



# MSWA'S HOUSING SOCIETIES REVIEW



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and other members of the Society**

## EDITORIAL

Dear Members, Season's Greetings!



✶ RAMESH PRABHU  
Chairman, MSWA

In the matter of Redevelopment of Housing Societies, while MSWA has taken the lead by representing Housing Societies before the concerned authorities for removing the demand of Occupation Certificate (OC) by the Competent Authorities, surprisingly an issue has now crept-in i.e., demanding Building Completion Certificate (BCC). In view of this situation and also sensing the grave situation created by the Authorities, MSWA is now contemplating on the steps to be taken before the concerned Authorities to do away (delete) these two demands once for all -- and allow thousands of Housing societies who are endlessly waiting for redevelopment of their societies as majority of old structures are in decrepit conditions with uneasy feelings thereof among the long-time residents.

For the benefit of all our esteemed members, we have inserted a double-page Circular regarding COMPULSORY EDUCATION & TRAINING CLASSES FOR CO-OPERATIVE HOUSING SOCIETIES for all members of Co-operative Housing Societies across Maharashtra under Section-24(A) of MCS Act under Sahakar Bharati Sahakar Prashkshan Sahakari Sanstha Maryadit, Karad. You are requested to pull-out the center pages of this issue (or get it copied suitably) and display at the prominent place / Notice Board of your Society or Entrance of Complex of your Society so that maximum members can make note thereof and avail the benefit thereof. The circular is self explanatory and should you need further clarifications, kindly reach us on our phones mentioned therein and MSWA would be too glad to guide you in this important matter.

As usual MSWA has conducted various seminar / workshops / talk on various society issues across Mumbai / New Mumbai / Thane -

**Continue on Page No. 16**

CONTENT	Page
Redevelopment, FSI and all that....	08,
500 Sqft. For BDD Tenants	10,
Letter to Governor of Maharashtra	12
Succession and wills	14
One Day Seminar on Swacch Mumbai	18
Compulsory Education & Training	22,



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# REDEVELOPMENT, FSI and all that...



**Earlier this month, Maharashtra government announced its new housing policy, with a special focus on redevelopment of old MHADA buildings.**  
**Ramesh S. Prabhu, Chairman, MSHA deconstructs the details**



**T**wo years back, Prime Minister Narendra Modi had announced the “Housing for All” policy. In sync with the same, the Maharashtra also Government came out with its housing policy earlier this month, with emphasis on MHADA colonies, transit camps, and old and rental buildings in the suburbs only.

MHADA redevelopment was held up since September 2010 due to the introduction of sharing of constructed area between the developer and MHADA for providing affordable housing. A breakthrough has been achieved under this policy, to provide 3 FSI for plots up to 2000 sq. meters with payment of premium instead of sharing and any plot exceeding 2000 sq. meters are provided with 4 FSI. Sharing here, however, is made compulsory.

## **OTHER SALIENT FEATURES OF THE POLICY ARE AS FOLLOWS:**

**Redevelopment of MHADA colonies:** The Municipal Corporation of Greater Mumbai has proposed 4 FSI permissible to MHADA colonies in the Draft Development Control Rules under Draft Development Plan 2034.

Old tenement holders are permissible minimum 35.00 sq. mtrs area (excluding fungible area) in the redevelopment. The existing tenants were earlier getting 300 sq. ft carpet with 35% fungible FSI. Now it will be 35 sq. meters, or 375 sq. feet plus fungible FSI of 35% on the existing area.

While distributing 3 FSI for plots having less than 2000 sq. mtrs area, the rate of the premium by deducting the construction area for the existing tenants shall be based on LR/RC. (i.e. Land rate as per ready recknor / Construction rate as per ready recknor).

The construction cost of the constructed

area to be given to MHADA shall be paid by the

MHADA according to ASR (Annual Stamp duty Ready recknor rate). Similarly, there is an option that the co-operative society may give constructed area to the MHADA anywhere in the ward where the society is existing.

The provision to open Escrow Account for members of a society to get timely rent from the developer.

If the scheme sanctioned by the old Act fulfills the terms and conditions of the new policy, then they will have an option to convert into the new policy.

## **TRANSIT CAMPS**

The government has adopted a new policy in respect of the MHADA Transit Camps in Mumbai. MHADA's Transit Camps are situated at 40 places in Mumbai City and suburbs and there are, in all, over 22,000 tenements. It has been noticed that there is intrusion on large scale in these transit camps since long. There are, in all, over 8000 intruders in these camps. As per the new policy, MHADA has decided to give them these tenements by recovering the price according to MHADA's tenement Sale Policy.

## **TERMS AND CONDITIONS FOR REGULARISATION OF THESE INTRUDERS**

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to another person or it has been sub-let then, by assuming the agreement is cancelled, and by expelling the tenant summarily, the MHADA shall take possession of that tenement.

Once the intruders are given the status of tenant they will be allotted flats on permanent basis in the additional tenements available to MHADA under redevelopment by charging specific amount according to policy of the Authority.

**For implementation of this new policy the Urban Development Department has issued revised Development Control Rules.**

- a. The required FSI plus 50 per cent incentive FSI shall be permissible for the redevelopment of those buildings where only tenants are residing and for the rehabilitation of these tenants.

- b. The FSI required for the rehabilitation of tenants and actual utilised FSI by the buildings on non-tenant basis shall be permissible for the cluster re-development of rent-basis buildings, non-rent basis buildings such as on ownership basis / buildings of co-operative Housing Societies. However, limitation of 2.5 FSI shall be there in such cluster re-development.
- c. The proposed provision in Development Control Rules shall be applicable to rent basis non-rent basis buildings in Mumbai city existing before 13/06/1996 and similarly to the dilapidated rent basis buildings in the suburb.
- d. Every tenant / residents shall get minimum 300 sq.ft. and maximum 753 sq. ft. flat. But, the consent of 70 per cent tenants / residents will be required for re-development of such buildings.

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## 500 SQFT FOR BDD TENANTS

### BDD chawl residents to get this much area in redevelopment

The residents of Bombay Development Division (BDD) chawl cluster in Worli, Naigaon and Parel areas will get 500 Square feet flats, as per the redevelopment plan.

According to sources in the State Housing department, "The tenants of the 195 BDD chawls will get a tenement of carpet area of 46.45 Sq Mtrs (500 Sqft) with a total permissible floor space index (FSI) of 4 on the gross plot area.

"One of the major features of the redevelopment plan is that the tenants will get a corpus fund which they will be able to use for repairs and maintenance works for the next 10 years," sources said.

Decks for the redevelopment will be cleared next week after the Maharashtra government grants final approval to the notification in this regard.

The sources further said that the tenants will get a 2 BHK tenement of 500 square feet carpet area. The Municipal Corporation of Greater Mumbai (MCGM) will have the rights to develop the internal infrastructure like laying of sewerage system, street lighting, they said.

Besides, the tenants will get developed gardens, open spaces, hospitals, fire station, schools, community halls and internal roads free cost, the sources added.

Under the new Development Control Rules 33(9)(B), the Maharashtra Housing and Area Development Authority (MHADA) shall act as the special planning authority. Once the notification is finally approved next week construction work can commence by the end of this year.

The 195 BDD Chawls located at Worli, Naigaon and N M Joshi (Parel) cover an area of 86.98 acre, with the Worli BDD chawls occupying the maximum area of 59.69 acre.

Out of the 195 BDD chawls, the maximum of 121 chawls are in Worli. In all, there are 16203 tenements of which 2901 tenements have been earmarked for police housing.

The plan envisages recovering the cost of tenements for Low Income Group (LIG) from the free sale components for High Income Group (HIG) and Middle Income Group (MIG). "The Housing department had held a competition for architects for designing the best redevelopment plan. The design plans include construction of tall buildings with 40 plus floor and for the tenants small buildings with 14 to 22 floors," the official said.

The redevelopment of BDD chawl cluster also comprises chawls at Sewri. However, since the chawls at Sewri come under Bombay Port Trust it comes under the Union Government control. Hence the redevelopment plan is awaiting clearance.

**Source:- THE FREE PRESS JOURNAL, Date : 25, 2016**



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### **Sub : Deemed Conveyance - Adjudication and Registration**

Respected Sir,

At the outset I expressed my heartily thanks towards Your Honor's concerned with the serious issues like Mal-nutrition, Farmers' suicide in Maharashtra. Despite Your Honor's orders, directions in this regard the government machinery least bound to budge. I have read in today's News Paper that Your Honor had directed the Adivasi Department to take care of Mal-nutrition three months ago. Had the department take care, today's Mal-nutrition deaths did not occurred.

I also appreciate Your Honor's efforts of removing farmers from clutches of APMC Monopoly which no Government ever dare to do this. We as NGO Participate with Government for facilitate farmers to sale their produce directly to the consumers and also gave wide publicity to this issue in our Magazine viz. MSWA'S HOUSING SOCIETIES REVIEW.

Now with Your Honor's permission I humbly state few words on the subject mentioned above. Sir the Deemed Conveyance issue I have raised time to time and I had wrote to Your Honor also in this regard. Your Honor had took cognizance of the issue and forwarded the same to the concerned department for further action. However I regret to state that the concerned department did not care to give at least an acknowledgment to the letter.

After the raising issue of Deemed Conveyance by the MLAs', MLCs', MPs' and NGO like us, the Hon'ble Chief Minister Shri Devendra Fadnis appointed two committees to study the matter and submit the

the Chairmanship of the Hon'ble Commissioner of Co-operatives Shri Chandrakant Dalavi, the another committee under the Chairmanship of Hon'ble Chief Secretary and the Principal Secretaries of Housing, Revenue and Co-operation. The other committee just received the report of Shri Chandrakant Dalavi and submitted it to the Hon'ble Chief Minister and issued one new GR in which the earlier Occupation Certificate condition is removed and instead of it one new condition i.e. Building Completion Certificate is inserted which struck the entire process of Deemed Conveyance. Earlier for smooth working of Deemed Conveyance Occupation Certificate was a major obstruction. There was demand from all Strata of the society to remove this obstruction. But by putting the condition of Building Completion Certificate, getting Deemed Conveyance to the Co-operative Housing Societies become Standstill. Because without O.C the local authority did not issue the C.C and in Mumbai there are only 23 to 30 % Buildings having C.C. This means now even if the Housing Society have O.C they will not get the Deemed Conveyance because of this new condition. This shows how the Government Officials misguide the CM and matters made more complicated. At the one side the CM is eager to solve the matter and on the other side officials complicating the matter further.

The Deemed Conveyance issue with which lakh of peoples future and happiness is attached is hanging from last 10 years because of lethargic attitude of Government Officials.

The same is about the Collector of Stamp Officers. After getting the order and certificate of Deemed Conveyance from the Competent Authority, the ball



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came in the Court of Collector of Stamps for adjudication where they have to suppose to take care of Stamp Duty only but they cross their boundaries and return the matter directing the competent authority to take review again. In fact there are government circular which clearly mentioned which documents to be referred at the time of adjudication. Hon'ble High Court, Supreme Court have also given judgments in this regard. But they are not in a position to hear any one.

I am therefore request Your Honor to look into this matter and give necessary directions to the

concerned authority and give solace to lakh of flat owners in Maharashtra. If required I will be there to deliberate this matter with Your Honor. Earlier also I have an opportunity to discuss this matter with then Hon'ble President of India Smt. Pratibhatai Patil at Rashtrapati Bhavan, Delhi.

With Warm Regards,

Yours sincerely,

CA. Ramesh S. Prabhu, Chairman, MSWA  
Mob: 98201 06766, Email: rsprabhu13@gmail.com

## SUCCESSION AND WILLS UNDER INDIAN SUCCESSION ACT 1925 (PART I)

Dear members,

In MSWA Magazine Sept 2016 Issue I have guided you about Succession And Wills under Indian Succession Act 1925(Part I)

In present Issue we are giving you valuable guidance in respect of Probate, Letters of Administration(L/A) and Succession Certificate and their procedure as Extension Part II of earlier Article explained as below.



**Adv. Arun Bendkhale**  
Mob.: 8976295881

### SUCCESSION AND WILLS

**A. Common Clauses** – Though no form is prescribed following clauses are commonly found in a Will.

a)	Name, age, address, religion
b)	Revocation of earlier Will
c)	List of relatives
d)	Appointment of executor
e)	Discharge of obligations
f)	Legacies and bequests to person
g)	Residual estate
h)	Testimonial
i)	Execution
j)	Witness
k)	Safe custody

**B. Revocation/Alteration** – A Will can be revoked at any time by the testator during his life. A Will as per S. 69 of Indian Succession Act is revoked on marriage of the testator. This rule however, does not apply to a Will made by a Hindu or a Muslim. It is possible to alter a Will by a codicil as explained above or by correcting the original

Will itself as per S. 71 of the Indian Succession Act which takes effect only if alterations were executed in the same manner a Will was executed.

**C. Codicil** – A Will can be changed by the testator during his life time either by making a new Will after revoking an old Will or by amending the old Will by separate instrument made with the intention to make such an instrument a part of it. This new instrument is known as Codicil. S. 2(d) defines it as an instrument made in relation to a Will and explaining, altering or adding to its dispositions which shall be deemed to form part of the Will.

**D. Stamp duty** – No stamp duty is payable on execution of a Will. A Will can be made on a plain paper.

**E. Registration** – Registration of a Will be optional. If desired it can be registered with the



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Sub-Registrar of Assurance's office as per the provisions of S. 40 of the Indian Registration Act. A revocation of a registered Will should be registered. It is preferable to register Wills made subsequent to a registered Will. Registration grants protection and secrecy to a Will.

**F. Deposit** – The Will can be deposited at option of the testator with any person of his choice including Sub-Registrar of Assurances as per the provisions of S. 42 of Indian Registration Act.

**G. Probate** – A probate is the grant of administration of the estate by the court of competent jurisdiction on the basis of Will. A probate provides the conclusive evidence (i) of the execution of a Will (ii) of the legacies and (iii) of the legal character of legatees by confirming validity of a Will. It can be granted only to an executor.

Obtaining a probate is not compulsory in cases of a Hindu and a Mohammedan unless:-

- a) The estate consists of an immovable property situated in the cities of Mumbai and Chennai and Kolkata.

- b) Will is executed in the cities of Mumbai and/or Chennai and/or Kolkata and deals with an immovable property wherever located.

A maximum court fees of Rs. 75,000 is payable in the State of Maharashtra for obtaining a probate. View taken that there is exemption in the said State where the Will is to be administered by an executrix (a lady executor) is a grey area. No time limit is prescribed for filing an application for probate. However, delay is required to be explained where filed beyond a period of three years of death.

**H. Letter of Administration** – A letter of administration can be obtained from the court of competent jurisdiction in cases where the testator had failed to appoint an executor under a Will or where the executor appointed under a Will refuses to act or where he has died before or after proving the Will but before administration of the estate.

**For More Details Contact : 022 - 42551414 or E-mail: arunb.pacpl@gmail.com**

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### Continue from Page No. 06

during September 2016 all with a good attendance by the interested public. For any types of query regarding issues of Redevelopment of Society, Self Redevelopment, Deemed Conveyance, Managing Society's affairs free legal counseling are provided on Saturdays, in our Andheri office during office hours to all our members and you are requested to avail the benefit thereof. MSWA thanks and requests its members to clear their outstanding annual fees with that of arrears thereof to support the activities of MSWA by renewing their subscriptions and also availing certain free facilities etc.

Regarding mandatory training to be provided to members of all Housing Society members, a separate write-up has been published elsewhere in this issue that you are holding now. Please do take benefit thereof and be enriched by knowing your rights in the Housing Society issues that you are residing in.

Wishing you & family A Happy Navaratri to be trailed by Diwali and joyful reading MSWA's Housing Society Review – as usual and as ever.

**CA Ramesh Prabhu,**  
Chairman – MSWA  
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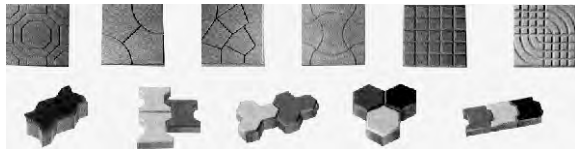
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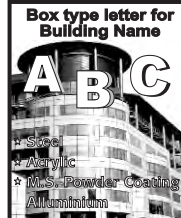
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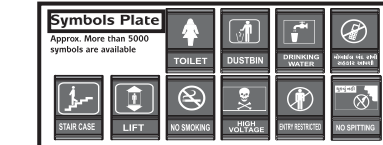
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Dear friends,

Two years ago our Honourable Prime Minister, Shri Narendra Modi launched the mission for a clean Indian through Swachh Bharat Abhiyan carrying forward the vision of Mahatma Gandhi.

While many Projects have been in place all across India, we, At Rotary Club of Mumbai Green City, Bombay West and Mumbai North End have been inspired for a clean and hygienic Mumbai. When we look at any nook and corner of Mumbai, we are the city filled with Drain and Nalas carrying sewage, garbage strewn all around, smoking Municipal Solid Waste Dumps at Deodar etc. Amongst the most neglected aspects of Swachh Mumbai are the Management of Sewage and Municipal Solid Waste. Although the Municipal Corporation should be nudged to get its act in order, we, the citizens of Mumbai should also participate actively in the effort to clean our city.

To achieve this participatory action, we felt it is time that awareness is created within the citizens, across the residential societies of Mumbai about cleanliness, waste management, water conservation etc to bring about a transformational change in their local areas.

As you all are aware, Rotary Clubs across the World select Projects like Eradication of Polio etc. and work with a missionary zeal for the solution of the problem. We, Rotarians in Mumbai, have been participating in numerous ways, particularly through constructing Toilet Blocks in Schools under Prime Minister's Swachh Bharat Abhiyan.

Recently a new initiative has been launched by installing Swachh Bharat Recycle Machines for Plastic Bottles at Churchgate Railway Station thanks to the combined effort of Rotary Club of Mumbai Bay View and Wockhardt Foundation. This project of Installing Recycle Machines at Railway Stations will be carried out on a large scale involving clubs in our Rotary District.

Following the Road of Swachh Bharat Abhiyan, now Rotary Clubs of Mumbai Green city along with Rotary Clubs of Bombay West and Mumbai North End have embarked upon the holding of a one day Seminar on **Swachh Mumai** focusing on **Solutions for Management of Sewage and Solid Waste for Housing Societies and Municipality**. This Seminar will be held on the 12<sup>th</sup> of November 2016 at Rotary Service Centre Juhu.

The Organisers request the presence of delegates of Bombay Municipal Corporation, Housing Societies, ALMs, Real Estate Developers, and Corporate organisation engaged in providing Processes and Products for Swachh Bharat. Representative of Housing Societies & ALMs are cordially invited to attend this Seminar. No Registration charges are payable.

**Welcome to the Seminar on Swachh Mumbai.**

Yours faithfully

**D. P. Misra**, FNAE, FICHE, FIChE, FIE  
Convener, Swachh Mumbai  
Cell: 09820049581

**Ajay Gupta**, Project Director, Rotary Club of Mumbai Green City, Cell: 09820198173

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**SOLID WASTE AND SEWAGE MANAGEMENT  
BY HOUSING SOCIETIES AND MUNICIPALITY**

Knowledge Partner : Indian Environmental Association

ON 12<sup>th</sup> NOVEMBER, 2016 AT ROTARY SERVICE CENTRE, JUHU, MUMBAI

## Seminar Schedule

9:00 a.m. to 10:00 a.m.	<b>INAUGURAL SESSION</b>
9:00 a.m. to 9:05 a.m.	Welcome by Rotary Green City/ Rotary North End
9:05 a.m. to 9:10 a.m.	About the Seminar
9:10 a.m. to 9:20 a.m.	Objectives, Structure, Expected outcome - Rtn. D. P. Misra
9:20 a.m. to 9:35 a.m.	Presidential Address - DG Rtn. Gopal Mandhanian
9:35 a.m. to 9:55 a.m.	Key Note Address - Shri. A. C. Shroff, MD, Excel Industries
9:55 a.m. to 10:00 a.m.	Inaugural Address - BMC Commissioner *
	Vote of Thanks - Rotary Bombay West
10:00 a.m. to 1:00 p.m.	<b>TECHNICAL SESSION I-MUNICIPAL SOLID WASTE MANAGEMENT</b>
10:00 a.m. to 10:30 a.m.	Yogen Parikh - <i>Overview of Municipal Solid Waste Management</i>
10:30 a.m. to 10:50 a.m.	Saurabh Shah, Excel Industries <i>De-centralised Waste Management Solutions for Mumbai</i>
10:50 a.m. to 11:05 a.m.	TEA / COFFEE
11:05 a.m. to 11:25 a.m.	Swachh Parle Abhiyaan - <i>Local Area Development Groups and Wards</i>
11:25 a.m. to 11:45 a.m.	Dr. Shyam Asolekar, IIT, Mumbai - <i>Technology Options</i>
11:45 a.m. to 12:10 p.m.	MCGM - <i>Management of Solid Waste in Mumbai</i> *
12:10 p.m. to 12:30 p.m.	Dr. Milind Kulkarni - Role of ALMs in Solid Waste Management
12:30 p.m. to 12:50 p.m.	CA Ramesh Prabhu, Chairman - MSWA <i>Swachh Mumbai</i>
12:50 p.m. to 01:15 p.m.	DISCUSSION
1:00 p.m. to 2:00 p.m.	<b>Lunch</b>
2:00 p.m. to 5:45 p.m.	<b>TECHNICAL SESSION II - SEWAGE MANAGEMENT</b>
2:00 p.m. to 2:30 p.m.	Dr. Rakesh Kumar, Director NEERI - <i>Management of Sewage</i>
2:30 p.m. to 3:00 p.m.	Dr. S. D. Chawathe - <i>Collection and Transfer of Sewage</i>
3:00 p.m. to 3:30 p.m.	Ajay Popat, Ion Exchange - <i>Overview of Treatment Options</i> -
3:30 p.m. to 4:00 p.m.	TEA / COFFEE
4:00 p.m. to 4:30 p.m.	Dr Prasad Modak - <i>Reuse of Treated Sewage : Opportunities and Challenges</i>
4:30 p.m. to 5:00 p.m.	C.M.T. Britto, Director Technical RCF - <i>Sewage Treatment at RCF and Reuse</i> *
5:00 p.m. to 5:15 p.m.	Dr. Shyam Asolekar, IIT Mumbai <i>Natural Treatment Systems and Nalla Clean-up</i>
5:15 p.m. to 5:45 p.m.	Discussion
5:45 p.m. to 6:15 p.m.	DEVELOPMENT OF ACTION PLAN

\* - yet to confirm



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महाराष्ट्र शासन

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## CO-OPERATION, MARKETING AND TEXTILES DEPARTMENT

Mantralaya Annex/, Madam Cama Marg, Hutatma Rajguru Chowk, Mumbai - 32, dated 2<sup>nd</sup> March 2015

### NOTIFICATION

### MAHARASHTRA CO-OPERATIVE SOCIETIES ACT, 1960

No, Training 2014/C. R. 47/22-C – In exercise of the powers conferred by sub-section (1) of section 24A of Maharashtra Co-operative Societies Act, 1960 (Mah. XXIV of 1961), the Government of Maharashtra hereby notifies that the Sahakar Bharati Sahakar Prashikshan Sahakari Sanstha Ltd. Karad, Taluka Karad, District Satara to be the State Apex Training Institute for purposes of Co-operative education and training as provided in said section 24A.

By order and in the name of the Governor of Maharashtra

K. K. PARKAR, Joint Secretary to Government

---

### The Maharashtra Co-operative Societies Act, 1960

#### Sec. 24A.

- (1) Every society shall organize co-operative education and training, for its members, officers and employees through such State federal societies or the State Apex Training Institutes, as the State Government may, by notification in the Official Gazette, specify. Such education and training shall,-
  - (i) ensure the effective and active participation of the members in the management of the society;
  - (ii) groom talented employees for leadership position;
  - (iii) develop professional skills through co-operative education and training.
- (2) Every member of the committee, whether elected or co-opted, shall undergo such co-operative education and training for such period and at such intervals as may be prescribed.
- (3) Every society shall contribute annually towards the education and training fund of the State federal societies or State Apex Training Institutes, notified under sub-section (1), at such rates as may be prescribed, and different rates may be prescribed for different societies or classes of societies."

---

### MODEL BYE-LAWS 14 (d) & 67 (a)

#### 14. The Society may utilise its Funds in the manner indicated below:

- d. The Education and Training Fund be utilized as provided under section 24 (A) of the Act

#### 67. (a) Sharing of the Society's Charges by the Members.

- (xiv) Education & Training Fund: Rs. 10 per Flat/unit per month.



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(Government of Maharashtra Notified vide Gr. Dt. 2nd March 2015)

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- (2) Redressal of complaints of the members of CHS and the Society.*
- (3) Management of Cooperative Housing Societies, Election, Accounts & Audit.*
- (4) Title Transfer of Flat, Conveyance, Stamp duty, Registration, Nomination etc.*
- (5) Leakage, levy of charges, Structural audit, Repairs, Redevelopment.*

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---

## **Fees Rs.2013/= for one session for all members of society**

### **\* Certificate is given to the participants**

(The Cheque should be drawn in the name of the **Sahakar Bharati Sahakar Prashikshan Sahakari Sanstha Ltd. )**

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**For Registration & More Details Contact :**



**MAHARASHTRA SOCIETIES WELFARE ASSOCIATION**

A/2-302, Laram Center, Opp. Rly Station, Near Bus Depot, Andheri (W), Mum - 58

Tel.: 022 - 4255 1414 / 022 2624 8589 Email : [mswa.sbtraining@gmail.com](mailto:mswa.sbtraining@gmail.com)

Website : [www.cooperativetraining.org](http://www.cooperativetraining.org) / [www.mswa.co.in](http://www.mswa.co.in)

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**Please Register your participation**

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## MAHARASHTRA SOCIETIES WELFARE ASSOCIATION

A-2/302, Laram Centre, Opp. Railway Station, Andheri (W), Mumbai - 58.,

Tel.: 022 - 42551414 / 26248589 / 65 E-mail : mswa.hsg@gmail.com

प्रति,

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मंत्रालय, मुंबई ४०० ०३२.

दिनांक: १९/०९/२०१६

### विषय: मानीव अभिहस्तांतरण - अभिनिर्णय आणि नोंदणी

- संदर्भ: १. महसूल व वन विभाग परिपत्रक क्र. मुद्रांक-२०१२/१०४६/प्र.क्र.२४९/म-१, दि. १२ जुलै २०१६  
२. गृहनिर्माण विभाग, शासन निर्णय क्र. संकीर्ण २०१६/प्र.क्र.१/दुवपू-२, दि. १४ जून २०१६  
३. मा. मुंबई उच्च न्यायालय यांचा याचिका क्र. १०२८/२०१५ प्रकरणी दि. १३ जुलै २०१६ चा निर्णय

महोदय,

आपण मुख्यमंत्रीपदाचा पदभार स्विकारल्यापासून मानीव अभिहस्तांतरण प्रक्रिया सुरळीत व जलद होण्यासाठी प्रयत्नशील आहात. यासाठी आपण अनेक बैठकाही घेतल्या आहेत. अशाच एका बैठकीला मी ही हजर होतो. या बैठकीत आपण मा. आयुक्त सहकारी संस्था व निबंधक यांच्या अध्यक्षतेखाली एक समिती नेमली होती, तसेच प्रधान सचिव महसूल, नगरविकास आणि गृहनिर्माण यांचीही एक समिती नेमली होती. या दोन्ही समित्यांनी त्यांचे अहवाल शासनाला सादर केले आहेत व त्यानुसार गृहनिर्माण विभागाने दि. १४ जून २०१६ रोजी शासन निर्णय काढून मानीव अभिहस्तांतरणासाठी लागणाऱ्या कागदपत्रांची संख्या निश्चित केली आहे. याबाबत इथे स्वेदाने नमूद करावेसे वाटते की, समिती अधिकाऱ्यांनी आपली दिशाभूल केली आहे.

मानीव अभिहस्तांतरणात अडचणीचे ठरणारे भोगवटा प्रमाणपत्र काढून टाकण्यात आले, परंतु त्याऐवजी नियोजन प्राधिकरणाने प्रमाणित केलेले बांधकाम पूर्णत्व प्रमाणपत्राची अट टाकण्यात आली आहे. याबाबत मी आपल्या निर्देशनास नम्रपणे आणून देऊ इच्छितो की, इमारतीला भोगवटा प्रमाणपत्र मिळाल्यानंतरच बांधकाम पूर्णत्व प्रमाणपत्र देण्यात येते. आजतागायत फक्त २५ ते ३० टक्के गृहनिर्माण संस्थांकडे इमारत पूर्णत्व प्रमाणपत्र आहे याचाच अर्थ या नवीन शासन निर्णयामुळे इमारतींकडे भोगवटा प्रमाणपत्र असूनही त्यांच्याकडे बांधकाम पूर्णत्व प्रमाणपत्र नसल्यामुळे त्यांचे मानीव अभिहस्तांतरण होणार नाही.

अभिहस्तांतरण फक्त जमिनीचे होते, इमारतीचे होत नाही. त्यामुळे मानीव अभिहस्तांतरण केल्यामुळे इमारतीचे बांधकाम जर अनधिकृत असेल तर, ते नियमित होत नाही. तरी या कागदपत्रांऐवजी इमारत आहे का? महानगरपालिकेकडून कर आकारणी केली जाते का? संस्था नोंदणीकृत आहे का? हे पाहून इमारत अधिकृत आहे, असे गृहीत धरून मानीव अभिहस्तांतरणाची प्रक्रिया करण्यात यावी, असे सुचवावेसे वाटते.

दुसरे असे की, महसूल विभागाच्या दि. १२ जुलै २०१६ रोजीच्या शासन निर्णयात स्पष्टपणे म्हटले आहे की, सक्षम प्राधिकारी यांनी मानीव अभिहस्तांतरणाचे आदेश व प्रमाणपत्र संबंधित सहकारी गृहनिर्माण संस्थेला दिल्यानंतर मुद्रांक जिल्हाधिकारी किंवा दुय्यम निबंधक पातळीवर पुन्हा गृहनिर्माण विभागाने मानीव अभिहस्तांतरणाकरिता आवश्यक असणाऱ्या कागदपत्रांची जी यादी प्रसिद्ध केली आहे त्यांची पडताळणी करण्याची आवश्यकता नाही. त्यांनी ज्यासाठी मानीव अभिहस्तांतरण आदेश पारीत झाले आहेत त्याच्याशी संबंधित मुद्रांक शुल्क घ्यावे असे अभिप्रेत आहे. आता वाद दोन प्रकारच्या प्रकरणात आहे:- (१) दिनांक १४ जून २०१६ पूर्वी पारीत झालेले मानीव अभिहस्तांतरण आदेश आणि (२) दिनांक १४ जून २०१६ नंतर पारीत झालेले मानीव अभिहस्तांतरण आदेश.

आता उपरोक्त शासन निर्णय निघूनसुद्धा मुद्रांक शुल्क जिल्हाधिकारी आग्रह धरतात की, जिल्हा उपनिबंधकांनी पारीत केलेले जुने मानीव अभिहस्तांतरण आदेशांवर दि.



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१४ जून २०१६ च्या शासन निर्णयान्वये पुन्हा निर्णय करण्यात यावा आणि नवीन आदेश मिळाल्यानंतरच अभिनिर्णयासाठीचे अर्ज स्विकारण्यात येतात आणि प्रक्रिया सुरू करण्यात येते. अन्यथा अभिनिर्णय अर्ज मुल्यांकनासाठी घेतले जात नाहीत.

सदर प्रश्नी ठाणे न्यायालयातील वकील संघटनेने शासनाकडे तक्रार केली होती. त्यावर शासनाने निर्देश दिले होते की, नोंदणी महानिरीक्षकांनी त्यांच्या मुद्रांक जिल्हाधिकाऱ्यांना निदेश द्यावेत की, दि. १२ जुलै २०१६ च्या शासन निर्णयानुसार मुद्रांक जिल्हाधिकाऱ्यांनी प्रकरणे अभिनिर्णयासाठी घ्यावीत. परंतु नोंदणी महानिरीक्षकांनी तसे पुढील स्पष्टीकरण न दिल्यामुळे मुद्रांक जिल्हाधिकारी कोणतीही प्रकरणे घेत नाहीत.

ऑगमेरी सहकारी गृहनिर्माण संस्था मर्यादित, या संस्थेने माननीय उच्च न्यायालयात याचिका क्र. १०२८/२०१६ अन्वये याचिका दाखल केली होती. त्याची प्रत आपल्या माहितीसाठी सोबत जोडीत आहोत. याप्रकरणी माननीय उच्च न्यायालयाला आपल्या विभागाकडून स्वात्री देण्यात आली की, मुद्रांक जिल्हाधिकारी फक्त दि. १२ जुलै २०१६ च्या महसूल विभागाच्या शासन परिपत्रकाप्रमाणेच कागदपत्रे मागतील. ही स्वात्री दिल्यानंतर माननीय मुंबई उच्च न्यायालयाने हे प्रकरण निकाली काढले.

माननीय सर्वोच्च न्यायालयाचाही निर्णय आहे की, सक्षम प्राधिकाऱ्यांनी पारित केलेल्या आदेशाची अंमलबजावणी करणे, हे अंमलबजावणी करणाऱ्या अभिकर्त्याचे कर्तव्य आहे, मग तो आदेश चुकीचा वा बरोबर असो.

दुसऱ्या एका प्रकरणी माननीय सर्वोच्च न्यायालयाने असा निर्णय दिला आहे की, सक्षम प्राधिकाऱ्यांनी दिलेल्या कोणत्याही आदेशाबाबत जर त्यात अपील करण्याची तरतूद असेल, तर प्रशासकीय पत्राद्वारे त्यावर प्रश्न किंवा चौकशी केली जाऊ शकत नाही. बाधीत व्यक्ती फक्त अपीलात जाऊ शकते.

एक्झरेस्ट अपार्टमेंट (थकबाकीची वसूली) या दुसऱ्या एका प्रकरणात माननीय सर्वोच्च न्यायालयाने निर्णय दिला आहे की, जेव्हा विनिर्दिष्ट कायद्यात अपील करण्याची तरतूद नसेल, त्या प्रकरणी फक्त राज्य शासनाला पुनरीक्षणासाठी आदेश देण्याचे अधिकार

आहेत. दुसरे कोणतेही प्राधिकारी सक्षम प्राधिकाऱ्याला प्रकरणाचे पुनर्विलोकन करण्याचे आदेश देऊ शकत नाही.

उपरोक्त माननीय सर्वोच्च न्यायालयाचे निर्णय आपल्या संदर्भासाठी दिले आहेत. त्यामुळे माननीय नोंदणी महानिरीक्षक किंवा मुद्रांक जिल्हाधिकारी ज्यांनी महाराष्ट्र मुद्रांक अधिनियमातील तरतुदींची अंमलबजावणी करावयाची आहे, ते आपल्या कार्यक्षेत्राच्या बाहेर जाऊन राज्याचे इतर कायदे जसे मोफा, विकास नियंत्रण नियम इत्यादी कायद्यांच्या पैलुंकडे बघत आहेत, त्यामुळे त्यांच्या स्वतःच्या कर्तव्यांकडे दुर्लक्ष होत आहे.

सक्षम प्राधिकाऱ्यांनी मानीव अभिहस्तांतरणाचे आदेश व प्रमाणपत्र देऊनही मुद्रांक जिल्हाधिकारी मुद्रांक शुल्क घेत नसल्यामुळे मानीव अभिहस्तांतरणाची प्रक्रिया पूर्ण होऊ शकत नाही. म्हणून आपणास विनंती आहे की, नोंदणी महानिरीक्षक व मुद्रांक नियंत्रक यांना निदेश देण्यात यावे की, त्यांनी मुद्रांक जिल्हाधिकाऱ्यांना योग्य ते निदेश पुनः देण्यात यावेत.

लोकशासनात आपण दिलेले आदेश, शासनाचा निर्णय व न्यायालयाचा निर्णय याची अंमलबजावणी अधिकारी करत नसतील, तर सामान्य नागरिकांनी कुठे जावे? आपल्या नेतृत्वाखालील शासनात अशातः हे ने कामकाज होत असेल, तर ते योग्य आहे का? तरी आपण याप्रकरणी पुढाकार घेऊन सर्वसंबंधितांची एक बैठक घ्यावी या बैठकीत आम्हालाही आमचे मत मांडण्याची संधी द्यावी व मानीव अभिहस्तांतरणाचा प्रश्न जो गुंतागुंतीचा करण्यात आला आहे, तो सोडविण्यास मदत करावी ही नम्र विनंती.

आदरपूर्वक,

आपला विश्वासू

सीए. रमेश प्रभू  
अध्यक्ष

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Indian society of structural engineer (ISSE)	1999
Institution of Valuer	2002
Mumbai Building repair & reconstruction board (MHADA UNIT)	2002
License of site surveyor	1988
License of site supervisor	1997
American society of civil Engineers (ASCE)	2004
Institute for steel development & growth	2001
Indian society for technical Education (ISTE)	2002
Registered member of the council architect New Delhi	1984
Associated member of the Indian Institute of Architects	1984

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## FAQs on PARKING & TERRACE

### **Q1. How is the application for allotment of parking space/stilt to be made?**

**Ans:** As per bye law no. 82, The Member, desiring to have parking slot, may make an application to the Secretary of the Society giving necessary details. The procedure laid down under the bye-law No. 63 for disposal of applications, shall be followed by the Secretary and the Committee of the Society.

### **Q2. How are the parking spaces/stilts marked?**

**Ans:** As per bye law no. 79, Where any parking slots have been built or open space in the Society's compound is available for parking of cars, the Society shall number and demarcate the stilts and/or the open space in such a way that no inconvenience would be caused to any of the Members of the Society. The Committee shall ensure that the space is used by the Members for the purpose for which it is allotted to them.

### **Q3. What is the provision regarding parking of other vehicles by the members other than motor vehicles?**

**Ans:** As per bye law no. 84, Every Member, having a scooter, a motor cycle, or an autorickshaw shall obtain prior permission of the Committee for parking his vehicle in the compound of the Society and pay the charges fixed by the General Body of the Society at its meeting.

### **Q4. How is the allotment of parking space/stilt made?**

**Ans:** As per bye law no. 78 (b), The allotment of Parking Space shall be made by the Committee on the basis of "First Come First Served", for available parking slots. However the Member shall have no right to sell or transfer the Parking Slot allotted by the Society.

### **Q5. What is a provision for parking the vehicles of visitors/outside visitors visiting housing society?**

**Ans:** As per development rules, 10 per cent place should have to be reserved for visitors/outside visitors visiting housing society.



Adv. Anisha Shastri  
022 - 42551439

### **Q6. How are the parking spaces/stilts dealt with, which remain unallotted?**

**Ans:** In case any stilts or parking spaces remain unallotted for want of applicants for allotment, a second or third stilt or parking space may be allotted to the same member who has earlier been allotted the stilt or the parking space. Such allotment of a 2nd or 3rd stilt/parking space can be made on year to year basis, provided the same is not required by another member, who is not allotted even a single stilt/parking space.

### **Q7. Who is eligible for the allotment of parking spaces/stilts?**

**Ans:** As per bye law no.80, A Member having a vehicle will be eligible to have parking slot. Normally no Member shall be eligible for being allotted more than one parking slot. The vehicles may be owned by him or allotted to him by his employer, or the firm of which he is the partner or the company of which he is the director. If any parking slots remain unallotted for want of applicants, additional parking slots may be allotted to such Members who already have a slot allotted to them in normal course. Such allotment of additional parking slots shall be made on year to year basis, provided the same are not required by other Members, who have not been allotted even a single parking slot.

### **Q8. Is there any restriction on utilization of parking spaces/stilts?**

**Ans:** As per bye law no. 78 (c), No Member shall be entitled to utilize more parking slots than the officially allotted to him by the society.



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# BMC CHIEF SANCTIONS INTERIM POLICY FOR MAINTENANCE OF OPEN SPACES IN CITY

## Pvt Players Can Manage Plots For 11 Months

Nine months after chief minister Devendra Fadnavis called for a review of the controversial open spaces policy, municipal commissioner Ajoy Mehta sanctioned an interim policy for their maintenance.

Under the interim policy, a person will be allowed to maintain an open space for a period of 11 months. The contract will lapse if the revised open space policy comes in force before the 11-month period. The BMC is working on a revised open space policy after activists had criticized the policy approved in January, claiming that it left a huge scope for misinterpretation and misuse.

“Open spaces would be given out on maintenance for a specific contract period. There are conditions for maintenance of the plots too. We will table the same before the civic group leaders' meeting,” said Mehta. The four conditions mandated by the interim policy are free entry to the plot, non-discriminatory access for citizens, access timings fixed as permitted the BMC and maintenance be up to the mark. A committee, comprising local assistant municipal commissioners, will be set up to inspect if the conditions are being met by the private player maintaining the plot.

In January, the CM called for a review of the open space policy and said that over 200 plots that were given to private players under the adoption policy be taken back. But in a complete U-turn, in July, the CM, in the legislative assembly, said if a private agency is ready to maintain open space for free, it shouldn't be a problem. Going by Fadnavis's second statement, Mehta sanctioned the interim policy.


BJP party leader in the BMC Manoj Kotak said they will support the interim policy, if it is directed towards saving public money and the plot from encroachment.

“If charitable organizations come forward to maintain plots without claiming anything in return, we will support the policy.”

But the Opposition slammed the

interim policy claiming that it was being brought in under the pressure of the ruling Shiv Sena BJP alliance. “The BMC has appointed contractors to maintain open spaces and has enough funds for it. The city is being taken for a ride as a handful of politicians have an interest in maintaining the plots,” alleged Rais Shaikh, SP leader.

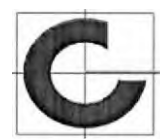
Activist Nayana Kathpalia of the NGO Nagar said, “The BMC should maintain open spaces instead of getting in private players. It has enough funds for the same too. Such ad hoc measures will only lead to more confusion and not really achieve anything.”

GROUND REALITY		Available open space in Mumbai	Centre's advice	Open plots
<b>JAN 13 :</b> BMC Clear open spaces policy under which plots will be given to private entities on adoption basis; no construction will be allowed. But the bar doesn't apply on those who applied before Dec 31, 2014, and already spent Rs 3 crore on the plot. The policy also says plots will be given for 5 years to entities with annual turnover of at least Rs. 1 cr. Thereon, the licence can be renewed every year.	players under the adoption policy will be taken back	<b>1.09 sqm</b> per person as per BMC's existing land use plan	UDFPI (Urban development plans formulation and implementation) standard is <b>10-12sqm</b> per person	(1,200 acres)
<b>JAN 15 :</b> Chief minister Devendra Fadnavis calls for a review of policy; says over 200 points that had been given out to private	<b>JULY :</b> Fadnavis does a U-turn in assembly; says if an agency is ready to maintain open space for free, there shouldn't be a problem	 <p><b>PLOTS THAT WERE ADOPTED Over 200</b> (Maintained by trusts by default as caretaker pacts have ended). Over 100 of them BMC, such as Horniman Circle Garden</p>		
<b>SEPT :</b> BMC chief Ajoy Mehta clears interim policy for maintenance of open spaces; it has 4 conditions: free entry to plot, non-discriminatory access to citizens, access to citizen, access timings as permitted by BMC, and maintenance be up to the mark				

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# MSWA ACTIVITIES IN SEPTEMBER 2016

## **1) HOUSING CONFERENCE ON SOCIETY RELATED ISSUE:**

An Housing Conference on Conveyance, Deemed Conveyance, O C, Redevelopment, New Model Bye-Laws, Stamp Duty Registration & other Society related issues was conducted by MSWA on 18<sup>th</sup> Sept 2016 in Sher-E-Punjab Gymkhana, Andheri (East), Mumbai. The speakers made the attendees aware as to the importance of knowing the prevailing rules & regulations under MCS Act & Rules and also spoke on the mandatory training now to be taken by all society members under section-24(A) of MCS Act, 1960. MSWA is conducting the said training programme across Mumbai for the convenience of society members. The key-speakers included were MSWA Chairman, CA Ramesh Prabhu, Mr. Naresh Pai & Mr S. R. Desai, Consultants, MSWA. The said conference had good response with number of members in and around Sher-E-Punjab Colony in attendance. The speakers spoke on the current issues pertaining to the society matters and interacted well with the audience and number of queries of the attendees were satisfactorily attended to.

## **2) SEMINAR / TRAINING IN THANE:**

A day-long seminar divided into two sessions has been conducted by Sahakar Bharati Sahakar Prashikshan Sahakari Sanstha Maryadit, Karad, with support of Registrar of Co-operative Societies. in M H high School, Thane on 25<sup>th</sup> Sept 2016 where approximately 50 plus Housing Societies have participated through their members / residents / office bearers. The topic was Training members, Committee Members and staff of Co-op Housing Societies, Credit Societies and all types of societies. Key speakers were CA Chandrashekhar Iyer and CA Amit Mohare spoke on Redressal, Bye-Laws, Management Election, Accounts and Audit; while Adv Anita Mahadik addressed the audience on Conveyance, Deemed Conveyance, Stamp Duty, Registration and Redevelopment. The said Seminar was all attended and there was interaction among the speakers and audience, whose queries have been suitably addressed to their satisfaction.

## **3) WILL MORE SOCIETY MEETING ON 25<sup>TH</sup> SEPT '16:**

Mr Naresh Pai, MSWA Consultant addressed a well attended meeting in Willmore CHSL, Kandivali (East) when he spoke on Conveyance of Society and the procedures to be complied with therein. Also, he interacted with the attendees and answered the queries in the matter raised by thereof.

## **4) TRAINING:**

As you are well aware, that this training programme has now been made mandatory u/s-24-A of MCS Act, 1960 read with Rule-30-A of MCS Rules, 1961 for all the members of Co-operative Housing Societies across the state by the Competent Authorities for hassle free running of the Society administration thereof. In the training five subjects are covered relating to Housing Societies by the experts.

Each and every society is required to impart training to at least 20% of its members and committee members also and its staff. A Certificate of Participation to all the participants would be issued thereof. Looking at the importance of the matter all members of MSWA are requested and advised to participate in the mandatory Training and for further details please contact Association's office as per the details published elsewhere in this issue.

Further, log-on to our new website: [www.cooperativetraining.org](http://www.cooperativetraining.org) for ensuring proper education that will benefit public particularly in co-operative society sector. For the benefit of society members across the Maharashtra we have recently launched website: [www.mswa.co.in](http://www.mswa.co.in) and you all are requested to take the advantage thereof by registering your participation in the future events.

## **5) TRAINING PROGRAMES:**

MSWA is planning to hold day-long programme on Self Redevelopment of Societies and also on the scope of Project Management Consultant (PMC) and selection of Developer in MSWA's Andheri



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Office during October 2016 in the interest of all those Housing Societies who intend to go-in for Self Redevelopment. The interested ones are requested to kindly reach MSWA Office on 022-4255 1414 for registration and other details thereof.

#### **6) GENERAL:**

As usual MSWA has conducted number of seminars / workshops / talk on various society issues across Mumbai – all with an encouraging attendance by the society members. For any types of query regarding issues of Redevelopment of Society, Self Redevelopment, Deemed Conveyance, Managing Society's affairs free legal counseling, training for members / Committee Members of Housing Societies etc for other tuypes of societies etc is provided on Saturdays, in our Andheri office during

office hours to all our members and you are requested to avail the benefit thereof. A gentle reminder for those societies to clear their outstanding annual fees with that of arrears thereof to support the activities of MSWA.

7) All MSWA members are requested to continue to watch on its News Channel / You Tube regarding Deemed Conveyance, issues of Co-operative Housing Societies, procedures, litigations and solutions in Co-op Laws. There are close to four hundred videos which would enlighten you in Society issues and also call on us in our office with prior appointments with our Expert Advocates / Consultants for issues in society matters, where free advice would be given for a limited period in the interest of Societies across Mumbai and Thane.

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## **MSWA Website : [www.mswa.co.in](http://www.mswa.co.in)**

Maharashtra Societies Welfare Association ( MSWA ) a Mumbai based reputed NGO duly registered as Non-Profit Governing Organization and also a Charitable organization and Institution, certified by the Charity Commissioner Office, Mumbai. Our Association has been formed mainly to assist the Co-operative Societies and its Office Bearers of the Societies, to smoothly run the day-to-day affairs of the society under the provision of Act, Rules and Bye-laws. We have our in-house monthly publication MSWA'S Housing Societies Review dealing with all kinds of society related matters.

Our association has been conducting educational seminars every month wherein we highlight various important issues related to society matters.

#### **MSWA ACTIVITIES :**

- a. Conduct weekly Seminar /work shop on different topic affecting Housing Societies
- b. Publication "MSWA'S Housing Societies Review" dealing with all kind of society related matters.
- c. Regular Classes for Housing Society Managers, Govt. Diploma in Co-operation & Accountancy Course at Different places.

- d. Publication of books on topics like Registration of Societies, Stamp Duty , Registration, Conveyance, Redevelopment, Leave and License, Indemnity Bond, Transfer of Flats, Nomination and Will etc.
- e. Regular Articles in number of newspapers on latest / current topics.
- f. Representation before the Government, Registrar and other authorities regarding the common problems faced by the member society and get the same resolved.
- g. Visit the Member society on request and guide the office bearers and its members.
- h. Act as an Arbitrator for resolving the disputes in the society between the Committee and the members.
- I Regular Camps like Housing Darbar for dispute redressals, Adoption of Bye-laws camp, Stamp Duty Amnesty Scheme camp, one to one Guidance camp on various society issues at different places.
- j. Succeeded in introduction of deemed Conveyance, reduction in stamp duty and also introduction of stamp Duty Amnesty Scheme, OC amnesty Scheme etc.

MSWA activities have been recognized and appreciated not only by the general public but also by Officers of the Department.

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# WHATSAPP QUESTION AND ANSWERS

## WhatsApp

**Q. 1. A member has transferred 10% share to his husband by gift deed so that husband becomes associate members and contest election, Question: when we have submitted the voter list in which name of associate member is not there how he can contest the election.**

**Ans by CA Prabhu Ramesh**

The society is required to give voter list to the registrar 6 months prior to due date of holding election. Once the election officer is appointed, the election officer, is required to finalise the voter list. If the committee has admitted some members or associated members, such members or associated members after submitting the voter list or before the same is finalised by the election officer, the election officer can include them in the final voters list and the allow such associate member or member to vote and contest the election

**Q2. Respected sir , Ours is building of stilt plus 6th floor, 5th n 6th floor were allotted to land owners as share in partnership from as they developed land against chawl area, all rest below of tenants till 4th floor \_paid stamp duty but this land owners have not paid , Question is if this land owners sell flat will they have to pay stamp duty first n then purchaser has to pay pls clarify...**

**Ans by CA Prabhu Ramesh**

As per the decision of Hon'ble High Court. Nominal Stamp duty of Rs.100/- is payable the area or flat allotted to the land owner by the builder. A circular to this effect is also issued by the Inspector General of Registration and chief revenue Authority, Maharashtra.

**Q. 3. Weather it is mandatory to work for 5 years by managing committee.**

**Ans by CA.Ramesh Prabhu**

Managing committee has to be elected for the term of 5 years at the time of conducting election. The election cannot be called for or conducted for a term lesser than 5 years or for more period. It is always for the term of five years from the date of assuming office I. E from the date of taking over the charge from the newly elected managing committee in their first meeting of the committee where office bearers are elected. After assuming office, If any of the committee members or all the members want to resign, they can do so and call for the fresh election. If the strength of the committee members reduces to less than quorum as per the bye laws of the society, then also fresh election can be done by approaching the election authority through registrar.

**Q. 4. Can a defaulting member who has not paid dues ss on 1.04.16. Can he attend agm move resolution and vote fof or against resolution. Or is it only that he cannot stand for election**

**Ans by CA Prabhu Ramesh**

Only non active members can attend the meeting but cannot vote and stand for election till they become active members. As per the Mah coop societies (election to committee) Rules 2014, for the first five years from the commencement of the said election Rules, all members are called active member, so in your case, the person though not paid maintenance from April 2016 still can attend AGM and vote. Regarding eligibility to contest election, he should not be defaulter as per section 73A of the MCS Act..According to which, if a notice is issued in writing demanding the outstanding and the same is not paid within three months of the date of service of notice, such member shall be called defaulter and will not allowed to contest election. However, he still continues to be active member; so such defaulters can attend and also vote AGM, SGM or on the election. The active and non active members need to be declared and intimated to the Members within 30 days of end of cooperative year by the committee in writing to such member and also to be published on notice board (as per section 26 of the MCS Act, 1960) otherwise, all members will be deemed to be active members.



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**Q. 5. Is it possible that any of the office bearer can resign at the AGM in case Chairman doesn't accept the resignation.?**

**Ans by CA Prabhu Ramesh**

Yes any committee member on any date resign from the committee in writing to the society or intimate to registrar about the resignation. If the committee does not accept the resignation or does not act on the same, from the date of serving of notice to society and Registrar by email or by speed post or hand delivery, the resignation is deemed to have been accepted. Such resigned member can after expiry of one month as an additional precaution once again intimate to secretary or chairman or all committee members and Registrar by emails or speed post or by hand delivery about the deemed acceptance of resignation after the expiry of one month and he or she shall not be responsible for any liabilities that may arise on the committee members after the deemed date of acceptance and shall not attend any such meetings of the committee...

**Q.6. If the first (out of 3) named in a hsg society share certificate expires, upon intimation of death can the Society delete the name of the deceased? The other 2 names continue as is?**

**Ans by CA Prabhu Ramesh**

In order to delete the name of one of the deceased member, the society need to get the application by the surviving other two members with following documents:

- (1) Application for transfer in the name of legal heirs as per bye laws.
- (2) Death certificate.
- (3) Probate if there is will or letter of administration on favour of surviving members. Or at least release deed executed by all legal heirs of deceased Member to transfer the shares in the name of surviving members.

Thus all formalities for transmission of shares as per bye law no 34 or 35 need to be done to delete the names of deceased Ans either incorporate the legal heirs of deceased or simply transfer in the name of surviving two members..

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## **REDEVELOPMENT OF HSG SOCIETIES & MHADA BLDGS**

Your attention is drawn for the live talk aired on Jay Maharashtra News Channel on 17<sup>th</sup> Sept 2016 wherein MSWA Chairman CA Ramesh Prabhu and PMC Expert Mr. Kishor Redkar jointly addressed the important issues on Redevelopment of Hsg Societies & MHADA Bldgs and Deemed Conveyance. There was good response with live questions asked by various society members.

For the benefit of those who missed to watch this programme it is decided to repeat the said telecast the same talk twice on 1<sup>st</sup> & 15<sup>th</sup> October 2016 at 1:30 to 2:00 PM and to re-telecast at 03:00 to 03:30

PM on both these days. You are requested to watch the same.

Please click on the following link: -  
<https://youtu.be/aX5-gPJbLQU>

You are welcome to ask any question/s on these topic on our phones: 022 4255 1414 / 1432 or email your queries on [mswa.hsg@gmail.com](mailto:mswa.hsg@gmail.com) or visit [www.mswa.co.in](http://www.mswa.co.in) where your queries will be attended to thoroughly.

Also watch the said programme on you tube – mswa news channel

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## **CREATION OF WhatsApp Group by MSWA**

The Social media has been spreading very quickly. Every person who wants to have the instate information on various aspects been using WhatsApp as means and getting enrolled in different WhatsApp group. At the request of many members and public at large at different Seminars we had organised the MSWA has created the areawise WhatsApp group. any person who want to be part of their respective

areawise group are requested to send your request to: WhatsApp Mobile No.: 7045599708 or E-mail to: [sheetal.pacpl@gmail.com](mailto:sheetal.pacpl@gmail.com) / [mswa.hsg@gmail.com](mailto:mswa.hsg@gmail.com) with following details:  
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# **ONE DAY WORKSHOP ON SELF - REDEVELOPMENT ORIENTATION PROGRAM FOR OFFICE BEARERS AND MEMBERS**



Maharashtra Societies Welfare Association has organised One days Self - Redevelopment Orientation Program for Office bearers & consultants on 22nd October 2016 Full Day, at All India Institute of Local Self Govt. Hall, C. D. Burfiwala Rd., Juhu Galli Naka, Andheri (W), Mumbai – 400 058. From 09.30 pm To 06.00 pm.

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There are limited Seats and will be accepted on first cum first basis. For Enrollment Contact association office on 42551414 / 42551432 / 26248589 / 65. Or E-mail on [mswa.hsg@gmail.com](mailto:mswa.hsg@gmail.com) / [rsprabhu13@gmail.com](mailto:rsprabhu13@gmail.com)





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## ANNOUNCEMENT

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