

LIBERAL TRANSLATION

No. Ka. 5/Mudrank 12/Pra. Kra. 44/11/501/12,
Office of the Inspector General of Registration
and Controller of Stamps, Maharashtra State, Pune

Date 12/04/2012

CIRCULAR

Sub: Procedure of the Deemed Conveyance under Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sales, Management and Transfer) Act 1963.

Sale Agreements of flats, shops, tenements were being made under Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sales, Managements and Transfer) Act 1963. However, these agreements were eventually not transferred in the form of Conveyance Deed. Therefore, the Government by amending Section 11(3) of the said Act has made provisions for Deemed Conveyance. Similarly, the Officers from the Co-operation Department have been declared as a Competent Authority to execute this work. However, the Officers from this Office have raised certain doubts, as the Deemed Conveyance is directly related to the recovery of stamp duty and Registration of the documents. Therefore, this Circular has been issued for guidance to clarify the role of this Department and to make the procedure easier for Deemed Conveyance.

1) **Deemed Conveyance:** - The Competent Authority from Cooperation Department will ensure that all the documents with respect to Deemed Conveyance are in order. After ensuring that the Deemed Conveyance can be granted in the concerned matter, the Competent Authority will direct the concerned Cooperative Housing Society to prepare the Deed of Deemed Conveyance. The format of Deemed Conveyance will be like Conveyance Deed, which the Developer executes in favour of the Cooperative Housing Society. Once the Deed of Deemed Conveyance is ready and the Competent Authority ensures that it is proper, the Competent Authority will direct the concerned Society to get it adjudicated.

2) **Extent of Deemed Conveyance:**

- 1) The present circular for Deemed Conveyance is limited to Certificate / Orders of Deemed Conveyance issued by the Competent Authority and the Deemed Conveyance executed by Competent Authority on behalf of the Developer / Builder / Land Owner for the benefit of Cooperative Housing Societies and for the registration of the same. Only such Deemed Conveyance can be registered.
- 2) It is mandatory to submit the Certificates issued by the Competent Authority for registration with the concerned Registration Officer within the time prescribed in the Registration Act, 1908.
- 3) By issuance of this circular, the earlier circular No. Ka.4/pr.Ka.617/2011/3008, dtd. 22-12-2001 issued by this office will not be affected at all.

4. Adjudication

- 2.1) The matters of adjudication of Deemed Conveyance should be done on priority basis by the Collector of Stamps and if necessary, he can form a separate group of officers and employees for the same.
- 2.2) After the Deemed Conveyance is submitted for Adjudication, the Collectors of Stamps will make an enquiry of the last members included in the Deemed Conveyance with a view to charge stamp duty and will consider following two procedures:-
 - 2.2.1) If the last member purchased the Flat / Shop / Tenement before the issuance of this Circular, then whether such last member has paid the proper stamp duty or not will be considered and accordingly decision will be taken.
 - 2.2.2) If the last member purchased Flat/Shop/Tenement after issuance of this circular then with a view to avoid the misuse of the provision 2.2.1, as above, the Collectors of Stamps will make an enquiry of all transactions after the issuance of this Circular and ensure that they are properly valued and if necessary, shall recover the stamp duty with penalty.

It is further clarified that in respect of matters of 2.2.1, as above, though the Stamp Duty paid by the last member only is to be considered, the collector of stamp will make an entry in the separate register book of earlier transactions and if required, will make an enquiry of it. However, the adjudication of Deemed Conveyance will not be withheld.

- 2.3) If the Agreements are executed prior to 10.12.1985 and the Deemed Conveyance is to be executed for the benefit of such members, then in such cases;
 - 2.3.1) Those who have registered their agreements, with respect to them, the true market value at the time of execution will be considered.
 - 2.3.2) Those who have not registered agreements, in their cases,
 - 2.3.2.1) If the consideration had been paid to the Developer by cheque on the date on which the document was executed, then the benefit of true market value of the time when the document was executed can be given on presenting authorized certified copy of the bank pass book / statement, as a proof of execution.
 - 2.3.2.2) If the evidence regarding execution mentioned as above is not available, then the first government documentary evidence such as telephone bill, electricity bill, Municipal Assessment bill and list of the members submitted to the Registrar at the time of registration of the co-operative society, certified by him, whichever is available will be considered and the benefit of true market value of that time will be given in such matters.
 - 2.3.2.3) However, if any evidence, as mentioned in 2.3.2.1 & 2.3.2.2 is not available, then true market value of the date on which the Deemed Conveyance is submitted for adjudication will be considered.
 - 2.3.2.4) If the agreements or similar documents of the members which are included in the Deemed Conveyance are pending with the Sub-Registrar, Assistant District Registrar

and Collector of Stamps, for any reason, such agreements / documents should be compulsorily presented/submitted immediately on demand in the adjudication proceedings, so that the adjudication of the Deemed Conveyance is not hindered. Similarly, if there is any balance FSI, then it is necessary to value the same as per current market rate and the stamp duty should be recovered accordingly.

3) Registration of Deemed Conveyance -

- 3.1) After the adjudication and certification of stamp duty on Deemed Conveyance, the same shall be submitted to the Competent Authority for execution.
- 3.2) On submission of the Deemed Conveyance for execution, the Competent Authority shall himself or through the officer authorized by him execute the same for and on behalf of the Promoter / Builder.
- 3.3) The Deemed Conveyance shall be presented for registration with the office of concerned Sub-Registrar within the period of 4 months from the date of execution. If there is any delay in presenting the same, the penalty would be charged according to Rules.
- 3.4) On submission of such document for registration, the Registering Officer shall complete the procedure of registration as per Registration Act, 1908.

4) Registration Fee

- 4.1) If the Agreements of all the members in the Deemed Conveyance are already registered and the necessary registration fees have been paid on such agreements, the Deemed Conveyance shall be considered as Supplementary document to such agreements and the registration fee of Rs.100/- shall be charged.
- 4.2) If some of the members in the Deemed Conveyance have already registered their respective agreements by paying necessary registration fee, but, the documents of the remaining members are to be registered for the first time, in such cases if the Deemed Conveyance is for the benefit of such members, then the collectively true market value of the property to be transferred should be considered and accordingly registration fee should be charged at the rate of 1 % and the registration fee of Rs.100/- should be added by considering this as a supplementary document for those who have registered their agreements earlier. In any circumstances, the registration fee should not be charged more than the prescribed limit of maximum Rs.30,000/-. It should be noted here that the stamp duty is charged on each tenement (unit) and registration fee is charged on every document.

The above suggestions and procedures are very clear and by implementing the same the registration of Deemed Conveyance would be easy and convenient.

Sd/-

Inspector General of Registration
and Controller of Stamps
Maharashtra State, Pune.

Copy to :

1. Joint Controller of Stamp, Mumbai
2. All Divisional Deputy Inspector General of Registration and Deputy Controller of Stamps

The aforesaid circular should be circulated amongst all the Deputy District Registrars of Assurances and Collectors of Stamps and acknowledge the same.

3. All District Deputy Registrars and Collectors of Stamps

The aforesaid circular should be circulated amongst all the Sub-Registrars of Assurances and acknowledge the same.

4. All Assistant Inspector General of Registration and Related Officer, Office of Inspector General of Registration, Pune.