


Refresher Course on Co-operative Society

Organised by
WIRC of ICAI

**Redevelopment Guidelines
u/s 79A of the MCS Act 1960**

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Redevelopment of Housing Society

- Redevelopment is a method of urban renewal that seeks to provide additional and better quality housing in place of the existing (old) structure of the Society.
- Under redevelopment schemes, societies plan to undertake redevelopment of existing building owned by them and for that purpose they enter into Development Agreements with Builders/Promoters.




Redevelopment of Housing Society

- Under Development Agreement, Builder/Promoter undertakes construction on the plot of land, after demolishing existing building, and gives flats to existing members of the Society free of cost in proportion to the area of flats occupied by such members in the existing building along with some additional area in the new flat.
- Remaining Flats in the new building are available for sale to the Builder/Promoter to independent buyers at market price to recover overall cost of the project and profit of the Builder/Promoter



Starting Redevelopment Process

- The Society should consider Redevelopment of the building only if an adverse Structural Audit Report is received from an approved Structural Auditor appointed by the Society to do Structural Survey /Audit of the Building as per Bye-Law no. 77 and his report should clearly mention the details of defects / remedies / cost of repairs etc.
 - The Society should consider Re-development only if the Society has Conveyance Deed in their favour. Without Conveyance, the Society should not pass any resolution for redevelopment but should only move towards major repairs.
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Object of a Housing Society

154B-1 (17) “housing society” means a society, the object of which is

- to provide its Members with open plots for housing, dwelling houses or flats ; or
- if open plots, the dwelling houses or flats are already acquired, to provide its Members common amenities and services and
- **to demolish existing buildings and reconstruct or to construct additional tenements or premises by using potential of the land ;**



Background of the Section 79A

➤ **79- A Government's powers to give directions in the public interest, etc.-**

If the state government receives a report from the Registrar or otherwise, it is satisfied that in the public interest or for the purpose of securing proper implementation of Co-operative production or other development program approved or undertaken by government, or to secure the proper management of the business of the society generally or for preventing the affairs of the society being conducted in a manner detrimental to the interest of the members, or of the depositors or the creditors thereof, it is necessary to issue directions to any class of societies generally or to any society or societies in particular, then the state government may issue directions to them from time to time and all the societies or the societies concerned shall be bound to comply with such direction.

Background of the Section 79A

➤ **Courts of law and Registrar are receiving numerous complaints from members against society where redevelopment is happening and or is about to start. Some of the major complaints relating to redevelopment are as under:**

1. The members are not taken in confidence in the process of redevelopment.
2. Lack of transparency in redevelopment process.
3. Appointment of Contractors in a haphazard manner.
4. Gross violations of provisions of Co-operative Act, Rules and Bye-Laws.
5. Lack of co-ordination between Architect and Project Consultant.
6. Project Report is not prepared.
7. Proper Procedure for finalizing tenders is not followed.
8. There is no uniformity in agreements with Developers.
9. Nexus between the managing committee members and Developer.

Background of the Section 79A

➤ **Government Resolution No:**

Sa. Gru.Yo-2007/Pra.Kra.554/14-Sa, Dt. 3rd January, 2009.

revised / updated through

Sa. Gru.Yo-2018/Pra.Kra.85/14-Sa, Dt.4th July, 2019.

1. If any Competent Authority has declared the building of a co-operative housing society as ruinous or dilapidated buildings or dangerous for inhabitation or as posing danger to the passers-by or any structure or place in the neighborhood and the society is eligible to redevelop the building under the Development Control Regulations, then such society in its **Special General Meeting** can take a decision regarding redevelopment of the building.

Background of the Section 79A

2. These directions shall apply to all kinds of redevelopment such as redevelopment carried out by a Developer under an agreement, Self-redevelopment, cluster redevelopment in Federal Societies, redevelopment by a group of societies etc. All the procedure prescribed for the appointment of a Developer shall apply to all the above stated kinds of redevelopment, the appointment of a Contractor or the development carried out under an agreement.
3. The decision regarding redevelopment of the buildings of housing societies shall be taken in the **Special General Meeting (SGM)** of the society held as per the registered Bye-Laws of such society in accordance with the procedure prescribed by these guidelines.
4. The Authorised Officer/Administrator appointed by the Registrar can not take the decision regarding redevelopment of the buildings of co-operative housing societies.

Guidelines u/s 79A

Convening Special General Meeting (SGM) for the Redevelopment of Society Building: -

- It will be essential that not less than 1/5th members of the co-operative housing society whose buildings are to be redeveloped should submit an application addressed to the Secretary of the Managing Committee of the society duly elected and constituted as per the Bye-Laws of the society and under the law for convening the Special General Meeting for deciding the policy in the matter of redevelopment of buildings belonging to the society together with their schemes and suggestions regarding redevelopment of such buildings.
- The Managing Committee shall take note of such application within 8 days of the receipt thereof and the Secretary of the society shall convene a Special General Meeting of all members of the society within 2 months.

Guidelines u/s 79A

- Agenda of this Meeting should be circulated to each member of the society **14 days** in advance and the acknowledgment thereof should be maintained in the record of the society.
- Before convening such meeting, the Managing Committee of the society shall invite quotations from minimum 3 Architects registered with the Council of Architects under the Architects Act, 1972 / Project Management Consultants (PMCs) on the Panel of Government / Local Authority for the preparation of Project Report regarding redevelopment work of the building and of these persons one such PMC shall be selected at the Special General Meeting.

Guidelines u/s 79A

1. For the sake of transparency, the societies which have proposed redevelopment shall create a Website on the internet. All sorts of information concerned with the redevelopment such as Notices, Minutes and Project Management Consultant's Feasibility Report etc. shall be placed on this Website. This information shall be accessible to the members of the society. Each member to submit his email ID and Contact particulars to the Society. The Registrar shall be informed about the said website.
2. **The notices and minutes pertaining to the Managing Committee Meeting and Special General Meeting regarding redevelopment will have to be communicated to the office of the concerned Registrar within 15 days of such meeting being held by e-mail and hard copy. Such societies must maintain the acknowledgements in this regard.**

Topic-Wise Business in the Special General Meeting

1. To take a preliminary decision after taking into consideration the requisitions and suggestions received from the members regarding redevelopment of the society building.
2. To appoint an expert and experienced Architect/Project Management Consultant from the Panel of Government/Local Authority to monitor the redevelopment work of the building and to fix the aspects and terms/conditions of the work to be done by them.
3. To present an outline of the programme pertaining to the redevelopment of the building.



Topic-Wise Business in the Special General Meeting

Quorum for the meeting ????????

RED ALERT

1. The quorum of the Special General Meeting convened for the redevelopment of co-operative housing society buildings shall be $2/3^{\text{rd}}$ of the total membership strength of the society.
2. If the quorum is not fulfilled, the said meeting shall be adjourned and with 7 days' notice the meeting shall be re-convened within the next 1 month.
3. If in this meeting too, the quorum is not fulfilled it shall be assumed that the members are not interested in the redevelopment of the society building and the meeting shall be called off and thereafter the said subject shall not be placed again at the Special General Meeting for its approval until the next 3 months.

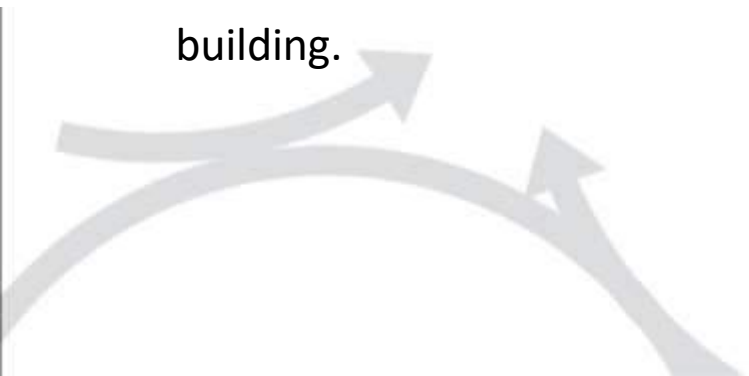
Topic-Wise Business in the Special General Meeting

4. In the Special General Meeting the suggestions, recommendations and objections made by the members regarding redevelopment of the society shall be taken into consideration and the opinions expressed by the members in this regard shall be recorded in the minutes of the meeting along with their names.
5. In this Special General Meeting, the preliminary decision as to whether the society should proceed with the redevelopment or not shall be approved by the majority of the members present which shall not be less than **minimum 51% of the total membership strength of the society.**
6. In this regard, the approval, opinion and remarks expressed in writing/orally or in any other mode of communication by any member absent in the Special General Meeting shall not be taken into consideration.

Topic-Wise Business in the Special General Meeting

Following the decision on the approval of redevelopment the below mentioned business shall be conducted with the approval of the Special General Meeting as stated herein above.

- Agenda 2 - Appointment of an expert and experienced Architect/Project Management Consultant from the Panel of the Government/Local Authority for the redevelopment related work of the building and fixation of aspects of work and the terms/conditions thereof.
- Agenda 3 - Presentation of outline of the programme regarding redevelopment of the building.



Post Special General Meeting

To circulate Minutes of the Meeting to all Members: -

- The Secretary of the society should prepare minutes of the above Special General Meeting and circulate a copy thereof to all the members **within 7days** and acknowledgements thereof should be maintained in the record and a copy thereof ought to be presented to the office of Registrar.

To obtain written consent letters from the members agreeing for proceeding with redevelopment: -

- After decision as to redevelopment of the society is passed by a majority of not less than 51% of the total members as stated herein above, it would be necessary to obtain written consent letters of the members who exercise their vote in favour of the resolution for redevelopment in order to enable the Managing Committee to proceed with redevelopment.

Post Special General Meeting

To issue an Appointment Letter to the Architect / Project Management Consultant: -

- The Secretary of the society shall issue an appointment letter to the Architect / Project Management Consultant selected at the Special General Meeting within 30 days of the date of the meeting and the Committee shall enter into a Work Contract Agreement with the Architect / Project Management Consultant on the terms and conditions approved at the Special General Meeting.



Role of Architect / Project Management Consultant

- To conduct survey of the building and land of the Society.
- To take information about the conveyance of the land of the Society.
- To take information about the F.S.I. and T.D.R. available with the Society by considering the existing development rules.
- To prepare the Feasibility Report
- The Architect / Project Management Consultant is expected to prepare such report within 2 months from the date of their appointment.
- Such Report is to be submitted to the Management Committee.



Role of Architect / Project Management Consultant

List of documents to consider while finalization of Feasibility Report

Latest PR Card	Last Approved Plan
Last Village Form No. 2	N A Permission – Previous – If Any
Last Village Form No. 6	Urban Land Celling (U.L.C) Order u/s 20
Last Village Form No. 8	Layout Plan Copy (If Any)
Last 7 / 12 Extract	30 Year copy of search report Property
Latest K J P	Title Clearance Certificate
Latest CTS PLAN	Inspection Extract from Assessment Department
Latest DP Remarks	Traffic & CO-Ordination Remarks for R.L.
Intimation of Disapproval (I.O.D.)	A E Remarks
Commencement Certificate (C.C.)	Status of Road
Occupation Certificate (O.C.)	Right or way (If Any) Including Ownership Documents of Grantor
Building Completion Certificate (B.C.C.)	Demarcation of Road (If Any for setback / affected by R.L. / D.P. Road)

Post receipt of Feasibility Report

- The Secretary of the society shall convene a meeting of the Managing Committee. Notice of such meeting is to be placed on the Notice Board of the Society.
- In this notice each member would be apprised of the fact that a copy of the Project Report/Feasibility Report so received would be available for the inspection of members of the society in the office of the society and that they could submit their suggestions 7 days prior to the next Managing Committee Meeting.
- The Secretary of the society shall forward the suggestions received from the members for the consideration of the Architect/Project Management Consultant 7 days prior to the Managing Committee Meeting as aforesaid.



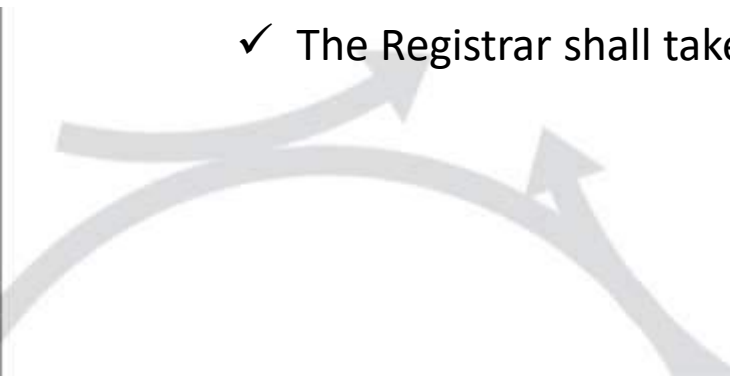
Post receipt of Feasibility Report

- In this Managing Committee Meeting, a comprehensive discussion would be held on all factors such as the suggestions/recommendations of the members and the opinions of the Architect/Project Management Consultant.
- The Project Report/Feasibility Report with necessary modifications would be approved by a majority vote.
- Thereafter the Draft Tender Document would be prepared and the date, time and venue of the next Managing Committee Meeting would be fixed for finalising the Draft Tender Document by holding discussion/deliberations thereupon. While preparing the Draft Tender Document the Architect/Project Management Consultant would keep either Carpet Area or Corpus Fund constant (non-fluctuating) and fix the other technical details so as to get competitive bids from the expert and experienced Developers and shall proceed to invite the Tenders.

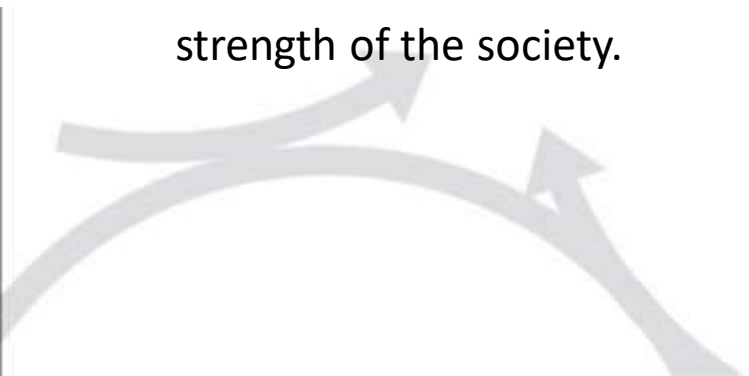
Post receipt of Feasibility Report

- The Secretary of the society shall prepare a list of the Tenders so received and publish the same on the Notice Board of the society and its website.
- The Secretary of the society shall convene the Managing Committee Meeting of the Society within 15 days of the last date for the receipt of the Tenders.
 - ✓ Tenderer or his authorized representative and members of the Society can attend the said meeting.
 - ✓ Tenders received shall be opened in the presence of all attending meeting.
 - ✓ The Architect/Project Management Consultant should check on merit, reputation, experience and rate offered and should prepare a comparative chart.
- If less than 3 tenders received then one week extension should be given, even after such extension, if less than 3 tenders received then another 1 week extension to be given.

Special General Meeting To select a Developer

- Post second extension if less than 3 tenders are received , they may be considered for approval by Special General Meeting.
 - To get an Authorised Officer appointed by the Office of Registrar for the Special General Meeting.
 - ✓ The Managing Committee should make an application accompanied by the list of members to the Registrar within 7 days for the appointment of an Authorised Officer so that the said Special General Meeting can be held in the presence of the Representative from the office of the Registrar of Co-operative Societies.
 - ✓ The Registrar shall take a decision thereon and appoint an Authorized Officer.
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Special General Meeting To select a Developer

- The Secretary of the society shall convene a Special General Meeting by fixing the time and venue of the meeting with the prior permission of the Authorized Officer within one month of his appointment and shall dispatch the agenda of this meeting to all the members by hand delivery or Acknowledgment Post -AD 14 days prior to the meeting and by e-mail in case of members residing outside India and shall keep acknowledgements thereof in the record of the society.
 - The Secretary shall make arrangements for the video recording of the Special General Meeting at the expense of the society.
 - The quorum of Special General Meeting shall be $2/3^{\text{rd}}$ of the total membership strength of the society.
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Special General Meeting To select a Developer

If the 2/3rd quorum as described above is fulfilled, the procedure of the meeting shall be conducted as follows: -

- To give comparative information regarding the Tenders shortlisted for presentation (regarding redevelopment work).
- To present the Tenders serially (Presentation of Tenders).
- To select one Developer for the redevelopment of building on stipulated terms and conditions and finalization of Tender.
- To obtain consent of the Developer who is so selected.
- To obtain information about further developments.

It shall be necessary to obtain written approval of the members present for the appointment of Developer which shall not be less than minimum 51% of the total membership strength of the society.

Post Selection of a Developer

Development Agreement to be executed with the Developer: -

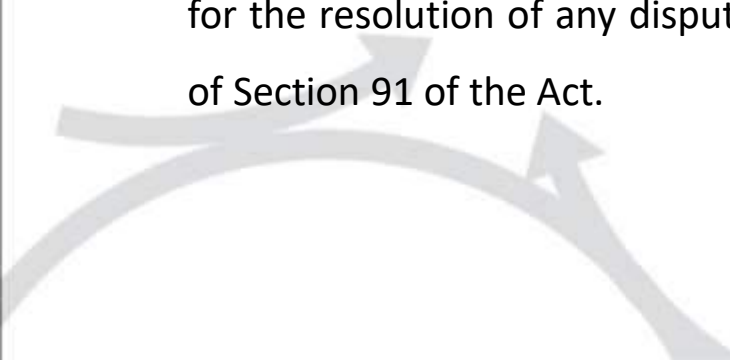
The Development Agreement should be executed with the selected Developer within 3 months from the date of his selection subject to the terms and conditions approved by the Managing Committee of the society under the guidance of the Architect/Project Management Consultant.



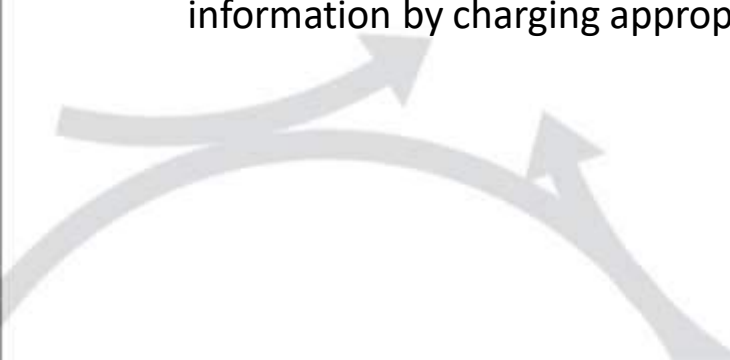
Points to include in Development Agreement

1. Depending upon the size of the redevelopment project, the period for the completion of society redevelopment/construction project shall not exceed 2 years from the date of issue of first/plinth erection certificate and in exceptional circumstances shall not exceed 3 years.
2. The Developer shall give a Bank Guarantee to the society, to the extent of 20% of the total value of the Redevelopment Project. To give comparative information regarding the Tenders shortlisted for presentation (regarding redevelopment work).
3. During the period of redevelopment, the Developer shall furnish alternative accommodation to the members as far as possible in the same area pending completion of project or shall make arrangements to pay monthly rent and deposit as is agreeable to the members or shall make available such transit camps.
4. The Development Agreement with the society and the Permanent Alternate Accommodation Agreements (PAAAs) with the individual members shall be registered under the Registration Act, 1908.

Points to include in Development Agreement

5. New members shall be admitted to the society only on the completion of redevelopment project with the approval of the Special General Meeting of the society.
 6. Carpet area to be offered should be clearly mentioned in the Agreement as required by the Real Estate (Regulation and Development) Act, 2016.
 7. Redevelopment Rights given to the Developer shall be Non-Transferable.
 8. Tenement holding members shall vacate their tenements only after all legal sanctions are accorded for the building redevelopment and upon the registration of Permanent Alternate Accommodation Agreements executed with the individual members.
 9. The rights of the persons who are in possession of the flats shall remaining act.
 10. The Work Contract Agreement between the Architect and the Society must contain a provision for the resolution of any dispute that may arise in the course of redevelopment work by virtue of Section 91 of the Act.
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Points to include in Development Agreement

11. Upon the grant of Occupation Certificate, (OC) the flats in the redeveloped buildings should be allotted as far as possible by the present floor position and if a draw of lots becomes necessary for the allotment of flats the Developer should make arrangements for the draw upon completion of the building and at such time the flats should be allotted by a draw of lots in the presence of Registrar's Representative and these proceedings should be video recorded.
 12. No committee member or office bearer of the society shall either be a Developer or his relation.
 13. The Building Plans sanctioned by the Municipal Corporation/Competent Authority must be placed again before the Special General Meeting for its information and if a member desires to obtain a copy of the Sanctioned Papers he should make a written application to the society in that regard. Thereupon, the Managing Committee shall be duty bound to furnish such information by charging appropriate fees therefor.
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Directions under Sec. 79A whether compulsory?

Section 72 of the Act - Final authority of society

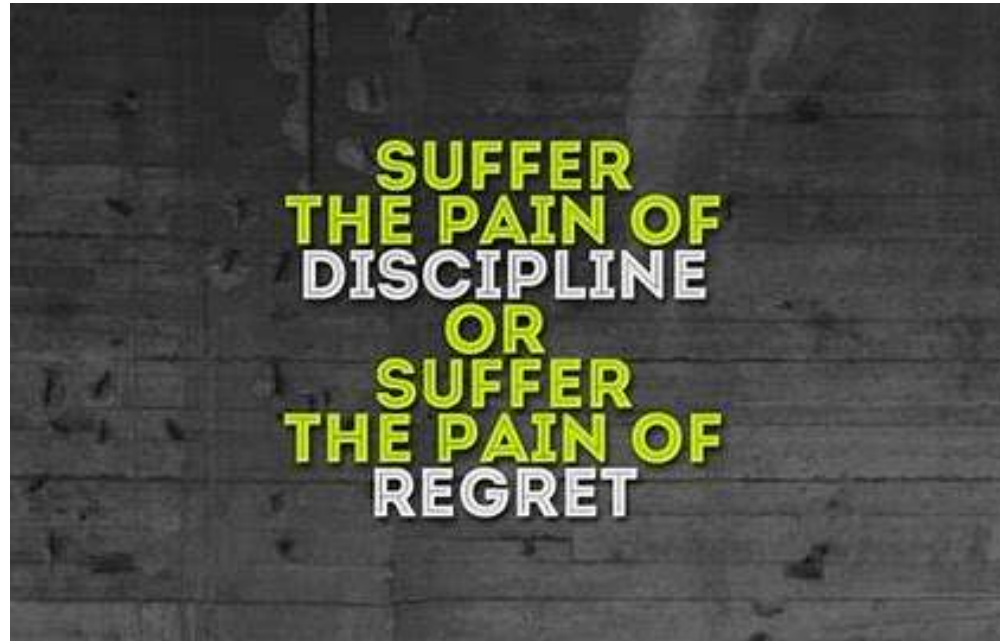
Subject to the provisions in this Act and the rules, the final authority of every society shall vest in the general body of members in general meeting, summoned in such a manner as may be specified in the bye-laws.

Bye-law No. 110 - Subjects to the provisions of the Act, the Rules and the Bye-laws of the Society, the final authority of the Society shall vest in its General Body Meeting, summoned in such manner as is specified in these Bye-laws.

Geist of the case laws of various decisions of Hon. Courts –

Fair and Transparent practices of the Society in Redevelopment process

Thank You



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