

**REAL ESTATE (REGULATION & DEVELOPMENT)  
ACT, 2016  
&  
RULES**

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**TRANSITION POLICY AND ROLE OF  
A CHARTERED ACCOUNTANT**

**Presented by CA Rajendra S. Shah**



# TRANSITIONAL EFFECTS : ONGOING PROJECTS

1. Estimation of Total Project Cost
2. Regrouping of Project Expenses
3. Certification by Chartered Accountant
4. Banking Operations
5. Project Administration & Planning
6. Effects on Projects in Joint venture
7. Project finance



# Estimation of Total Project Cost

Section 2(v) of the Act defines as:

*"estimated cost of real estate project" means the total cost involved in developing the real estate project and includes the land cost, taxes, cess, development and other charges;*

Section 2(s) of the Act defines as:

*"development" with its grammatical variations and cognate expressions, means carrying out the development of immovable property, engineering or other operations in, on, over or under the land or the making of any material change in any immovable property or land and includes re-development;*

- In my opinion total project cost including all expenses are to be considered and reported to the authority in respect of total cost involved. The act specifically defines other development expenses as internal and external separately and has not equated construction cost and development expenses to the total cost.

1. Up to date expenses on projects up to April 30, 2017 are to be determined.
2. Certificate from Project Engineer is to be obtained for balance project cost to be incurred.
3. The Estimation of administrative, selling and marketing expenses for the project are to be computed.
4. The premiums payable for FSI consumption over the land acquired and cost of TDR are to be estimated.
5. The Estimated cost of finance is to be determined.
6. On the expenses so arrived provision for contingencies and reasonable estimates of inflation factor is to be considered taking into account the period of completion of project.



# Regrouping of Project Expenses

## 1. Land cost

In ascertaining the cost of completion of percentage of the project, the land cost shall include,-

- i. The costs incurred by the Promoter for acquisition of ownership and title of the land parcels proposed for the real estate project, including its lease charges, which shall also include overhead cost, marketing cost, legal cost and supervision cost;
- ii. Premium payable to obtain development or redevelopment rights;
- iii. Amount paid for acquisition of TDR;
- iv. Premium for grant of FSI, including additional FSI (if any), fungible FSI; and any other instruments permissible under the Development Control Regulations;
- v. Consideration payable to the outgoing developer to relinquish the ownership and title rights over such land parcels;



## **2. Cost of construction**

- i. Cost of Material
- ii. Cost of labour
- iii. Cost of contract labour

## **3. Development Expenses**

Development expenses shall include payments made by a promoter towards electricity, water, hire charges etc. as defined under the act to be expenses incurred for internal and external development of the project.

## **4. Office Administrative Expenses**

This will include expenses on account of allocable salaries, expenses incurred by purchase department for procurement of materials, by engineers and other staff for finalization of various contractors, sub contractors etc. for execution of project and selling and marketing expenses and other allied expenses.



# Certification by Chartered Accountant

1. Certification of estimated balance cost for completion of the project.
2. Certification for balance amount of receivables from tenement purchasers.
3. Estimated amount of receivables from unsold apartments calculated at prevailing ASR rate.
4. Certification for each withdrawal from separate designated account depending on percentage completion of the project in Form 3.
5. Certification from statutory auditor in form 5 on an annual basis.



# Banking Operations

As per provision of Section 4(2)(1)(D) of the Act, 70% of the amount realized from the real estate project is to be deposited in a separate designated account. Hence the banking operations have to be separated pursuant to this provision.

1. The said account is to be opened in a scheduled bank and is to be maintained and operated separately as per provisions of Act and stipulations under the rules.
2. The withdrawal mechanism operates on submission of three certificates:-
  - i. From the project Architect certifying the percentage of completion of construction work of each of the building/ wing of the project.
  - ii. A Certificate from the Engineer for the actual cost incurred on the construction work of each of the building/ wing of the project and
  - iii. A Certificate from a practicing Chartered Accountant, for the cost incurred on construction cost and the land cost.





# Effects on Projects in Joint venture

On May 11, 2017 Maharashtra Government has issued an office order by virtue of the same if any person is entitled to receive percentage of gross sale proceeds or share of developed percentage area is also treated as co-promoter and all the provisions of the act are accordingly applicable to him. In view of the same such person is also accountable under provisions of the act.

## Project finance

As per regulations of Maharashtra Government a promoter is entitled to claim expenditure in respect of funds borrowed for construction activity but is not entitled to claim any expenditure in respect of funds borrowed for acquisition of land.



## DOCUMENTS TO BE SUBMITTED WITH REFERENCE TO SECTION 4(2) OF ACT

1. Brief details of the enterprise
2. Brief details of the projects launched
3. Authenticated copies of Project approvals
4. Sanctioned plan etc. by competent authority
5. The Plan of development works to be executed and proposed facilities.
6. Location details of the project
7. Proforma of allotment letter, agreement for sale and conveyance deed
8. The number, type and the carpet area of apartment for sale
9. The number and areas of garage for sale
10. The names and addresses of real estate agents
11. The names and addresses of the contractors, architect and structural engineers and other persons
12. Declaration supported by affidavit by the promoter



## OTHER DOCUMENTS AS PRESCRIBED BY STATE GOVERNMENT AS PER RULE 3(2)

1. Authenticated copy of the PAN card
2. Copy of the legal title Report
3. Development Agreement/Joint Venture Agreement in respect of project land
4. Details of encumbrances in respect of land
5. Copy of Sanctioned plan, layout plan, FSI along with project details
6. Architectural Design and technological details of the Project
7. Proposed nature of organization of allottees
8. Application in Form 'A'
9. Details for payment of registration fees
10. Affidavit cum declaration in Form 'B'
11. Details of land cost, Cost of Construction, estimated cost of real estate project.



## ESTIMATED COST OF REAL ESTATE PROJECT

As per Rules framed by the Maharashtra Government under Explanation III to Rule 5, the cost of construction for the purpose of sub-clause (D) of clause (I) of sub-section (2) of section 4, shall include all such costs, incurred by the Promoter, towards the on-site and off-site expenditure for the development of the Real Estate project including payment of Taxes, Fees, Charges, Premiums, Interest etc. to any Competent Authority or Statutory Authority of the Central or State Government under any laws or rules or regulations of the time being in force including Principal sum and interest, paid or payable to any financial institutions including scheduled banks or non-banking financial companies etc. or money-lenders (under the Maharashtra Money-Lending Regulation Act, 2014) for the Real Estate Project, but shall not include the sum which the promoter has raised and incurred by way of loan obtained from such banks, non-banking finance companies or money lenders, for the purpose of purchase of land for the project or for obtaining the development rights over such land.

## ADDITIONAL DOCUMENTS TO BE SUBMITTED WITH REFERENCE TO SECTION 4(2) OF THE ACT (FOR ONGOING PROJECTS)

1. Copy of last approved sanction plan
2. Extent of the construction work completed
3. Expected period of completion
4. Certificate from project architect certifying percentage of completion
5. Certificate from the engineer for estimated balance cost
6. Certificate from the Chartered Accountant for estimated balance cost
7. Certificate from the Chartered Accountant certifying balance amount of receivables in respect of apartments sold
8. Certificate from the Chartered Accountant certifying estimated amount of receivables in respect of unsold apartments at the prevailing ASR rate
9. Details of number of apartments sold



## **ADDITIONAL DOCUMENTS SUBMITTED WITH REFERENCE TO RULES (FOR ONGOING PROJECTS)**

1. Extent of Development carried out till date
2. Extent of Development carried out for common areas, amenities etc.
3. Expected period of completion
4. Original time period disclosed and delays
5. Certificate from practicing Architect certifying percentage completion of each Building, wing, etc
6. Certificate from engineer for estimated balance cost to complete each Building, wing, etc
7. Certificate from practicing Chartered Accountant for estimated balance cost to complete the project
8. Certificate from practicing Chartered Accountant for balance amount of receivables from apartments allotted/sold
9. Certificate from practicing Chartered Accountant for Estimated amount of receivables from unsold apartments at ASR rates

## DISCLAIMER

The Presentation given hereby is on the basis of present provisions under the Act and contents of Rules framed by the State of Maharashtra. Views framed by presenter may not be conclusive and are subject to latest amendments, notifications that may be in force. A person is advised to form his own opinion before taking any step or acting on the basis of this presentation.

