

J.B. NAGAR CPE STUDY CIRCLE OF WIRC OF ICAI

Virtual Study Circle Meeting



“Professional Opportunities in RERA & Redevelopment”



CA Ramesh Prabhu

- CPE - 2 hrs for JB Nagar Study Circle Members

- Venue: Online Platform Zoom
- Online registration process and link will be shared one hour prior to the meeting on whatsapp.

Convenor
CA Krishna Kumar
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Dy. Convenor
CA Jayesh Thakkar
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Date : 25th September 2021 / Day : Saturday / Time : 04.00 pm to 06.00 pm

REDEVELOPMENT BY CHS

AGENDA

- Housing societies Movement by Self Development
- Entry of the developers/ Builders
- Prerequisites for Self Redevelopment
- Re-Development , Advantages, Challenges & Types
- Why go for Self Redevelopment
- Systems of Self Redevelopment
- Feasibility Report & Role of PMC & professionals
- Direction u/s 79A of the MCS Act, 1960
- Methodology of Self Redevelopment



SELF REDEVELOPMENT BY CHS

AGENDA

- Fund raising options
- Government Initiatives & Incentives
- Impact of RERA, GST & INCOME TAX
- Stakeholders Opportunities & Challenges
- Way forward



CHS MOVEMENT BY SELF DEVELOPMENT

- **The prospective flat owners Register the society**
 - **Appoint an Architect / PMC.**
 - **Get the plan approved by members & the Authority**
 - **Raise the initial funds of 20% from members**
 - **Arrange 80% loan from Banks or Employer.**
 - **Appoint a reputed Contractor**
 - **On building completion , allot the flats to members**
 - **Thereafter look after regular maintenance.**
 - **Initially more than 10,000 CHS registered as above.**
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ENTRY OF THE DEVELOPERS/ BUILDERS

- **Contractors with token started buying land**
 - **Package deal with proposed CHS with land & bldg.**
 - **Litigation due to Urban Land Ceiling Act**
 - **Scarcity of clear title land discouraged new CHS**
 - **Black money land transaction & approval**
 - **Trust deficit with Promoters of CHS**
 - **Land owners preferred DA with Developers.**
 - **Started selling under construction flats**
 - **For individual housing loans HDFC and others entered.**
 - **Gave birth to Construction by the Builder**
 - **After possession CHS is formed to manage the common areas**
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PREREQUISITES FOR SELF REDEVELOPMENT

- a) SOCIETY NEED TO HAVE CONVEYANCE**
 - b) SOCIETY NEED TO HAVE APPROVED PLAN**
 - c) MANAGING COMMITTEE TO TAKE THE FULL RESPONSIBILITY**
 - d) MEMBERS CONSENT**
 - e) BANKERS NEED ALL MEMBERS CONSENT**
 - f) COMMITTEE MEMBERS TO EXECUTE THE INDEMNITY BONDS**
 - g) MEMBERS CONTRIBUTION FOR MARGIN MONEY**
 - h) RAISE THE BANK LOAN**
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WHY GO FOR SELF REDEVELOPMENT

- **Society will have full control on execution & Land**
 - **Loss of Trust and faith with the profit motto-Developers**
 - **60% to 70% of the cost is land -owned by Society**
 - **Professionals & PMC are Available for nominal Fees**
 - **The approval cost may be part of Cost of Construction**
 - **Own choice of plans and the area for the members**
 - **Profit in the form of extra area/ corpus to members**
 - **5,800 Re-Development projects are stalled.**
 - **Members are not getting regular rent and possession**
 - **Societies need to go to court to remove Developer**
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WHY GO FOR SELF REDEVELOPMENT

- **Market Conditions do not encourage the developer**
 - **Accountability and Responsibilities post RERA & GST**
 - **Lack of sales , Investors and Finance to developers**
 - **Incentive FSI, TDR etc Rules and regulations are settled.**
 - **Motto is to have better quality house than profit**
 - **Less of legal issues and disputes with outsiders**
 - **Limited quality houses increase the demand**
 - **Better control & timely completion possible**
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SYSTEMS OF SELF Re-DEVELOPMENT

1. DEPARTMENTAL SYSTEM:

All the Departments of Re-Development like Approval, Construction, Finance, Management, Sales and Marketing is done by Society.

2. BARTER SYSTEM :

Society appoints a contractor to complete the construction against the part of saleable area.

3. PACKAGE DEAL SYSTEM :

Society gets plan passed, appoints a contractor for construction and to purchase entire saleable area, both at pre-decided price.

4. DEVELOPMENT MANAGEMENT (DM)SYSTEM :

Society appoints a reputed Developer / PMC to manage all the departments on behalf of society for certain percentage(say 15% to 20%) of revenue/ saleable area.

FEASIBILITY REPORT AND ROLE OF PMC

- A PMC group of professionals to guide the society
 - Architect, Structural Engineer, Civil Engineer, Chartered Accountant, Advocates etc
 - Prepare Feasibility Report & get the plans approved
 - Guide for appointment of agencies like contractors
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Feasibility Report consist of:-

PART-1

To determine what is maximum carpet area available in the project.

PART-2

To determine the Total Project Cost

PART-3

To determine how much carpet area required to sale in the open market to recover the project cost..

PART-4

Balance Carpet Area for existing members.

PART-5

Evaluation in terms of percentage of Balance Carpet area with respect to existing Carpet Area

**How to determine the
maximum permissible
Carpet Area in the Project?**

**IT IS VERY ESSENTIAL
TO KNOW
D.C.Regulations**

D.C. Reg. 30 of D.C.P.R. 2034: Deals with FSI

TDR Allowed in City Area: As Per Width Of The Road

TABLE 12 of DCPR 30 (A)

SR.NO	Area	Zone	Road Width	Zonal (Basic)	Additional FSI on Payment of premium	Admissible TDR	Permissible FSI (4+5+6)
	1	2	3	4	5	6	7
2	The remaining area in Suburbs and Extended Suburbs	Residential/ Commercial	Up to 9m	1.0	-	-	1.0
			9.00m and less than 12.20m	1.0	0.5	0.5	2.00
			12.20m and less than 18.30m	1.0	0.5	0.7	2.2
			18.30m and less than 27.00m	1.0	0.5	0.9	2.4
			More than 27.00m	1.0	0.5	1.0	2.5

D.C.Reg.31 of D.C.P.R.2034

31(1) Deals with area to be counted in FSI.

31(2) Deals with area to be exempted from FSI

31(3) Fungible compensatory FSI at par with D.C.Reg.No.35(4) of DCR 1991.

D.C.Reg.32 of D.C.P.R.2034 deals with
Transferable Development Rights (T.D.R.)

D.C.Reg.No.33

Deals with additional FSI in certain
categories at par with D.C.Reg.No.33 of
DCR 1991

D.C.Reg.33

Additional F.S.I. allowed in certain categories.

e.g.

33(5):- For MHADA Buildings

33(7):- For Cess Category Buildings

**33(7)(A):- Non Cess tenanted buildings
in city and suburbs**

**33(7)(B) :- Additional Incentive FSI for
redevelopment of existing housing
society excluding cessed building**

33(9):- For Cluster Development

33(10):- For Slum Re-development

Directions Dt 4.7.2019 u/s 79A of the MCS Act on ReDEDVELOPMENT

- 1. Society to decide in SGM as per DCPR.**
 - 2. Applicable to all types of re-development.**
 - 3. Decisions as per Bye-laws, Act, Rules & notifications.**
 - 4. Society need to have a Redevelopment web portal.**
 - 5. Authorized Officer/Administrator not eligible.**
 - 6. SGM to be called by minimum 20% members**
 - 7. SGM with 14 days notice to have at least 2/3rd quorum**
 - 8. Agenda: Redevelopment, Appt of PMC & Time frame.**
 - 9. Decision to be taken by 51% of members in writing.**
 - 10. Feasibility report, Plans, tenders etc by MC & PMC**
 - 11. Select the Contractor in SGM in the presence of Regr.**
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FUND RAISING OPTIONS

- **Members to book area at discounted price.**
 - **Invite the Investors**
 - **Through Existing Members requesting the friends and relatives**
 - **Brokers and News paper Advertisement**
 - **Display of Hoarding/ Banner**
 - **Handbill Distribution**
 - **Payment to be made 50% on application and balance in stages**
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FUND RAISING OPTIONS

- **Bank Loan**
 - District Central Banks give the Loans against the mortgage of the land including the rent payable to the members upto 95% of the project cost.
 - **Contractor agreement**
 - Contractor to get the approval and Construct and agree to take flats at the agreed rated and he is released the flat in stages as per the progress of the work.
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Govt Incentives GR 13.09.2019

- Society with 30 years old or dilapidated is considered.
 - **ONE WINDOW SCHEME**
 - **SANCTIONS TO THE SCHEME IN 6 MONTHS**
 - 10% more FSI/incentive than the prevailing DCPR
 - **Road width less than 9 meters –0.4 FSI without Premium**
 - **TDR at 50% of Ready Reckor rate.**
 - **CONCESSION IN THE PREMIUM RATE**
 - **STAGES FOR MAKING PAYMENT OF THE PREMIUM**
 - **Concession in LUC & GST Stamp duty Rs.1000/-,**
 - **Maharashtra State Coop Bank- A nodal Agency**
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Govt Incentives GR 13.09.2019

- Society to complete redevelopment in 3 years.
 - Interest subsidy of 4% on the loans availed
 - Planning authority to be regulatory authority for SRD.
 - Tripartite agreement - society, bank & contractor
 - SRD -UNDER PMAY – 35% for EWS and get 2.5 fsi
 - **VIGILANCE COMMITTEE - 2 society members & 1 bank**
 - **GRIEVANCE REDRESSAL COMMITTEE –in every district of DDR, planning authority .**
 - **Appoint empanelled contractor at planning authority**
 - **CONTRACTOR NEED to be financially good.**
 - **Action against the contractor by planning authority**
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IMPACT OF RERA, ON SELF REDEVELOPMENT

- 1. CHS is a promoter**
 - 2. APPLICABILITY OF THE ACT (SEC 1 TO 3)**
 - 3. REGISTRATION OF REAL ESTATE PROJECTS SEC 3 TO 8) :**
 - 7. MANDATORY PUBLIC DISCLOSURE (SEC 4 AND 11)**
 - 8. DUTIES OF PROMOTER (SEC 3 TO 8 AND 11 TO 18)**
 - 9. RIGHTS AND DUTIES OF ALLOTTEES (SEC 19)**
 - 10. FAST TRACK DISPUTE SETTLEMENT MECHANISM**
 - 15. PUNITIVE PROVISIONS (SEC 59 TO 69)**
 - 16. OBLIGATIONS OF THE CHS AS PROMOTER**
 - 17. RISK THAT THE SOCIETY WILL HAVE TO PROVIDE THE APARTMENTS TO THE ALLOTTEES BOOKED BY THE DEVELOPER POST RERA**
 - 18. NO APPOINTMENT OF NEW BUILDER WITHOUT RERA APPROVAL AND 2/3RD ALLOTTEE CONSENTS**
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IMPACT OF GST, ON SELF REDEVELOPMENT

- **AGGREGATE TURNOVER OF HOUSING SOCIETY**
 - **REGISTRATION DURING SELF Re-DEVELOPMENT**
 - **RECEIPTS FROM MEMBERS FOR COMMON FACILITIES**
 - **PROPERTY TAX & PREMIUM PAID TO LOCAL AUTHORITIES**
 - **GST APPLICABLE ON REAL ESTATE TRANSACTION**
 - **Reduced liability under self redevelopment.**
 - **No transfer of development rights, so No GST.**
 - **GST on the contribution from members at 18%**
 - **GST on new sales, if affordable at 1% otherwise 5%**
 - **No GST on the flats retained or allotted to the members.**
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IMPACT OF INCOME TAX, ON SELF REDEVELOPMENT

- **NO INCOME TAX ON ADDITIONAL FREE AREA**
 - **CORPUS OR SURPLUS NO TAX**
 - **NO TAX for RENT FOR TEMPORARY ACCOMMODATION**
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STAKEHOLDERS CHALLENGES

1. **Generating the funds to meet the project costs**
 2. **Lack of expertise & skills amongst the MC.**
 3. **Difficult to Sell the saleable area**
 4. **Challenges to the professionals with MC**
 5. **The society may not be able to handle the sales**
 6. **Disputes between the members and the society**
 7. **The committee ignorant of the latest changes**
 8. **Appointing the good and competent Contractor**
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WAY FORWARD

- The government should start implementingg the incentives announced.
 - Create Awareness of amongst the stakeholders
 - Society office bearers should get oriented in the process
 - Accept the responsibility and accountability by members
 - More and more funding agencies should be encouraged to fund self redevelopment.
 - Successful models and systems need to be spread
 - Transparency and accountability in the approval department should be increased.
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WAY FORWARD

- Proper dispute redressal system should be implemented.
 - Self redevelopment issues to be addressed at MahaRERA.
 - Self-Redevelopment project has its own advantages / challenges.
 - The general perception among people is that any kind of construction activity is not possible to be undertaken by the society members /common public.
 - Yet if experts are appointed along with skilled professionals, who work with a clear understanding about the project, the Society can itself undertake the self-redevelopment project.
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WAY FORWARD

- In such a situation the Society needs to take certain measures to derive the desired result.
 - The Society can arrange a minimum cost for the project, say between 5% to 15% of the project cost through members' contribution and also go in for a bank loan between 95% to 85% of the cost of the project.
 - A decision can be taken to request members to contribute 50% of advance from existing members who are interested in purchasing the additional area.
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Disclaimer

All the efforts are made to cover the important provisions of the law. The material contained herein is not exhaustive, and contains certain generalizations. The latest Provisions and Notifications must be viewed. The presenter is not responsible for any loss incurred on the actions taken based on the material presented.

--CA. Ramesh S. Prabhu



Let us be Partner in Nation Building

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Let us empower each one of us by sharing knowledge. Let us Innovate, Get involved & Solve issues collectively within four corners of Law.

Thank you for Getting involved in the discussion!

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CHAIRMAN

MAHARASHTRA SOCIETIES WELFARE ASSOCIATION, CO-OPTED MEMBER OF TASK FORCE FOR NPOS & CO-OPS OF MAHARASHTRA, CONVENER TO PREPARE GUIDANCE NOTE ON AUDIT OF DISTRICT AND STATE CO-OP BANKS –PUBLISHED BY PDC OF ICAI, CO-OPTED MEMBER OF CO-OP COMMITTEE (MAHARASHTRA) OF WIRC OF ICAI.
