

TALREJA ADVISORY & CONSULTANCY SERVICES (TACS)

- Society Redevelopment
- General Reqmts & Rules

CONTENTS

- Evolution and rationale
- Types of redevelopment
- Existing DCR and Proposed DCR
- Process of redevelopment
- Verification process- title, conveyance, member's interest etc.
- Key documents and critical issues to be kept in mind
- Best practices to be adopted while finalising consent of members
- Complications and critical issues in redevelopment and How to resolve complications and critical issues like deemed conveyance, multiple societies, dissenting members, stuck up projects etc.
- Case study

Evolution and rationale

- **Rationale**
- What is development – **Any change in Status of Land can be termed as Development**
- Why redevelopment
 - Structurally weak
 - Destruction
 - Demographical changes
 - Change in use of zone
 - Paucity of open land
 - Population growth, family requirements
 - Life expectancy
- **Evolution**
 - Regional plan and subsequent Mun Bye Laws – **No provision for Redevelopment.**
 - DCR 1967- **No provision for Redevelopment**
 - 1967 Zonal FSI 0.5 or less than 1 (if consumed more than 0.5 due to illegal extensions for accommodating family extensions)
 - Society act and rules (Enactment of Society Act paved the way for Cooperative Movement for the benefit of larger common public good. Maintenance of Common Amenities, Common areas of interests was take care of – **Redevelopment became one of the common objective**)
 - Transfer of property act – **Devolving Title to Common body of people for larger common Good.**

Types of redevelopment and redevelopment of housing society

- Redevelopment of housing society based on ownership
 - CHS on private land
 - CHS on lease land- private lease, tenanted properties
 - CHS on Collector, BMC lease lands
- In case of redevelopment in above scenarios there is no separate incentive FSI and feasibility is assessed based on area allowed to be developed v/s area used
- Below are some regulations where incentive FSI schemes are available however redevelopment rules are governed under specific provisions (Applicability - Town and Suburbs)
 - 33 (9) – Cluster Development Scheme (CDS).
 - 33 (7) - **Cessed Property a must , 30 years as on Jan 1st of the year of taking up redevelopment**
 - **33(7)(A) – Redevelopment of Tenant Occupied dilapidated / unsafe buildings in suburbs & Non Cessed Buildings in Island City (No Age Bar).**
 - **33(7)(B) – Redevelopment of Societies excluding cessed Buildings (Island City & Suburbs both) – 30 years old.**
 - 33 (5) – **Redevelopment of Buildings on MHADA Lands**
 - 33 (6) – **Redevelopment / Reconstruction of Buildings destroyed by Fire, Earthquakes etc Structural Dilapidation etc**
 - PPL – **Public Parking Schemes.**
- In this session redevelopment of housing society relating to various ownerships will be covered excluding MHADA, Cluster Development etc. as there are separate rules relating to their development.

Current DCR and Proposed DCR

- Current DCR
 - No specific provision
 - FSI 1+ 1 (TDR)+ Fungible
- Proposed DCR
 - Specific provision proposed
 - DCR 33 (7)(A) & 33(7)(B)
 - Conditions proposed (30 years old, max incentive FSI restricted to 50% of Rehab area)
 - **33(7)(A) - No Age Bar, FSI = Rehab + 50% Incentive (no upper cap), 79A not required to be followed since Consents are to be verified by MCGM Ann II, Minimum Carpet area for resi = 300 sqft + 35% fungible w/o premium on eligible Rehab component, Max carpet area = 753 sqft + 35% fungible, Beyond 753 to be purchased at Const cost @ RR.**
 - **33(7)(B) – 30 years old blgds, FSI = (Rehab Existing area + 1.15 x Existing Rehab area or 10 sq.mtrs per existing tenement whichever is more as incentive without premium) OR (Permissible FSI as per Table 12 under DCR 30(A)(1) with premium FSI and TDR) which ever is more. Ultimately it will be Development under Zonal Basic FSI + Premium FSI + TDR as per DCR 30. Rehab areas as per mutually agreeable understandings.**
 - **Where tenanted & Owners occupied buildings co-exist then proportionate plot areas shall be taken for 33(7)(A) & 33(7)(B).**

DCR 30 - Zonal FSI + Prem FSI + TDR

Floor Space Indices in Residential, Commercial and Industrial Zones

TABLE 12

Sr No	Areas	Zone	Zonal (Basic)	Additional FSI on payment of Premium	Admissible TDR	Permissible FSI (4+5+6)	
1	2	3	4	5	6	7	
I	Island City	Residential/Commercial	1.33	0.34	0.33	2.0	
II	Suburbs and Extended Suburbs						
	i	The area earmarked for BARC from M Ward and the areas comprised in N Ward bounded on the west by the Eastern Express Highway, on the north by the northern boundary of the N ward, on the east by the Thane creek and on the south by the southern boundary of N ward.	Residential/Commercial	0.75	-	-	0.75
	ii	Areas of the village of Akse, Marve and CRZ affected areas of Erangal in P/North Ward and Gorai and Manori in the R Ward excepting gaathan proper.	Residential/Commercial	0.5		-	0.50
	iii	The remaining area in Suburbs and Extended Suburbs	Residential/Commercial	1.0	0.5	0.5	2.0
III	Island City	Industrial	1.0	0.5	0.5	1.0 2.0*	
IV	Suburbs and Extended Suburbs	Industrial	1.0	0.5	0.5	1.0 2.0*	

Process of redevelopment of a housing society project

- Maharashtra Cooperative Societies Act 1960
- Section 79 (A), Circular Jan, 3, 2009
- [MCSA Section 79 A circular for Redevelopment.pdf](#)

- Redevelopment process
 - Initiation by members (15% consent is needed to initiate, later 75%)
 - GBM for resolution to redevelop (75% for quorum) – Various complications emerge if this step is not followed properly
 - Appointment of PMC then GBM/SGBM/MC meeting
 - Survey, paper, Documents etc.
 - Tender preparation (**Physical Copy of Tender Available**)
 - Notice for GBM for Developer
 - quotations/bids
 - suggestions from members
 - evaluation of bids
 - GBM decision on above
 - Registrar's representative to attend GBM
 - Selection of developer- financial capacity, technical capacity etc.
 - 75% quorum required, 75% out of total attendees should select a developer
 - Videography, ID cards (Bio metric)

Scope of work of PMC

- Survey
- Title
- Plans
- Technical assessment
- Development potential
- Society issues
- Possible benefit of the members

Checklist of documents

- DOCUMENTS REQUIRED FOR REDEVELOPMENT

1. Society Registration Certificate
2. Original Building Plan
3. Conveyance Deed / Lease Deed / Sale Deed
4. Copy of Resolution
5. Documents / Deeds / Agreements etc. whatsoever in nature related to the Society's plot
6. Property Card
7. D. P. Remark
8. Extract of 6/12, 7/12
9. Search report and Title certificate
10. Index II
11. N. A. Order
12. City Survey Plan

Checklist of documents

SOCIETY DETAILS

1. Plot No:
2. Ward No:
3. Hissa No:
4. Plot Area:
5. Survey No:
6. CTS No:
7. Conveyance in favour of Society:
8. Date of Conveyance:
9. Indenture of Conveyance Date:
10. Lodge for Registration under Serial No:
11. Useable Area:
12. Structure Details:
13. Flat Categories with Carpet Area:

Checklist of documents

CHECKLIST OF DOCUMENTS FOR REGISTRATION OF REDEVELOPMENT AGREEMENT

1. Property Card
2. CTS Plan
3. Existing Members Old and New Allotment with Existing Area, Free offer Area and Total Area Statement
4. SGM Resolution
5. Society Registration Certificate
6. All Members Share Certificate
7. Amenities List
8. Board Resolution for Signing Authority
9. Typical Floor Plan (Optional)
10. Conveyance Copy / old Index II (Optional)
11. Letter of Intention (Optional)
12. 2 Nos. Witness and there Photo ID proof and 2 Nos. Passport size Photograph of each Witness
13. 2 Nos. Passport size Photograph of all Signing Authorities
14. Photo ID Proof of all Signing Authorities

Checklist of documents

15. Society Rubber Stamp
16. Developers Rubber Stamp
17. Left Thumb Impression of all Signing Authorities.
18. Pay Order in Favour of.....for stamp duty (Adjudicate Agreement)
19. Pay Order in Favour of.....for Stamp duty (Non-Adjudicate Agreement)
20. Pay order in favour of.....for Registration

Checklist of documents

DOCUMENT REQUIREMENT FOR REGISTRATION FOR AGREEMENT OF PERMANENT ALTERNATIVE ACCOMODATION FOR INDIVIDUAL MEMBER

1. Agreement of Permanent Alternative Accommodation
2. NOC letter from Society to Members on Letter Head
3. List of Members with Old- New Area
4. List of Members with old Flat No. & New Flat No. with Carpet Area Old & New
5. Receipt of Stamp Duty paid on Redevelopment Agreement
6. First two pages of Redevelopment Agreement (Registered)
7. Old Share Certificate Copy Front & Back of Member
8. Copy OF Property Card
9. Copy OF CTS PLAN
10. Copy of Occupation Certificate of Old Society
11. Copy of Assessment Bill (Old) of Society
12. Ration Card Copy of Member
13. Electricity Bill of Member
14. Society Registration Certificate
15. INDEX - II of Redevelopment Agreement
16. Floor Plan of Member
17. IOD, CC Copy
18. Election Card, Pan Card Copy of Member
19. 2 Passport Size Photographs

Conveyance and deemed conveyance

- What is Conveyance (Transfer of Title of Property – Travel of Right from one to Other)
- What is Deemed conveyance (Subject to fulfilment of certain conditions transfer of Right to happen from one to another even without execution of transfer documents from transferor)
- In some situations why deemed conveyance has still not happened
 - Occupancy not taken
 - Title Documents / Papers like Agreements, Deeds etc faulty incomplete, not registered with Revenue Authorities etc
 - Unauthorized Constructions
 - Defective Title of the Developer
 - Court Cases
 - ULC issues
 - Developer hasn't sold entire inventory
 - Insufficient members to form society
 - Ownership documents like PRC, CTS Plans etc not updated due to non recording of approvals like Layout / Subdivision with Revenue Authorities.
 - Mix Ownership Plots like Pvt, Govet Leased, Pvt Leased, i.e. different Tenure of Land ownership.
- Why it is important – No Redevelopment can take place without it.

Key agreement and approvals

- Development agreement with Developer
- Individual agreement with members
- Submission of proposal to municipal planning authority. Application would enclose below list of documents (**Form of Notice u/s 44-69 of MRTP Act**)
 - Format available in DCR.
- Loading of TDR in society's favour
- IoD
- Agreement with Individual society members after allotment of flat through lottery
- **Evacuation**
- **CC**
- Construction of new building
- OC
- Inducting new members- process followed
- BCC

Key clauses in various agreements

- Key clauses in Development agreement
 - role of society, developer
 - commercial terms
 - standard terms
 - Sale – additional area
 - Carpet area
 - approval time line
 - Stam duty on original and additional areas
 - FSI, TDR etc.
 - Rent
 - SD
 - Bank guarantee
 - invocation of guarantee
 - exit
 - dispute and dispute resolution
 - xxxx
 - xxx
 - xxx

Key clauses in various agreements / Approvals

- Key clauses in Individual agreement with members
 - commercial terms
 - standard terms
 - XXXXX
- Key conditions in IoD

Ownership Documents, Evacuation, Compliance of all statutory requirements like Water supply Arrangement, Sewerage Arrangement, Civil Aviation Zone requirements, High Rise Committee NOC, MoEF (Environment) NOC, Railways NOC, Highway NOC, Structural Drawings, Services Drawings, Plot Demarcation, etc

Best practices to be followed at various stages

- Before appointment of developer
 - Resolutions are passed properly as required under GBM/SGBM/MC
 - Consent of member
 - In many Societies, the Managing Committees, who execute the documents with the Developers, do not possess any legal holding as they have never filed/nor aware of filing the Indemnity Bond in Form M-20 on a Stamp required under Section 73(1AB) and Rule 58A of the Maharashtra Cooperative Societies Act 1960. The members who fail to execute such Bonds within the specific period are deemed to have vacated his office as a member of the committee and no legal effects can be given to the documents executed by them with the Developers.
 - The Housing Society is required to appoint Project Management Consultant/ Architect, prepare a Tender with their help and advertize in 2 leading news papers inviting the sealed tenders from the Developers and a Redevelopment Committee is formed to shortlist at least 3 Developers on merits and the comparative data is placed before the SPGM for final selection. The selected Developer is informed accordingly and his terms are invited in writing as an Offer letter to the society.

Best practices to be followed at various stages

- At the time of appointment of developer and signing agreements
 - quorum and consent
 - video graphy, biometric
 - handling dissent
 - right set of clauses in various agreements
 - dispute resolution

Best practices to be followed at various stages

- Approval and construction stage
 - Loading of TDR in favour of the society: On receipt of the plans from MCGM approving the loading of TDR, the Developer will purchase the TDR from the open market in the name of the society and get the same deducted and loaded from MCGM. This step is taken with the intention of making the society feel secure about the entire development process.
 - Obtaining the IOD: After the TDR is loaded, the IOD is obtained from the MCGM, the Developer then starts fulfilling all the conditions as mentioned in the IOD before obtaining the Commence Certificate.
 - Society must certify above mentioned stages approved from their Architects and ensure written approval before vacating the premises.
 - Demolition of the building: Once the members have shifted into their alternate accommodation, the demolition of the building will take place either all the wings simultaneously or phase wise depending upon the scheme of re-development. Usually about three months are given to the members from the date of execution of the development agreement before asking them to shift to the alternate accommodation
 - The IOD approval and demolition of the building will be followed by the issue of the CC (plinth level) by the MCGM which shall enable the Developer to start the construction work and after the plinth lines are verified by the MCGM officers, the further CC is granted for the complete building.

Best practices to be followed at various stages

- Under Right to Information Act, the Housing Society can procure all the Plans and the related documentary evidences from MCGM duly attested by two Senior Engineers of the Building Proposals Dept. to study the anomalies which exist in execution of the entire redevelopment project even after the occupancy certificate is issued.
- A regular visit of a project manager is arranged 3-4 times a week. Maximum emphasis is given on the quality of the constructions to avoid recurring expensive repairs afterwards. As a project management consultant we would supervise the quality of constructions and verify the structural plan, necessary instructions/specifications shall be issued to contractor as per the requirements of the structure to have long lasting durability.

Effort taken by some societies for self redevelopment

- New models have been tried by various societies to develop on their own
- Some have appointed PMC and tried for self development
- Not many success stories are there in such model
- Below are the reasons why it has not worked
 - **Lack of Expertise – Technical, Financial, Executional, Risk Management etc**
 - **Lack of Devotion of Time**
 - **Internal disputes**
 - **Lack of Faith in the Committee**
 - **Approvals – Timely Approvals, Process following etc, Technicalities involved in getting approvals etc.**

Complications, critical issues at various stages and its resolution

- Complications and critical issues in redevelopment and How to resolve it:
 - some members not giving consent
 - some members challenging that proper process was not adopted for appointing developer
 - conveyance not done, problems in deemed conveyance
 - Pagadi tenancy
 - some other developer has bought some flats in the society
 - multiple societies in a compound
 - members had earlier appointed another developer however he has not done any work from last xx years- **(Added)**
 - External factors
 - NGOs
 - RTI
 - South Borivali case
 - members and heirs
 - Rent control act
 - garage/shop/office
 - Collector land, BMC land etc.
 - Irrevocable consent
 - Constructing additional/unauthorised areas (approved plan v/s actual layout)

Conclusion- society redevelopment as a market opportunity

- Below are the bottlenecks faced by Developer and Society
 - **Title issues, Internal Disputes, Limited FSI, Higher demands of Tenants, Approval Timelines, Incomplete Papers from Society, Dissenting Members, Court and Legal battles, Regulatory issues, Local issues**
- Below are the positive aspects appreciated by Developer and Society
 - **Transforming Lifestyles of Tenants, New and Durable Structures, Over all development of Locality, Enhanced areas for expanding families, Development Potential in Mumbai in the backdrop of paucity of virgin open lands etc**

THANK YOU