

**Procedure to be followed while
issuing Deemed Conveyance
Order and Certificate.**

Government of Maharashtra

Co-operation, Marketing and Textile Department
Government Resolution No.SaGruYo-2017/Pra.Kra.192/14-S
Date : 22nd June, 2018.

Read :-

1. The Maharashtra Ownership Flats Act, 1963.
2. Housing Department, Government Notification No. MaHaSa-2008/PraKra 170/Du and Pu – 2, Date 27-9-2010.
3. Housing Department, Government Notification No.MaHaSa-2008/PraKra 24/Part-2/Du & Pu – 2, Date 25-2-2011.
4. Housing Department, Government Resolution No.MaHaSa-2008/PraKra 24/Part-2/Du & Pu – 2, Date 25-2-2011.
5. Revenue and Forest Department, Government Circular No. Misc. 2012/PraKra 442/L – 1, Date 23-11-2012.
6. Co-operation, Marketing and Textile Department, Government Circular No. SaGruYo-2013/UO-02/PraKra 235/14-S, Date 29-04-2014.
7. Co-operation, Marketing and Textile Department, Government Circular No. SaGruYo-2013/UO-02/PraKra 235/14-S, Date 7th June,2014.
8. Order of the Commissioner, Co-operation and Registrar, Co-operative Societies, Maharashtra State, Pune, Outward No.Housing/D-3/Deemed Conveyance/2015, Date 23rd July, 2015.
9. Housing Department, Government Resolution, No. Misc. 2016/PraKra 1/Du & Pu-2, Date 29th March, 2016.
10. Housing Department, Government Resolution, No. Misc. 2016/PraKra 1/ Du & Pu – 2, Date 14-06-2016.
11. Revenue and Forest Department, Government Circular, No. Stamp 2012/1016/PraKra 294/M-1, Date 12th July, 2016.
12. Housing Department, Government Resolution, No. Misc. 2016/PraKra 1/Du & Pu -2, Date 18-09-2017.

Introduction :-

There is a provision in the Maharashtra Ownership Flats Act, 1963 and Rules, 1964 for making conveyance of the land and building of the Co-operative Housing Societies or Apartments by the Developer/Promoter within a prescribed period. However, since the implementation of this provision is not being followed by the Developer/Promoter, the

Housing Department by making amendment in Section 10 and 11 of the said Act has made provision of Ex-parte Deemed Conveyance of the Co-operative Housing Societies. And for this purpose all District Dy. Registrar, Co-operative Societies in the state and Joint Registrar, Co-operative Societies (CIDCO) for the CIDCO Jurisdiction have been appointed as Competent Authority for this purpose. Similarly incidental to implementation of the said procedure, the list of the necessary documents required for deemed conveyance has been fixed under the Government Resolution, Housing Department, dated 25-02-2011. However, since the Housing Societies faced many problems in obtaining the said documents, the deemed conveyance procedure was not that much impetus. Similarly it is also noticed that Societies also are not ready to come forward for this.

2. Considering the above matters and since it is necessary to make simplification of deemed conveyance procedure of the co-operative housing societies and to minimized the number of documents required for it, a committee on the level of Commissioner, Co-operation and Registrar, Co-operative Societies, Maharashtra State, Pune was constituted for making recommendations to the Government by studying in this regard. Incidental to the report submitted by the said committee and to take policy decision in this regard, a co-ordination committee under the Chairmanship of the Principal Secretary (Housing) was constituted. In the meeting of the said committee, all recommendations in the report submitted by the Commissioner, Co-operation, and Registrar, Co-operative Societies, Maharashtra State, Pune have been accepted. Similarly, Housing Department vide its Government Resolution, dated 14-06-2016, has bring down the number of required documents for deemed conveyance from 12 to 8. And similarly Revenue and Forest Department also issued Circular in this regard on dated 12-07-2016 regarding at least 5 documents are necessary for valuation and registration of deemed conveyance.

3. Since the recommendations in the report submitted to the Government in respect of deemed conveyance by the Commissioner, Co-operation and Registrar, Co-operative Societies, Maharashtra State, Pune are related with Revenue and Forest Department, Urban Development Department, Co-operation, Marketing and Textile Department, Hon'ble Chief Secretary has communicated to the respective department to take necessary action on the said recommendations and submit the report in this regard. Thereafter incidental to implementation of these recommendations, one meeting was organized in his chairmanship on dated 26-09-2016, In the said meeting, review of the action taken by the concerned departments incidental to the recommendations of the committee constituted under the Chairmanship of Principal Secretary (Housing) for removal problems in the deemed conveyance was taken and similarly year wise review of the pending deemed conveyance cases in the office of the Commissioner, Co-operation and Registrar, Co-operative Societies, Maharashtra State, Pune was also taken. It came to notice during the discussion that, since it would be more difficult to the applicant to submit prescribed documents mentioned in the Government Resolution issued by various department, therefore if only one Government Resolution prescribing all documents as expected by this department and inclusive of all guidelines, all information will get at one level and procedure of making application would be easier and giving relief to the applicant. Therefore, it is decided in the said meeting that, by taking in consideration the provisions

regarding deemed conveyance and the procedure to be followed by the Competent Authority incidental to that, duties to be discharged and difficulties faced by the citizens, a draft of one Government Resolution only should be prepared. The said Government Resolution should be issued after taking opinion of all concerned departments.

4. Incidental to above facts, the matter to issue the said Government Resolution by superseding earlier Government Resolutions for bringing rationalization in the present existing procedure regarding deemed conveyance was under consideration of the Government.

GOVERNMENT RESOLUTION :-

Considering the fact in the above introduction, the under reference no.6 and 7 Government Resolutions dated 29-04-2014 and 07-06-2014 respectively are hereby superseded and revised orders regarding procedure to be followed in respect of giving deemed conveyance order and certificate are issued herewith.

2. All inclusive procedure to be follow in respect of the deemed conveyance of co-operative housing societies has been fixed in the following stages :-

Stage 1 : To make an application in the prescribed form 7 with necessary document and draft of conveyance to the concerned District Dy. Registrar, Co-operative Societies Office for Deemed Conveyance, similarly to obtained Deemed Conveyance Order and Certificate with documents.

Stage 2 : The draft document of the deemed conveyance with the details of stamp duty of all flat owners should be adjudicated from the Joint District Registrar and Collector of Stamp.

Stage 3 : After the adjudication order, the said document should be get registered in the office of the Sub Registrar (purchase – sale).

Stage 4 : To apply for entering the name in the record (7/12) to the concerned City Survey Officer or Circle Officer/Talathi according the registered document. The procedure of deemed conveyance shall be completed only after entering society's name as a occupant in the property card or 7/12 extract by the concerned officer.

(A) Following documents are necessary for submitting Deemed Conveyance Application. The Co-operative Housing Societies should submit online and offline (hard copy) application only when they have available the said documents. A copy of the offline (hard copy) application with the fee of Rs.2000/- (if paid in Court Fee Stamp or online then with its receipt) should be submitted to the District Dy. Registrar, Co-operative Societies/Jt. Registrar, Co-operative societies (CIDCO) and at the same time to the Collector of Stamp of the concerned District.

1) Documents to be uploaded with online application:-

- i) Application in form 7 for Deemed Conveyance (as Appendix – 1)
- ii) A copy of the Co-operative Housing Society Registration Certificate/Company Registration Certificate/Deed of Declaration.
- iii) Particulars of the applicant society and a copy of the resolution regarding deemed conveyance passed in the Annual General Body Meeting/Special General Body Meeting.
- iv) Three months earlier extract of the property cards (property card 7/12 extract etc.).
- v) A list of all legal flat owners in the society in prescribed form.
- vi) A legal notice serve to the promoter by the co-operative housing society under the Maharashtra Apartment Act, 1970 for giving conveyance.
- vii) Construction Commencement Certificate (CC) similarly Occupation Certificate issued by the Planning/Competent Authority.
- viii) If the concerned society does not have Occupation Certificate then self-declaration that actual possession of the building has been taken and similarly ready to accept all responsibilities/liabilities regarding the said building and to make an application to the concerned Urban Local Authority for Occupation Certificate after getting Deemed Conveyance. (According to Appendix 5)
- ix) Court Fee Stamp of Rs. 2000/- or online fee.
- x) Self Declaration of the applicant regarding documents are true. (According to Appendix-4)

2) Documents to be submitted with Off line Application (Hard Copy) :-

- i) An application in form 7 for Deemed Conveyance. (With Stamp Duty as mentioned above)
- ii) A copy of form 7 in respect of received the Deemed Conveyance Number (D. C. No.).
- iii) A copy of the sale agreement of flat of one member in society and index 2 or proof of ownership of flat like inheritance certificate, Court Decree or will etc.
- iv) A copy of the final approved plan from the Competent Authority of the Layout get sanctioned by the Developer.

(B) A procedure to be adopted in respect of issuing Deemed Conveyance Certificate by the District Dy.

Registrar, Co-operative Societies/Jt. Registrar, Co-operative Societies (CIDCO) and Competent Authority :-

A Competent Authority first ensured that the documents mentioned in above mentioned (A) are attached with the application and there after action should be taken as follow

i) While accepting Deemed Conveyance application, it should be seen that the concerned holders on 7/12 extract and property card are same holders giving in writing the documents and they have made party with address and all other societies and also company apartment etc. existing on the same layout are also made parties.

ii) After ensuring that documents are attached as above, a hearing notice according to MOFA Act, 1960 and Rule 13(2) of Rules, 1964 should be issued to all concerned parties.

iii) After issuing hearing notice, if District Dy. Registrar , Co-operative Societies and Competent Authority ensured at the time of hearing that some remain to be made party then order should be given to the applicant to make parties all those concerned.

iv) While passing Deemed Conveyance Order and Certificate, District Dy. Registrar, Co-operative Societies/Jt. Registrar, Co-operative Societies (CIDCO) and Competent Authority should considered following matter and then pass the order :-

1) If there are many buildings on one plot and have a separate co-operative society of each building and if construction of some of them is incomplete then while making Deemed Conveyance of completed building, undivided share of occupancy right in the proportion of construction on the proportionate area of the construction of the building of such society or ground coverage or plinth area, similarly open space, common services and facilities, roads should be given.

2) While making Deemed Conveyance in respect of the buildings in the layout where T.D.R. is utilized, their conveyance should be made according to plinth and appurtenant area.

3) If there is more than one society in one layout and out of them only one society has made such application, similarly other societies are not co-operating for conducting measurement of the land of the applicant society then the District Dy. Registrar, Co-operative Societies, and Competent Authority shall suggest the applicant society to conduct the measurement according to the approved plan from the Architect on the panel of the Competent Authority who approved the construction plans of the concerned society and submit the report regarding area of the society.

4) If the developer did not completed the project in expectation of getting additional F.S.I. OR T.D.R. in urban area, then in such cases, deemed conveyance of the number of flats proposed as per approved construction plan and that much flats are constructed then their deemed conveyance should be made.

5) By checking application in prescribed form of the society and the documents submitted along with it, if application is fulfilled in all respect, then only the Competent Authority should issue Deemed Conveyance Order and Certificate to the concerned society.

6) While mentioning common easement in the Deemed Conveyance order, certificate and documents, it should be mentioned in it that the applicant society have the right with undivided rights of common easements in the proportion of the construction of the building of society.

(D) Procedure to be followed regarding adjudication on the level of Collector of Stamps :-

The procedure to adjudicate on the Deemed Conveyance Draft Documents with the details of the Stamp Duty paid by all flat owners on the level of Joint District Registrar and Collector of Stamps should be as follow :-

1) In the cases of Deemed Conveyance of the Co-operative Societies, -

i) Where, if there is specifically mentioned in the Deemed Conveyance documents that no F.S.I. is balance, and the current date Architect's Certificate in that regard is attached with it; and

ii) If the agreements in benefit of present tenement holders of all flats/tenements which is a subject matter of Deemed Conveyance are duly registered with proper stamp duty according to concerned rate in the current Article 25 at the time of execution date then the society can submit the said deemed conveyance deed to the concerned Sub Registrar directly for registration after paying stamp duty at the rate of number of flats X Rs. 100/- or as prescribed by the Government from time to time. To make adjudication of the said document is not necessary.

If the concerned Sub Registrar is ensured about condition no. (i) and (ii) then he will complete the registration of the said deed. After completion the process accordingly the Sub-Registrar shall forward the document to the Collector of Stamp of the District for checking immediately and in the checking if found that less stamp duty is paid to the said documents, then the liability to paid the said stamp duty and the penalty on it to be charged according to Stamp Act shall be lay on the concerned society.

2) Regarding the matters which not falls in above 1 -

i) If society has submitted a copy of the proposal for pre verification with the Collector of Stamps according to above A(2), the Collector of Stamp shall verify that documents and if

required some more documents shall informed the society by letter in writing. The Collector of Stamp shall complete all necessary proceedings in respect of fixing the valuation and stamp duty on the basis of the papers submitted by the society, and thereafter the society, after completion process in the office of the Competent Authority, shall submit the application duly for adjudication as mentioned in 2(ii) above before Collector of Stamps. At that time, Collector of Stamps shall include the papers in the pre-verification case in the said adjudication case and shall pass order by considering facts in the included draft deemed conveyance deed and communicate to the society in that regard.

ii) Documents to be submitted for Adjudication :-

Cases in which adjudication is necessary, the society should have to submit following documents to the office of the Collector of Stamps for making adjudication incidental to paying the Stamp Duty.

i) Application in prescribed form with Rs.10/- Court fee stamp affixed on the application.

ii) Code number received by making data entry on the www.igrmaharashtra.gov.in website of Registrar and Stamp Duty Department online services>Adjudication>process

iii) Purchase Deed Draft (in two copies).

iv) A copy of Deemed Conveyance Order and Certificate issued under Section 11(3) of the Maharashtra Ownership Flats Act 1963.

v) Proof of making payment of Stamp Duty on the Agreement of Flats (if agreement is registered then Index No.2, otherwise original agreements)

III) After receiving the Deemed Conveyance Certificate, if the society has made application with complete documents to the Collector of Stamps for adjudication, The Collector of Stamp give final decision of the adjudication within 30 days from the receipt of the said application. However, the period from the written letter given the society by the Collector of Stamps for fulfilling the necessary documents and till the period that society fulfilling all that documents shall not be counted in this 30 days period.

IV) Those members whose proof of making payment of Stamp Duty on the Agreement of the flat is not available, then it shall be necessary to pay the stamp duty fixed for those flats only by the concerned flat owners.

V) If some members evading to pay Stamp Duty due according to above 2(IV), then society either recover the said amount from the flat owner and deposited it with the Government or society by depositing the said amount with the Government and thereafter recovered it from the flat owner.

E) Registration of documents by the Sub-Registrar :-

According to the final adjudication order issued by the Collector of Stamps, by depositing Stamp Duty with the Collector of Stamps and after he has given such certificate on documents, the said documents after the signature of the concerned, the society shall submit the said documents to the Sub-Registrar in the jurisdiction of the society.

It is necessary to attach true copies of the identity card of the parties in the deed, and similarly proof for making payment of registration fee through GRAS system(E chalan) .

The concerned Sub-Registrar should complete the registration of above documents within 1 day time limit as stipulated under Maharashtra Lok Seva Hakk Notification-2015.

F) To make an entry in the record on the basis of Deemed Conveyance Documents -

According to the registered deemed conveyance documents with Sub-Registrar, the concerned society should make an application to the City Survey Officer or Talathi/Circle Officer connected with the jurisdiction of the society for entering the name of concerned society in the occupant column on the property card or 7/12 extract within prescribed period according to the procedure in the Maharashtra Land Revenue Code, 1966 and the rules made there under.

In the name and order of the Governor of Maharashtra.

(K. C. Badgular)
Section Officer,
Government of Maharashtra.