

To All Non- Banking Financial Companies

Dear Sir/Madam,

Finance for Housing Projects – Incorporating clause in the terms and conditions to disclose in pamphlets/brochures/advertisements, information regarding mortgage of property to the NBFC

In a case which came up before the Hon'ble High Court of Judicature at Bombay, the Hon'ble Court observed that the bank granting finance in housing, should insist on projects, disclosure of the charge or any other liability on the plot in question or development project being duly made in the Brochure or pamphlet etc. which may be published by developer/owner inviting public at large to purchase flats and properties. The Court also added that this obviously would be part of the terms and conditions on which the loan may be sanctioned by the bank.

2. Keeping in view the above, it is felt desirable that while granting finance to housing / development projects, NBFCs also should stipulate as a part of the terms and conditions that:

(i) the builder / developer / owner / company would disclose in the Pamphlets / Brochures / advertisements etc., the name(s) of the entity to which the property is mortgaged.

(ii) the builder / developer / owner / company should indicate in the pamphlets / brochures, that they would provide No Objection Certificate (NOC) / permission of the mortgagee entity for sale of flats / property, if required.

3. NBFCs are advised to ensure compliance with the above stipulations and funds should not be released unless the builder / developer / owner /company fulfils the above requirements.

Yours sincerely,

(Uma Subramaniam)
Chief General Manager-in-Charge