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**Profile**

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**Expertise:**

1. Redevelopment of Housing Societies
2. Deemed Conveyance and Conveyance
3. Formation of Co-Operative Societies under MCA Act, 1960
4. Execution and Registration of various documents / Agreements such as Gift Deed, Will, Sale or Purchase Agreements
5. Transfer of Flats
6. Recovery cases under Sec 101 of MCS, Act 1960
7. Adoption of New Bye Laws
8. Opinion, advice and execution of various Agreements / documents such as Power of Attorney, Affidavit, Indemnity bond, etc.
9. Opinion on various Society matters
10. Cheque Bounce cases under Sec 138 of Negotiable Act.

**F.A.Q. category : Legal**

For registration:

1. **Q 1. What do you mean by the term Builder-Promoter?**

Ans - The term Builder-Promoter is defined under the Bye-law No. 3(xiii) of the Model Bye-laws of the Society. A “Builder- Promoter” means a person and includes a partnership firm or a body or association of persons, [whether registered or not] who constructs or causes to be constructed a block or building of flats [or apartments] for the purpose of selling some or all of them to other persons, or to a company, Co-operative Society or other association of persons, and includes his assignees; and where the person who builds and the person who sells are different persons, the term includes both.

1. **Is the chief promoters have rights to withdraw money deposited in the bank in the name of proposal society?**

Ans - The chief promoter no such rights. The chief promoter has a right to withdraw money before registration of society and with the prior consent of the registrar.

1. **Who is Chief Promoter?**

Ans – Chief Promoter is a person who is elected by the Promoters, in their first meeting, Or in their subsequent meetings and in case the post of the Chief Promoter lies vacant, till the first general Meeting.

1. **Who is Promoter?**

Ans - Promoter is a person, who has signed the application for registration of the Society.

1. **What is Committee?**

Ans - Committee means the committee of management or board of directors or the governing body or other directing body of a co-operative housing society by whatever name called, to which the management of the affairs of a society is entrusted and vested under section 73 of the Act.

1. **What is Housing Society federation?**

Ans. – Housing federation means the Federation of Co-operative Housing Societies registered and notified under the Act.

1. **Minimum how many promoter members are to be participated in the society registration proposal?**

Ans - If the building is built by the Builder and Developer than 51 per cent purchaser or promoter should be participated in the registration proposal.

1. **Q 5. What is the registration fee for registering co-operative housing society?**

Ans - It is necessary to pay the registration fee at the rate, prescribed by the government time to time. At present the rate of the registration fee is as under:

Co-owner/Ownership/Co. operative Housing Society Rs. 2,500/-

Other (general) Co. Operative societies Rs. 2,500/-

1. **Is it necessary that the promoters of the society have to make an application to chief promoter for membership before registration of society?**

Ans - Yes, if an application of membership is made before registration of society, then it would be feasible to the chief promoter to take sign on the “Y” form which is to be submitted to the registrar with the proposal of registration and to give its receipt.

1. **How to register the society and which documents required for it?**

Ans - It is obligatory to apply for co-operative society or Association of Apartment within four months from the taking possession of galas/flats/shops/units by holders, necessary for forming the co-operative society or Association of Apartment according to provisions mentioned under section 10 of the Maharashtra Ownership Flat Act 1963 and rule 8 of Rules 1964 there under. While taking into consideration of these provisions it is necessary to make an application for getting permission for opening bank account by keeping the name of the proposed society reserve by the builder/promoters/chief promoter to the Registrar, co-operative societies in the concerned. It is necessary to make selection of the chief promoter in the primary meeting of the members. If not desire to work as Chief Promoter for some reason than in such situation, any member from the galas/flats/shops/units holder can be selected as a Chief Promoter. However while submitting proposal it is necessary to submit consent letter that builder promoters are ready to co-operate for the work of registering the society. Following papers are necessary for submitting the proposal for getting permission for opening the bank account.

* + Application for opening the bank account by reserving the name of the proposed society in the prescribed format. (On adhesive court fee stamp of Rs.25/-)
  + Copy of the minutes of primary meeting (in the prescribed format)
  + Photo copy of the sale deed/development agreement executed between the original owner of the land and builder promoter.
  + Photo copy of the 7/12 extract or the Property Registered Card.
  + Photo copy of the power of attorney if given to the builder, promoter by the original owner.
  + Copy of the order form competent office under Urban Land Ceiling Act 1976.
  + Detailed scheme of the proposed society and its nature
  + List of tHe proposed members.

1. **What are the main objects of formation of a Society?**

Ans - The main objects of the formation of a Housing Society are as under:

* + To obtain conveyance from the owner/Promoter (Builder), in accordance with the provisions of the Ownership Flats Act and the Rules made there under, of the right, title and interest, in the land with building/buildings thereon as described in the application for registration of the Society;
  + To manage, maintain and administer the property of the society;
  + To raise funds for achieving the objects of the society;
  + To undertake and provide, for on its own account or jointly with cooperative institution, social cultural or re-creative activities;
  + To provide Co-operative Education and Training to develop co- operative skills of its Members, Committee Members, Officers and Employees of the Society.
  + To do all things, necessary or expedient for the attainment of the objects of the society, as specified in the bye-laws.

1. **What are the remedies to be adopted if some person collected money on account of share capital from the proposal members in the name of registration of society by providing false information?**

Ans - It is a sort of offence under section 146 of the Maharashtra Co-operative societies ACT 1960. Prosecution can be filed against such person by making formed application to the concerned Divisional Joint Registrar and with his consent.

1. **Whether the registration of the building having less than 10 flats is made?**

Ans - Subject to the following orders the society having less than 10 members can found the only condition is that the built up area of each flat should not be more than 700 sq. ft. carpet area/ built up area and the F.S.I. should not be balanced.

1. **What are the types of Co-operative Housing Societies?**
   * Classification of Co-operative Housing Societies is made in the Maharashtra Co-operative Societies Act 1960 and rule 10of Rules 1961.
   * Tenant Ownership Co-operative Housing Society in which land is holding on lease or independently. Houses are also own by the members.
   * Tenant Joint Ownership Co-operative Housing Society in which land and houses are owned by the society and house are allotted to the members.
   * Other Co-operative Housing Societies-House Mortgage-age Society-House building Society.
2. **What are the measures to be adopted if the chief promoters did not deposited the amount of the share capital collected by the Chief Promoter in the bank?**

Ans - The said act of the Chief Promoter can become the offence under section 146 of the Maharashtra Co. Operative Societies Act, 1960. Similarly prosecution may be file in the competent court against the chief promoter with the consent of the concerned Divisional Joint Registrar.

1. **What is the Area of Operation of the Society?**

Ans - The Area of Operation of the Society is confined to the area in which it is located. The Society has to specify its Area of Operation in its Bye-laws while submitting its bye-laws for approval before the Registering Authority during the registration of the Society. For the societies in Brihan Mumbai, they have to insert the City Survey Number/Gat Number and Ward in its Bye-laws. For the societies located at other places, they have to insert the City Survey Number/Gat Number and Municipal Corporation/City/Village, Taluka and District.

1. **What are the remedies if the proposed of societies registration is denied?**

Ans - Divisional Joint Registrar, Co-operative Societies under section 152 of the Maharashtra Co. operative societies Act.

1. **What are the alternations if builder is not co-operating for forming co-operative society?**

Ans - In such situation, the chief promoter of the society should submit the registration proposal to the concerned registrar in the category of builders’ non-co-operation.

Bottom of Form.

1. **Within how many days has the change in the registered address of the Society to be intimated to the Registering Authority?**

Ans - The Society has to intimate the Registering Authority and all others concerned about any change in the registered address of the society within 30 days of such change.

1. **What is the procedure for changing the name of the Society?**

Ans - The Society has to follow the procedure which is laid down under Section 15 of the Act and Rule 14 of the Rules for changing its name. Section 15 and Rule 14 are reproduced hereunder:

**Section 15: Change of Name:**

A Society may, by resolution passed at a General Meeting and with the approval of the Registrar, change its name; but such change shall not affect any right or obligation of the Society, or of any of its members, or past members, or deceased members; and any legal proceedings pending before any person, authority or Court may be continued by or against the Society, under its new name.

* + Where a Society changes its name, the Registrar shall enter the new name in its place in the register of Societies and shall also amend the certificate of registration accordingly.

**Rule 14: Change in name of Society:**

* + The name of a Society may be changed under Section 15 so howsoever that it does not refer to any caste or religious denomination and is not inconsistent with the objects of the Society.
  + Every change in the name of a Society shall be made by an amendment of its Bye-laws and shall be notified in the Official Gazette.
  + After the change in the name is approved by the Registrar, the Society shall send the original registration certificate for amendment to the Registrar, who shall return the same to the Society duly amended.
  + The registrar shall enter the new name in the register of Societies maintained by him.

1. **What is the procedure for changing the address of the society?**

Ans - For the change in the registered address of the Society, it has to follow the procedure as laid down under Rule 31 of the Maharashtra Co-operative Societies Rules of 1961. Rule 31 of the Rules are reproduced as under:

Rule 31: Procedure for change of address of Societies:

* + Every Society shall communicate in writing to the Registrar its postal address as indicated in its Bye-laws registered under the Act and wherever applicable mention the name of the District, Taluka, Tahsil, Town or Village, Municipal Ward or Mohalla, Street, House Number and Postal Circle. While communicating the postal address of the Society, the Committee of the Society shall also send a copy of the resolution passed by it for adoption of the address communicated to the registrar.
  + On receipt of the Communication from the Society under Sub-Rule 1, the Registrar shall register the address communicated by the Society in a register to be maintained for that purpose and inform the Society of such registration.
  + Every change in its registered address shall be communicated by the Society to the Registrar in the manner laid down in Sub-Rule 1. Any such change shall not be treated as registered unless:
  + It is indicated in the Bye-laws by amending them and the amendment so made is registered under the Act, and
  + The change is registered in the manner laid down in Sub-Rule 2.
  + The registered address of a Society or such change therein as may be registered, from time to time, shall be exhibited on the notice board of the Society, immediately after registration.