

How to adopt & do transparent & competitive process for redevelopment of society building to get 100% consent ? ?

Example :- A cosmopolitan society OR group of 20/50/100/300 person & their family with different class / age / literacy, etc, coming together for one basic requirement - Bigger & better Home.

As we all know - for any subject (redevelopment) to move / process among many mindsets but with majority consent , some kind of fundamentals / principles are required (rule of game) :-

The redevelopment consists of mainly 3 parts :-

1. Members management, 2. Planning management, 3 . Construction Management.

Following are rule of the game (key to success by REX) for Members management. this part is considered the most critical part with much higher risk & weight age.

The principle is : -

1. To adopt schematic procedure – to do (PMC – as guide) & bring each member on parallel platform for equal & proportionate distribution of beneficial property share to each & all eligible stakeholders / MEMBERS.

2. To adopt & do (PMC - a guide) Practical cum technical cum legal procedure to provide all information & solve all issues to make each & all members systematically & progressively understand thus agree on same date - stage wise on ultimate six agenda (redevelopment – benefit – developer – vacate – construct – repossess).

Society must follow the guideline passed by govt. of Maharashtra dated – 3rd January 2009. Available / at govt. website and at Housing Society Federation – Fort & M. S. W. A. – Andheri.

Phase – 1 Approval of Redevelopment process and appointment of builder. Period – 15 weeks. The process has been divided into six stage. Each stage if further divided into 2 – 3 stages.

Important – No member shall give final consent until following process has been done by society.

For each stage society shall issue circular to all members with proof of delivery with specific / limited time frame (5 / 7 / 10 days) for members to reply back only in writing. Members shall acknowledge the circular & must reply (objection / suggestion) within specified time frame, **no reply shall be taken confirmation as affirmative / positive for present stage / subject and to go on next stage.** Queries from members shall be incorporated for reply during next SGBM. Each STAGE must be informed to registrar & **Video recording / photography of all meetings shall be done.** All circulars with proof of delivery are a legal document admission able at any /all court of law as per case / condition. Stages of redevelopment process are as following :-

Part -1

1. 25% members writes / request MC for redevelopment.
2. At **SGBM** - 75% members must say yes for **redevelopment process only** in writing.
3. Redevelopment committee (10% of the strength – average) shall be formed out of new members & present managing committee. (On receipt of Interest letter members – to select by voting in **SGBM**)
4. Suggestion / If necessary Society shall appoint a structural consultant to do Structural survey / Audit of the building, present the report to **SGBM** & resolve if Repairs (No) to be done.
5. At SGBM - Members must approve expenditures for the process of redevelopment in writing.

6. Minimum 5 PMC / Architect shall be invited through newspaper, after scrutiny of their papers / experience any one shall be appointed at **SGBM** by Members.
7. Project feasibility report must be prepared by PMC / Architect. - one month.
8. Report should be circulated to each / all members. **SGBM** must approve the guideline of feasibility report & approve to initiate tender process.

Part -2

9. Tender terms / conditions / questionnaire must be prepared by PMC / Architect, for approval by society.
10. Terms / Question / summary sheet of tender shall be circulated to all members for their information, remark & suggestion, shall be discussed & approved at **SGBM**.
11. Builder / developer shall be invited through min. 2 newspaper notice. Period 21 / 30 days.
12. Each & all members shall be informed by circular to call their choice for builders but through tender process / system only.
13. Each / all members must be informed to attend the pre – bid meeting to hear out builder's query.
14. **SGBM** shall be called on the date of Submission of Sealed tender / bids / offers must be at society office. To be opened within next hour in presence of maximum members.
15. 1st Comparison on sheet on all three parameters - Prequalification details, technical & legal terms, financial bid as per offer submitted should be prepared by PMC / Architect. (7 -10 days)
16. All (3) comparison - summary sheet must be issued to all members for their remarks / suggestion.
17. Short listing of minimum five developers shall be done by secret voting by members and approve & finalized at **SGBM**.
18. Site visit / inspection (2 completed / 2 running) of each bidders / developers shall be done by all mem. / redev. Committee.
19. Personal meeting of each bidder at **5 SGBM** with all members shall be organized for clarification/ correction / negotiation / understanding of terms / points. Accordingly corrected / revised in detail offer shall be called from bidders as per format approved by society.
20. On receipt of clarification from developers / bidders final report on all four parameters -- site visit, Prequalification details, technical & legal terms, financial bid, should be prepared by PMC.
21. Selection of any three developer by written voting shall be done at next **SGBM**.
22. Once again negotiations must be done among three and then to select any one as Mock voting and clarify any more issues if pending / required.
23. Rep. of registrar should be called to be present during **SGBM** to select final builder.
24. Maximum member must attend the **SGBM** meeting and 75% of total strength must approve the builder / developer appointment.
25. After approval / confirmation by majority, M.C. must ask again for detailed / clarified offer from developer as discussed / presented during final SGBM, after clarification of all terms only, the society within 15 days may issue conditional appointment letter (LOI) to developer for redevelopment.
26. The appointment letter shall be valid for 3 / 6 months from the date. Within this period developer / society must enter into development agreement / MOU..

End of part - 1. (members management up to builder appointment)

This time tested process will generate confidence among members for 100% consent.

Techno - Legal Tender - Terms (DCA)

Part - 2

What is Techno Legal Aspects - terms / Advise ?

For a construction project where modalities / intricacies of technical works needs to be executed with legal safeguards . The terms defined at agreement shall be crystal clear / implementable for anyone to understand & agree , acceptable for contractor / developer to execute efficiently .

For successful implementation of terms / project : - An agreement between Developer & society / plot owner requires to be drafted as per primary terms agreed between parties and under the statute law of land . (In 99% cases) Or It is universal truth that the terms agreed & written always varies to certain (minor / major) extent during implementation. Those changes can be within acceptable limits from both sides subject to perception. The Techno – legal terms / advice / expertise at this level will help provide secondary terms to be applied in cases of minor / major changes on primary terms considering the options & application with both party / side. This expands applicability of terms and allows to understand the expected differences and accordingly built up the knowledge / perception in advance. The inbuilt secondary terms will not allow the contractor / developer to manipulate OR dictate terms after agreement & during implementation. This works as major tool to avoid the disputes between parties at later date and will automatically help achieve 99% success & satisfaction.

Under differences between parties on agreed terms : - Many instances are available to prove / justify that the intention / perception of any party changes as time goes by or as implementation takes place. It has been observed that at many occasion general public / society, 50% of affected party (weaker part) accepts the changes as it may be directed / dictated by (stronger part) developer / builder. The DCA Techno – legal advice / expertise at this level will help / support the weaker party , Each time the developer tries to dictate / force upon his terms, the agency / entity can be shown the secondary terms to be applied in cases of minor / major changes on primary terms. Thus a confrontation / larger disputes can be avoided and project will complete successfully 90% .

At Arbitrator / Any level of Court :- If still developer (influential / stronger party) choose to give a fight a different level. Any third party / court of law will go by written terms agreed & signed between parties, they will also consider the statute law of land. But will be able to device solution / provide relief sooner than later due to defined & agreed secondary terms. The terms once signed are not open for interpretation for any third party including the judges at any court. (subject to same shall not supersede statute law of land) . Thus legal battle in courts generally running for years can be avoided.

General situation: - After an agreement is drafted & signed between parties - Developer & society / plot owner, many a times it is drafted one sided to suit one party (developer) In 90% cases the perception changes as time passes also terms varies to certain (minor / major) extent during implementation. Due to change of mindset / on site condition / ego issue / malaise intention / cheating, Many a times the BUILDER / developer simply rebukes the COMMON MAN / society member with statement – GO TO COURT & GET ORDER . Many instances are available to prove / justify such intention. It is widely known that general public / society 50% (weaker part) opts to remain silent & accepts the changes as it may be directed / dictated by (stronger part) developer / builder. But many (40%) of the citizen do chooses to give a tough fight. Hence with legal action follows another battle with / without efficient paper in hand , matter goes to different level of courts for justice. Depending upon the suitable terms written & agreed on paper added with money & influence and years long legal battle one gets reprieve from court or / arbitrator.

99% surety to avoid disputes and matter at court.

Survey on Indian judicial system says :- Only 3% of registered / filed legal cases involving implementation of contractual obligation has been justified / ordered / fulfilled after 5+ years court case.

OUR RESEARCH on Problem & Effective solution - stages & reason:-

What are the stages & reason, where redevelopment projects get stuck?

1. Selection of PMC? **Reason:** - Society asks builders to provide their choice of PMC / or members & PMC tries to shake hand and cover each other for the purpose of gains. Other member feels the rat & disputes starts.
Solution:- select a PMC who has good track record with other society rather than builder.
2. Tender process. - **Reason :-** society members are divided in groups supporting their builders.
Solution :- Ask each member to invite their choice of builder & also publish at newspaper.
To fix a principle & criteria to ask members to compile their questions & requirements, ask 300+ questions OR as many as possible for detailed information / study / scrutiny under tender process to each & all interested builder. **Result** - only serious & sincere builders will come forward.
3. Appointment of builder. - **Reason :-** Some of members feels that somewhere / something is missing / needs higher offer / lack of transparency .
Solution :- Whomsoever builder confirms /replies in writing almost all 300 questions + / fulfils criteria/ agrees to provide all information for scrutiny / presentation at SGBM in presence of all members. Then after stands shortlisted and selected. **Result** - Members confidence & consent increases.
Various level of information / interaction / scrutiny – crosschecking by com members & confirmation by SGBM will/ may help install higher level of confidence – among members for appointment of builder.
4. Agreement with builder. - **Reason :-** Members feel loss of confidence to sign.
Solution :- A set of 300 question with tender & others from members point of view must be clarified before appointment , same points / terms shall be used to prepare development agreement under techno legal terms. Means Application of all terms within agreement - on site , not at court.
5. Building vacation by members . - **Reason :-** Members feel loss of confidence to sign. (Ex. 70% of the project / Father to son transfer)
Solution :- A detailed agreement with all issue / set of 100 terms to be drafted in simple language and must be explained to all members to be clarified before appointment , same points / terms shall be used to prepare development agreement under techno legal terms. Once members gets satisfied due to clarification at documents, hence becomes confident about builder & vacates the building for construction.
6. During construction. **Reason :-** members feel the quality is not maintained.
Solution :- Detailed / informative terms at tender , further at descriptive drafting of terms at development agreement will provide your PMC / ENGINEER sufficient power & strength to monitor the works during construction. Every month a meeting / SGBM must be called of all members at site to watch & observe , this will safeguard your issue of security / quality / timing on regular basis.
7. During Repossession - **Reason :-** Under 70% case Members feel greatly cheated when they see the actual flat (less carpet area & lack on promises made / terms agreed by builder while submitting offer.
Solution :- Under agreement society must keep one saleable flat of 1000 sq ft lien / mortgage in favour of society and Rs. 50 lacs of security deposit and 25% bank guarantee to be released only after BCC.
If any works / amenities / material / documents / promises are missing , society can utilises the guarantees to fulfill the left over promises, otherwise go to court for another 10 / 20 years.

Reason in One word - corruption. Solution in one word - transparency / integrity.
For members - 99% of Ego & ignorance & innocence & greed must be controlled to succeed.

FOR COMMON CITIZEN / ... OPEN LETTER FROM

GRUHA SANKALP SANSTHA

(Regn. No. - Mah. St. / Mumbai / 2591/ 2008 / G.B.B.S.D.)

An NGO to facilitate affordable housing to citizen.

Crystal plaza - 706 – A wing, New Link Road, Andheri – w, Mumbai – 53.

Tel – 9221020869.

Ref: No – GSS / SEM / / 2015

Date: / ... / 2015

To,
The Chairman / secretary / Manager,
Mr.

Sub: your Interest to arrange / participate in seminar (**free of cost**) on Redevelopment & housing society issues / matters for citizens.

Dear Sir,

Our SANSTHA / association organizes small interactive seminar on redevelopment / solution to society issues & legal problems. We shall arrange experienced Advocate / Architect / Engineer / Rtd. Govt. officers / others for the seminar. We provide our opinion & solutions **free of cost** at seminar.

Please arrange approx. 100 person sitting space at your society or nearby society or school / college. (Cost free basis)

This is for social cause i.e. to organize an awareness program / interactive seminar / session on problems and solutions (legal / repairs / flood water / disputes / redevelopment etc.) of co-op. Housing Society for their residents.

We have organized many such seminars in last ten years at places like Bandra , goregaon , Andheri. Pl. do the needful & claim your **RIGHTS ON property** through social awareness.

Yours truly,
For Gruha Sankalp Sanstha

Mr. Anup D. Gupta
Chairman

- FREE CONSULTANCY / GUIDANCE ON – Building Construction / Repairs and Maintenance on every 2nd & 4th Saturday between 3 to 7 P.M., at Rex office.
- Gruha Sankalp Sanstha & Maharashtra Society Welfare Association conducts Free & fair interactive Seminar at your location on common problems of society.
- If 4 – 5 or more societies from nearby location come together and need us to arrange a small open house meeting / interactive session, we shall be available to provide practical – technical – legal guidance - framework for smooth & effective planning for redevelopment. (free of cost)

For Better & Bigger Home Social Services Initiative

Members awareness program from 1997 & continued.....

Redevelopment started since 1997 due to change in TDR policy & process.

Haphazard extension / construction over existing 2/3 story bldg stopped in 2005.

Economy slowdown in 2008 busted out many myths & bubbles.

Majority of society & their members woke up & attended **our 50+ seminars / workshop** for more awareness on various technical & legal issues about society management and property rights under redevelopment over last decade.

Albeit late but Govt. is doing 70% for common members of Co-Op. Society, Are u ready to do balance.

Redevelopment guideline under 79 A of MCS act dt. 03-01-2009.

Society to appoint PMC / Architect to provide all technical support .

Society to follow defined procedure to get 75% member's consent throughout.

Builder to be appointed in presence of registrar by 75% majority.

PMC to observe / guide the society throughout the course of project.

Deemed Conveyance notification by govt. 27th Sept. 2010

Society can file a case against builder / developer at registrar level to get the title of building & land transferred / conveyed in the name of society.

The process of conveyance has been simplified & made faster & is named & considered as Deemed Conveyance. More than 15,000 society / Common man is benefitted.

Special Drive for Deemed Conveyance - form 15th Dec. 2012 to 30th June 2013.

Initiated by The state govt. under leadership of Chief Minister - Mr. Prithviraj Chauhan.

The documents required & time period under process has been reduced.

The process of registration & stamp duty & Mutation entry has been made simplified.

Modified DCR BY MCGM dt. 6 Jan 2012. (Ex. Mun. Com. Mr. Subodh Kumar effect)

Loopholes at various BMC norms modified to bring transparency in planning & approval.

Introduction of limited fungible FSI & for building construction projects.

Limitation on approval time & role of officials at depts. of MCGM.

Limitation on profits to builders & undue expectation of soc. members.

97th Amendment of Constitution on co-operative society.

Members to take serious participation / Limitation on role of by registrar.

Increase in Role & responsibilities of Managing committee & Auditor.

Redressal committee within members but other than MC to solve issues.

Application of Independent / proper election process to avoid mismanagement.

Application of Suspension of voting rights up to expulsion of members.

Adopt New Model Bye-Law before 30th April. - It has become necessity for all the co-operative housing societies to call for a SGBM before 30.04.2013 to adopt the MODEL BYE – LAWS OF COOPERATIVE HOUSING SOCIETY AS PER 97TH CONSTITUTIONAL AMENDMENT effective **15/02/2013**. under MAHARASHTRA CO-OP. SOCIETIES (AMENDMENT) ORDINANCE 2013.

New Development plan and New Development Control Rules expected by 2016.

To increase FSI as per area / location / use / requirement . to make Mumbai land available for more. Thus to generate better / more benefits / revenue to govt. and citizens.

Housing regulatory bill act by 2016

Guideline / Process / rules / penalties to avoid disputes / cheating / complications by builders during construction and sale of flats / units. Thus better security to citizens.

Contract Re-development guideline / scheme under MCS act by 2016

Guideline / Process to avoid disputes / corruption / complications among members.

To plan to arrange finance & manage project thus generate better benefits to citizens.

Compulsory Education & Training Classes under 24 A of MCS act 2016

Guideline / Information to members to avoid disputes / corruption / complications.

Our office shall provides interim advice / consultation through below mentioned consultants on every Friday & Saturday 5 - 7 pm. Common citizen / members of society may reach us on **rexgroup@ymail.com** OR visit our office for advice on token fee of Rs. 500/- only. But free through email.

Practicing - (Advocate / Court commissioner / Architect / Structural Engineer)

Retired - (Registrar of Co-Op. Societies / Asst. Commissioner - BMC / Chief Engineer - Mhada)