

## Additional FAQ 2

**Q. 1:** (A) From a buyers perspective, what is an acceptable evidence of sanction under RERA? (a) IOD, or (b) Commencement certificate (CC) upto plinth or, (c) CC endorsed for the floor on which buyer wants to book the apartment ?

**Ans:** In any MahaRERA registered Real Estate Project, for registration of the apartment to be purchased, IOD/Building Plan Approval of the building where the apartment is located, is necessary. This is referred to as Annexure D in the Model Form of Agreement for Sale

**(B)** Will sale of TDR amounts, form part of sales realization, and thus required to be deposited in the separate account for utilization towards construction cost of the project?

**Ans:** Separate account is meant for amounts collected from allottees only.

**(C)** If a phase is considered up to certain floors as envisaged in the rules, then how & when will conveyance happen? Assuming the next phase approvals for upper floors are not secured in a timely manner, what will be the remedy envisaged for effecting conveyance?

**Ans:** Conveyance of the structure (floors) contained in the phase is possible.

**Q. 2: (1)** What if it's SRA Project, where the allottees complain regarding the demands put forward by them, not fulfilled by promoter? Can promoter complain about customers asking for extra area?

**Ans:** Complaints to MahaRERA have to be against registered projects, with respect to violations/contraventions of provisions of Act, Rules or Regulations.

**(2)** Can change in layout plan be made when DCR 2034 comes in effect after getting prior approval of previous plan?

**Ans:** Such changes would require 2/3<sup>rd</sup> consent of allottees.

**Q. 3:** (1) 10% booking amount will have to be paid after registration of project with RERA?

**Ans:** There is no such provision.

**(2)** Can RERA upload allottee persons' details on website like name, telephone number?

**Ans:** There is no such provision.

**Q. 4:** How to know the FSI allotted on the registered project?

**Ans:** It can be seen in the details of the registered project on MahaRERA website.

**Q. 5:** Our builder (1) Selected about 4 yrs. back is adopting delaying tactics by not submitting final BMC approved drawings for Managing Committee approval etc. so that they can be submitted to BMC for approval. (2) Developer is disregarding terms of D.A. and supplemental D.A. is just dragging the project period. (3) He wants possession of society building without completing contractual obligation. Will 'RERA' help us in any manner?

**Ans:** Complaints to MahaRERA have to be against registered projects, with respect to violations/contraventions of provisions of Act, Rules or Regulations.

**Q. 6:** How "Existing Member's" interest is protected in re-development project?

**Ans:** Existing members are members of the society which is a co-promoter in the redevelopment project. Complaints to MahaRERA can be filed against such registered projects, with respect to violations/contraventions of provisions of Act, Rules or Regulations.

**Q. 7:** Newspaper REPORTS say No Development Permission (New Construction) as BMC is not clearing garbage/debris, shortage of water supply (i.e. infrastructure & environment requirement) No FSI also will be given to redevelopment project. Will the promoters be held responsible for such delays in ongoing projects? If policy changes by govt. or by High Court verdict, the project will be delayed. Who will be responsible?

**Ans:** Affected promoters may bring such issues up before MahaRERA. MahaRERA will take action in accordance with the Act and Rules, in consultation with concerned stakeholders.

**Q. 8:** (1) If project is mortgaged by developer but it is not disclosed on website what is the solution?

**Ans:** Complaint can be filed by interested person for incorrect disclosure and violation of section 4 of the Act.

**Q.9:** Our builder has abandoned the project (redevelopment project). Will this project come under MAHARERA?

**Ans:** Every on-going project has to be registered with MahaRERA before 30th July 2017. If the said redevelopment project does not have layout/building plan approval and if no booking of sale flats have taken place, the project will not be called an ongoing project.

**Q.10:** (1) In ongoing project the agreement with purchaser after 1st May 2017 is to be prepared as per MOFA OR RERA OR BOTH? (2) If the buyer has already paid stamp duty before 1.5.2017 and executed agreement then under which Act is the agreement with buyer?

**Ans:** Agreement entered prior to 1<sup>st</sup> May 2017 will be as per MoFA. All agreements post 1<sup>st</sup> May, 2017 have to be in accordance with the model form of agreement of MahaRERA.

**Q.11:** If O.C. / B.C.C. are issued in May/June/July, does project have to be registered?

**Ans:** On-going projects have time till 30<sup>th</sup> July to register. If before doing registration, the project has got OC/BCC, the project has been completed as per section 5(3) of the Act. Hence, it does not require registration.

**Q.12:** (1) If a promoter has declared FSI, common amenities etc. in the MOFA Agreement, can he reduce the same while registration of the project & if he reduces, what is the remedy to the consumer?

**Ans:** Violations in the terms of the MoFA agreement have to be taken up with the competent authority under MoFA. Complaints to MahaRERA have to be against registered projects, with respect to violations/contraventions of provisions of RERA Act, Rules or Regulations

**Q.13:** In the case of joint development, where owner is there, is he liable to the development and would the owner include government authorities also i.e. land owning authorities.

**Ans:** Yes, they are co-promoters.

**Q.14:** Pl. enlighten on the buildings which are occupied fully for last several years but no O.C./BCC till date. Are such buildings required to be registered under RERA?

**Ans:** An on-going project is one where construction is still not complete, OC is yet to be obtained and building has not been occupied by allottees. Such on-going projects have to be registered with MahaRERA.

Buildings without OC/BCC but occupied by allottees have to approach Competent Authority under MoFA for deemed conveyance and thereafter approach planning Authority for OC.

**Q.15:** As per our agreement completion date is June 2015. While registering with MahaRERA, promoter gives, say Jan. 2020 completion date. MahaRERA will enforce which date June 2015 or Jan. 2020? What happens to delay since June 2015 which is the completion date as per agreement. How can buyer get compensation w.e.f. June, 2015?

**Ans:** Section 18 of the Act will apply.

**Q.16:** (1) In JOA project wherein land owners share of revenue is say 40% & developers as 60%, the 70:30 maintainable will also be applicable for land owners share? (2) What if the developer has already obtained a takeout funding? (3) Cost of land includes premium & TDR payable which may be misutilized by Developer.

**Ans:** Such land owners are Co-promoters. Their liabilities and responsibilities have been detailed in MahaRERA order available on the MahaRERA website.

**Q.17:** Is Title Insurance applicable?

**Ans:** Yes, in accordance with section 16 of the Act but only after notification by State Government.

**Q.18:** (1) If promoter doesn't register on the MahaRERA website how can we complaint against him? (2) By when can we expect the result after complaint against him?

**Ans:** Complaint against non-registration can be filed online at <https://maharera.mahaonline.gov.in/Site/1099/Inform-Non-Registration>

**Q.19:** Navi Mumbai right now has NAINA as approving authority, does this come under MahaRERA?

**Ans:** Yes, they are Planning Authority under MR&TP Act.

**Q.20:** I have booked the flat in completed project with O.C. in the month of April 17 with 20% payment. Stamp duty is also paid in April 17. However registration of agreement of sale is not done in light of MahaRERA. Kindly guide for the consumer.

**Ans:** Provisions (including model form of agreement) of MahaRERA apply after 1<sup>st</sup> May 2017.

**Q.21:** Whether one building's part can be registered in phase development? In such phase manner when society can be formed?

**Ans:** Phase is defined in the Rules. Society has to be formed once 51% of allottees have booked their apartment in the phase.

**Q.22:** Builder has not registered with RERA so far, can he sell his flats, collect the money and can register the sale deed as per format of MOFA not as per RERA.

**Ans:** Provisions (including model form of agreement) of MahaRERA apply after 1<sup>st</sup> May 2017.

**Q.23:** How MahaRERA is helpful in resolving redevelopment related problems for ongoing projects that have taken off before the inception of MahaRERA?

**Ans:** All on-going projects, except the ones exempted under section 3 of the Act, have to be registered with MahaRERA before 30<sup>th</sup> July, 2017. Complaints to MahaRERA, against registered projects, can be filed with respect to violations/contraventions of provisions of Act, Rules or Regulations.

**Q.24:** Can information uploaded by a promoter during registration be amended / edited by the promoter under the pretext of updating it?

**Ans:** No. Fields which depict the progress of the project can only be updated.

**Q. 25.** Pending projects: What if a promoter gives unreasonably extended time frame for handing over possession with OC? Who decides which project should take how much time frame for possession? Are there going to be any norm from RERA or it is left in the sole discretion of promoter?

**Ans:** The promoter shall disclose the original time period disclosed to the allottees, for completion of the project at the time of sale including the delay and the time period within which he undertakes to complete the pending project, which shall be commensurate with the extent of development already completed.

**Q.26:** (1) Whether any particular flat under any RERA regd. project is sold or not, will there be any information on website about the registration no. of the flats already sold to avoid multiple fraudulent sale of one flat to multiple persons?

**Ans:** There is no such provision. Any fraudulent action of the promoter is punishable under the Act.

**Q. 27.** Conveyance : If two or more buildings form independent housing societies, how the conveyance of a single plot will be possible without subdivision of plot ?

**Ans:** Please see rule 9 of Maharashtra Real Estate (Regulation and Development)(Registration of real estate projects, Registration of real estate agents, rates of interest and disclosures on website) Rules, 2017.

**Q.28:** A flat booked in a project. If construction not yet started or only beginning done, and 1% initial amount and stamp duty, registration fees taken and booked the flat. The project is expected to be completed in 2022. The builder may take project loan showing all flats are sold, booked and registered. The flat owner may take housing loan. But if, project not completed or abandoned after 50% how flat owner can get protection from builders banks demand of recovery and what will be position of housing loan liability ?

**Ans:** MahaRERA will take action in accordance with section 7 and 8 of the Act.

**Q.29:** I have signed a Development Agreement (D.A./P.A.) with a builder as land owner. I have no involvement/role in the project. How can I be responsible for any project issues under RERA?

**Ans:** Such land owners are Co-promoters. Their liabilities and responsibilities have been detailed in MahaRERA order available on the MahaRERA website.

**Q.30.** What if the builder does not register with RERA & no one complains?

**Ans:** MahaRERA can initiate suo-moto action.

**Q.31 :** Open parking can't be sold as per RERA. How will they be allotted to the customer ?

**Ans:** The legal entity of the allottees ( society/association etc.) will allot.

**Q.32.** If a promoter has sold entire stock and there is no receivable from any customer, in that case if there is no completion certificate then does the promoter have to register his project with MahaRERA ?

**Ans:** No, if the building work is complete and building is occupied.

**Q.33:** Agriculture land more than 4000 sq.mtrs. to each purchaser with road, water and clubhouse facility. Is RERA applicable? Does such project need registration?

**Ans:** MahaRERA registration is required for projects which need approval from Planning Authority under MR&TP Act.

**Q.34:** Builder is asking me to register flat under MOFA act after 1st May. What should I do?

**Ans:** Allottee should insist on signing agreement as per RERA Act.

**Q.35:** I am a land owner and have a JV with a developer. As per RERA, land owner is co-promoter and is equally liable. I have an area sharing and would be getting my share of flats to sell. I read that when I sell my share of flats, the proceeds of sale needs to be deposited in an escrow account. How and under what conditions, I would be able to withdraw the money from escrow account?

**Ans:** The liabilities and responsibilities of co-promoters have been detailed in MahaRERA order available on the MahaRERA website.

**Q36.** Is MahaRERA applicable to SRA schemes under DCR 33(10)?

**Ans:** Yes

**Q37.** Are existing residents of a redevelopment scheme covered under MahaRERA provisions?

**Ans:** Yes, they are covered in the definition of allottees in the Act.

**Q38.** Our society land is less than 500 sq.m. but there are 16 apartments in the redevelopment project. Does MahaRERA apply?

**Ans:** No, As land is less than 500 sq.m.

**Q39.** Should a society while selecting developer for redevelopment see if the developer is registered with MahaRERA?

**Ans:** Projects are registered with MahaRERA, developers are not registered.

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