

APPENDIX E-2

HOUSING DEPARTMENT

Madam Cama Marg, Hutatma Rajguru Chowk, Mantralaya,
Mumbai 400 032,

dated the 19th April 2017

NOTIFICATION

REAL ESTATE (REGULATION AND DEVELOPMENT) ACT, 2016.

No. REA. 2016/C.R. No. 79/DVP-2.—In exercise of the powers conferred by sub-sections (1) and clauses (oa),(r), (s), (u), (zb), (zc) and (zf) of sub-section (2) of section 84 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016), and of all other powers enabling it in that behalf, the Government of Maharashtra, after considering the objections and suggestions pursuant to the Government Notification, Housing Department, No. REA. 2016/C.R. No. 79/DVP-2, dated the 8th of December 2016, published in the *Maharashtra Government Gazette*, Part IV-A, Extraordinary No. 164, dated the 8th of December 2016, is hereby pleased to make the following rules, as follows, namely :—

1. *Short title and commencement.*—(1) These rules may be called the Maharashtra Real Estate (Regulation and Development) (Recovery of Interest, Penalty, Compensation, Fine payable, Forms of Complaints and Appeal, etc.) Rules, 2017.

2. *Definitions.* – In these rules, unless the context otherwise requires, –

(a) “Act” means the Real Estate (Regulation and Development) Act, 2016 (16 of 2016);

(b) “Appellate Tribunal” means the Maharashtra Real Estate Appellate Tribunal established under sub-section (1) of section 43 by the State Government by notification in the *Official Gazette*;

(c) “Authority” means the Maharashtra Real Estate Regulatory Authority established under the sub-section (1) of section 20.

(d) “Chairperson” means the Chairperson of the Authority appointed under section 21 of the Act;

(e) “Form” means the Form appended to these Rules;

(f) “State Government” or “Government” means the Government of Maharashtra.

(2) Words and expressions used but not defined herein shall have the same meaning as respectively assigned to them in the Act.

3. *Manner of recovery of Interest, penalty and compensation.* – Any interest or penalty or compensation imposed on a promoter or an allottee or a real estate agent shall be recoverable under section 40 of the Act, from such promoter or allottee or real estate agent, as the case may be, in the same manner as applicable in respect of land revenue as provided in the Maharashtra Land Revenue Code, 1966 (Mah. XLI of 1966).

4. *Manner of implementation of order, direction or decision of the Adjudicating Officer, the Authority or the Appellate Tribunal.* – For the purpose of sub-section (2) of section 40, every order passed by the Adjudicating Officer, Authority or Appellate Tribunal, as the case may be, under the Act or the rules and regulations made thereunder, shall be enforced by the Adjudicating Officer, the Authority or the Appellate Tribunal in the same manner as if it were a decree or order made by the principal civil court of original jurisdiction in a suit. In the event such Adjudicating Officer, the Authority or Appellate Tribunal is unable to execute the order, it shall send a copy of such

order to the principal civil court, to execute such order either within the local limits of whose jurisdiction the real estate project is located or in the principal civil court of original jurisdiction within the local limits of whose jurisdiction the person against whom the order is being issued, resides, or carries on business, or personally works for gain alongwith a certificate stating that such an order has not been executed by it.

5. *Terms and conditions and the fine payable for compounding of offence.* – (1) The court may, for the purposes of compounding of any offence under section 70, accept a sum of money as specified in the Table below : –

Table

Offence	Money to be paid for compounding the offence
Offence under sub-section (2) of section 59	5 percent. of the estimated cost of the real estate project which may extend upto 10 percent. of such estimated cost.
Offence under section 64	5 percent. of the estimated cost of the real estate project which may extend upto 10 percent. of such estimated cost.
Offence under section 66	5 percent. of the estimated cost of the plot, apartment or building, as the case may be, of the real estate project, for which the sale or purchase has been facilitated, which may extend upto 10 percent. of such estimated cost.
Offence under section 68	5 percent. of the estimated cost of the plot, apartment or building, as the case may be, which may extend upto 10 percent. of such estimated cost.

(2) The Officer authorised by the Government may, with the approval of the Chairperson of the Authority, accept from any person charged with such offence, by way of compounding of the offence, a sum specified in the Table to sub-rule (1).

(3) On payment of the sum of money in accordance with the table above, no further proceeding shall be taken against the accused person in respect of the same offence, and any proceeding already taken or initiated, shall stand abated and the accused person, if in custody, shall be discharged.

(4) The promoter, allottee or real estate agent, as the case may be, shall comply with the orders of the Authority or the Appellate Tribunal within the period specified by the court, which shall not be more than thirty days from the date of compounding of the offence.

6. *Manner of filing complaints with the Authority and the manner of holding an inquiry by the Authority.*—(1) Any aggrieved person, having any interest in the project, may file a complaint with the Authority for any violation under the Act or the rules and regulations made thereunder, save as those provided to be adjudicated by the Adjudicating Officer, as per Form 'A' in triplicate which shall be accompanied by a fee of rupees five thousand through NEFT or RTGS system or any other digital transaction mode:

Provided that, when the Authority makes a provision for filing a complaint web-based, it shall not be necessary to submit such form in triplicate.

(2) The Authority shall follow, for the purposes of deciding any complaint as specified under sub-rule (1), the following procedure:

(a) Upon receipt of the complaint the Authority shall issue a notice alongwith particulars of the alleged contravention and the relevant documents to the respondent;

(b) The notice shall specify a date and time for further hearing;

(c) On the date so fixed, the Authority shall explain to the respondent or his authorized representative about the contravention alleged to have been committed in relation to any of the provisions of the Act or the rules and regulations made thereunder, and if the respondent,—

(i) pleads guilty, the Authority shall record the plea, and pass such orders including imposition of penalty as it may think fit in accordance with the provisions of the Act or the rules and regulations, made thereunder ;

(ii) does not plead guilty and contests the complaint, the Authority shall demand an explanation from the respondent;

(d) In case the Authority is satisfied on the basis of the submissions made in the complaint that the submissions do not require any further inquiry, it may dismiss the complaint ;

(e) In case the Authority is satisfied on the basis of the submissions made that there is need for further hearing, it may order production of documents or other evidence on a date and time fixed by it ;

(f) The Authority shall have the power to carry out an inquiry into the complaint on the basis of documents and submissions ;

(g) The Authority shall have the power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any documents which in the opinion of the Authority, may be useful for or relevant to the subject matter of the inquiry, and in taking such evidence, the Authority shall not be bound to observe the provisions of the Indian Evidence Act, 1872 (11 of 1872) ;

(h) On the date so fixed, the Authority upon consideration of the evidence produced before it and other records and submissions if satisfied that,—

(i) the respondent is in contravention of the provisions of the Act or the rules and regulations made thereunder, it shall pass such orders including imposition of penalty as it may think fit in accordance with the provisions of the Act or the rules and regulations made thereunder, with reasons to be recorded in writing

(ii) the respondent is not in contravention of the provisions of the Act or the rules and regulations made thereunder, the Authority may, by order in writing, dismiss the complaint, with reasons to be recorded in writing ;

(i) If any person fails, neglects or refuses to appear, or present himself as required before the Authority, the Authority shall have the power to proceed with the inquiry, in the absence of such person or persons after recording the reasons for doing so.

7. *Manner of filing a complaint with the Adjudicating Officer and the manner of holding an inquiry by the Adjudicating Officer.*—(1) Any aggrieved person may file a complaint with the Adjudicating Officer, through the office of the Authority, for compensation under section 12, 14, 18 and 19. The complaint shall be filed in Form 'B' which shall be accompanied by a fee of rupees five thousand through NEFT or RTGS system or any other digital transaction mode.

(2) The Adjudicating Officer shall follow, for the purposes of deciding any complaint as specified under sub-rule (1), the following procedure:

(a) Upon receipt of the complaint the Adjudicating Officer shall issue a notice along with particulars of the alleged contravention and the relevant documents to the respondent;

(b) The notice shall specify a date and time for further hearing;

(c) On the date so fixed, the Adjudicating Officer shall explain to the respondent or his authorized representative about the contravention alleged to have been committed in relation to any of the provisions of the Act or the rules and regulations made thereunder and if the respondent, —

(i) pleads guilty, the Adjudicating Officer shall record the plea, and pass orders, adjudging the quantum of compensation as it thinks fit in accordance with the provisions of the Act or the rules and regulations, made thereunder;

(ii) does not plead guilty and contests the complaint, the Adjudicating Officer shall demand an explanation from the respondent;

(d) In case the Adjudicating Officer is satisfied on the basis of the submissions made that the complaint does not require any further inquiry it may dismiss the complaint.

(e) In case the Adjudicating Officer is satisfied on the basis of the submissions made that there is need for further hearing into the complaint it may order production of documents or other evidence on a date and time fixed by it.

(f) On the date so fixed, the Adjudicating Officer shall require the applicant and respondent to give evidence or to produce any document which in the opinion of the Adjudicating Officer, may be useful for or relevant to the subject matter of the inquiry. Thereafter, the Adjudicating Officer shall have the power to carry out an inquiry into the complaint on the basis of documents and submissions.

(g) The Adjudicating Officer upon consideration of the evidence produced before it and other records and submissions is satisfied that, —

(i) the respondent is in contravention of the provisions of the Act or the rules and regulations made thereunder it shall pass orders, adjudging the quantum of compensation as it thinks fit in accordance with the provisions of the Act or the rules and regulations made thereunder with reasons to be recorded in writing;

(ii) the respondent is not in contravention of the provisions of the Act or the rules and regulations made thereunder the Adjudicating Officer may, by order in writing, dismiss the complaint, with reasons to be recorded in writing.

(h) If any person fails, neglects or refuses to appear, or present himself as required before the Adjudicating Officer, the Adjudicating Officer shall have the power to proceed with the inquiry in the absence of such person or persons after recording the reasons for doing so.

(i) The Adjudicating Officer shall before passing any order, consider the factors specified in section 72.

8. *Manner of service of notice and order.* — (1) Adjudicating Officer shall deliver a certified copy of the order to the complainant and respondent.

(2) A notice or an order issued under these rules shall be served

in any of the following manner, —

(a) by delivering or tendering it to that person or person's authorised agent in an electronic form provided that there is sufficient evidence of actual delivery of the electronic record to the concerned person ; or

(b) by sending it to the person by registered post with acknowledgement due to the address of his place of residence or the last known place or residence or business place ; or

(c) if it cannot be served under clause (a) or (b) above, then by affixing it, in the presence of two witnesses, on the outer door or some other conspicuous part of the premises in which that person resides or is known to have last resided, or carried on business or personally works or last worked for gain.

9. *Manner of filing Appeal to the Appellate Tribunal.* — (1) Every appeal filed under sub-section (1) of section 44 shall be accompanied by a fee of rupees five thousand through NEFT or RTGS system or any other digital transaction mode.

(2) Every appeal shall be filed in Form 'C' in triplicate appended to these rules along with the following documents, —

(a) attested true copy of the order against which the appeal is filed;

(b) copies of the documents relied upon by the appellant and referred to in the appeal;

(c) index of the documents :

Provided that, when the Authority makes a provision for filing a complaint web-based, it shall not be necessary to submit such form in triplicate.

FORM 'A'

[see rule 6]

COMPLAINT TO THE AUTHORITY

(Complaint under section 31 of the Act)

For use of Authority(s) office :

Date of filing :.....

Date of receipt by post :.....

Complaint No. :.....

Signature :.....

Authorized Officer :.....

IN THE MAHARASHTRA REAL ESTATE REGULATORY
AUTHORITY OFFICE (Name of place)

Between

..... Complainant(s)

And

..... Respondent(s)

Details of claim :

1. Particulars of the complainant(s) :

- (i) Name of the complainant :
- (ii) Address of the existing office/ residence of the complainant :
- (iii) Address for service of all notices :

2. Particulars of the respondents :

- (i) Name(s) of respondent :
- (ii) Office address of the respondent :
- (iii) Address for service of all notices :

3. (a) Jurisdiction of the Authority :

The complainant declares that the subject matter of the claim falls within the jurisdiction of the Authority.

- (b) Project Registration No.

4. Facts of the case :

[give a concise statement of facts and grounds for complaint]

5. Relief(s) sought :

In view of the facts mentioned in paragraph 4 above, the complainant prays for the following relief(s).....

[Specify below the relief(s) claimed explaining the grounds of relief(s) and the legal provisions (if any) relied upon]

6. Interim order, if prayed for :

Pending final decision on the complaint the complainant seeks issue of the following interim order :

[Give here the nature of the interim order prayed for with reasons]

7. Complaint not pending with any other court, etc. :

The complainant further declares that the matter regarding which this complaint has been made is not pending before any court of law or any other Authority or any other Tribunal(s).

8. Particulars in respect of the fee in terms of sub-rule A(1) of rule 6 :

(i) Amount

(ii) Mode

9. List of enclosures :

[Specify the details of enclosures with the complaint]

Verification

I (name in full block letters) son/ daughter of the complainant do hereby verify that the contents of paragraphs [1 to 9] are true to my personal knowledge and belief and that I have not suppressed any material fact(s).

Place :

Date :

Signature of the complainant(s)

FORM 'B'

[see rule 7]

APPLICATION TO ADJUDICATING OFFICER

(Claim for compensation under section 31 read with section 71 of the Act)

(see rule 7)

For use of Authority(s) office :

Date of filing :.....

Date of receipt by post :.....

Complaint No. :.....

Signature :.....

Authorized Officer :.....

Between

..... Applicant(s)

And

..... Respondent(s)

Details of claim :

1. Particulars of the applicant(s) :

(i) Name of the applicant :

(ii) Address of the existing office / residence of the applicant :

(iii) Address for service of all notices :

(iv) Details of allottees apartment, plot or building

2. Particulars of the respondents :

(i) Name(s) of respondent :

(ii) Office address of the respondent :

(iii) Address for service of all notices :

(iv) Registration No. and address of project :

3. (a) Jurisdiction of the Adjudicating Officer :

The applicant declares that the subject matter of the claim falls within the jurisdiction of the adjudicating officer.

(b) Project Registration No.

4. Facts of the case :

(give a concise statement of facts and grounds of claim against the respondent)

5. Compensation(s) sought :

In view of the facts mentioned in paragraph 4 above, the applicant prays for the following compensation(s).....

[Specify below the compensation(s) claimed explaining the grounds of claim(s) and the legal provisions (if any) relied upon]

6. Claim not pending with any other court, etc. :

The applicant further declares that the matter regarding which this application has been made is not pending before any Court of Law or any other Authority or any other Tribunal(s).

7. Particulars of the fee in terms of sub-rule A (1) of rule 7 :

(i) Amount

(ii) Mode

8. List of enclosures :

(Specify the details of enclosures with the application)

Verification

I (name in full block letters) son/ daughter of the applicant do hereby verify that the contents of paragraphs (1 to 8) are true to my personal knowledge and belief and that I have not suppressed any material fact(s).

Place :

Date :

Signature of the applicant(s)

FORM 'C'
(see rule 9)

APPEAL TO APPELLATE TRIBUNAL

(under section 44)

For use of Appellate Tribunal's office :

For use of Authority(s) office :

Date of filing :.....

Date of receipt by post :.....

Registryion No. :.....

Signature :.....

Authorized Officer :.....

IN THE MAHARASHTRA REAL ESTATE APPELLATE
TRIBUNAL (Name of place)

Between

..... Appellant(s)

And

..... Respondent(s)

Details of appeal :

1. Particulars of the appellants :

(i) Name of the appellant :

(ii) Address of the existing office / residence of the appellant :

(iii) Address for service of all notices :

2. Particulars of the respondents :

(i) Name(s) of respondent :

(ii) Office address of the respondent :

(iii) Address for service of all notices :

3. (a) Jurisdiction of the Appellate Tribunal :

The appellant declares that the subject matter of the appeal falls within the jurisdiction of the Appellate Tribunal.

(b) Project Registration No :

4. Limitation :

The appellant declares that the appeal is within the limitation specified in sub-section (2) of section 44

OR

If the appeal is filed after the expiry of the limitation period specified under sub-section (2) of section 44 specify reasons for delay

5. Facts of the case :

(give a concise statement of facts and grounds of appeal against the specific order of the Authority or the Adjudicating Officer, as the case may be passed under section(s)..... of the Act.

6. Grounds of Appeal :

7. Relief(s) sought :

In view of the facts mentioned in paragraph 5 above, the appellant prays for the following relief(s)

[Specify below the relief(s) sought explaining the grounds of relief(s) and the legal provisions (if any) relied upon]

8. Interim order, if prayed for :

Pending final decision on the appeal, the appellant seeks issue of the following interim order : –

(Give here the nature of the interim order prayed for with reasons)

9. Matter not pending with any other court, etc. :

The appellant further declares that the matter regarding which this appeal has been made, is not pending before any court of law or any other Authority or any other Tribunal(s).

10. Particulars of the fee in terms of sub-rule A (1) of rule 9:

(i) Amount

(ii) Mode

11. List of enclosures:

(i) An attested true copy of the order against which the appeal is filed

- (ii) Copies of the documents relied upon by the appellant and referred to in the appeal
- (iii) An index of the documents

Verification

I (name in full block letters) son/ daughter of the appellant do hereby verify that the contents of paragraphs (1 to 10) are true to my personal knowledge and belief and that I have not suppressed any material fact(s).

Place :

Date

Signature of the appellant(s)

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

R. K. DHANAWADE,
Deputy Secretary to Government.

On behalf of Government Printing, Stationery and Publication, printed and published by Shri Parshuram Jagannath Gosavi, Printed At Government Central Press, 21-A, Netaji Subhash Road, Charni Road, Mumbai 400 004 and published at Directorate of Government Printing, Stationery and Publication, 21-A, Netaji Subhash Road, Charni Road, Mumbai 400 004, Editor : Shri Parshuram Jagannath Gosavi.