

Directive to be given to all co-operative Housing Societies in the Maharashtra State Under section 79 (A) of the Maharashtra Co-operative Societies Act, 1960.

In respect of applying Co-operative Housing Societies Manual

GOVERNMENT OF MAHARASHTRA

No. SAGRUYO-2011/PRA.KRA. 360/14-SA, Co operation, Marketing and Textile Department,

Date 15th October, 2011

Whereas, complaints regarding registered Co-operative Housing Societies in the Maharashtra State received, on large scale and with view to immediate redressal of that complaints on the society level only, and similarly for conducting working of the society smoothly and neatly, there is a concept of preparing Housing Manual.

Whereas the study group was appointed by the Commissioner, Co-operation and Registrar of Co-operative Societies, Maharashtra State, Pune under the Chairmanship of Divisional Joint Registrar, Co-operative Societies, Pune, to study, different types of complaints received in respect of the Housing Societies and to deliberate with all groups actual working in the concerned field. The said study group, after deliberating with all groups in the co-operative housing field has opined that it is necessary to apply co-operative Housing Societies Manual.

Therefore, the Government is pleased to give directions under Section 79 (A) of the Maharashtra Co-operative Housing societies Act 1960 as follows.

- 1) According to Annexure A with the said directions Co-operative Housing Societies Manual is applicable for all Co-operative Housing Societies in the State.

By order and in the name of the Governor of Maharashtra.

Sd/-

(Rajgopal Deora)
Secretary (Co-operation)

ANNEXURE 'A'
Co-operative Housing Societies Manual

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CHAPTER 1

INTRODUCTION

Out of the three basic needs of human being one is a residence. The process of urbanization has been fast due to inevitable migration for bread and butter. Due to increasing civilization in the urban areas the need of the houses to reside is also increased rapidly. In the concept of the modern homes the expectation is not limited for residence only. The expectations like luxurious, full of amenities and delightful residence are included in it. In the concept of the residence, it seems that in addition to more and more facilities the exception like delightful, healthful, civilized, independent surroundings and still the feeling like togetherness has been included in it. It can be easily noticed from the advertisement of Housing Project.

Due to fast urbanization process, need of the houses increased and it has become difficult day by day to make the idea in reality of constructing houses with own expenses by coming together and purchasing land. Therefore it came to experience that instead of coming into reality the main purpose of the co-operative housing societies to make available facilities of residence by constructing houses for the members, the only purpose remained in reality is of providing basic amenities, management etc. Especially in the metropolitan city it came to experience at every step that by constructing housing projects by the construction professional and to sale the flat to many persons who are unknown to each other and thereafter registering the housing societies by coming together such unknown persons compulsorily.

Even though rules/procedure for management of facilities are mentioned through Co-operative Housing Societies Act, Rules and bye laws based on them it came to notice generally that the people who are unknown to each other starts disputing by taking support of these rules. Therefore the concept of this manual is not to break each other but to unite them. They should know what the exact provisions are in the bye laws. How can it be used for not raising dispute in the society? The aim of this Housing Manual is to give authorized information in easy language. Since the working of the Premises Co-operative Housing Societies is same like Housing Society, this manual can be applicable to the premises societies also. The main reason behind the dispute between society and member is that the reply to the letters/complaints of the members is not given from the managing committee meeting by taking immediate decision. Therefore it is necessary to call at least one meeting of the Managing Committee in a month and it is the main responsibility of the Managing Committee to take proper decision in this meeting on the letters/complaints received from the members and to give reply accordingly.

The members have to face difficulties due to denial of various papers, permissions, and certificates for the technical reasons like fulfillment of papers and other flaws or not taking early decision on it. It is necessary that the managing committee members prior to placing before the meeting the application the /letter of the member if possible should have to entrust the responsibility of fulfilling the flaws to the Secretary, Therefore it can be possible for the member to fulfill the flaws prior to the meeting. If the committee members adopt the procedure of calling the concerned member in person at the time of managing committee meeting and to satisfy him regarding his application/ letter than the complaints in the society would be solved on the level of society only. There by no reason will remain for the member to take his complaint to other machineries. The time of the managing committee will also save from giving reply, explanation to this machinery. In all the cordial and co-operation atmosphere will last in the society.

However Members also tried to solve their problems by meeting managing committee members personally and not to make correspondence, written complaints frequently.

It is utmost necessary that with their rights, the members should obey their duties also. Especially the member should not stop of paying maintains charges to the society for any reason. This could not resolve problems and it also becomes difficult to run the society for want of maintenance charges.

To take precaution by the members of the committee and members to discharge their duties and responsibilities with one's own discipline means to obtain eminence of Dispute Free Housing Society.

It is the joint responsibility of the managing committee and all members of the society to achieve the goal of Dispute Free Housing Society. This manual has been prepared with a purpose that it would be useful to all officers related to the Housing Societies, members and managing committee members. It is expected that all should use this for making cordial relation and ending dispute because it is main aspect of the co-operation that "United we stand divided we fall."

1.1 Background :

Maharashtra is a most progressive state in the co-operative agitation in the country. Beginning of the Co-operation agitation in India starts from making available loan to the farness for agriculture. Thereafter, extension and development of this agitation has been spread in various fields. At present we experience the direct or indirect relation of co-operation beginning from the morning tea, sugar, milk to fruits, vegetables and loan for various reasons.

As on 31.3.2010 there are 2,18,320 Co-operative societies in Maharashtra State out of which 81,255 are Housing Societies. It means numerically housing societies are more in number than any other society. Naturally remarkable number of the member is also of Housing Society.

Housing Society is such type of society where the members of the society stay with their family day and night in each others' close contact/company. This type of close contact is not found in any other type of society. Therefore it is experienced that the complaints of Housing societies arise out of human nature, behaviour, egoism, anger, greed etc. Therefore provisions made in laws, bye-laws are not sufficient to solve their problems but to knowledge of the human nature, behavior is necessary.

Incidental to that, the model bye-laws were prepared in the year 2001-2002 for the co-operative housing societies as a part of the efforts to solve the complaints by studying the housing Societies questions and complaints received by time to time. Even then, there was no sufficient change in the nature of the complaints received, once again the study was conducted and accordingly amendments are made in the model bye laws. In the year 2009-2010 new model bye laws has been published.

In fact the guidance of procedure regarding all points related to the management of Co-operative housing societies has been given in this model bye laws. Even then complaints from the members received frequently on the same points. The persons/members residing in the co-operative housing society are especially from the urban area and they all are out day long for the purpose of work. Similarly such societies have no independent trained staff for handling day to day work and accounts works many a time members from the managing committee themselves doing the work of writing record. While taking decisions of day to day working of the Co-operative Society, it is necessary to take decision as per co-operative law, rules and similarly provisions in the bye laws. However while applying meaning in that regard, and while doing development work on the society level, different decisions was taken in various societies and thereby complaints arise.

By observing legal provisions in the co-operation law, rules and bye laws and for its effective implementation and for bringing equality and similarly in the entire state on the decisions to be taken on complaints or questions in the Society or Registrar level, if such type of Co-operative Housing Societies Manual is there, then the office bearer of the society can get practical instructions and also guidance for doing day to day working. The idea of preparing this Co-operative Housing Societies Manual is emerged especially for this purpose.

1.2 Purpose of the Manual –

While preparing this manual, it is realized that it would not be possible to give readymade answers of all questions related to the housing societies. Therefore following purposes have been placed before the eyes prominently.

- To get practical guidance immediately to the managing committee/ employees, working in the co-operative housing societies.
- To get legal guidance immediately to the office bearers of the managing committee/employee regarding which legal procedure to be adopted while doing some work.
- To get guidance about what decision to be taken on the complaints regarding Co-operative housing society received to the officer working in the co-operation department and there should be unanimity while giving decision on same subject/ Complaint.
- To enhance efficiency of the office bearers, employees working in the Co-operative Housing Societies and similarly officers/employees in the Co-operation Department and to enhance the slandered of working of the society so that it will help in minimization of complaints of the members.

1.3 Scope of Manual-

The information regarding adopting procedure for solving the complaints of the citizens and members of the society and similarly to take decision on that is given in this manual. In this, the procedure to take decision on various subject on the society level according to the co-operative Act, Rules, Bye-Laws and Government orders/Directives issued on the Government level from time to time, also the circulars issued by the Commissioner, Co-operation by time to time is illustrated.

- Complaints of the members regarding working in the society are received in the office of the concerned Registrar by time to time. At such a time, all Registrars should take decision on such complaints by considering the provisions in the concerned section and bye-laws. For this, guidelines are included in it. There by it will help to maintained merit and legality of the decision given by the office of the Registrar in the state.
- Immediate legal guidance regarding record to be maintained as per law in the society, developmental works of the society, the questions, complaints raised by the members from time to time will be available by

this. Thereby it will help in qualitative progress in the working of the society.

All the concerned will get guidance through this manual that what decision to be taken by considering the nature of the complaint received so that it will help in minimizing the complaints.

Dt 20-10-2011
Secretary (Co-operative)

Rajgpoo Deora, I.A.S
Maharashtra State

CHAPTER 2

CO-OPERATIVE SOCIETY – TO RESERVE NAME, TO REGISTER

2.1 To reserve the name of the proposed Co-operative Housing Society and to open account in the Bank

The process of registration of Co-operative housing society starts from the working of the first general body meeting held prior to registration. In this meeting the Chief Promoter is primarily selected. In this meeting the necessary resolutions like opening the account in bank in the name of proposed society and for obtaining permission for reserving the name of the society. It is utmost necessary on the part of the concerned Registrar to check and ensure that total number of flats/ galas in the proposed society, how many member of that were present in the first meeting of the proposed society and given their approval to the various resolutions. Otherwise one group starts the process of registration by passing the proposal/resolution in minority. Thereafter the other group starts another process of registering society in different name by taking independent meeting. For avoiding the disputes to be arisen before registration, the Registrar should not give permission for reserving the name of the society and to open the account in that name without checking original papers and without ensuring that the entire process of the first meeting hold in the presence of majority members.

Especially the working transacted in the first meeting in respect of S.R.A./SRD/MHADA recognised Housing societies is very important. Therefore to attend the representative from the concerned office of the Registrar for the first meeting prior to registration has been made compulsory by these authorities. It has been also made obligatory to make available video shooting of the entire working of this meeting. Even then also if dispute arise in this regard, then the justice can be sought from the competent court as dispute before registration of the society.

The format of reserving the name of the proposed society, to open an account in the Bank, minutes of the first meeting prior to registration, application for registration and information of the members in prescribed format/ entire registration proposal has been made available by the federation of Co-operative Housing Societies for sale.

2.2 Criterion for registration of Co-operative Housing Societies

The criterion of registration of Co-operative Housing Societies and required necessary papers are to some extent different as per types of the Societies. There are three types of the Housing Societies.

1. Tenant Co-partner Housing Society (Society of the flat holders)
2. Tenant Owner Housing Society (Society of the flat holders)
3. Other Housing Society (Construction of houses/house mortgage Co-operative Housing Society)

1. The documents required for registration of Tenant Co-partner Housing Society.

- 7/12 extract of the land or property card.
- Certificate from the competent authority regarding non-agricultural land.
- The order regarding applicable/non applicable of land ceiling Act.
- Construction layout approved by the competent authority.
- Letter of sanction for starting construction.
- Certificate regarding completion of construction work.
- Development Agreement if the land is taken for development.
- Letter of Power of Attorney of the land.
- Title search report of the land.
- The registered agreement of purchases of the flat with necessary stamp duty paid.
- Architect Certificate regarding construction.
- List of Members.
- Scheme of the Society.
- Application for reserving name.
- At least ten members are necessary for registration of society. However the government has given permission subject to some conditions for the Housing society of less than 10 members by exercising powers under section 7.
- If the land is given by the government or undertaking agency of the government then its guarantee letter.
- No objection certificates from the Charitable Commissioner if the land is of Trust.
- Certificate of the competent authority regarding non-agricultural plot.
- While registering SRA/SRD and MHADA recognized Co-operative Housing Societies, it is obligatory to fulfill the necessary papers as per instructions given by that authorities by their circulars in addition to above criterion.
- Application for Registering Society (A form)
- Table giving information of society (B Form)

- Table giving details of the members (C Form)
- Statement of Accounts of the Members (D Form)
- Bye-Laws of the Mortgage Society.
- Notorised Guarantee letter by the Chief Promoter of the society on the stamp Paper of Rs. 100/-
- Notarised Guarantee letter by the Builder, Promoter on the Stamp Paper of Rs. 100/-
- Affidavit of Members (Affidavit of Minimum 10 Promoters)
- Two copies of bye laws approved by the Commissioner, Co-operation and Registrar, Co-operative Societies, Maharashtra State Pune.
- Proof of the bank balance of depositing the amount of each share of Rs. 500/- of the promoter member and admission fee of Rs. 100/- after getting permission for reservation in the District Central Co-operative Bank.
- Chalan of Rs. 2500/- deposited in the Government Treasury
Registration fee for the Housing Society of Backward class is Rs. 50/-

2. Documents required for registration of Tenant Ownership Housing Society.

In Addition to the above mentioned documents, following documents are necessary.

- Zone Certificate from the competent authority regarding in which area the land situated.
- Layout Plan.
- Minimum 10 members are required for registration of society.

3. Other Housing Societies - House Mortgage Societies.

The members can form House Mortgage Society for giving loans and to give guarantee of it for constructing residential houses on their own plot or the plot taken on long term lease or to purchase or to make additions in their own present residing houses and/ or to make alterations and to undertake all such work for fulfillment of its purposes, to sale the entire immovable and movable property and assets or any of its part, to lease it out or to dispose it or to do any transaction in that respect.

For registration of House Mortgage Society, following documents are necessary –

- Application for registration of Society (A Form)
- Table containing information of the society (B Form)
- Table containing information of the members (C Form)
- Statements of accounts of the members (D Form)
- Two copies of Bye Laws.

Builder-Non Cooperation Co-operative Housing Society

If builder/promoter procrastinate in registering the Co-operative Housing Society, then in that case, the application for registration of society be submitted in Form 6 (Rule 12) before the authorized officer (District Dy. Registrar in the respective district, who have given power under section 10(1) of the Maharashtra Ownership Flats Act 1963 (For making regulation for encouraging their constructions, their sale, management and transfer).

While submitting the said proposal, following documents are Necessary.

- 7/12 extract of the land or property card.
- Competent Authority Certificate regarding non-Agricultural land.
- Order regarding applicable/non-applicable Land ceiling Act Map of the construction approved by the competent authority.
- Letter of given permission for construction.
- Completion certificate of Construction.
- Development Agreement if the land is taken for development.
- Power of Authority letter of the Land.
- Copy of the Title search Report.
- Agreement copy of the flat purchased.
- Architect certificate regarding construction.
- List of the Members.
- Scheme of the Society.
- Application regarding reservation of Name.
- Minimum 10 Members shall necessary for the registration of the Society.
- Application for registration of Society (A Form)
- Table containing information of the society (B Form)
- Table containing information of the members (C Form)
- Statement of Accounts of the members (D Form)
- Notarised guarantee letter of the chief promoter of society on the stamp paper of Rs. 100/-

- Notarised Indemnity Bond of the members who applied for the registration of society on the stamp paper of Rs. 200/-
- Affidavit of the Members (Minimum 10 promoters' Affidavit)
- Two copies of bye laws approved by the Commissioner, Co-operation and Registrar, Maharashtra State, Pune.
- Bank balance statement of the promoter members who have deposited Rs.500/- each as a share and admission fee Rs.100/- in District Central Co-operative Bank after getting sanction for the reservation of name in district of Rs.2500/- paid as society Registration fee in the Government Treasure.

The proposal submitted after fulfillment of above mentioned documents, the competent authority by taking hearing, issued orders to the concerned officer for registering the society .

The scrutiny of the registration proposal submitted after fulfillment of documents as mentioned above and criterion will be done after taking into consideration the instructions in the circular/ directives regarding registration issued by the Government/ Commissioner, Co-operation. It is obligatory on the concerned Registrar to make registration by considering various provisions in the Act and Rules and instructions given in the circular/ directives.

2.3 Procedures of Registration of Co-operative Housing Society-

For registering the Co-operative Housing Society, the concerned Registrar by scrutinizing the proposal submitted after fulfillment of above mentioned documents shall make an arrangement of issuing certificate of registration society under Section 9 (1) of the Maharashtra Co-operative Society Act 1960, and copy of the registered bye-law, memorandum regarding registration of society to the chief promoter. The order regarding registration of society should have been sent for publishing in government gazette to the Government Printing Press for appropriate action.

The Chief Promoter should have to arrange first general body meeting of the Promoter members within 3 months from the date of registration of society (Under rule 59 of the Maharashtra Co-operative Societies Rules 1961) and necessary resolution should be passed in this meeting. If such a meeting was not taken by the chief Promoter then in that case if complaint received to the concerned Registrar, then by appointing authorized officer such a meeting can be conducted in the Chairmanship of authorized officer.

If the registration of the society is denied, then it is necessary that by passing the written order in this regard by the Registrar, and a copy of it should have to be given to the concerned. Appeal under section 152 can be filed before the immediate senior officer against this decision.

It is necessary to take decision on the registration of the society within a period of two months from the date of the proposal of the society submitted to the Registrar. If such decision was not taken within two months then it is necessary to send that proposal to the immediate senior officer.

If the Registrar had not taken any action on the proposal received for registration under section 9(2) of the Maharashtra Co-operative Societies Act 1960, as expected under this section within two months, then it is presumed that the deemed registration of the Housing Society.

It could not be said that the officers from the Co-operation department will remain present in the meeting, therefore it should be noted in the memorandum of registration that the office bearer representative of the District Federation along with the officers from co-operation department be present in the first meeting so that the information regarding procedure of working of the society and also bye laws can be given to the members in the first meeting itself.

CHAPTER 3

MEMBER, MANAGING COMMITTEE AND RIGHTS AND DUTIES OF THE MEMBERS

3.1 Member

Types of membership

There are 4 types of membership in the co-operative housing societies as under:

A) Original Member:

- Original member means an individual/ society, trust, company whose name is included by the society in registration case or admitted as a member of the society after registration. Only such original members name is recorded on the share certificate. In case there are other members along with the original member, the name of the original member is recorded on Sr.No.1. Other members' name recorded thereafter serially.

B) Associate Member/Co-Member:

- Associate member means a person who holds jointly a share of the society with original member but his name does not stand first in the share certificate. In case of more than one associate members, such associate members' names are recorded in the share certificate in the serial order number 3, 4, 5, etc.

C) Nominal Member:

- Nominal member means a person admitted to membership as such and registration in accordance with the bye-laws of the society. Share certificates are not issued any. Nominal members are admitted so that necessary legal actions can be initiated u/s 91 of MCS Act, 1961. Only a Sublette, a licensee or care-taker or occupant of the flats is admitted as a nominal member.

D) Sympathizer Member :

- Sympathizer member means a person who sympathizes with the objects of the society and is admitted to the society as such.
- .Rights of the Associate Members: Since more than one person made payment of the cost price in the purchase deed of flat in co-operative housing society, they gets ownership rights.
- Even though there is not mentioned the name as a owner in the purchase deed, the Associate Membership can get by paying only admission fee and with the consent of the original member. In the absence of original member and with his consent

associate member can attend the annual general body meeting, the associate member can take part in the election as a voter/ candidate. In case the associate member gets elected as a committee member, he becomes office bearer also. A person, who became an Associate member by paying only admission fee, shall not get any rights in voting or election behalf the original member. It is necessary for the Associate member that his share/name is included in the ownership of property for holding share jointly. In case of Co-Operative Housing societies promoted under the authorities like MHADA, SRD and SRA, the persons whose name appears as eligible persons in annexure II only becomes the member of that society and the house provided by such Authorities given on ownership will remain in the name of original member for the period of ten years and that cannot be transferred also. Therefore, only whose name appears in Annexure II they only expected to take part in the election. Therefore, the provisions of associate members have been excluded in case of SRA/SRD and MHADA societies.

- If a shop owner is a flat owner in the co-operative housing society, then it is compulsory that to become the member of the society. In case such shop owners do not come forward to become the members of the society, the same can be informed to the Deputy Registrar who shall inform the shop owners to become the member of the society.
- If the benefits of common amenities created by the members of the society are taking by the shop owner/flat owner without being the member of the society, then society can take decision on its level regarding not providing such benefits/services to the shop owner/flat owner.
- The above rights are not available to the nominal and sympathizer members.
- Even after giving the membership form and the Managing Committee has accepted such membership, one can be considered to be member and can exercise the rights of the membership only after paying the necessary fee towards the membership. Thus even if the membership is granted by the committee, the person cannot exercise his rights of membership unless the required fee is paid to the society.
- In a co-operative housing society, if a member is holding more than one flats, during election such member can cast only one vote. In spite of owning any number of flats, the person can apply for only one share and also becomes only one membership statutorily, therefore, he get right to cast only one vote.

Minor Member:

- Minor member cannot enter into any contract. Therefore, all the contracts on his behalf is done through his guardian. After attaining the maturity, the minor

member can take objections against transactions regarding sale of flat done by his parents/ guardian statutorily.

- The societies should not transfer the flats which is in the name of a minor member and the transaction of which is done through the Guardian unless and until, an order from the Competent Court is produced approving such transaction. The society should start the procedure only after taking proper legal advice in this matter.

Corporate Membership:

- A firm, company or any other body corporate can become the members of the society. However, as per the Government Resolution, more than 50% of total membership cannot be given to the firms and the company.
- It is binding to make provision in the constitution/rules of the firm or company to make provision for making available of residential places for their employee/officers.
- The firm or the company should not carry out the business which is against the objects of the society.
- The firm or the company should have objective of providing houses to its employees in its memorandum of association or articles association.
- There should be a provision in the Memorandum and Article of association of the company that they can invest their funds for purchase of the flats/ shops.

It is compulsory for firm or the company to take the membership of the society. The management of the society or committee shall consist of not more than one fourth members of the firms and companies and the remaining shall be from the individual members and such provision shall be made in the bye-laws of the society.

According to the constitution of firm or company, the firm or company with provision of making available of residential place to its employee/officers, such company or firm should have to give guarantee letter to the society regarding giving details of the changes that took place time to time in the name of the concerned employee/officer and giving monthly contribution of the society. Similarly should nominate those who are going to take part in the working of the society behalf the concerned employee/officer.

3.2 Membership, Eligibility and Procedure

Eligibility of membership provisions is contained in Section 22(1) of the Maharashtra Co-op. Societies Act, 1960. An individual completing the age of 18, mentally sound as well as competent to contract under Indian Contract Act 1872. A

Company or firm registered under Society Registration Act 1860, Public Trust Registration Act 1860, Public Trust registered under Mumbai Public Trusts 1950. A Co-operative society registered under M.C.S. Act, 1960 i.e. Central Govt. State Govt. local Authority public trust can eligible for membership of the co-operative housing society.

However, it is necessary that they have to possess ownership rights of flat owner or tenement owner of co-op. Housing Society by legal documents.

Conditions of admission of membership as per rule 19 of the Co- operative Act.

1. A person / society / body corporate intending to become a member of a particular society should apply in writing for getting membership in a prescribed form.
2. Managing committee's approval is necessary for membership application and thereafter approval of the Annual General Body Meeting.
3. Any member who wants to obtain membership should have to fulfill to norms laid down in the Act, Rule and by laws.
4. Other than person the company firm Trust competent Authority also should have to fulfill above terms and conditions.
5. It is necessary to attach resolution regarding giving rights along with the membership application.

3.3 Refusal of membership by housing society

As per section 23 (1)(A), any eligible person who has been refused the membership of the society has to tender an application to the registrar together with prescribed payment Cheque. There is a provision to give such application to the office of the Dy./Asstt. Registrar in form H(1) Rule 19-A. Accordingly Registrar, who shall forward the application and amount if any so paid to the society concerned within thirty days from the date of receipt of such application and thereafter if the society fails to communicate any decision to the applicant within 60 days from the date of receipt of such application and if the society's decision is not acceptable to them, then there is a provision to appeal with Dy/Asstt. Registrar of co-operative society.

So, Society not only receives application of registering membership but they should accept application correspondence of members without excuse and give receipts.

After receipts of such complaints application, the secretary of the society should have to make scrutiny of the complaints/ application within 7 days from the date of receipt of application and if there is any requirements of document he should inform in writing to applicant. After receiving the documents from the applicant he should put it

before the managing committee and it shall take decision thereof in the coming managing committee meeting. Such decision shall be communicated to concerned member is mandatory. If possible contact with necessary correspondence to the member directly and give guidance. It will help to make decision process speedy and in future there is end to such complaint and no prospective complaint.

It is necessary to issue share certificate to each member by registering in the societies register book in the form of 'I' and 'J' because share certificate is a main document of the member. In such a way if the society did not issue share certificate then by making an application to the Registrar, request may be made to the Registrar to initiate proceeding as per Section 79(2).

3.4 Action on Housing Society level and Provision of Appeal

- a) Co-operative Housing society has taken decision on membership application within 3 months from the date of receiving application of member. The decision may be affirmative or negative. If the society has not informed affirmative or negative decision regarding membership to the applicant then the applicant has right to make application u/s 22(2) to the Dy. Registrar Co-op. Housing Society for deemed membership and there is a provision of hearing to both the parties and passed legal order.
- b) If any eligible person who has been refused the membership of the society has to make an application to Dy./ Asstt. Registrar co-op. society u/s 23(2) and seek justice. The Dy./Asstt. Registrar gives his decision on the said appeal by calling both the parties' applicant and housing society.
- c) In above cases, if the decision of court is not in favor of applicant then there is a provision to approach in revision appeal to the Divisional Joint Registrar and can seek justice. Justice can be seeking by admitting writ petition in the Hon'ble High Court against the verdict of the Revision Appeal.
- d) It is necessary on the part of the society to take approval of the general body meeting for the challenging the decision in the above serial No. 'A' and 'B'. Thereby the number of appeals make out of personal rivalry would be minimized.
- E) If the society has not challenged the orders issued by the Registrar, and membership also not given to the concerned member then that it is necessary that such member should have to make an application to the Registrar and the Registrar would issue directives under section 79(2) (A) on it and even there after the society did not obey the directives then by appointing Authorised officer u/s. 79(2)(B) the proceeding of giving membership would be done.

3.5. Nomination and Membership of Nominees transfer procedure

According to sub rule no. 32 and 33, the member can make an application in the prescribed form to the society for nomination. The acknowledgement of the nomination by the secretary shall be deemed to be the acceptance of nomination by the secretary. No fees shall be charged for recording the first nomination. If member has revoked his first application in writing, then after that every fresh nomination shall be charged a fee of Rs. 50/- society has no right to refuse nomination.

If member has registered his nomination then earlier deemed to be cancelled.

On receipt of the nomination it is binding on the secretary to register the nomination in the register book within seven days by taking note in the first managing committee meeting. Similarly to adopt the same procedure as per sub Section 33 is binding for second time nomination was given by cancelling previous nomination.

Subject to the provision of the Section 30 of M.C.S. Act. 1960 by sub rule No. 34, 17(A) or 19 on the death of a member, the society shall transfer the shares and interest of the deceased member in the capital / property of the society to the nomination / nominees. In the event of death of the member nominee / nominees shall submit the application for membership. If there / are more than one nominee on the death of a member, such nominee shall make joint application to the society and indicate the name of the nominee who should be enrolled as member. The other nominees shall be enrolled as its Associate member unless the nominees indicate otherwise.

The nominees shall also file an Indemnity bond in the prescribed form indemnifying the society against any claims made to the shares and interest of the deceased member in the capital / property of the society by any of them.

A person has made nomination to the membership by nominating anyone. That nomination do not supposed acquired full right of ownership to them. They have to approach competent court and legal ownership to society and beneficiary of shares and interest in property of society and concerned person provides legal and proper documents to society.

Nomination given to member by society because of makeable the member to issue correspondence after original member's death. Member is airing membership by nomination as trustee of property and not acquiring ownership right.

3.6 procedure where No Nomination by Member in Society

1. Bye law No. 35 provides that where a member of the society dies without making a nomination or no nomination comes forward for transfer, the society after knowing this shall display such a notice in the prescribed form exhibited on the

notice board of the society. It shall also publish such notice in at least two local news papers having wide circulation.

2. The society should invite claims regarding property or objections of deceased member through this notice.
3. The Managing Committee by considering the claims received after the notice should select the legitimate representative of the deceased member as per provisions of the bye laws No. 17 (a) and 19. Provided that he gives indemnity bond along with his application for membership in the prescribed form indemnifying the society against any claims made to the share and interest of the deceased member in the capital property of the society at any time in future by any person above taking and the society could approve the membership.
4. If there is not one such person and there are more than one person then such nominees shall make a joint application to the society. Society should give first person membership and to others co-membership. Such person should not be owner by this transfer. He should be a trustee. The society should make aware of this fact to them.
5. Society should also make aware to them that legal heirship certificate from the competent court regarding ownership of the property is essential.
6. However, if there is no consensus among the person came forward after this notice the society can inform to all such members claiming heirship that they should bring legal heirship certificate from the competent legal machinery and then only membership will be transferred.

3.7. Rights to member.

The member of the Co-operative housing society gets following rights once he gets membership.

1. Right to possession of his flat.
2. Right to appoint associate member / nominal member.
3. Right to receive a copy of bye - laws.
4. A member shall have a right to inspect free of cost books register documents etc as provided in section 32 (1) of the Act and get copies of accounts. The documents as provided u/s 32 (2) of the Act on payment of the fees prescribed under the bye-law No-172 and inspect the document of society.
5. Right to attend Annual General Meeting.
6. Member has a right to fill application for election if he is not defaulter.

7. Right to vote in election of the society.
8. The member gets right to make nomination of his share.

3.8. Right of Members (vide Section 32 of the Co-op societies Act 1960)

1. To get Maharashtra Co-op. Societies Act 1960 Rule 1961 and Registration copy of the society by-laws.
2. Copy of Audit Report.
3. List of members
4. Registration book of member. (I and J form)
5. Minutes of the managing committee meeting.
6. Minutes of Annual General Body meeting and special general body meeting
7. Copies of the account in which such members' transaction are recorded.

Despite above provisions, members did not get the copies of the documents for observation. In such circumstances, first seek justice to the complaint redressal committee existed on the housing society level. Even after this complaint was not redressed then the justice can be sought from the Registrar of the society. Registrar officer should redress grievances by giving direction under the provision of the section 79(2) and its sub- sections.

3.9 Responsibilities and duties of members

1. Maintenance of flats by members carefully and clean it.
2. Attend all the general body meetings of the society.
3. To pay the maintenance charges and other dues regularly.
4. To obey provision in bye-laws.
5. Not to do any act contrary to the interest of the society.
6. To respect the members of society as members of a family and co-operate in the working of the society and to the managing committee.
7. To observe accurately the rules made by the Annual General Body meeting from time to time regarding utilizing facilities provided by the society.
8. No member should sublet his flat without prior permission of society. The nearest give a copy of giver and taker agreement duly registered to the society

and one application copy to the police station with agreement copy and provided all documents of this proposal to the society.

9. No member shall, without the previous written permission of the managing committee can make any additions to or alteration in his flat.
10. No animal, birds should be kept in the compound /flat/bungalow of the society without prior permission of the society and local authority. The society should make code as per the provisions in the law regarding pet animals by making resolution in the general body meeting.
11. The member can use his flat for the purpose of dispensary, consulting room, nursing home, flour mill, coaching classes, cradle home, beauty parlour etc. as per the bye-law No.3. However, it is obligatory on him to obey the code of conduct if made by the general body meeting in such a way that there would be no nuisance to other members in the society by this profession.
12. Vehicles should be parked in the compound of the society as per the provision in the Rule made by the society and as per its instruction.

If member wants to do internal structural changes in his flat, he has to obtain permission and approval from Municipal Corporation and competent authority. If such changes were made without the prior permission of the society, then the society can take action under the Bye-law No. 166 of the model Bye-laws and similarly can make complaint to the local authority in this regard.

3.10. Transfer of flat and transfer fee

1. A member should not transfer his ownership of flat to others before completing one year, to his membership of the society.
2. A member has got ownership of a flat through court or heirs by order of court above condition of one year is not applicable.
3. Even though there is no necessity of No objection certificate for transfer of flat, according to rule 24 of the Rule 1961, he has to give 15 days' notice to society before transferring of flat.
4. On receipt of such notice, the Secretary should place the same before the meeting of the committee and take decision thereof before 30 days and inform such decision to the member within 8 days from the decision of society.
- 5) If any member has demanded No Objection Certificate from the society for transfer, the responsibility of the chairman/secretary is to approve the same and if it is not possible to issue NOC then the reasons for it should be communicated to the member within eight days.

- 6) For transferring the membership to the nominated heirs/persons after the death of the member, the managing committee should proceed as per the provisions in Rule 25 of section 30 of the Co-operative Act.
- 7) It is necessary to take decision within three months on receipt of the application for transferring the share and the decision should be communicated.
- 8) If Society has not taken any decision within the 3 months stipulated period as per provision in Section 22(2) and society has denied such application there is a provision to appeal before the Register u/s 23(2).
- 9) If Society does not accept the application of transfer from member, the member can make application to the Society through Registrar of Co-operative Societies.
- 10) It is obligatory on the part of the Society to take decision within 60 days on such application received from the Registrar.
- 11) For transfer of flat, the member has to produce necessary legal documents according to Bye- law No.38(E).
- 12) It is necessary to deposit admission fee, transfer fee and transfer premium along with transfer application.
- 13) Amount of Premium shall be maximum Rs.25,000/-. Similarly it shall be Rs.25,000/- or the amount which was approved by the General body meeting of the society whichever is less. The said provision is applicable to all the flat and plot owner's of society.
- 14) Transfer premium is not necessary for deceased member, mutual transfer among two members of the society or transfer among family members.
- 15) Society will provide no objection certificate if demanded by member to produce the same for the loan from the financial agencies. If society is not able to give such certificate of N O.C, they have to inform concerned person in writing within 15 days.
- 16) If the Society refuses to issue N O. C. then member has a right to seek justice from three members committee or making an application to the Registrar.
- 17) Registrar of Co-operative Societies will give his verdict on the applications regarding NOC received against the decision of the society after hearing all concerned. Such verdict shall be binding on society and member. All the above provision are applicable to flat, tenement, shop, bungalow/ plot, garages etc.

3.11 Regarding Sale of Flat /Commercial Premises Gala or giving it on rent basis:-

It is not necessary for member of the co. operative housing society to take permission of the society before selling the Gala. However, it is necessary to make payment of service charges due to the society and other amount as per provision in the bye-laws before selling the flat.

If a member of the society is not residing in his ownership flat and he wants to give his flat on sublet, he can submit such an application to the society and it is necessary to take prior permission of the society as per bye-law No.43. It is necessary on the part of the society to convey the decision on the application within 15 days on receipt of the application.

3.12 To issue NOC for taking loan on Flat /For construction /for Repairing / for utilization etc.

- 1) A Member is not allowed to take mortgage loan from any financial Agency without prior permission of the society.
- 2) If Society not given any reply to member regarding permission, then member can make a complaint to the Registrar u/s. 79(2) for giving direction to the society.
- 3) When member is required mortgaging flat for purpose of education, health etc. in such a situation society has to help them by issuing proper certificate required to financial agency. Chairman, secretary of the society may issue certificate without delay in prescribed format and this matter should be informed to other committee members in the next subsequent meeting of the managing committee. Similarly it should be noted in the mortgage register after receiving Bank letter.
- 4) If the society has not taken any action on such proposal and not issued certificate, the Registrar has power to appoint competent officer and make an arrangement to give certificate (as per provision u/s. 79 (2)(b)) financial agency or Banks should have to consider this NOC. Member has to give Indemnity Bond to concerned authority.
- 5) If financial agency/Banks inform in writing then it is obligatory to record liability in their name in the register of the housing society. It is the responsibility of the society to register the name of the financial agency and loan amount and its repayment in the 'I' format Register. If the member has mortgaged his flat with financial agency and took loan against it with prior permission of the society. Similarly if the financial agency, Bank inform for removing liability, then the Society should have to remove it immediately.

- 6) If a member wants to take a loan for purchasing a flat from his employer where he is working, similarly, he wants to take loan from the Life Insurance Corporation of India or from the agencies or Financial agencies approved by the Commissioner, Co-operation & Registrar, co-operative societies, Pune then it is not necessary to take prior permission of the society as per bye-law No. 45.
- 7) If a member wants to undertake construction works or repairing works in his plot or gala or wants to utilize the gala for some other purpose then it is necessary that the concerned member should have to make an application in writing. It is obligatory on the part of the society to take proper decision on it and communicate the same to the member within one month. If the society denied or not communicated anything within the prescribed time limit then concerned member can make an application to the society Registrar and seek justice on it. Registrar, by taking hearing of both the applicant and society and after hearing their say on the matter give his decision subject to the provisions and rules and byelaws of the act. It is compulsory to the Registrar to give his decision within one month.

3.13 Termination of membership.

In the following circumstances membership in the housing society can be terminated.

1. Resignation by member and approved it by society.
2. If member has transferred his share/ interest in the name of another member.
3. After death of the member
4. If Society's general body meeting has cancelled the membership of the member from society and that resolution approved by the Dy Registrar / Asstt registrar of co-op. Society u/s 35.
5. Trust, company, firm dissolved or if their registration cancelled then their membership cancelled automatically.
6. If Co-operative Housing society has cancelled the membership of a member, then his membership should be deleted from Register.
7. If society has not followed provision u/s. 25(A) and not taken action on that, then deputy Registrar/Assistant Registrar may give direction to society.
8. After membership of the member terminated then the membership of the co Member /Associate Member stand cancelled automatically; or if co member /Associate member tenders their resignation on their own or died then their membership comes to end.

3.14 Duties and Responsibilities of the Managing Committee

1. Putting a board displaying name of the society, full address with registered survey No. and Registration No. near the main gate of the society which could be seen easily.
2. To raise funds for the society.
3. Recommend to the society for deciding maintenance fee, repair and deposit amount.
4. To give membership, pass the resignation of members similarly to take decision regarding nomination of the members.
5. Internal inspection of the flat.
6. To take decision on the various applications received from the members.
7. To take action against the defaulting members.
8. To issue Share Certificate to the members.
9. To call monthly meeting of the committee and finalize its minutes.
10. To determine agenda of the annual meeting and to call Annual Meeting in prescribed period.
11. To organise special general body meeting as required.
12. To make arrangement of election for the formation of a new committee before expiring the term of the managing committee.
13. To select office bearers by forming the new committee after election.
14. After taking charge of the office by the members of the managing committee, it is obligatory on them to execute bond under Section 73(1) (1AB) in M-20 (bond paper of Rs.100/- and each separately on the cost of the society) and to include the same in the record of the society. Similarly, the responsibility to inform the concerned Registrar in the regard is entrusted with Secretary.
15. It is necessary to take detailed note of taking charge, handover of record with its detailed list of the record received in the minutes of the managing committee meeting. Thereby the record regarding exactly which files received in whose possession and on which date is available with the society permanently.
16. To fill up the vacant post in the managing committee as per provision in the bye-laws and Rule No. 60(5) of Maharashtra Co-operative Rule 1961.
17. To accept the resignation of the members of Managing Committee.
18. To keep neatly the files of members and society records.
19. To finalise the financial statement of the society within 45 days at the end of the financial year.
20. To submit society's record for Audit.
21. To make available papers mentioned in Section 32 as per members demand.
22. To take decision as per provisions in by laws and laws on the complaints received from the members.

23. To give necessary information to the members if he contacted society for selling of the flat and co-operate him for selling as per provisions in by-laws and laws.
24. To take decision on the applicant regarding letting of the flat and inform the same to the concerned member within prescribed time limit.
25. To make agreements as necessary on behalf of the society.
26. To take necessary action for keeping the property of the society in order.
27. To take insurance policy of the building and property of the society.
28. To give approval for change in utilization of flat.
29. To inspect flat of the member internally by taking prior appointment for the purposes of leakage/structural audit etc.
30. To initiate action as per provision in law if the member makes hindrance in internal inspection.
31. To sanction the amendments in laws, rules, bye-laws suggested by the government from time to time with the approval of the general body meeting.
32. It is obligatory on the part of the government to give details of the bill/ bifurcation and also as per which resolution/ bye- law if the members demand so.
33. It is obligatory on the part of the society to accept less amount paid by the member than the amount shown in the bill and it is necessary to give receipt of thereof.
34. There is a provision in the sub-rule about how much maximum interest to be charged. However, it is necessary to make resolution in the general body meeting about charging interest.
35. By doing structural audit of the building, necessary repairs should have been carried out with the approval of the general body meeting.
36. If the society does not have funds and if any member is ready to do leakage work on his own cost, then to form the rules in that regard and take approval of the general body meeting for the same.
37. To submit the fault rectifying report in 'O' form by rectifying the faults in the audit report, within three months to the Auditor and to send its copy to the Registrar.

3.15 To keep and maintain the records of the society

- It is necessary that the managing committee of the society should have to prepare all registers, books of accounts and files as mentioned in Rule 65 and Bye-law No. 142 of the Maharashtra Co-operative Societies Rules, 1961.
- It is the responsibility of the Secretary of the society to take entry in time in all registers kept in society (bye- law No. 144)

- The society should have to prepare following registers permanently.
 1. Managing Committee minute book
 2. Register of General Body Meeting and special general body meeting.
 3. All types of cash books
 4. Bank Pass Book
 5. Member Register
 6. Bye-laws booklet
 7. Audit Report
 8. Papers regarding ownership of the society
 9. Sanctioned plan / lay-out of the society
 10. Various permissions letter regarding construction
 11. Occupation certificate of the building
 12. In addition to this all such papers which are necessary as per resolution of the society.
- Records of the society shall be in possession of the Secretary.
- After expiry of the tenure of the Secretary of the society, the responsibility to prepare list of the records, and hand over it as per list to the new secretary shall be of concerned Chairman, Secretary and Managing Committee.
- If the Managing Committee whose tenure is expired has not handed over the record to the new managing committee in first meeting, then the Members of that managing committee shall be liable for action under Section 146 & 147. After such action, the decision to disqualify them from contesting the election shall be taken by the Registrar of that society.
- It shall be obligatory to keep the record of the society in the office of the society only. If there is no office of the society, the managing committee should fix the place for keeping record by making resolution. It shall be obligatory to keep record in such place.
- The responsibility of maintaining the record of the society in neat and up-to-date shall be of Secretary and with him it is the responsibility of the managing committee also.
- If the members demand for the inspection of the paper of the society/ copies then it shall be the responsibility of the Secretary to examine under Section 32 and bye-law 23 of the Maharashtra Co-operative Societies Act 1960 and to issue the copy by taking necessary fee under bye law No. 172.
- The Society may appoint salaried manager for looking after day to day working of the society. For this the concerned candidate should have obtained the management diploma in Housing Co-operative Societies proposed by the Co-operation Department, or should have obtained qualification prescribed by the office of Commissioner Co-operation. The Society where members number is 50 or more then such society should

appoint a full time manager and other small societies can appoint manager collectively. The General Body decides Manager's working terms, conditions, salary etc.

3.16 Working of the Managing Committee

- It is the responsibility of the Managing Committee to hold election before expiry of tenure as per provision in the sanctioned by laws (bye- law No. 116) and to inform the same to the Registrar of societies.
- For the availability of the Managing Committee members, the members of the managing committee should be those who are residing in the societies flat as far as possible.
- It is necessary after conducting election, the election of the office bearers should be made by the Election officer (bye-law No. 126)
- After election of the office bearers, the joint meeting of the new managing committee and previous managing committee will be held. In this meeting by preparing list of the societies record, it will be handed over to the new office bearers accordingly and to take detailed entries of it in the minutes of the management committee (bye- law No. 125)
- The Managing Committee have to work as per the provision in bye- law No. 139 and directives of the general body meeting.
- It is obligatory to follow the limit of cash in hand as per provision in by rules. If more cash in hand remained then to charge interest on it as per by law no. 72 shall be necessary.
- All payment above Rs 1000/- should be made by crossed cheque.
- It is necessary to invite price list / tender for above Rs.10,000/- expenses. The power to decide the minimum limit for this shall be with general body meeting.
- It is necessary to take action as per sub-rule No. 65 on various applications received from the members.
- The Managing Committee should give a receipt to the application received from the Members, similarly should have to give reply within 15 days as per law No. 174.
- To settle the dispute between the managing committee and members, the society have to appoint three member committee in the general body meeting. If the decision of the managing committee on the complaint of a member is not acceptable, then justice can be sought from the three member committee appointed by the general body meeting. It is binding on the three member committee to give written decision within three days from the date of application received.

- If the decision given by the managing committee on the application of issuing NOC is not acceptable then justice can be sought from the three member committee appointed by the general body meeting. Even three-member committees decision is also not acceptable then the justice can be sought from the Registrar and the decision of the Registrar is binding. Where there is no three member committee in such case, justice can be sought from the Registrar.
- It is obligatory to make an Indemnity Bond on the stamp paper of Rs. 100/- ,which has to be purchased in member's name, as per Format- 20 by each member of the Managing Committee at the cost of society after taking charge. If such bond was not made in prescribed time limit then the post stands vacant automatically the managing committee or concerned member should stop doing society's work.
- It is binding on the managing committee to note in the minute book all subjects in the agenda as discussed actually. The subjects comprising important policy matter/ financial decision could not be taken on eleventh hour.
- It shall be the responsibility of the chairman and Secretary of the Society to write down the minutes of the meeting of General Body and special Body within three months from the date of the meeting.
- It shall be the responsibility of the managing committee to take action in time on repairing/ maintenance, internal and external leakage and illegal construction.
- If shall be the joint responsibility of the Chairman and Secretary to keep record as per by laws no. 142 and 143 and Rule 65 of Maharashtra Co-operative Societies Rule 1961 and making entries up-to-date.
- It is necessary that the Managing Committee has to prepare financial statement within 45 days of ending the financial year and to make audit before 14th August every year.
- It is mandatory to change auditor after every two years.
- Responsibility to give at least 14 days notice every year of the General Body Meeting to each member shall be to the managing committee and Secretary.
- If it is not possible to call general body meeting before 14th August, then the reason thereof with the resolution of the managing committee and the said proposal should be submitted to the Registrar of Societies before 15th July, so that if extension is denied, it will be possible for holding meeting within the prescribed time limit.
- For maintaining unity and cordial relation between the members, the Managing Committee must have to take efforts.

- It is necessary to implement as per directives, orders and circulars of the Co-operative Department and other Govt. Department of the Government of Maharashtra.
- If member wants to utilize his Gala/flat for dispensary, consultancy room, Nursing home, flour mill, coaching classes, nursery or beauty parlous etc. with the consent of the general body meeting. Then it shall be obligatory to frame the rules as per bye-laws No. 34 in such a way that other members in the society would not get nuisance and member also can conduct business.

3.17 Responsibility of the Annual Meeting.

- To take review of the minutes of last Annual meeting and special meeting and action taken on it and finalise the same.
- To accept and approve the last years income and expenditure statement presented by the managing committee similarly information of reconciliation and their working report.
- To take note of the last years audit report and similarly approve the rectification report presented by the managing committee.
- To declare the result of the election of managing committee if the Annual general meeting held earlier.
- To appoint the auditor from the registered panel available with co-operative department.
- To take decision by discussing on the proposal regarding expulsion of members.
- To take decision by discussing on the proposal regarding the bye-laws and approve the same.
- To take decision on the rate of contribution regarding maintenance fee, maintenance and repair fund and sinking fund.
- To determine the interest rate to be charged on the members defaulting in paying societies maintenance.
- To decide about parking and determine its rate
- To take decision about penalty to be charged on members, violating by-laws of the society and to determine its amount.
- To take decision about utilization of sinking fund.
- To determine the amount of remuneration to be given to a member if he has got ended his services to the society.
- To approve the expenditure of major repairs.
- To recommend for giving membership again to the expelled member by the society.
- If all the members of the managing committee tender their resignations then to put them before the annual meeting and approve.

- To give sanction to the amount to be written off.
 - To take decision regarding land of the society and conveyance of the building and to approve draft deed.
 - If more expenditures than the limit stipulated in the bye-laws is to be incurred and to approve the tender by putting before the general body meeting.
 - To give approval for the appointment of Architect and similarly to give approval of terms and conditions to be executed with that.
 - By considering available space for playing in the societies premises, to determine the time table for members and their children or put restrictions on them and if violated to take decision regarding charging penalty.
 - To determine terms and conditions for utilizing vacant place and also terrace of the society.
 - To form complaint redressal committee on the level of the society, so that if any member having complaint against the working or decision of the managing committee, then by solving it on the societies level, it concluded through complaint redressal committee only following subjects should be discussed in detail in the Annual General Body Meeting of the Flat owners.
1. Development of the land.
 2. Procedure to be adopted for transferring land e.g. Surrender of lease, lease deed, Property management on commercial basis for e.g. office, sports complex, play ground, garden etc.

3.18 Redressal of complaint of Members –

A member can submit application of explanatory written complaint to any member of the office bearer. After receiving the complaint the committee will take decision on it in its immediate meeting and thereafter that decision will be communicated to the concerned member within 15 days.

If the concerned member was not satisfied on the decision communicated by the committee, or no contact was made by the committee within 15 days in this regard, then the member of the committee can contact the complaint redressal committee formed by the Annual General Body Meeting. If a member is not satisfied with composition and powers of such committee, then the complainant member can contact the following authorized officers as per nature of the complaint.

A- Registrar

1. Registration of Society on misrepresentation
2. Non-issuance of the Share Certificates.
3. Refusal of Membership.
4. No registration of nomination by the society.
5. Non Occupancy charges.
6. Demand of excess premium for transfers.
7. Non supply of copies of the record and documents.
8. Tampering, suppression and destruction of the records of the Society.
9. Non acceptance of the cheques or any other correspondence by the committee.
10. Non maintenance or incomplete maintenance of records and books of the society.
11. Non preparation of the annual accounts/reports, within the prescribed period;
12. Misappropriation/Misapplication of the funds of the society.
13. Defaulter/Disqualified Member on the Committee
14. Investment of funds without prior permission.
15. Reconciliation of account.
16. Audit
17. Non conducting of election before expiry of the term of the committee.
18. Rejection of Nomination.
19. Non calling of general body meeting within prescribed period.
20. Not calling of Managing Committee as prescribed in laws.
21. Resignation of the committee.
22. Any other, like matters which falls within jurisdiction of the Registrar.

B. Co-operative Court

If following types of dispute arises between member/ members, member and/ or member and society as per Section 91 of the Act.

1. Resolutions of the Managing Committee and General Body Meeting.
2. The elections of the Managing Committee, except the rejection of nominations, as provided under section 152-A of the MCS Act,1960.
3. Repairs, including major repairs, internal repairs, leakages.
4. Place of Parking.
5. Allotment of Plot/ flats.
6. Escalation of construction cost.
7. Appointment of Developer, contractor, architect,
8. Unequal water supply.
9. Excess recovery of dues from the members.

10. Any other, like disputes which falls within the jurisdiction of Co-operative court.

C) Civil Court

Following types dispute

1. Non-compliance of the terms and conditions of the agreement, by and between the Builder/ Developer.
2. Substandard constructions.
3. Purchase Deed. (Transfer of Property)
4. Escalation of construction cost.
5. Any other, like disputes which fall within jurisdiction of the civil court.

D) Municipal Corporation/ Local authority

Matter Shown Below –

1. Unauthorised constructions/Addition/Alterations, made by the builder/Member/ occupant of the flat.
2. Inadequate water supply to the society.
3. Change of use by the Member/ occupants
4. Any other subject falls under jurisdiction of Municipal Corporation / local authority.

E) Police

1. Nuisance carried by the unauthorized use of the flat, shop, parking space in the society.
2. Threatening/Assault by or to the members of the society.
3. Any other subject falls under the jurisdiction of the Police.

F) General Body Meeting

1. Non maintenance of the Property of society by the Managing Committee.
2. Non display of Board of the name of the society.
4. Levy of excess fine, by the Managing Committee for act of the member which is in violation of the bye laws.
5. Managing Committee's opposition for legal utilization of available open space.
3. Non issuing the property of the society by the managing committee.
4. Appointment of the architect.
5. Any other subject in the jurisdiction of general body meeting.

G) Housing Federation

Matter mentioned below –

- a) Denial of entry to the Secretary of the society by the members.
- b) Non acceptance of any communication by the Member/ Managing Committee
- c) Convening Special General Meeting provided under bye- law No. 97 and Managing Committee meeting provided under the bye law No. 133.
- d) Any other matters.

CHAPTER – 4

FUNDS OF THE SOCIETY

Raise fund, investment, utilization Fund:

Funds can be raised for conducting society as follows :-

- Admission fee,
- By collecting share capital
- By accepting deposits
- In the form of loans and financial assistance
- Flat transfer fee
- By donation
- By other ways which falls within the rules under bye-laws
- Corpus fund by the developer
- The society may himself raise fund from financial agencies in the form of loan for re-development / re-construction and out of that can pledge the flats / tenement (gala) to be constructed newly. It could help in minimizing whim of the developer.

4.2 Reserve fund:-

The society may receive reserve fund by collecting as follows: -

- Subject to the provision in section 66(1) and (2) of the Maharashtra Co-operative Societies Act 1960, to transfer some amount from the net profit towards the reserve fund.
- The fees charged while transferring the tenement (gala) / flat is incorporated in the reserve fund.
- Admission fee received to the society from the members of the society is entirely transferred in the reserve fund.

4.3 Raising of other funds:-

Sinking fund:-

Sinking fund can be raised from the amount collected by all members at the rate which decided by them with the consent of all members in the general body meeting of the society. This rate may be 0.25% every year of the rate of construction cost of each flat.

- The general body Meeting may fix the amount to be collected from each member as required for incurring on major repairs.
- May raise the repair and maintenance fund for building by collecting amount from flat owners, at the rate which is to be decided on the basis of original purchase price of the flat in the general body meeting for meeting the expenses to be incurring on frequently regular repair.
- However this rate should be of 0.75 per year minimum of the expenses of construction of each flat.
- If the society violated bye-laws in respect of raising fund or charging fees, then the member, by making complaint to the Registrar of Societies may restrict society from taking action as per bye-laws by directions under section 79 (2)/(3).

4.4 Increasing / Sanctioning of Maintenance fee and other fees

- The society cannot demand service and other charges which the society charging from the members and similarly contribution of the expenditure to be incurred for the repairing of society as per resolution in the managing committee meeting only. It is obligatory to take approval of general body meeting in this regard and to take action as per resolution of general body meeting.
- While dividing service fee equally as per number of the tenement (gala) / flats, the society can take decision on its level regarding charging service fee from the member holding more than one tenement (gala) / flats according to members having one premise (gala) / flat. However the member himself should have to reside in these one than more flat.
- The managing committees have no power to make changes or determine the amount of service charges taken from members or the amount to be incurred on repairing, or to make it less or more. It is only with the general body meeting of the housing society.

4.5 Non- Occupancy charges:-

It is obligatory on the member, who let his flat / tenement (gala) on rental basis, to pay the non-occupancy charges upto 10% of the service charges to the society.

- The provisions in the directives issued by the government on dt. 1-08-2001 Section 79A of the Maharashtra Co-operative societies Act 1960 are as follows :-

1. Non occupancy charges should not be more than 10% of service charges.

2. If a member has given his flat to his close relatives like mother, father, brother sister, son, daughter, son-in-law, daughter-in-law, brother-in-law, sister-in-law, grandson, granddaughter then the non-occupancy charges should not be charged.
3. The said directive shall be applicable to all residential and commercial tenement (gala) / flats in the co-operative housing societies in the state.
4. All housing societies in the state should have to take action in doing necessary charges as above in their bye-laws.
5. However, if necessary changes have not made as above even then the occupancy charges should not be more than the maximum limit mentioned in this order from the date of order.

4.6 Matters came in service charges

Following 13 matters included in the service charges as per bye-law No. 68:-

- Salaries of the office staff, liftmen, watchmen, gardeners and any other employees of the society.
- Where the society has independent office, the property taxes, electricity charges, water charges, etc.for the same.
- Printing, stationery and postage.
- Travelling Allowance and conveyance charges to the staff and the members of the committee of the society.
- Sitting fees paid to the members of the committee of the Society.
- Subscription to the Education Fund of the Maharashtra Rajya Sahakari Sangh Ltd.
- Annual Subscription of the Housing Federation and any other co-operative institution to which the Society is affiliated.
- Entrance fees for affiliation to the Housing Federation and any other Co-operative institution.
- Audit Fees for internal, statutory and Construction work reaudit, if any.
- Expenses incurred at meetings of the general body, the Committee and the Sub-Committee, if any.
- Retainer fees, legal charges, statutory enquiry fees.
- Common electricity charges.
- Any other charges approved by the General Body at its meeting. However, such charges should not contradict the provisions of the Act, Rules and bye-laws of the Society.

CHAPTER 5

GENERAL BODY MEETING

5.1 First General Body Meeting

It is obligatory that the Agenda of the first general body meeting after registration should be as follows:

- To elect a Chairman for the meeting.
- To admit persons to membership who have applied for membership of the society.
- To elect a provisional Managing Committee.
- To receive and approve the statement of account as prepared by the Chief Promoter of the society up to 14 days prior to the first general body meeting of the society.
- To authorize the committee to secure conveyance of right title and interest in the property in the name of the society from the promoter builder.
- To impose restrictions on raising loan amount from outside.
- To appoint internal auditor and to fix his remuneration.
- To authorize one of the members of the provisional committee to call the first meeting of the provisional committee
- To take decision about taking membership of District Housing Federation and other institutions.
- To give power to one member of provisional management committee to call meeting of the managing committee.
- To consider the matters raised by the member except these matters which are necessary for giving advance notice with the permission of chairman and eleventh hour matter and to make resolution in that regard.

5.2 Till when to take Annual General Body Meeting.

- Annual General Body Meeting should be called up to 14th of August. If wants to take extension for some reasons, then extension can be obtained up to 14th November by making an application to the Registrar.
- If Annual General Body Meeting was not called up to 14th November by taking extension, then the Registrar can take action of calling Annual General Body Meeting by appointing authorized officer.

5.3 Subjects of the Annual General Body Meeting

It is legally binding to execute business on the following subjects in the Annual General Body meeting :-

- To read the minutes of the last general body meeting and to approve it.
- To present the report by the managing committee of their working and to present financial statement and to approve it.
- Consideration on the Statutory audit report if received and mistakes rectifying report if society presented.
- To declare result of the election if the election was held in that year.
- To appoint internal auditor if necessary and to give sanction to his remuneration.
- To appoint auditor for next year for statutory audit of the society.
- To make resolution for making rectification in the by-laws according to circulars/orders received from the co-operation department.
- To take decision after discussion regarding rectification in bye laws suggested by the Managing Committee.
- It is obligatory to give wordings of the present bye-laws and suggested rectification.
- To consider and take decision on subjects like major repairs done or to be carried out by the Society regarding structural audit, regarding erecting of mobile tower/ to increase service charges or other charges, to change of lift or subjects like that.
- To consider or make resolution with the prior permission of the Chairman of the meeting on the other eleventh hour subjects excluding such subjects for which previous notice is necessary.

Note : The Society can put forth before the meeting important subjects as per its requirements for which it is necessary to take sanction of the general body meeting as per co-operative law, rules and bye-laws.

Quorum Language of the Minutes : -

- The quorum of the general body meeting shall be $2/3^{\text{rd}}$ of the total members or 20 whichever number is less. However if quorum is not completed in the general body meeting then the meeting should be postponed for half an hour of the time prescribed. And even after the quorum was not completed then the members present can conduct the general body meeting without quorum. However, it is necessary to give instructions of such with agenda.

- If the number of managing committee is five, then quorum should be three, if it is seven, then the quorum should be four, if it is nine, then the quorum should be five and if it is eleven, the quorum should be six.
- The minutes of the society should be in Marathi, or English or in Hindi language. The decision in this regard should be taken by the general body meeting.

5.4 Special General Body Meeting

It is binding to call a Special body Meeting for the subjects mentioned, within one month from the date of demand if made by 1/5th members of the total members of society, and if concerned Registrar instructed-or demand made by the Housing Federation.

If the society did not call meeting in prescribed time limit even after 1/5th members of the society demanded, the Registrar may call special general body meeting by appointing authorized officer.

If the society did not call meeting in prescribed time limit even after 1/5th members of the society demanded, the Registrar may call special general body meeting by appointing authorized officer.

If the Annual General Body Meeting was not called in prescribed period or even after taking permission for extension and not called meeting in that period also then there is a provision in Section 7 for expulsion the members of the managing committee who have a responsibility to call such meeting.

5.5 Code of conduct for the administrator of the Co- Operative Housing Societies

If the administrator was appointed on the Society then the administrator should have to conduct the working as per code of conduct mention below.

While taking charge of the office, the administrator has to take steps of all members in confidence and start working.

By issuing circular or calling special general body meeting should have to explicit idea of his transparency in working.

After taking charge of the office, it is expected and necessary that the administrator should have to work under the guidelines of the concerned Dy./Assistant Registrar and to give them regular report of his working. It is expected that the administrator should have to work incidental to the reason mentioned in the orders of appointing administrator. For e.g. there are reasons in the order of appointing administrator like incomplete record, incomplete accounts, not taking elections etc, accordingly the administrator should have to try to remove that defects/errors.

Since the appointment of the administrator is a temporary arrangement, it is necessary for him to prepare a voter list and to fix next election programme immediately as soon as he takes the charge of the office.

It is necessary that the administrator have to avoid taking decisions like giving membership, incurred expenditure for major repairing works, executing agreement for redevelopment, selling T.D.R/F.S.I. cancellation of membership, withdrawing the cases filed by the society or compromising in the cases against society.

It is obligatory on administrator to take precaution of starting the election process in time for completing the same before expiry of his tenure.

It is necessary that the administrator while submitting a report of the working during his tenure to the Registrar should have to submit the same with expenditure he incurred before the general body meeting.

It is expected that the administrator should work as a co-coordinator between the Registrar's office and the society in such a way that dispute in the society will not be increased and settled the same cordially.

The Administrator should avoid appointing person/manager by paying them such a salary/remuneration which society could not bear.

If there is a practice/tradition or demand from the members of the society to celebrate public religious functions then the administrator by forming the committee of members, by collecting contribution through committee, and

expenditure incurred by the committee only can celebrate the same and take permission of the general body meeting for that. The administrator should avoid to collect contribution on his own, to utilize society's funds for the same.

CHAPTER 6

AUDIT

6.1 Responsibility of doing Audit

- Since the Co-operative Housing Societies are included in Section 81(1) (B) of the Maharashtra Co-operative Societies Act, 1960, the audit of the said societies should have to be made themselves.
- It is obligatory to make audit from the panel auditors kept on the level of Divisional Joint Registrar, Co-operative Societies. Audit cannot be made from the same auditor for continuous more than two years period.
- The appointment of the auditor should be made in the Annual General Body Meeting of the society.
- Details like name, address, telephone number of the auditor appointed should be displayed on the notice board of the Society or other noticeable places and informed the same to the Registrar of the Society.
- The Complainant member can submit their complaints before the Auditor and it could be redressed. It is necessary that the Auditor should declare the details of date and time regarding when he is coming for auditing in the society and display it on the notice board or at prominent place in the society.
- The Secretary of the Society should make available necessary papers, accounts books to the auditors for auditing as per provisions in the bye-laws.
- It is necessary that the society should make available the copies of the audit report to the members if they demand so by charging necessary fees as per provisions in the law before placing it in the general body meeting.

6.2 Matters to be included in the Audit

Inclusion of following matters under Section 81(2) of the Maharashtra Co-operative Societies Act, 1960 is obligatory in the report of the Audit.

- Cash balance and investment and society's liability and valuation of property.
- If decision like unreasonable penalty, unjustifiable charging and charging excess charges in respect of transference fee/ non occupancy charges then the directions in that regard are taken and implemented on the level of society, then it is obligatory to give remarks and instructions

for action to be taken should be made in the audit report otherwise the main purpose of rectification of faults in the societies working would not be served.

- While doing objective evolution of the financial transactions of the society, it is necessary to check the matters like whether renewal of the funds were made or not prescribed procedures for incurring expenditure on major repairing work was followed or not and accordingly mentioned clear remarks and instructions should be mentioned in the audit report.
- In addition, it is obligatory for the benefit of the society to inspect following matters which are generally neglected by the auditor in respect of Housing Societies and include the remarks thereof in the audit report.
- Whether the personal expense is put under the head of profit and loss account?
- Whether the society has made expenses for fulfilling the purpose or not?
- Whether the interest of the society is hurt by making transaction with book entry.
- Whether the Society is fulfilling liability toward member or not?
- Whether legal proceedings was initiated in time against the default members?
- Whether membership of the Housing federation is taken or not?
- Whether the bonds executed under section 73 (1) (AB) are proper in view of statutory or not?
- Whether the payment of education cess was made or not?
- Whether reconciliation and financial statements up to the last date of inspection was inspected or not?
- Whether the profit & loss statement in the financial year are inspected or not? And whether the remarks and instructions in that respect are included or not?
- Whether all records necessary for auditor was available for audit and was it sufficient as per his knowledge and belief for auditing?
- Whether the society has kept necessary books as per law, rules and bye-laws? And whether the re-conciliation and profit and loss statement match with the ledger books of the society.
- If the answer is negative in this matter, then that deficiency should be noted in the audit report with reason as per rule 69(5).
- Whether the membership of District Housing Federation is taken or not? And payment of annual fee of the said federation is made or not?

In addition to this if the matters which are to be taken seriously in the audit report in conformity with the following points then it is necessary to note that separately with the remarks of the auditor.

1. Transactions took place in violation of law, rules, bye-laws.
2. The details of those amounts which was to be taken into account but not taken.
3. Improper and irregular expenditure.
4. Dubious and bad amounts.
5. Matters prescribed by the Registrar.

6.3 Formation of Audit Report:

- As per the instructions in the circular of the office of the Commissioner, Co-operation, dt. 12/03/1974, features of the audit report shall be as follows :-
- Audit Report should be clear, instructions should not be vague similarly it should not be brief also.
- Personal remark should not be mentioned in the report.
- Formation should be made to the point, part wise and subject wise and obliged to the provisions in law.
- Financial Statements should be in 'N' format provided in the Co-operation Rules.

Formation of the Audit Report should be in three parts as shown below :

Part A – Following matters may be included in this part.

- Financial embezzlement.
- Misappropriation.
- Improper appropriation of fund.
- Effects of the transactions to be caused on society due to policy decision.
- Improper and Irregular loan transaction.
- Improper Investments.

Part – B – Following points should be elucidated in this part.

- A. **Management Part** – Following matters should be taken into consideration while giving paragraph wise instructions and remarks in this par.

1. Introduction :

In this, there should be information about period of the audit, details of the audit officer, type of the audit, explanations and information etc.

2. Membership :

Details of the fulfillment of terms of membership, method, fulfillment of necessary legal procedure, transfer procedure and registers thereof.

3. Employee Management :

Details of the requirement of employees, its backlog, expenses to be incurred on them.

4. Minutes of the Meeting :

In this, there should be details of the proceeding of management committee meeting, annual general body meeting, decision taken in it and its implementation, its legality and financial effects to be caused because of this.

5. Inspection by the Financial Agencies :

If financial agencies had undertaken inspection, then elucidation regarding whether fulfillment of the deficiencies were made or not.

6. Statutory Audit Fault Rectification Report :

If the society had not rectified the important faults mentioned in the last year's statutory audit report, then it should be included.

7. Compliance of Statutory Controls :

Those legal provisions which society has not complied that should be mentioned.

B. Finance Management Part :

1. Appropriation of fund and availability.
2. Valuation of reconciliation matters and inspection.
3. True and exact position of profit and loss and reconciliation.
4. Budget Statement.

5. Analysis of loss and profit and reconciliation.
6. Cash in hands and subtle.
7. Provisions.

C. Loan Transactions :

1. Policy.
2. Distribution of loan.
3. Dues.
4. Recovery.
5. Unproductive and dubious debt fund.

Part C - General Instructions and Remarks.

In this, the matters like vehicles, expenditure vouchers, constructions, furniture and other purchasing, travel expenses, stationery and other financial matters may be included. Similarly classification of auditing and other miscellaneous paragraphs may also be included.

It is the responsibility of the auditor to give special report, if serious nature financial misappropriation committed in society.

6.4 Audit Fee :

As per circulation of the year 1991 from the Honble Commissioner, Co-operation and Registrar, Co-operative Societies, Maharashtra State, Pune, the audit fee being charged on Co-operative Housing Societies is as follows:

- Rs. 36/- per member annual in the Municipal Corporation area.
- Rs. 24/- per member annual in the Municipality area.
- Rs. 12/- per member annual in the Gram Panchayat area.

6.5 Re-Audit :

On the application of the society or for any other reason if the Registrar feels it necessary to re-inspect the account of the society which was audited, then the Registrar may give order for re-auditing.

While demanding re-audit, it is necessary that the society or member should have to make an application giving details that why re-auditing is necessary?

6.6 Re-Audit Fee :

- a) If the Registrar himself issues orders for re-audit, then the audit may be conducted by the government with his own cost through government auditor.
- b) If demand made by the society then the society had to pay the re-audit fee.
- c) If demand made by the member then the said re-audit fee should be borne by the member in prescribed rate.

6.7 Faults rectification report of the Audit :

- It is obligatory on the society to comply the faults rectifications mentioned in the audit report in 'O' format within 3 months from receiving the audit report to the society.
- After rectifying the faults, it should be shown to the auditor and after taking remarks of the auditor on it regarding whether rectifications are made or not then that report should be submitted to the office of the Registrar.
- If the society cannot do rectification of faults satisfactorily under Section 87(4), then the Registrar compel them for fulfilling it and expenses of that is recovered from the society.

CHAPTER – 7

DEEMED CONVEYANCE

As per the notification issued by the Government on 27th September, 2010 by making amendment in Section 11 of the Maharashtra Ownership Flat Act 1963 and Rule No. 9 of the Rule 64, the procedure of doing Deemed Conveyance and the papers to be required as per list 1 to 14 are as follows:-

Since this process be made simple and quick the government by its order dt. 24th February, 2011 has restricted documents, number to be attached with the application.

1. It is necessary to make an application in Form -7 before the District Dy. Registrar, Co-operative Societies (Competent Authority) by the society.
2. It is necessary to affix a court fee stamp of Rs.2000/- on the application.
3. It is necessary to attach available papers of following papers with application.
 - 1) Affidavit made before the Notary or Executive Magistrate.
 - 2) True copy of the Society Registration Certificate. If it is an apartment then copy of the Deed of Declaration.
 - 3) 7/12 extract of the land or extract of Property Registration Card.
 - 4) Registered agreement copies of all flats/shops (All copies of the agreement which were executed)
 - 5) List of members in prescribed format.
 - 6) Copy of the Development Agreement.
 - 7) If there is Power of Attorney then its copy.
 - 8) Copy of the Notice issued to the original owner or developer for doing conveyance.
 - 9) Details of corresponding address telephone number etc. of the original owner or developer.
 - 10) Search Report of the land.
 - 11) Copy of the Non-Agricultural Order.
 - 12) Certificate of the exclusion from Land Ceiling Act (U.L.C.) Certificate)
 - 13) Copy of the sanctioned plan of the building.
 - 14) Land Measurement Map/Architect's Certificate.

CHAPTER – 8

REDEVELOPMENT OF THE BUILDING

The Society can implement Re-development process as per instructions and procedure given in the Government directions dt. 03/01/2009.

Seven Formulas of Redevelopment : -

A. Necessity of Special General Body Meeting :

1. 1/4th Members have to demand.
2. Necessary to call meeting within one month.
3. To appoint experts by taking preliminary decision regarding re-development.
4. To consider written instruction from members.
5. Presence of at least 3/4 members necessary.
6. It is essential to give minutes of the meeting to the members and to the office of the Registrar within 10 days.

B. Works to be executed by the Architect and Project Management Consultant.

1. Fulfillment of legal matters.
2. To submit actual Project Report within two months.
3. To note accepted / rejected suggestions of the members with rationale in the Project Report.

C. Action to be taken by the Managing Committee once Project Report is received.

1. To make available project report in the society's office for members view.
2. To take joint meeting of the Project Management Consultant and Managing Committee and it is obligatory to display notice of the said meeting on the notice board of the society.
3. To consider the suggestions by members.
4. To prepare draft of the tenders and invite tenders.
5. The developer shall not be a relative of the committee member and office bearers.

D. Action to be taken after tenders received.

1. To display the list of the tender received on the notice board.
2. To call meeting of the Managing Committee within 15 days for considering tenders.
3. To scrutinize the tenders after opening it before the members as a spectator in the said meeting and to prepare a comparative table.

E. Procedure of Sanctioning Tenders.

1. The Secretary of the society shall make an application with list of the members within eight days to the Registrar of Societies for appointing authorized officer for calling a Special General Body Meeting.
2. The Registrar of the Societies shall appoint an authorized officer for calling Special General Body Meeting.
3. The Authorised Officer should have to call a Special General Body Meeting within one month.
4. Representatives of the tenderors shall present in the said meeting.
5. Arrangement of Video Shooting will be made.
6. Meeting will be held in the presence of Authorized Officer.
7. Only members of the society shall attend the meeting. To keep an Identity Card with him will be necessary.
8. 3/4th Quorum for meetings is necessary. The meeting can postpone for 8 days for want of Quorum.
9. If 3/4th Quorum is not there for adjourned meeting, then the meeting will be cancelled and this subject cannot put up before the General Body Meeting for the next one year.

F. Proceeding of the Special General Body Meeting :

1. Presentation opportunity should be given to the Developer.
2. The appointment of the developer will be made by majority of 3/4th of the members present and in writing.
3. To finalise the tender with terms and conditions of one developer for re-development.

G. Agreement :

1. The Society and Developer will execute agreement within one month as per resolution of Special General Body Meeting.
2. Prominent matters in the agreement.

- a) Tenure of the project should not be more than two years as far as possible.
- b) The Developer will give Bank Guarantee of 20% of the cost of Project to the society.
- c) Developer will provide alternate arrangement accommodation.
- d) Rights of the Developer will be transferable.
- e) If any dispute arises on above matters then the provision will be made to solve it under Section 91.

CHAPTER – 9

HEALTH CODE FOR HOUSING SOCIETY

It is necessary to give answers of following questions satisfactorily by the Managing Committee to check the health of their Housing Society.

1. Are all papers included in the register book of the society? If not, then whether the reorganization of this register is made by obtaining proper papers from the concerned machinery?
2. Whether one of the following or any other application of the member is pending for more than one week for want of decision or without informing the mistakes in the application to that member, or without giving acknowledgement :
 - 1) Application for transfer of membership.
 - 2) Application for taking note of the nominee.
 - 3) Application for internal repairing of the flat.
 - 4) Application for seeking permission for sub-letting a flat.
 - 5) Application for seeking NOC in the prescribed format for demanding loan from the Bank on pledging the flat.
 - 6) Any other type (regarding bills, charges, special general body meeting, parking) application.
3. Whether the society has done conveyance deed process for ownership of the building place?
4. Whether the society has done structural audit of the building as per provision in the bye-laws?
5. Whether the transparent method as mentioned in the circular of the co-operation department has been adopted for doing re-development, re-construction and major repairing by taking sanction of the general body meeting?
6. Whether the election was conducted by observing election rules? Is the Indemnity Bond executed within period?
7. Whether the list of record to be kept is maintained as per bye-laws? And whether the record is in order actually according to that list and entries were updated?
8. Whether the Managing Committee meetings, Annual general meeting were held? Whether the audited financial statements sent to the members with the notice of the general body meeting? Whether the minutes of the meeting sent to the members within three months after the meeting?

9. Whether the arrangement of parking is made as per bye-laws? Whether the waiting list for parking is published and allotment made accordingly?
10. Whether precautions taken for charging maintenance charges, transfer premium, non occupancy charges as per circulars of the government and society's bye-laws?
11. Whether the Housing Society has taken the membership of the Housing Federation and by subscribing their publication like monthly magazine, journal etc. and read out the new important provisions/amendments in it in the managing committee meeting and taken decision accordingly or not?
12. Whether the members of the managing committee or a members of the society, manager, employee were present in the camp, lecture, training diploma exam organized by co-operation training centre, co-operation board, housing federation, co-operation department or any other organization?
13. Whether the society accepted the model bye-laws of the co-operation department?
14. Was the representative of the co-operation department was present in the meeting of the general body where the process of appointing developer took place in the authorities like SRA, MHADA?

Is the C.D. of Video Shooting of this general body meeting is available with the society?

15. Whether the managing committee has organized any programme like festival, sports, cultural, picnic, tree plantation, environmental for creation cordial, co-operation among the members of the society? And whether expenditure made on it by taking independent voluntary contribution?
16. Whether the complaint redressal committee was formed in the general body meeting on the society level?
17. Whether the society accepted the option to take action after taking guidance of the Housing Federation in respect of the complaints in society?
18. Whether the managing committee taken efforts to motivate other members for participation in the managing committee of the society?
19. Whether the financial statements, Accounts Books and other documents make easily available to the members as demanded and copies were given to them easily?
20. Whether the society has obeyed orders, directives, circulars of the co-operation department and instructions in it and has made amendment as per remarks in the audit report?
21. Whether everyone experienced that the atmosphere and mutual relations in the society are cordial, cheerful and mutually co-operative?

CHAPTER – 10

FEDERATION OF HOUSING SOCIETIES

In the last two decades between 1950 and 1970, the housing societies were of the types that to purchase the land and by parting plot on it to construct own house (bungalow). We call them tenant ownership housing society. Gradually when availability of land minimizes multi storey building came into existence. And Co-operative Housing Societies of the flat/tenement holders for one or many buildings were formed. We called them tenent co-partner society.

Work to prepare model bye-laws was started for both the type of societies. It is also compulsory to make amendments in it as per requirement.

Thereafter necessity felt to form Housing Federation. The provision of Federation of Societies has been made in the Maharashtra Co-operative Society Act 1960 and Rule 1961. Similarly provision to take opinion of Federation has also been made.

With unlimited increase of the housing societies, the problems/disputes in it have also been increased. And the complaint application had been received to the co-operation department for solution of such complaints. Limited human force of the co-operation department is very inadequate for this. The District Federation of the Housing Societies can solve many problems of these.

Federation on district level are worked as follows :

1. To give all necessary co-operation for forming new housing societies.
2. To make available various forms, registers etc. required for keeping the record of the co-operative housing societies properly.
3. To give guidance for writing minutes accurately of monthly meeting, annual general body meeting, special general body meeting of the housing society.
4. To give guidance for preparing of income-expenditure statement, reconciliation statement.
5. To keep record properly for auditing.
6. Guidance for preparing faults rectification report if there are some suggestion/objections in the audit.
7. To prepare the bill by deciding details of the monthly maintenance contribution and to keep accounts of it by recovering that.
8. Guidance about how to make recovery under Section 101 of the Maharashtra Co-operative Societies Act, 1960 if the member exhausted monthly contribution.

9. To guide for raising various funds like deposit fund, repair and maintenance fund.
10. To give guidance for making amendments in the bye-laws as required.
11. To organize guidance workshop for office bearers of co-operative housing societies and to redress their complaints through questions and answers.
12. To publish necessary articles, legal judgments, government circulars through magazine, bi-monthly, house journals for the guidance of housing societies.

The State Federation by forming such federation on state level can do the works like presenting questions of state level, to suggest, if some amendments in the co-operation law are necessary to be made, to take initiative for changing some rules if feels stringent.

There is National Federation of all such state federation, its name is Indian National awas Federation, New Delhi.

Address and Tel. No of Federations –

1. Chairman/Secretary,
Maharashtra State Co-op. Housing Society Federation Ltd.
9, Vilasini, Shivaji Path, Thane
Opp. Thane District central
Co-operative Bank, Thane (W)- 400 601. Tel. No. 022-25332286

2. Chairman/ Secretary,
Pune District Co-op. Housing Society Federation Ltd.
208, Somwar Peth, Daruwala Pool
Pune- 411 011 Tel. No 020- 26120719

3. Chairman/ Secretary,
Mumbai District Co-op. Housing Federation Ltd,
103, Vikas Premises, 11, Justice G. N.
Vaidya Marg, Fort, Mumbai- 400 001 Tel. No. 022- 22840134

4. Chairman/ Secretary,
Thane District Co-op. Housing Federation Ltd,
9, Vilasini , Shivaji Path, Opp. Thane District
Central Co-operative Bank,
Thane (West) 400 601 Tel. No. 022- 25332286

5. Chairman/ Secretary,
Nashik District Co-op. Housing Federation Ltd,
C/o. Adv. Vasant Rao Toravane,
113, Patel Chambers,
Near Zilla Parishad,
Nashik .

6. Chairman/ Secretary,
New Mumbai Co-op. Housing Federation Ltd,
C/o. Adv. Vasant Rao Toravane,
303, Big Splash Sector- 17
Vashi, New Mumbai. Tel. No. 022- 2789730

O. No .Housing/D-3/91
Office of the Commissioner,
Co-operation and Registrar,
Co-operative Societies,
Maharashtra State, Pune-1
Date: 15th May 1991,

Circular

**Sub :- To give permission for registering society within
Co-operative Housing Societies.**

Ref :- 1) Government Circulars dt 19-01-1985

2) This office circulars dt. 5-12-1985

3) This office circulars dt. 26-04-1985

4) Letter of Textile Department of the government No.
SAGRUYASE/12875/ 54374/ NO 1999/14-03-1990

5) This office circular No. SAM, Dt. 5-5-1990.

This office has given instructions from time to time to its subordinate offices regarding registering society within society. The last circular on the same subject is dt. 5-5-1990.

This office has given detailed instructions regarding making an amendment in bye laws to be done from the original society for registering society within the said circular and instructions were given that after making amendment in the bye-laws as per instructions given in the circular, society should be registered within society, However instructions were given that compulsion should not be made on the societies for the amendment of said bye laws.

Various persons and societies made correspondence to this office regarding registering society within society as per the said circular, and this office notice that, in bye laws of some societies there is a clear provision of giving membership to other society.

Even though the officers of the departments could not register the society without making amendment in the bye-laws as per suggested in the circular dt. 5-5-1990 of this office.

All concerned officers of registrations are hereby instructed through this circular that, if there is explicit provisions in the bye-laws of the society regarding giving membership to the other co-operative society then by not insisting for separate bye-laws amendment from the society as per suggested on the circular dt. 5-5-1990, the society should be registered by taking approval letter of the society only.

However, after registration of society, the competent authority (general body meeting/ managing committee) have to give membership to the new society under provisions in bye laws of the original society.

However, the society in which there is no explicit provisions of giving membership to the society, then in that case the society within society could not be registered unless making amendment in bye laws willingly which is necessary for giving membership to another co-operative society by the original society.

Co-operative Commissioner & Registrar,
Co-operative Societies, Maharashtra State, Pune- 411001

No. SAGRUVO/1094/ Pra. Kra 277/14 C
Cooperation and Textile Department,
Mantralaya, Extension, Mumbai- 400 032
Dt. 10th March 1995

Order

Maharashtra Cooperative
Societies Act, 1960

By exercising the powers in section 7 of the
Co-operative Societies Act 1960 (hereinafter
referred as said Act 1960) the government is
pleased to exempt the provision of minimum 10
members for registering co-operative Housing
society under sub-clause 1 in Section 6 of the said
Act subject to following conditions:

- The plinth area of each flat in the proposed co-operative Housing Society should not be more than 700 sq. ft.
- FSI should not be balance for utilization in the proposed societies land/building.

By the order and in the name of Governor of Maharashtra.

Sd/-

(S. K. Kalal)
Under Secretary to the Govt. of Maharashtra,
Co-operation and Textile Department.

Office of the Commissioner, Co-operation and Registrar,
Co-operative Societies, Maharashtra State, Pune-1

Date: 8th July 1996.

Sub :- To take precaution for pre registration of Co-operative Housing society.

Ref :- This office circular No SAM. dt 18-02-1994

Circular:

Attention of the zonal officers are invited to the under reference circular dt 18-02-1994 on the subject mentioned above.

Amended instructions as below regarding matters mentioned in the said circular are being issued. Precaution should be taken that registration of the Housing societies would not be pending by observing the said instructions.

1. Regarding registration of purchase deed of the flat in Housing Society. It is noticed from the several complaints received in this office that the zonal officers have stopped registration of some Housing societies in respect of the instructions given by this office in circular dt. 18-02-1994 that without registering agreement between builder and flat owner, the society should not be registered under the Maharashtra Co-Operative Societies Act.

The builder and promoter are taking unfair advantage of such situation. Even the flat holder given the stamp duty to builder, the builder did not want to pay it to the government and for maximum utilisation of available F S I, the builders are not taking necessary action for registration of co-operative society. In many cases, even after paying stamp duty, the receipt is given by the office of the Sub-Registrar with remarks that pending for determining the market rate. Similarly after registration of the document the original document is returned after long period. Therefore it doesn't matter to make registration after paying stamp duty and registration fee as per agreement and receipt of it submitted by the promoter. Similarly concerned Registrar should inform in this regard to the Collector of Stamps duty of that district, so that the collector of stamp duty can make recovery of necessary stamp duty. By considering these matters, if the documents regarding flats (agreement/ purchase deeds) and receipts of registration are submitted and all other conditions are fulfilled then the

society should be registered. Registration of the housing society should not be kept pending till final valuation of stamp duty.

Regarding registration of agreement between flat owner and purchaser while transferring the flat in Co-operative Housing society under circular of this office dt 18-02-1994, instructions are given that if purchase deed was not registered, flat and membership transfer should not be made. It has come to notice thereby that in some cases transfer has been kept pending with the transfer proposals. In this regard it is hereby given amended instructions that, if evidence/ receipt regarding submitting documents of transfer with other transfer proposal and if evidence of stamp duty paid is shown and similarly other conditions of transfer of membership are fulfilled then the managing committee of the society should give sanction to such transference.

Sd. /-

(Ratnakar Kulkarni)
Commissioner, Co operative Registrar,
Co-operative Societies, Maharashtra state, Pune- 1

No .SAGRUYO- 1096/PRA. KRA. 137/14-5
Co-operative & Textile Department,
Mantralaya, Mumbai- 400 032
Dt. 29th April, 2000.

Order

Read :

1. Letter No. Housing/D-3/ charging of Service charges/96, dt 18th May 1996 of the Commissioner, Co-operation and Registrar, Co-operative Societies, Maharashtra State, Pune.
2. Orders of the government dt. 26th May 1999.

Whereas memorandum/letters received to the government in respect of the government order of equal number dt 26th May 1999 from members/office bearers of various co-operative housing societies similarly from Mumbai District Co-operative housing federation, Pune district co-operative housing federation and Up Lokayukta, Maharashtra State.

And whereas while receiving the said memorandums/letters, it seems that confusion and problems arose among the committee of societies and its members in implementing the orders of the government dt. 26-05-1999. On one side the societies have shown severe opposition as bigger flat owners have to pay fees several times more than earlier if the charging of maintenance fee is made as per area of the flats and galas and in the ratio of taxable value stipulated by the authority. And on other side as small flat holders are benefitting from it, they are insisting for making implementation of the said orders by the society immediately. Since the value base price of the flat is changing /increasing continuously due to reasons like when the building of the society was built, in which zone /area it is situated, at which floor the flat is, repurchase of the flat. Therefore the society will have to depend on the Municipal Corporation every year for taxable value and monthly rent chart. Because it could not be denied the possibility that the municipal Corporation will take more period for / taking decision /giving ruling on complaints, appeals in that respect. Consequently it could not be possible to the auditors to submit report of the most of the housing society in time. While observing the above reasons it seems that it is not possible to the societies to implement the government order easily.

There may be whatever rate value, the services like sweeper, secretary, watchmen, garden, lift, office are to be given to all members in equal proportion. And therefore

office bearers and members of many housing society and similarly Mumbai District co-operative housing society Federation, Pune District Co-operative Housing Federation and Up Lokyukta, Maharashtra state has expressed opinion that to club the monthly service charges with rateable value would not logical, proper and justifiable. By considering the said opinion the government has cancelled the order dated 26/05/2011. The government is of the opinion that it would be proper to charge equally as mentioned in Rule 71(A) (7).

And therefore, by considering above fact, the government is hereby cancelled the earlier orders dated 26th May 1999. And in view of the public interest, the government directs under Section 79 (A) of the Maharashtra Co-operative Societies Act, 1960 as follows :

- 1) The Co-operative Housing Societies should charge the maintenance charges 'equally to all flats" as earlier under rule no 71 (A) (7) of model bye laws they accepted.
- 2) The Above order shall be applicable to all residential flats and commercial galas in all types of registered Co-operative Housing Societies. Similarly these orders will come into force from 26/05/1999 respectively.
- 3) Those housing societies have collected maintenance charges from their members as per the government order dt. 26-05-1999, then such societies should return the said maintenance charges to the concerned member or adjusted in the next months monthly charges with the consent of the concerned members.
- 4) All the registered co-operative housing societies in the state should make necessary amendments in their bye-laws as above. However, even after not doing this, these orders shall come into force from dt. 26-05-1999 respectively.

By order and in the name of the Governor of Maharashtra.

Sd./-

(S.P. Dhekane)
Under Secretary, Government)
Maharashtra, Co-operative and Textile Department.)

In respect of charging non occupancy
Charges from the member of co-operative housing
societies.

Government of Maharashtra

Co-operation and Textiles Department.

Govt.Order No.SAGRUYO-1094/15165/ case No. 317/14-C /Mantralaya Extension,
Mumbai- 32 dated 1st August 2001.

Reg – Government Order No. SAGRUYO-LOAN/15165/case No. 317/14-C
/Mantralaya Extension, Mumbai- 32.
dt. 9th March, 1995.

Preface:

1. The government had determined under its above mentioned order dated 9th March 1995 that the assessment of non-occupancy charges shall not be more than one time of the service charges. Some Co-operative Societies had filed Writ Petitions in the High Court, Bombay, and had challenged the assessment of non-occupancy charges on different grounds. At the time of hearing of Writ Petition No. 1398/96, the Hon'ble High Court had suggested that directions in connection with assessment of non-occupancy charges should be based on the scientific footing, for example, the Hon'ble High Court had even suggested that proper directions may be given by taking into consideration the taxable value or rent of the tenements and classifications in that regard of experts and valuers in this field.

2. As per the above suggestions expressed by the Hon'ble High Court advice had been asked for from experts by guidance was invited by Urban Development Department. The Urban Development Department has suggested while charging non-occupancy charges it would not be proper to put criterion on taxable value or rent, because as per the decision passed by the Hon'ble Supreme Court in the case of (Delhi Municipal Corporation versus Diwan Daulatrao Kapoor, S.C. A.I.R 1980), once the Municipal Corporation fixes the taxable value, the same cannot be increased. On account thereof as great difference takes place in the taxable value of old buildings and new buildings, there will be great discontent among the members of the old and new Co-operative Housing Societies. If non occupancy charges are charged on the basis of taxable valuation then there will be discontent among the members of old and new co-operative housing societies. Similarly the rent is an income which the member gets on his investment and he even pays income tax thereon and on account thereof it will not be proper to fix assessment of non-occupancy charges on the basis of both criterions viz. Taxable value or rent.

3. The Commissioner, Co-operation and Registrar, Cooperative Societies, Maharashtra State, Pune has appointed a committee of experts in Housing and Co-operation fields for making recommendations in connection with assessment of non-occupancy charges by making study in respect thereof, as per the opinion expressed by the Hon'ble High Court in Petition No. 1398/96. The said committee had recommended as follows:

1. The non-occupancy charges should not be levied on the Gala which is given by the member to his close relatives for residence.

2. An amount equal to the total amount which is recovered per month from the member per month or 10% amount of rent which is received by the member, whichever is more should be charged as a non-occupancy charges.

3. The assessment of non-occupancy charges should not be linked with taxable value.

4. The government by studying the recommendations of the expert committee sent opinion of the Urban Development Department, and accordingly by considering the difference in taxable value for charging non-occupancy charges, it would be clear and proper that the criterion of taxable value would not be proper. That the criterion of taxable value would not be proper similarly, the rent received to the member is not equal in all cases. Moreover there may be different rate of the galas in the same building and of same size. Moreover assessment of rent is not made on any scientific basis. Therefore it would not be proper to determine non-occupancy charges on the rent received to the member. Therefore, in view to create feeling of equality among the members, it is necessary to charge non occupancy charges on same method and on same criteria for all types of co-operative Housing Societies in the state. By considering this matter, the government is pleased to give following order in this respect.

ORDER

As per the powers conferred upon government under section 79 A of the Maharashtra Co-operative Societies Act 1960, the government is pleased to give following order in the interest of public.

1. Government Order. No SAGRUYO-1094/15165/PRA.KRA.317/14-C Mantralaya Extension, Mumbai-32, dt 9th March, 1995 is cancelled from the date of issue of this order.

2. Non-Occupancy charges shall not exceed 10% of service charges. (excluding Municipal Corporation/ Municipal Taxes).
3. In case members have given their tenements/flats to their close relatives viz. mother, father, sister, brother, son, daughter, son-in-law, daughter-in-law, brother-in-law, sister-in-law, sadu (husband of wife's sister), granddaughter, grandson etc. and to other relatives recognized by the society, in such cases, non-occupancy charges shall not be recovered.
4. The said order shall be applicable to residential and commercial tenements/flats in all the Co-operative Housing Societies in the state.
5. All the housing Societies in the state shall take action to make proper amendment as above their bye-laws/ sub-rules. However, even if no amendment as above has been made, non occupancy charges should not be charged more than maximum limit mentioned in this order from the date of this order.
6. The said order shall come into effect from the date of its issue.

By order and in the name of the Governor of Maharashtra.

sd/-

(Mukund T. Kamble)
Under Secretary, Government of
Maharashtra, Co-operation and
Textile Department.

In respect of charging non-occupancy charges from the members of Co-operative Housing Societies.

Government of Maharashtra
Co-operation and Textile Department.

Government Order No. SAGRUYO-1094/15165/PRA.KRA.317/14-C,
Mantralaya Extension, Mumbai -32 Date 20th October, 2001

Reg :-

Government Order No. SAGRUYO- 1094/15165/PRA.KRA.317/14-C
Mantralaya Extension, Mumbai-32. dt 9th March, 1995.
Government Order No SAGRUYO-1094/15165/ PRA.KRA. 317/14-C
Mantralaya Extension, Mumbai-32. dt 1st August 2001.

Erratum :-

1. In the order no 6 of Government Order No SAGRUYO-1094/15165/PRA.KRA.317/14-C, Mantralaya extension, Mumbai-32 dt. 1st August 2001 it was mentioned that 'The said order shall be in force from the date of its exiting'. As the enquiry in this regard is made to the government, the government is giving explanation as follows for removing confusion.
2. Implementation of the government order dt 1st August 2001 should be implemented from 1st August 2001.

By Order and in the name of the Governor of Maharashtra

sd/-

(Vasant Poreddivar)

Dy.Secretary, Govt.of Maharashtra Co-
operative and Textile Department.

Government of Maharashtra
No. SAGRUYO-2001/PRA.KRA.188/14-SA
Co-operation and Textile Department.
Mantralaya, Mumbai-32

Dt. 9th August, 2009.

Reg : Circular of Commissioner, Co-operation and Registrar,
Co-operative Societies, Maharashtra State, Pune
No. Housing/Gala/Tabil/Fee 89.
Date : 27-11-1989.

Whereas the Commissioner, Co-operation and Registrar, Co-operative Societies, Maharashtra State, Pune has approved the model bye laws prepared for co-operative housing societies dt.2-4-2001 and power to determine maximum rate of the premium to be charged while transferring flat/gala in the co-operative housing societies are given to the Co-operation and Textile department of the state government as mentioned under bye-law No. 38 (E) 9 of the model bye- laws, And

Whereas the Commissioner, Co-operation and Registrar, Co-operative Societies, Maharashtra State, Pune has fixed the rate of premium vide their circular No. Housing/Gala Transfer/fee 89/dt. 27-11-1189 and since it is necessary that the state government should have issued orders in that regard by repealing the said circular in present situation, the government has decided to issue proper orders regarding charging premium while transferring flat/gala in the co-operative housing societies, therefore,

By exercising the powers conferred to the state Government under Section 79 A of the Maharashtra Co-operative Societies Act 1960, the government is pleased to issue following order for the larger public interest in the state.

1. The circular no Housing/gala transfer/fee 89 dt. 27-11-1989 of Commissioner, Co-operation and Registrar, Co-operative Societies, Maharashtra State is hereby repealed.
2. The rate of the premium to be charged while transferring flat/gala of the member in the Co-operative housing societies and his share in capital/property of the society should be determined by the general body

meeting of the society. However, the premium rate determined by the general body of the society should not be more than maximum rate shown below in area. should not be more than maximum rate.

<u>Areas</u>	<u>Rate of the premium</u>
Municipal Corporation and Development Authorities	Rs. 25,000/-
'A' Class Municipalities	Rs. 20,000/-
'B' grade Municipalities	Rs. 15,000/-
'C' grade Municipalities	Rs. 10,000/-
Gram Panchayat (Rural Sector)	Rs. 5,000/-

The said Order came into force immediately.

By order and in the name of the Governor of Maharashtra.

sd/-

(Vasant Poreddiver)
Dy . Secretary, Govt. of Maharashtra
Co-operation & Textile.

Appointing retired government officer/employee while appointing administrator on Co-operative Housing Societies.

Government of Maharashtra

Co-operative and Textile Department,

Government order No. SAGRUVUO-1409/18873/ Pra.Kra. 30/14-C

Mantralaya Extension, Mumbai- 32

Dt. 9th October, 2001.

Ref : Letter No. Prashasan/2 A/ Prash VAAVSAYAK/2000, dt 28-11-2000 of Commissioner, Co-operation and Registrar, Co-operative Societies, Maharashtra State Pune.

Preface:

There are approximately 60,000/- Co-operative Housing Societies in the state and the number of co-operative housing societies is increasing tremendously in Mumbai, Thane and vicinity of other metropolitan areas. With this, cases like committing misappropriation, illegal transactions etc. are also increased. Consequent to this, it would be inevitable to appoint Administrator, board of administrators time to time on such societies. At present charge of the office of administrator on society is given to the government employee. However, due to inverse proportion of limited number of the government employees and administrator appointed on co-operative societies on large number, the government employees could not give sufficient time to look after the administrative work of the concerned housing societies after attending his regular office work. Resultantly the purpose of appointing administrator cannot be fulfilled.

Therefore demand from co-operation field was also made from time to time in this regard. Therefore the proposal to appoint retired government officers/employees as Administrator was under consideration of the government.

Government Resolution :

Government's approval is hereby given for appointing officers/employee retired/voluntary retired from the government service and who have completed their services without any blot as an administrator on the Co-operative Housing Societies. However the list of such eligible officers/employees should be prepared in the office of every District/Dy. Registrar and the approval of commissioner, Co-operation and Registrar, Co-operative Societies, Maharashtra State, Pune should be taken for that list similarly, it should be made obligatory to the concerned administrator that after his appointment as administrator on the Co-operative Housing Societies, he should have to submit monthly report of his working to the officer who appointed him.

Before preparing a list on the level of the District Dy. Registrar, the consent of the retired officer/employee should be taken first and thereafter only his name shall be included. Similarly, after determining definite criterion by the Commissioner of Co-operation regarding honorarium to be given to them and accordingly it should be given.

By order and in the name of Governor of Maharashtra.

sd/-

(R.V.Kilkarni)

Deputy secretary, Govt. of Maharashtra
Co-operation & Textile Department

To handle the complaints regarding members in the co-operative housing society not paying monthly maintenance charges.

Maharashtra State

Co-operation and Textile Department

Government circular No. SAGUYO – 2002 / PRA.KRA. 365 / 14.SA,
Mantralaya extension, Mumbai – 4000032.

Date: - 02 November 2002

CIRCULAR

It came to the notice of the government that, some members in the co-operative housing societies are not paying monthly dues to the society. And for this they are giving various reasons like amount of members is due from the society, society is not repairing the flat, monthly charges are higher etc. Thereby the managing committee of the society is facing difficulty in doing day-to-day work of the society.

When Managing Committee seek justice to the Registrar under Maharashtra co-operative societies Act 1960, the members state that their complaint is pending with government / Registrar and therefore payment was not paid.

While taking into account the difficulties facing by the managing committees due to not paying monthly charges, the following instructions are being issued for how to handle such cases by the Registrar.

1. The members should not stop paying monthly maintenance charges to the society for any reason.
2. If there are some differences of any members with the Managing Committee regarding monthly maintenance charges then they should solve them by applying to the Competent Authority. The Registrar should take precaution of deciding the complaint regarding monthly maintenance charges within one month of receipt.
3. If the Competent Authority certified that the monthly maintenance charges are higher than the action to return/ adjust in the monthly maintenance charges should be taken by the managing committee of the society as per order issued by the Competent Authority.

4. While taking cognizance of the complaint of the members who stopped payment of monthly charges, the Registrar should first instruct such members to pay the dues of the society first.
5. The copy of this circular should be put up on the notice board in the office of the Registrar.
6. This circular should be brought to the notice of all the Dy. Registrar/ Assistant Registrar all District Deputy Registrar. Similarly the Dy. Registrar, Co-operative Societies should take action in bringing to the notice to the Federation of Housing Co-operative Societies in the state.

By Order and in the name of the Governor of Maharashtra.

sd/-

Section Officer,
Government of Maharashtra,
Co-operative & Textile Department.

Gazette of Government of Maharashtra,
Co-operation, Marketing & Textile Department
Mantralaya, Mumbai, Dt. 29th October, 2003.

Notification

The Maharashtra Co-operative Societies Act 1960.
No. VIPRAAA-2001/16593/PRA.KRA.163(A)/15-S

Whereas, the Section(3) in Section 27 of the Maharashtra Co-operative Societies Act 1960 is included newly as per act published by the Government dt 23rd August, 2000
And

Whereas, the provisions have been made that the individual member of the society, is not become eligible for giving his opinion in the working of that society for the period of 2 years from the date of registering his name as a member of such society.

And, Whereas, the government is convinced that, the above mentioned provision has been made to prevent the registering new membership only for voting on the eve of election. However, registering new members only for election is not possible in housing societies. Therefore, by the exercising powers conferred under section 157 of the Maharashtra Co-operative Societies Act 1960, the government is excluding co-operative housing societies from the provision in section 27 (3) of the Maharashtra Co-operative Societies Act, 1960.

By Order and in the name of the Governor of Maharashtra.

sd/-

(Y.D. kharale)
Jt. Secretary to the Government.

In respect of forming wing wise co-operative housing Societies having many wings.

Government of Maharashtra

Co-operation, Marketing & Textile Department,
Government Circular No SAGRUYO-2001/PRA.KRA234/14 SA
Mantralay Extension, Mumbai 400032. Dt 30th July 2004.

Circular

The Government is noticed that many a time the proposal for registering wing wise housing society in the case of the building having two or more wings received to the government. Some buildings among them were first registered as a co-operative housing society and the proposal is of their partition. And in many other cases, the proposal is that of wing wise registering of many societies while registering the building. The recommendation of the Commissioner, co-operation dt. 17-01-1985 one housing society for one building is accepted and accordingly informed to all Registrar. As per the said circular, wing wise registration of co-operative housing societies is not made. However, sometime such demand came from members.

By considering the said fact, permission may be granted for registering co-operative housing societies wing wise as per the re commendation received from the Commissioner, Co-operative on the following criteria.

1. Each society should have separate entrance for entering in the building.
2. Each society should have separate Electricity meter.
3. Each society should have separate water tank and water meter.
4. Each society should have to prepare tax assessment from Municipal Corporation.
5. Before commencement of the building, the builder/ promoter has to get the Layout of the building approved from the concerned Municipal Corporation by dividing electricity, water.
6. If some matters are common in the area of the building for e.g. compound wall, main gate, open space, swimming pool etc. then the promoter of the society should have to execute Indemnity Bond of Rs.50/- for executing partnership

agreement with the societies of other wing under Section 20A of Maharashtra Co-operative Societies Act, 1960.

7. Builder, Promoter should have to give Indemnity Bond on Rs.50/- in respect of doing transfer of land wing wise in the proportionate of the area held by all wings.
8. If the proposals restoration of the society filled in the column builders non-cooperation, then the promoter of the society should have to give Indemnity Bond on Rs. 50/- bond paper for the doing the transfer of land in the proportion of the area held by the society.

While registering the society wing wise, the proposal with rationale that why it is necessary that society to be registered after checking the criteria as mentioned above should have to be forwarded to the Government.

Sd/ –

Dy. Secretary, to the Government of the
Maharashtra co-operation,
Marketing and textile Department

Slum Rehabilitation Authority
Out word no. Mumbai / MUKA AA / Circular / 1233 / 2005
Date: - 12-09-2005

Circular No. 72

Sub: - Registration of co-operative housing societies under the scheme of slum rehabilitation.

According to circular No. 20, dt. 18/10/1998 of Slum Rehabilitation Authority, after getting commencement certificate to the proposal Slum Rehabilitation Scheme, the registration certificate is issued to the Co-operative Housing Society. While changing criterion in some extent of the above circular, the amended order is being circulated herewith.

1. Permission to open the account in the name of the proposed co-operative housing society/federal Co-operative housing society of the slum dwellers is to be given by the concerned competent authority, after circulating Annexure- 2.
2. Before giving letter of Intent to the Slum Redevelopment Scheme, the executive engineer, by ensuring that the permission of reserving the name to the proposed society of the slum dwellers has been granted by the Assistant Registrar, Co-operative Societies, will take further action on the proposal of Letter of Intent.
3. After getting the letter of Intent to the co-operative housing society / federal co-operative housing society of the slum dwellers, the Assistant registrar, co-operative society will register the society under Section 9 of the Maharashtra Co-operative Societies Act, 1960 or of Federal society under Section 6(3) as per criterion determined by the commissions, co-operation and Registrar, Co-operative Societies Maharashtra state.

The Executive Engineer will submit Intimation of Approval proposal only after ensuring that the society received Registration certificate with Intimation of Approval proposal

The amended order in the above mentioned circular will come into effect from 1/7/2005.

Sd /-

Chief Executive officer,
Slum Rehabilitation Authority

In respect of charging maintenance charges by the concerned Co-operative Housing Society only after actual distribution of a flat to the beneficiary under the chief Minister prerogative.

Government of Maharashtra

Co-operation, Marketing and Textile Department,
Government Order No. SAGRUYO 2009/PRA. KRAS 344/14-SA, Mantralaya,
Mumbai- 400 032

Dt 31st May, 2010

Preface:-

Distribution of the flats received to the government from house building scheme under Section 20/21 of the Urban Land Ceiling (Maximum holding and regulation) Act, 1976 is being done as per prerogative of the Hon'ble Chief Minister to the nominated person and with the prevalent policy of the government. However, other flats in the scheme are sold to the other person by the concerned scheme holder. Maintenance management of the building where beneficiaries from the government prerogative quota and purchaser who purchased the flat in the building is given to the society by registering the co-operative Housing Society as per prescribed provisions made under Maharashtra Co-operative Societies Act, 1960 and Maharashtra Co-operative Societies Rules 1961 and Model bye-laws.

Some period passed between taking possession of the flats from the governments prerogative quota and distributed it to the prescribed eligible nominated person. During this period charging/demand of the building assessment tax from the Municipal Corporation and similarly maintenance charges and non occupancy charges from the co-operative Housing Societies is made.

In fact, since the possession of the flat to the nominated beneficiary is given after distribution order of the government, the property tax of the said flats is not to the Municipal Corporation from the said nominated beneficiary for earlier period Accordingly the urban development Department has issued government decision vide dt. 16-6-2006. According to the said decision the directives are came into effect that the property tax for the said flat should not be charged up to the period of taking possession of the flats by beneficiary from prerogative quota.

Similarly, the beneficiaries of the flats acquired under Section 20 and 21 of the Urban Land Ceiling Act become the member of the concerned society only after allotment of flats to them. To charge maintenance charges and non-occupancy charge for the period prior to becoming member of the Housing Society is violative to the

provisions in the Maharashtra Societies Act 1960, similarly since it necessary to have a equal policy in charging property tax, maintenance charges and non occupancy charges, the Government of Maharashtra has taken following decisions as power conferred under Section 79A of the Maharashtra Co-operative Societies Act 1960.

The Government is giving directives for public interest as per power conferred under provisions in section 78A of the Co-operative Societies Act 1960 that, even though the flat in the Housing Society registered under the said Act is handed over to the government under Section 20-21 of the urban Land ceiling Act 1976 before its possession given to the nominated beneficiary, the society by not charging non-occupancy charges on it should have to charge only maintains charge and it should be taken from the Developer. After allotting and giving possession of the said flat, the concerned Housing Society should take action as per law for charging non-occupancy charges and maintenance charge from that member from the date of allotment.

The said government, decision is circulated with the consent of the Urban Development Department.

The said order is available on the govt. website **WWW.Maharashtra gov.in_its** computer code no. is 20100531180610001.

By order and in the name of the Governor of Maharashtra.

Sd/-

Under Secretary to the
Govt. of Maharashtra
Co-operation and Textile.

Charging Non-Occupancy charges
from the member of Co-operative
Housing Societies.

Government of Maharashtra.

Co-operative, Marketing & Textile Department
Government Order No. SAGRUYA- 2010/PRA.KRA-
173/14 S
Mantralaya Extension, Mumbai- 400032
Dt- 25th February 2011

**Ref : Govt. Order No. SAGRUYA/10945/15165/PRA KRA 318/145 A,
Dt 1-8-2001 of Co-operation, Marketing & Textile Department.**

Supplementary Letter:

It was decided that the charging of Non-occupancy should not be more than 10% of the Maintenance Charge vide above mentioned Government orders dt. 1/8/2001. Since the word paying Guest was not included in the Said Govt. Order, the approval is given by this supplementary letter to include the word paying guest. Before the number and word, 'not charge more than 10%' in the point No.2 of the government Order dated 1.8.2001 mentioned above, the following is included. In this, non-occupancy charges will also be applicable to the paying guest.

By order and in the name of the Governor of Maharashtra.

Sd/-

(M.S.Ghate)
Desk Office,
Govt. of Maharashtra
Co-operation Marketing & Textile Department.