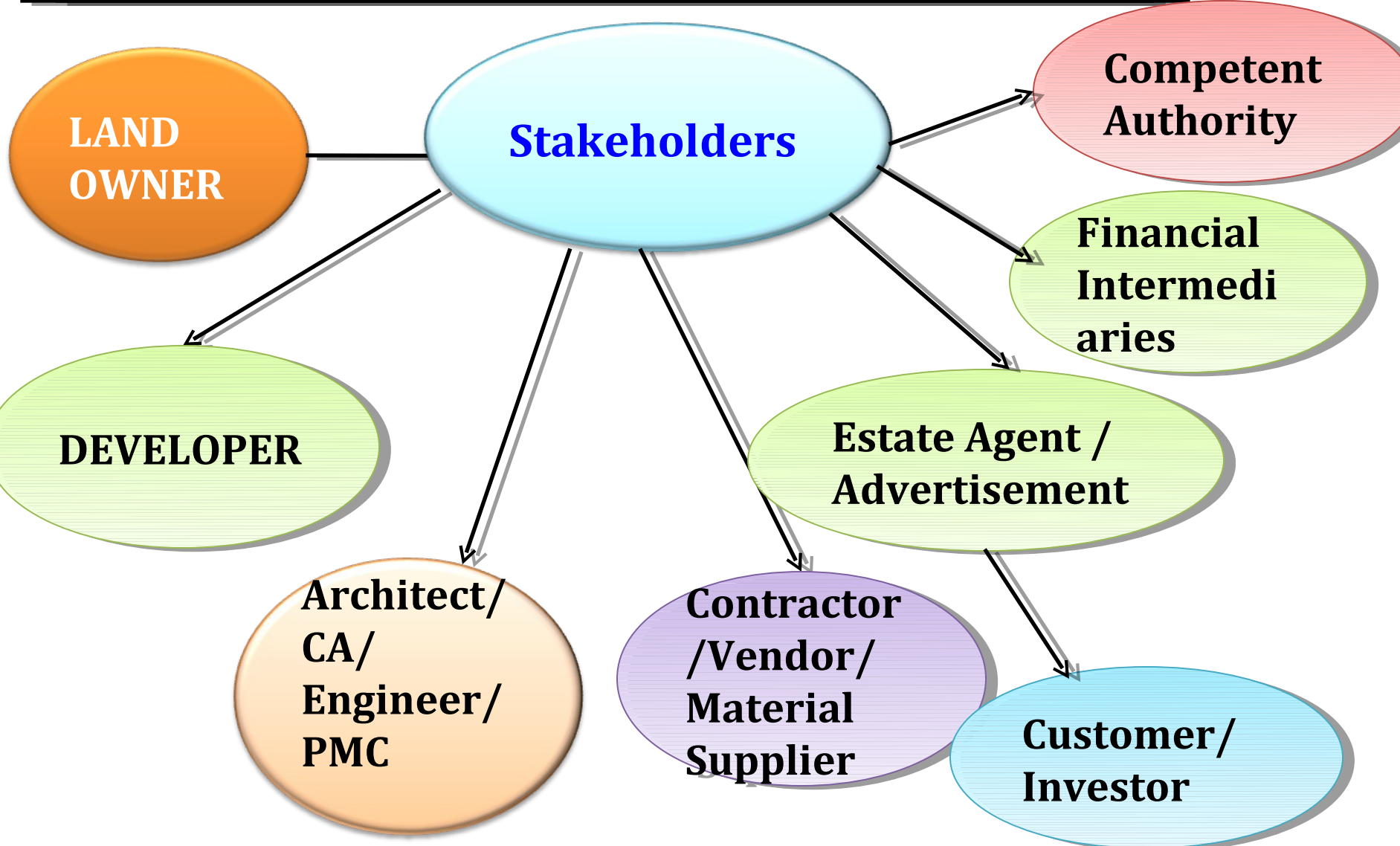


# Basics of Real Estate.

**BY CA. RAMESH S. PRABHU**

**“ Real Estate ”**

# Stakeholders in Real Estate Sector



# **PROPERTY**

**Moveable**

**Immovable**



# WHAT IS A “PROPERTY”

- The Transfer of Property Act 1882 (“**TPA**”) does not define the word “**Property**”.
- Many other statutes define the word “Property” on the basis of their objects, e.g:
  - ❖ **Sale of Goods Act, 1930**: Property means the general property in goods, and not merely a special property.

# WHAT IS A "PROPERTY"

- ❖ **Income Tax Act, 1961, Section 64 (2), Expln I** : The expression "Property" includes any interest in property, movable or immovable, the proceeds of sale thereof and any money or investment for the time being representing the proceeds of sale thereof and where the property is converted into any other property by any method, such other property.
- ❖ **Section 2(t) of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act 2002 ("Securitisatation Act")** defined the word "Property" exhaustively as follows:
- ❖ **Property means** :- (a) Immovable property; (b) Movable property (c) Any debt or any right to receive payment of money, whether secured or secured, (d) Receivables, whether existing or future, and (e) Intangible assets, being know-how, patent, copyright, trade mark, licence, franchise or any other business or commercial right of similar nature.

**“Immovable Property”**

# WHAT IS A MOVEABLE AND IMMOVABLE PROPERTY”

## ❖ TPA-1882 defines the word “Immovable Property” as follows:

Immovable Property does not include standing crop, growing crops or grass.

## ❖ General Clauses Act 1897 defines the word “Immovable Property” as follows:

Immovable Property shall include land, benefits to arise out of land and things attached to earth, or permanently fastened to anything attached to earth.

## ❖ General Clauses Act 1897 defines the word “Movable Property” as follows:

Movable Property shall mean any property of every description except immovable property.

# WHAT IS IMMOVABLE PROPERTY?

- Immovable object : an item of property that cannot be moved without destroying or altering it which is fixed to the Earth, such as land or a house.
- has a fixed address, determined by the jurisdiction where it is located.
- According to **Section 2(6) of the Registration Act, 1908**, "Immovable Property includes land, building, hereditary allowances, rights to ways, lights, ferries, fisheries or any other benefit to arise out of land, and things attached to the earth or permanently fastened to anything which is attached to the earth but not standing timber, growing crops nor grass".

# Real Estate Sector



**Real estate is Property comprised of land, buildings on it and infrastructure development.**

**Real Estate is Immovable Property**

# REAL ESTATE PROJECTS

- (1) Acquiring an agricultural or open land
- (2) Develop a park, hotel, farm house, second home, industry etc.
- (3) Develop Infrastructure i.e highways, bridges, drainage etc.
- (4) Develop Housing Complex or Commercial complex or industrial or Malls

# REAL ESTATE PROJECTS

- (5) Redevelopment Existing housing projects for different types of land like MHADA land, Collector land, Cess Buildings, chawls, SRA, Private Land, Tenanted buildings, CRZ land etc.
- (6) Reconstruction of existing building or carrying the major repairs or minor repairs.



# REAL ESTATE PROJECTS

- (8) Interior decoration of the existing office, house or new houses, industrial estates etc
- (9) Any other projects involving the civil, furniture work can be called as real estate development projects.
- (10) Any activity where something has to be created without anything on it.(Creation).

# CLASSIFICATION OF IMMOVABLE PROPERTY –Real Estate ”

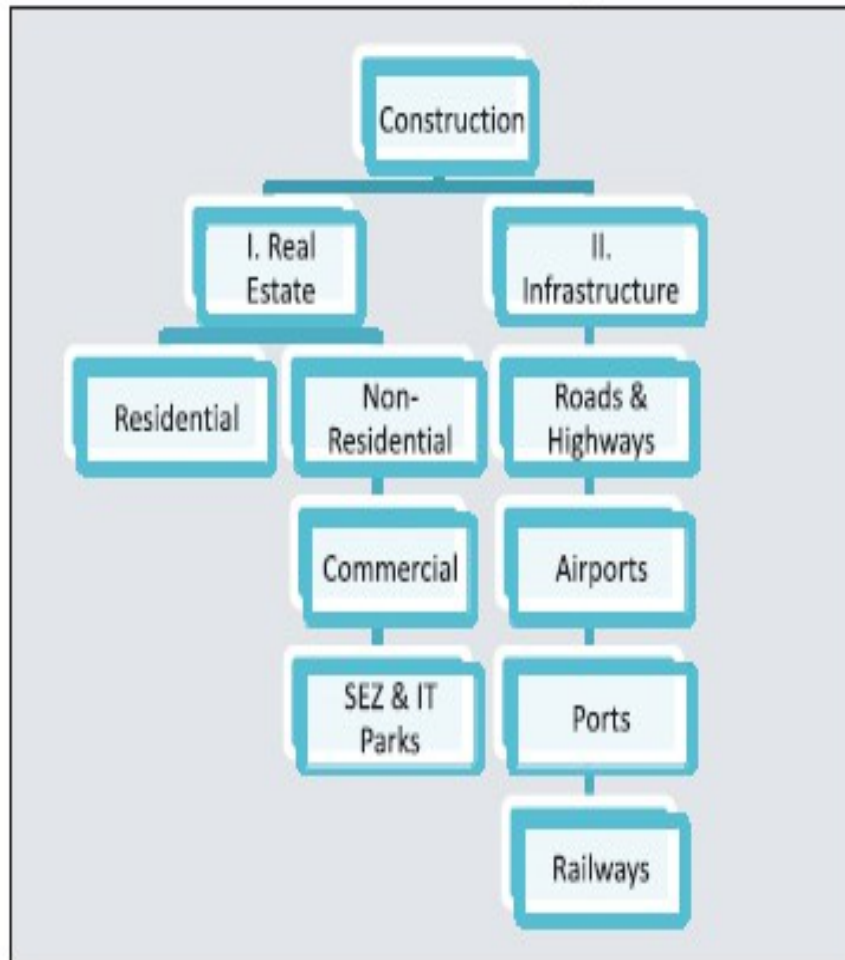
**Interest:** Freehold or Leasehold Property

- **Usage:** (a) Residential,  
(b) Commercial,  
(c) Agricultural,  
(d) Industrial,  
(e) Special Economic Zone (SEZ) etc

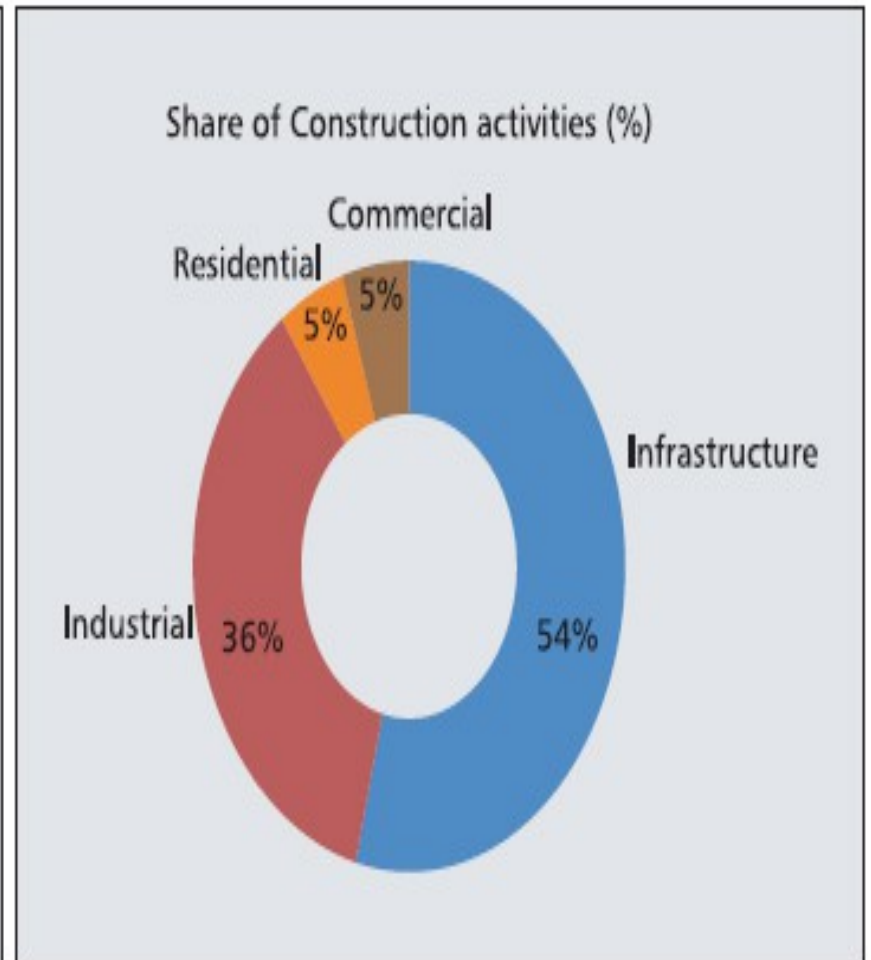
➤ **Tangibility:** Tangible or Intangible Property

➤ **Ownership:** Private or Public or Joint or HUF or Cooperative property

## Structure of the Construction Industry



Source: Approach Paper to the Twelfth Five Year Plan, Planning Commission



Source: D&B Research

# COVERAGE OF REAL ESTATE TERMS

**I:  
ABOUT REAL ESTATE**

**II:  
STAKEHOLDERS/  
DEVELOPMENT**

**III:  
INTEREST IN REAL  
ESTATE**

**IV:  
USES OF REAL  
ESTATE**

**V:  
MEASUREMENTS**

**VI:  
BUILT UP AND  
CONSTRUCTIONS**

# “ I: ABOUT REAL ESTATE ”

## 1. Real Estate Sector

- Real Estate is Property consisting of Land and Buildings on it, along with natural resources.
- Immovable Property of this Nature is known as Real Estate Property.

# “ I: ABOUT REAL ESTATE ”

## 2. Immovable Property

- Land, benefits arising out of Land and things attached to the earth, or permanently fastened to earth.



# “ I: ABOUT REAL ESTATE ”

## 3. Real Estate Project

- Business Process, which consists of Activities.
- Projects are time bound and may be subject to Agreement or Understanding.



# “ II: TYPES OF DEVELOPMENT ”

## 4. Types of Development

### i) Redevelopment

- New Construction that has Pre-Existing Occupants.
- Existing Users benefitted by new Structure and Developer by Selling Remaining Units.

# “ II: TYPES OF DEVELOPMENT ”

## 4. Types of Development

### ii) Self Development

- **Occupants undertake Redevelopment on their own.**
- **Financial and Infrastructural Benefits are available to occupants.**

# “ II: TYPES OF DEVELOPMENT ”

## 5. Promoter, Builder and Developer

- Promoter organizes and arranges finance and employs technical, operational, civil and other expertise for starting and completing real estate project.

# **“ II: TYPES OF DEVELOPMENT ”**

## **6. Real Estate Broker**

- Acts as intermediary between sellers and buyers of real estate.**

# “ II: TYPES OF DEVELOPMENT ”

## 7. Investor/ Purchaser/ Allottee

- A buyer in whose name a particular property is allotted.



# **“ II: TYPES OF DEVELOPMENT ”**

## **8. Financial Intermediaries**

- **Capital required for a unit is so large that few individuals, can raise it from their savings.**
- **Housing Finance Banks, PSU Banks and Others.**

# “ III: INTEREST IN REAL ESTATE”

## 9. Freehold Property

- Owner enjoys complete and absolute ownership.
- Exclusive ownership is either present or given for an indefinite period.

# “ III: INTEREST IN REAL ESTATE”

## 10. Leasehold Property

- Buyer is not the owner of land or building on which it is situated.
- Buyer has right to live or occupy the property for a stipulated period of time.



# “ III: INTEREST IN REAL ESTATE”

## 11. Inherited Property

- **Property, Debts, Rights and Obligations are passed on to another person upon death of an individual.**

# “ III: INTEREST IN REAL ESTATE”

## 12. Benami Ownership

- **Property transferred to a person for consideration, paid or provided by another person.**
- **Prohibited by Law and Punishable by Act.**

# “ III: INTEREST IN REAL ESTATE”

## 13. TENANCY

- **Tenant refers to a person given a property on rent.**
- **Lease Agreement & Leave and License Agreement.**

# “ III: INTEREST IN REAL ESTATE”

## 14. Sub Letting

- Property already given to a tenant on lease or leave and license, is again rented out to another person.

# **“ IV: USES OF REAL ESTATE”**

## **15. Agricultural Use**

- Solely used for Agricultural and cultivating crops.**
- In order to declare land as non-agricultural, permission has to be obtained from concerned authorities.**

# “ IV: USES OF REAL ESTATE”

## Industrial Use

- Permission to convert use of agricultural to non-agricultural may be granted by collector after consulting Planning Authority and such authority as State Government may specify.



# **“ IV: USES OF REAL ESTATE”**

## **16. Residential Property**

- **Single or Multi Family Structure, available for occupation for non-business purposes.**

# “ IV: USES OF REAL ESTATE”

## 17. Commercial Property

- Land or Building intended to generate a profit either from capital gain or rental income.



# “ IV: USES OF REAL ESTATE”

## 18. Mixed Land Use

- **Involves a range of Complementary Land uses that are located together in a balanced mix .**

# “ V: MEASUREMENTS”

## 19. Carpet Area

- Area over which carpet can be spread.
- Now applicable under RERA Regime.
- Will include steps if any that are available inside the house.

# “ V: MEASUREMENTS”

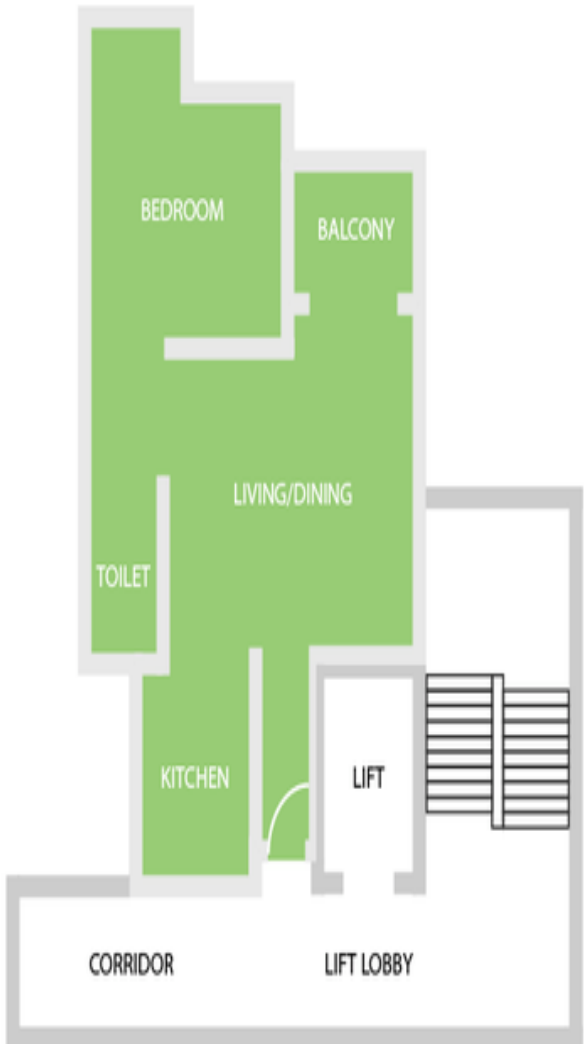
## 20. Built Up Area

- Carpet Area plus thickness of outer walls, ducts and balcony .

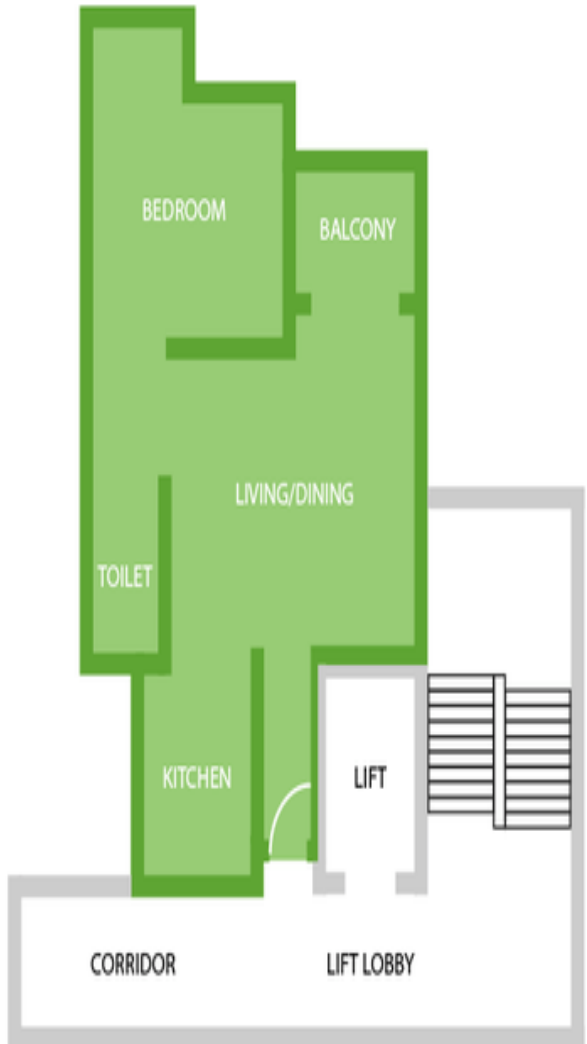
# **“ V: MEASUREMENTS”**

## **21. Super Built Up Area**

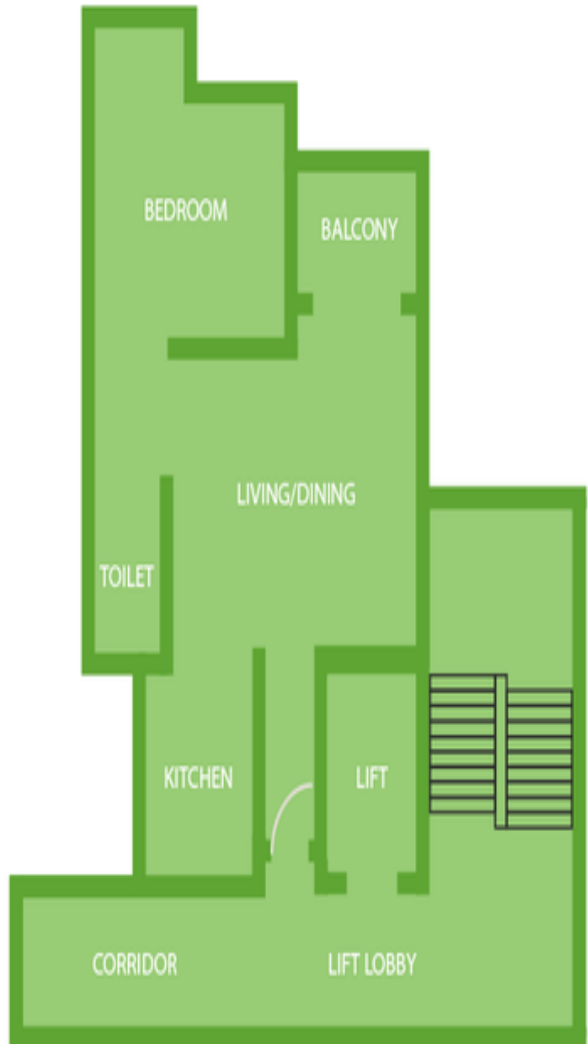
- **Total of Built Up Area and share of area occupied by common amenities.**



CARPET AREA



BUILT UP AREA



SUPER BUILT UP AREA

# “ V: MEASUREMENTS”

## 22. Saleable Area

- Gross Area sold to the customer on purchase of that property.

# “ V: MEASUREMENTS”

## 23. Per Square Foot Rate

- Measure by which cost of property is arrived at.

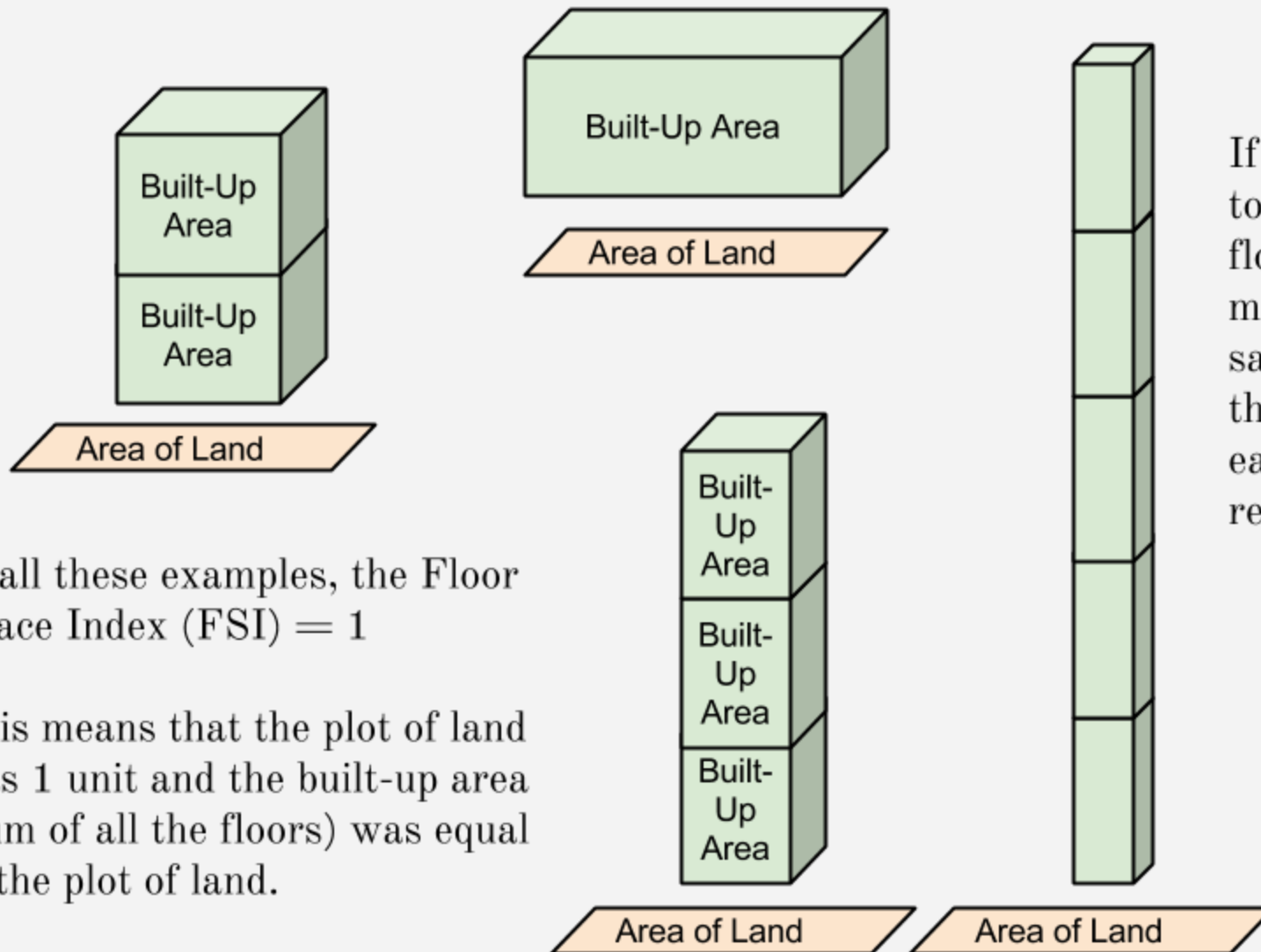
# “VI: BUILT UP & CONSTRUCTIONS”

## 24. Floor Space Index (FSI)

- Ratio between Area of a covered floor (Built Up Area) to the area of that plot on which building stands.



$$FSI = 1$$

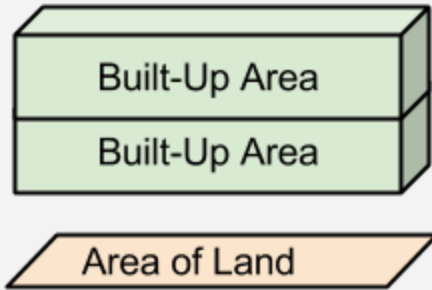


If you want to build more floors and maintain the same FSI, the size of each floor reduces.

In all these examples, the Floor Space Index (FSI) = 1

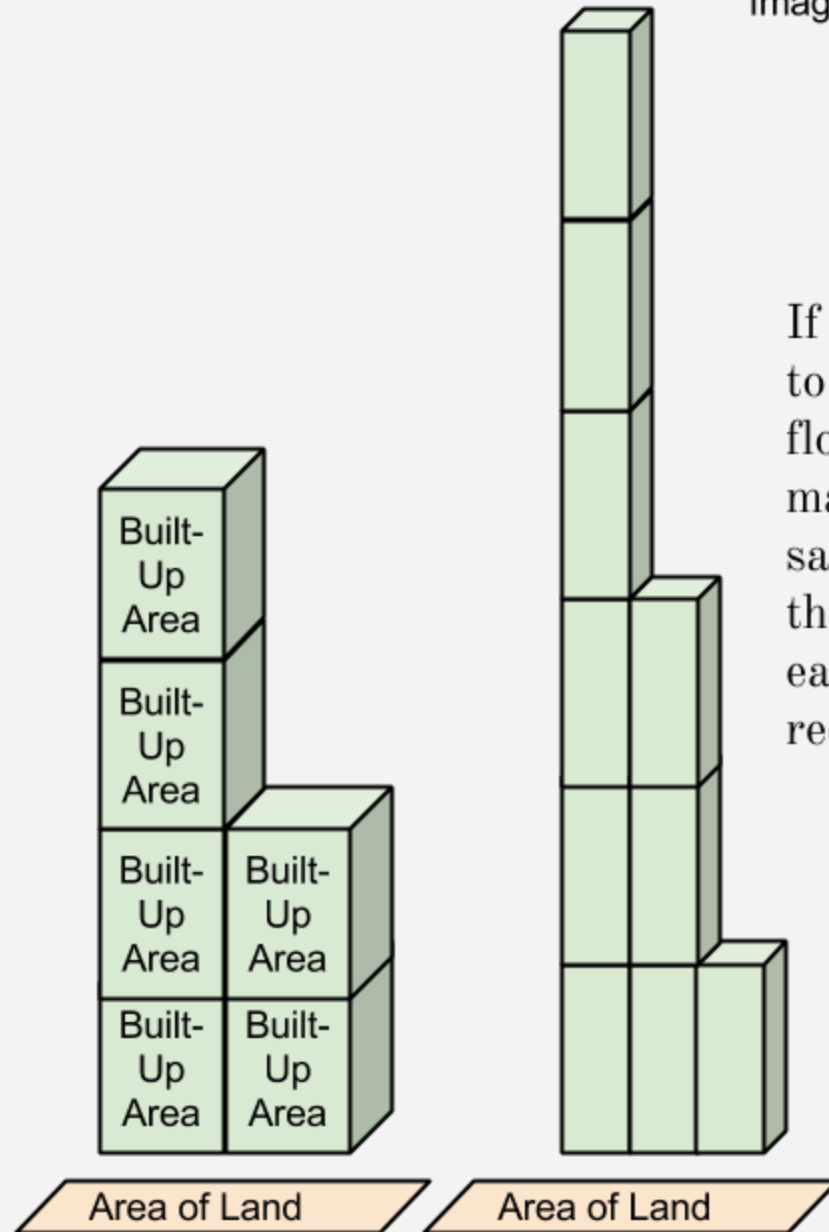
This means that the plot of land was 1 unit and the built-up area (sum of all the floors) was equal to the plot of land.

# FSI = 2



In all these examples, the Floor Space Index (FSI) = 2

This means that if the plot of land was 1 unit then the built-up area (sum of all the floors) is double the plot of land i.e. 2 units



If you want to build more floors and maintain the same FSI, the size of each floor reduces.

# “VI: BUILT UP & CONSTRUCTIONS”

## 25. Free of FSI

- Certain types of Spaces exempt from FSI or not to be taken into account while calculating FSI of plot.

# “VI: BUILT UP & CONSTRUCTIONS”

## 26. Fungible FSI

- Also called Compensatory FSI.
- Quotient of the ratio of the combined gross floor area of all floors, (except certain areas specifically exempted) to the total area of the plot.

# “VI: BUILT UP & CONSTRUCTIONS”

## 27. Downward & Upward Loading

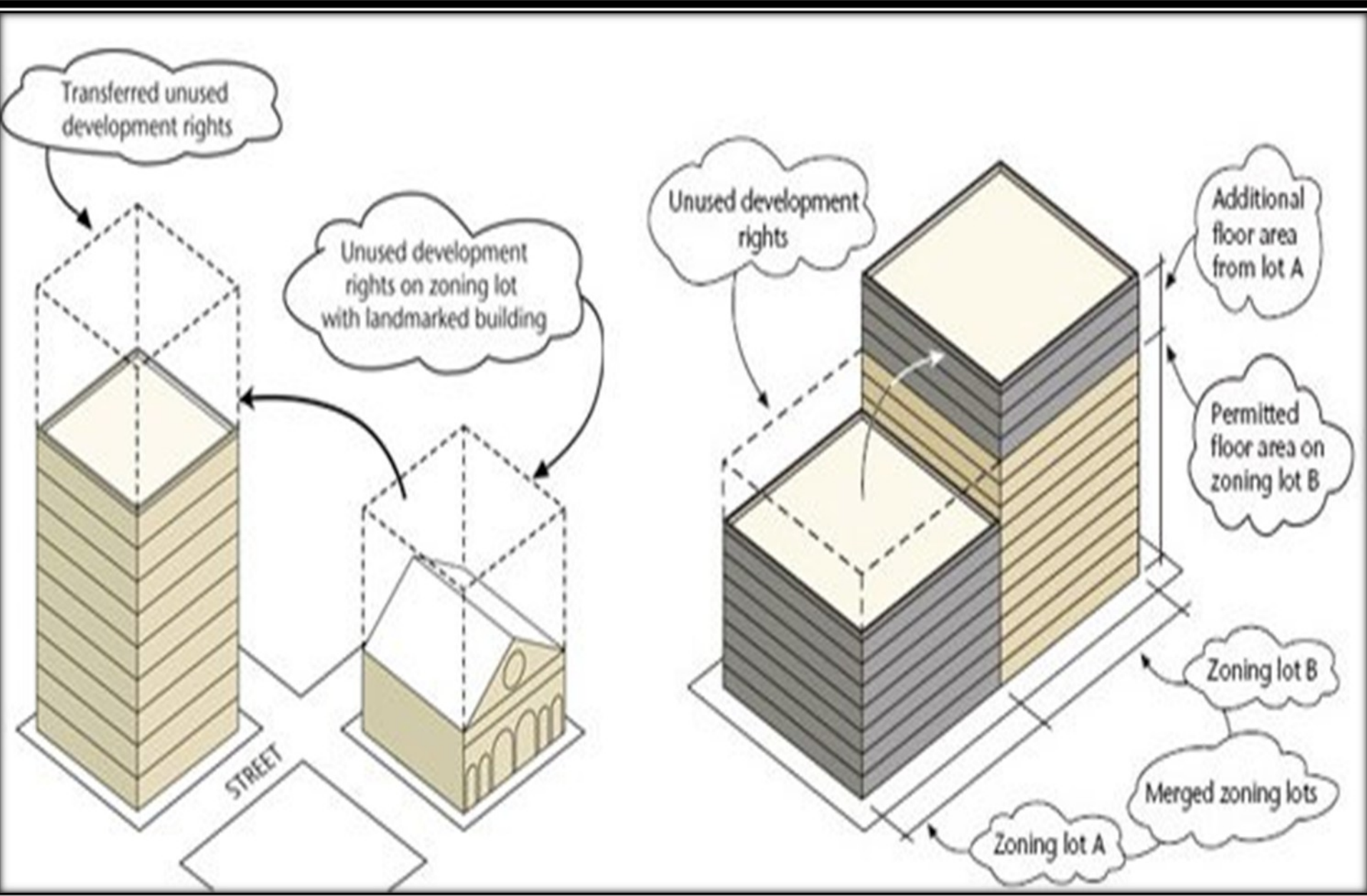
- Loading Factor is the area which includes proportionate share of common area for a flat which is determined by applying a multiplier to the carpet area.



# “VI: BUILT UP & CONSTRUCTIONS”

## 28. TRANSFER DEVELOPMENT RIGHT

- Right granted to a developer/  
promoter wherein he is allowed to  
construct/build over and above  
Permissible FSI.





**VII:  
DOCUMENTATION**

**VIII:  
VALUATION**

**IX:  
TAXES AND PREMIUM**

**X:  
TITLE &  
VERIFICATION**

**XI:  
SANCTIONS &  
APPROVALS**

**XII:  
ORGANISATIONS  
FOR REAL ESATE**

# “ VII: DOCUMENTATION”

## 29. TENDER

- **Document made to invite bids for a project, or to accept a formal offer**

# “ VII: DOCUMENTATION”

## 30. Broucher

- Informative Document used for Advertising and Marketing of a particular entity or an object.
- Provides all important decisions, necessary for the buyer to arrive at a decision.

# “ VII: DOCUMENTATION”

## 31. LETTER OF INTENT

- **Document brings out the intention of both parties regarding the purpose for which agreement is to be prepared.**

# **“ VII: DOCUMENTATION”**

## **32. DEVELOPMENT AGREEMENT**

- **Arrangement between an owner of the land and developer where land owner provides land and developer undertakes construction.**

# “ VII: DOCUMENTATION”

## 33. Booking Amount & Margin Money

- **Booking Amount is Quantum of Money that buyer pays to book his property.**
- **Margin Money is Quantum of Funds that needs to be arranged as self-finance or own funds.**

# “ VII: DOCUMENTATION”

## 34. Allotment Letter

- Letter is primarily written communication and commitment that a developer enters into with a buyer that a particular apartment is assigned to him.



# “ VII: DOCUMENTATION”

## 35. Memorandum Of Understanding

- **MOU is formal agreement between two or more parties intending to eliminate any dispute that may exist between them.**

# **“ VII: DOCUMENTATION ”**

## **36. Agreement & Contract**

- **Agreement is an understanding between two or more parties for a specific purpose.**
- **Contract is an agreement, enforceable in a court of Law.**

# **“ VII: DOCUMENTATION”**

## **37. Agreement for Sale & Sale Deed**

- **Terms and conditions of a prospective is enumerated along with proposed consideration and details of payment.**
- **Sale Deed transfers right associated from parties to another.**

# “VII: DOCUMENTATION”

## VII: DOCUMENTATION

### 38. Registered & Equitable Mortgage

- **RM: Charge is created with Sub Registrar. After borrower repays, title of property given back by cancelling charge.**
- **EM: Depositing Title Deeds in the custody of the lender. Property is not required to be registered with Sub-Registrar.**

# **“ VII: DOCUMENTATION ”**

## **39. Leave & License Agreement**

- **Agreement grants tenant license to temporary occupation, with an option for periodic renewal.**

# “ VII: DOCUMENTATION”

## 40. Non-Disclosure Agreement

- **Legal Contract between at least two parties that outlines confidential material, knowledge that parties wish to share with one another for certain purposes, but wish to restrict access to third parties.**

# “VII: DOCUMENTATION”

## 41. Conveyance

- Act of transferring an ownership interest in a Real Estate Property including land and building from one party to another.



# “ VII: DOCUMENTATION”

## 42. DEEMED CONVEYANCE

- **Buyer needs to approach competent authority to obtain conveyance by following requisite procedures.**

# **“ VII: DOCUMENTATION ”**

## **43. LEASE DEED**

- **Describes the property that is leased out, the monthly rent to be paid by the lessee to the lessor and all tax liabilities that may arise due to the transaction.**

# “ VIII: VALUATION ”

## 44. CIRCLE RATE/READY RECKONER RATE

- **Minimum value at which sale or transfer of a plot, house, apartment or a commercial property can be done.**
- **Benchmark to calculate true market value of a property in a particular area.**

# “ VIII: VALUATION ”

## 45. FAIR MARKET VALUE

- **Estimated Price that is arrived at when person who has fair knowledge of the property and is willing to buy it without any pressure.**

# “ VIII: VALUATION”

## 46. Assessed Valuation

- **Assessed Value is the ascertained price arrived for the property by Government or Private Agencies.**
- **Generally, Assessed Value is less than actual or market price of property.**

# **“ IX: TAXES & PREMIUM ”**

## **47. DEVELOPMENT CHARGES**

- **Fees collected by Developers from Apartment Owners in order to pay for the cost of infrastructure required to provide municipal services to a new development.**

# “ IX: TAXES & PREMIUM”

## 48. Premium For FSI

- **Refers to Paying a Premium to the Authority and Obtaining Permission to build extra floor space.**



# “ IX: TAXES & PREMIUM”

## 49. Stamp Duty & Registration

- **Stamp Duty is a tax that is levied on documents.**
- **Registration is a system by which matters concerning ownership, possession or other rights in land can be recorded.**

# “ IX: TAXES & PREMIUM ”

## 50. Capital Gains

- Increase in the value of a capital asset (herein real estate) that gives it a higher worth than the price at which it was purchased.
- Gain is not realized until until the asset is sold.

# **“ X : TITLE VERIFICATION”**

## **51. Title Search**

- **Activity done to search land records for nay sort of encumbrances that may be present in particular part of the property.**

# **“ X : TITLE VERIFICATION”**

## **52. Property Card**

- **Legal Document that specifies all particulars of land.**
- **Is a Proof for the land belonging to the land owner and entitles him for any development with prior permission from local authorities.**

# “ X : TITLE VERIFICATION”

## 53. 7/12 Extract

- Extract from the land register maintained by revenue department of the government.
- Ownership of a plot including rights on land, can be established in rural areas, where there are limited means for it.

# “ X : TITLE VERIFICATION”

## 54. Mutation

- Mutation is transfer or change of title entry in revenue records of local municipal corporation.
- Once after Mutation, name of current owner appears in all property records.

# “ X : TITLE VERIFICATION ”

## 55. Index II

- **Extract which one gets after registering the document of an immovable property.**
- **Mentions the amount of Stamp duty along with details of registration.**



# **“ X : TITLE VERIFICATION”**

## **56. Title Report**

- **Report prepared after an extensive title search in public records.**
- **It provides an overview of history of ownership, encumbrances and other relevant description of the legal history.**

# “ XI : SANCTIONS & APPROVALS”

## 57. N.A ORDER

- **Permission received from Collector’s office stating that land that is under development or proposed to be developed, is not an agricultural land.**

# “ XI : SANCTIONS & APPROVALS”

## 58. Intimation of Disapproval

- Approval given to a developer to develop a real estate project mentioning all parameters to be followed and adhered to.
- Term IOD has now been changed to IOA.

# **“ XI : SANCTIONS & APPROVALS”**

## **59. BUILDING LAYOUT PLAN**

- **Floor Plan prepared by architect showing number of apartments in a particular floor along with area of each apartment.**

# **“ XI : SANCTIONS & APPROVALS”**

## **60. Occupation & Completion Certificate**

- **Completion Certificate is a document which is issued at the end of the construction of a property by a local government agency.**
- **Once the property has received its OC, it becomes safe and legal to occupy.**

# “ XI : SANCTIONS & APPROVALS”

## 61. ENCROACHMENT

- **Encroachment means gradually intruding into areas of a property beyond permissible and desired limits.**

# “ XI : SANCTIONS & APPROVALS”

## 62. Symbolic & Physical Possession

- **Symbolic Possession is a procedure to affix a notice on the mortgaged property due to non adherence of financial obligation.**
- **Physical Possession means to exercise actual and absolute control of a tangible property.**



# **“ XII: FORMS OF REAL ESTATE”**

## **63. CO-OPERATIVE HOUSING SOCIETY**

- Legal entity where a group of house owners within a residential complex, usually consisting of one or more buildings, come together for a common cause.**
- Must be registered with Registrar of CHS.**

# “ XII: FORMS OF REAL ESTATE”

## 64. CONDOMINIUM

- **Form of Real Estate, which is divided into several units that are each separately owned.**
- **Common areas are jointly owned.**

# “XII: FORMS OF REAL ESTATE”

## 66. BYE LAWS

- **Rule established by an organization or community to regulate itself, as provided by a higher authority.**

Thank  
you

