

I-Submission of proforma of the allotment letter and agreement for sale

As per requirement of Provision of RERA ,2016 and Rules and Regulation prescribed by MahaRERA, in respect of submission of proforma of the allotment letter, agreement for sale and the conveyance deed at the time of filing an application for registration of project , the MahaRERA Authority in its meeting held on 27.05.2022, following directions are issued :

- a. The proforma of the allotment letter shall be in accordance with model allotment letter as approved by the Authority.
- b. The allotment letter Prescribes the minimum period (number of days) within which the booking can be cancelled and the upper limit of the percentage of the amount to be deducted in case the allottee desires to cancel the booking and the same can be changed i.e. increase in minimum number of days and decrease in percentage of amount to be deducted.
- c. The promoter shall upload the amended format of allotment letter at the time of application for registration of the project.
- d. The promoter shall upload the proforma of the agreement for sale that may be as Per the model form of agreement at Annexure A of Rule 10 and in the event of any deviation in the said format the same shall be highlighted in different colour and accordingly be uploaded for Proper and speedy verification of the proforma of the agreement for sale as uploaded.
- e. if the deviations / modifications proposed by promoters in the proforma of the agreement for sale is / are contrary to the provisions of the Act, the Rules and Regulations made thereunder, then the application for registration of the project shall be liable to be rejected subject to compliance of the mandate as Provided in the proviso to Section 5 of the Act.

Notification-cum-Advisory

MahaRERA/Secy/143/2022 dated 13.06.2022

Due to upgradation in IT system by MahaRERA for registration of real estate project and real estate agent the, the existing system shall be unavailable from 12 am of 20.06.2022 till 12 am of 30.06.2022.

From 12.00 am of 30.06.2022 all application for registration of real estate projects as well as real estate agents shall be submitted in the upgraded process. The above shall also apply for applications submitted for registration of real estate projects as well as real estate agents that have been referred back to the promoter/applicant for more information/clarifications.

GujRERA/Circular/33/2022 dated 08.06.2022

As per GujRERA/Order/63/2022, From the FY 2022-2023 the Quarterly return shall require to be filed on financial Quarterly basis instead of existing system of rolling quarter and accordingly the first date for filing the Quarterly return for FY 2022-2023 shall be 07.07.2022. Therefore, for all the project for which due date for filing Quarterly return date is 07.04.2022, 07.05.2022, 07.06.2022 and 07.07.2022, the new date will be 07.07.2022.

In case of the promoter who has opted for RERA 2.0 the window is open to file the QPR by 07.07.2022 however, in case of the promoter who has opted the RERA 1.0 the window for filing the QPR is available as per the existing rolling quarter i.e. 07.04.2022, 07.05.2022, 07.06.2022.

However, by Circular no. GujRERA/Circular/33/2022 dated 08.06.2022, it is clarified that the promoter who has opted for RERA 1.0 and for which the window for filing the QPR is open on rolling quarter basis can also file the QPR by 07.07.2022 i.e. on the basis of Financial Quarter Basis.

Order No 30/2022 dated 03/06/2022 for prescribing "Allotment letter" Format

MahaRERA has issued new order no 30/2022 dated 03/06/2022. Vide this order, MahaRERA has issued a model form of "Allotment letter". Salient Features of such allotment letter are as follows:-

1. Proforma of Allotment Letter has separate space for providing descriptions about parking if any, allotted to the allottee.

2. Further, encumbrance on the real estate project if any, also need to be disclosed in the allotment letter.
3. Date of possession needs to be mentioned in the allotment letter.
4. Allotment letter format also provided "Cancellation Charges" that can be charged by the Promoter/Developer, if the allotment is requested to be cancelled by the allottee. Charges are based on the number of days within which a booking is cancelled.

Sr. No.	If the letter requesting to cancel the booking is received,	Amount to be deducted
1.	Within 15 days from issuance of the allotment letter;	Nil;
2.	Within 16 to 30 days from issuance of the allotment letter;	1% of the cost of the said unit;
3.	Within 31 to 60 days from issuance of the allotment letter;	1.5% of the cost of the said unit;
4.	After 61 days from issuance of the allotment letter;	2% of the cost of the said unit;

5. If the Promoter/Developer fails to refund the amount within 45 days from the date of cancellation, the promoter is liable to pay interest as prescribed by RERA rules i.e. maximum SBI MCLR rate 2%.
6. Proforma of Allotment Letter makes it obligatory on the part of the promoter to provide "Stage wise time schedule of completion of the project" in "Annexure A" annexed to the letter of allotment.
7. This proforma of Allotment letter can be downloaded from official website of MahaRERA – URL - <https://maharera.mahaonline.gov.in/Home/Index>

CASE LAW:

PRE-DEPOSIT CONDITION PROVIDED UNDER PROVISIO TO SECTION 43(5) OF THE REAL ESTATE (REGULATION AND DEVELOPMENT) ACT, 2016 CANNOT BE DISPENSED WITH BEFORE DEALING WITH THE APPEAL ON MERITS (M/s. KASHI HOMES PVT LTD VS NITOO SINGH ANAND MISC APPLICATION NO. 277/2022 IN APPEAL NO. AT006000000021297)

An application was filed by the Appellant Developer in this matter to waive off the condition of Pre deposit as specified in first proviso to Section 43(5) of The Real Estate (Regulation and Development) Act, 2016 on the following grounds.

- Notice of Complaint dated 18.01.2019 never served on Appellant Developer when original Complaint was taken up for hearing at The Maharashtra Real estate Appellate Tribunal ("*The Learned Authority*"). The Email purported to have been sent containing notice of hearing contained incorrect address. Copy of Complaint also not served upon Appellant Developer before fixing the date of hearing before The Ld. Authority.
- Impugned order was passed on very first date of hearing resulting into complete denial of natural justice to Appellant Developer. Therefore, Appellant Developer pleaded that provision of pre-deposit is not applicable to the present case and an appeal must be heard and decided on merits in the interest of natural justice.
- Learned Counsel for Allottee strongly opposed the request of granting waiver to the pre-deposit condition.

- The Hon'ble Maharashtra Real Estate Appellate Tribunal, after hearing brief arguments of both the Counsels, opined that exemption of pre-deposit would virtually amount to entertaining the appeal without pre deposit and hence application of Appellant developer to exempt Appellant Developer from pre deposit condition got rejected.
- Reliance was put on the judgement of *Janata Land Promoters Pvt Ltd vs. Union of India* dated 16.10.2020 decided by the Hon'ble Punjab & Haryana High Court observations as follows:

"Yet another DB of this Court has in a judgment dated 6th October, 2020 in CWP Nos. 14623 and 14689 of 2020 (M/s. Landmark Apartments Pvt. Ltd. v. Union of India), come to the same conclusion viz., that it cannot be held that the Condition of pre-deposit, as set out in the proviso to Section 43 (5) of the Act, either illegal or onerous, thereby rendering the appeal illusory. The DB has also rejected the further contention that where the ground of appeal was that the order of the Authority was itself without jurisdiction since the complaint would lie only before the AO the condition of pre-deposit would not apply. The Court in this regard has affirmed the view expressed by the learned Single Judge of Court in Janta Land Promoters Pvt. Ltd. v. Abhimanyu Singh Vinayak, 2020 (1) RCR (Civil) 160, holding that even in a case where "the Appellate Authority proceeds to decide the appeal on the ground of maintainability of the proceeding before the RERA Authority, that will also amount to hearing and taking a decision in the appeal" and that "the promoter would be liable to deposit the pre-requisite amount as per proviso to the Section 43 (5) of the Act (emphasis supplied)"