining the approvals/permissions from all

statutory bodies required under the applicable laws ; and such other matters as may be necessary for re-development project.

(2) The Architect / Project Management Consultant shall prepare the project report and invite the offers from the eligible contractors, builders, company or developer.

21. Preparing list of offers received.- Immediately after receiving the offers from the contractors, builders, company or developer within the stipulated time limit, the Secretary of the Managing Committee shall prepare a list of offers received and display the same on the notice board of the office of the building for knowledge and information of the members.

22. Selection of Developer.- The Managing Committee shall after considering the offers received and presentation made by each contractor, builder or developer, as the case may be, select one as the developer for the re-development project.

23. Agreement with the Developer.- Subject to the terms and conditions as approved by the special general body meeting of the building, a development agreement shall be entered into with the Developer in consultation of the Architect / Project Management Consultant. The development agreement shall, among others, shall contain, the following -

- (i) the period of completing re-development project of the building;
- (ii) a bank guarantee, if any, for amount equal to such sum as may be agreed to by the parties;

- (iii) free alternative accommodation to the members till the re-developed flat is handed over to the member, or cash in lieu of existing premises or any combination;
- (iv) registration of development agreement under the Registration Act, 1908;
- (v) conditions for admission of new members in the building;
- (vi) right of the Developer to sell and/or transfer and dispose of the remaining flats forming part of the re-development project;
- (vii) carpet area to be allotted to each member;

- (viii) the procedure for allotment of flats to the existing and new members;
- (ix) the procedure of termination of development agreement for default or breach of any of the conditions of agreement;
- (x) other terms and conditions such as amenities to be provided by the Developer, corpus fund, if any, shifting charges, common infrastructure development work, penalty clause for delay in completion of the project, obtaining required approvals for re-development project, re-development work as per the Development Control Regulations of the concerned authorities; and other matters as per the agreement by the parties.

24. Prohibition on certain acts.-- The Developer shall not make any changes in the building plan except with the written permission of the Managing Committee.

25. Allotment of new flats.- (1) After the re-development work is completed and the completion certificate as well as the Building Use Permission (certificate) is obtained, the Managing Committee shall allot the flats to the existing members as per the list annexed to the development agreement.

(2) The Managing Committee may, if necessary, may pass a resolution to authorize the Developer to sell, transfer, lease, mortgage, convey or deal with any manner in respect of the balance of the units apart from the new units re-allotted to the existing members.”.

By order and in the name of the Governor of Gujarat,

Lochan Sehra

Secretary to Government.

