

# FEDERATION OF ASSOCIATION OF APARTMENT OWNER, GZB.

(UNDER UP APPT. ACT 2010)

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# S.O.P FOR U.P APARTMENT ACT DUTIES & LIABILITIES OF PROMOTERS

## 1 FILING OF TRUE DISCLOSURE

1. Notify that any promoter or promoters who intends to sell an apartment, shall make a full and true disclosure in writing of following to an intending purchaser and the Competent Authority before start booking of the apartments.
2. The promoter(s) must submit the following documents with the competent authority and obtain the docket number from the competent Authority for ready reference of the intending buyers:
  - i) Land document clearly showing the title of the land with its dimension and plot numbers as per State Authority records.
  - ii) Details of any mortgage on the land or the buildings along with the name of the Bank and the loan account number.
  - iii) Layout plan of the entire plot.  
(original/revised/compounded/completed with seal of authority)  
(proposed in case of new project with receipt of authority)
  - iv) Parking plan of the entire plot.  
(original/revised/compounded/completed with seal of authority)  
(proposed in case of new project with receipt of authority)
  - v) Building layout plan of each tower.  
(original/revised/compounded/completed with seal of authority)  
(proposed in case of new project with receipt of authority)
  - vi) Details of common areas and facilities:
    - a) Land size in Sq. mtrs. the FAR, drive area details, location of gates and the dimensions of the plot.
    - b) Structural design details including list with dimensions of roofs, halls, corridors, lobbies, stairways, fire escapes, entrance and exits of each tower.
    - c) Dimension with location of basement, cellars, yards, parks, gardens, community centers and parking area of common use.
    - d) Dimension with location of premises for the lodging of janitors or persons employed for the management of property.



- e) List with make and capacity of central services like Electric panel, DG sets, Water softener plants, solar lights, heating, refrigeration, air conditioning, incinerating and sewer.
- f) List with make capacity and location of lifts, elevators, water tanks (underground/over head), pumps, motors, fans, cable pipelines (TV, gas, electricity), rain water harvesting, compressors, ducts, common lights, street lights, and in general all apparatus and installations existing in common use.
- g) All other community and commercial (convenient shops) facilities sanctioned and built as per building bye laws.
- h) List with dimension and location of all other parts of the property necessary or convenient to the existence, maintenance and safety or normally in common use.
- vii) Give a copy of the proposed Builder Buyer Agreement covering: (model agreement supplied):
  - a) Date of the first builder buyer agreement for calculation of 24 months.
  - b) Date of completion of the project as per the first builder buyer agreement as per section 4(5) of the U.P. Apartment Act 2010.
  - c) Clarify the force majeure clause and the mode sending the intimation.
  - d) Rate of penalty for delay in completion of project.
  - e) Rate of penalty in the vent of non-payment of instalment by the purchaser.
  - f) Step by step details and conditions of the process of cancellation or withdrawal of allotment and the extent of compensation payable by promoter to buyer or buyer to promoter in the event of any violation.
  - g) Cost of the property docket.
- 3. The promoter should keep ready min of 25 to 50 sets of project docket (as filed with the Competent Authority) with the list of documents printed in the cover against payment of actual cost of printing to every intending persons without any pre condition.
- 4. Submit a copy of the audited balance sheet every financial year.
- 5. Submit the Deed of Declaration in the prescribed format within 12 months from the date of sanction of project and within 90 from 14.11.2013 if the buildings have been already constructed or is under construction. (promoters who have failed to submit valid Deed of declaration within 14.02.2014 shall stand disentitled from the limited and independent common areas and facilities and shall have to withdraw themselves from the project within 30 days)
- 6. Submit an affidavit giving details of the status of construction of project along with photographs of the project and a statement of account giving details of total funds collected from buyers and total money paid as advance or as payment to any company (giving details of the scope of work) on a quarterly basis for the first one year and then every month for the next remaining period till the completion certificate is obtained.



# DUTIES & LIABILITIES OF PROMOTERS

## 2 APPLICATION FOR ADDITIONAL FAR, COMPOUNDING, REVISION OF PLAN & AMENDMENT OF DECLARATION

### WHERE DEED OF DECLARATION HAS NOT YET BEEN FILED

1. Before filing any application for the purchase of additional FAR, compounding of unauthorized constructions already made or for revision of any sanctioned plan the promoter has to carry out the following steps:
  - I) Prepare a letter in its own letter head explaining the kind of revision of plan being intended.
  - II) Give clear details of the usage, location and size of the new construction.
  - III) State clearly if it is proposed over any common open area and if so then its location and dimensions.
  - IV) State clearly the number and kind of units being proposed and the increase in population density.
  - V) Give details of the additional parking being provided.
  - VI) Any other details of the revised map that is important for taking any decision should be separately given
  - VII) The details of the type, value of the common benefit being provided to the existing as well as proposed apartment owners.
  - VIII) Attach the maps of the project and proposed building with its elevation drawing clearly marking the new constructions.
2. The promoter(s) must send the letters through speed post to all the allottees of the project as per the address mentioned in the application form by the allottee clearly giving them 30 days to understand and seek further clarification from the promoter.
3. The promoter(s) should give two dates of open discussions on the issue to all allottees who have objection at a place (preferably in a public place) and time (holiday).
4. The promoter should collect all the written consent from each allottee without any pressure or coercion and file an affidavit clearly stating that it has obtained written consent from all allottee and there is not a single objection with the competent authority.
5. The Competent Authority (where Association of Apartment Owners/RWA has not been duly formed) shall on receipt of the affidavit along with the revised plan and the copy of the letter sent to each allottee by promoter shall release a public notice in the national daily informing the claim of the promoter that he has obtained NOC from each allottee of the project and then process the proposal after receiving the prescribed fee as per law.

**WHERE DEED OF DECLARATION IS FILED**

6. The promoter shall send the written proposal to the competent authority with such fee specifying the reason and circumstances for amending the plan.
7. The competent Authority on receipt of such application shall issue a written notice to the association of Apartment Owners of the building/project and also publish a public notice in two daily news papers.
8. On receipt of any objection within 30 days from the date of publication of notice the competent authority shall after giving an opportunity of being heard to the objector, association of apartment owners and promoters shall pass such order thereon as it deem fit as expeditiously as possible.
9. The true copy of the Oder shall be sent to the builder, AOA/RWA and the objector.



# SUBMISSION OF DEED OF DECLARATION BY PROMOTERS

## CHECK LIST OF DECLARATION

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In pursuance to the order passed by the Hon'ble High Court in Writ No. 33826/2012 dated 14.11.2013 and the U.P. Apartment Act 2010/Rules 2011/model bye-laws in letter and spirit.

A check list may be prepared and the receipt of the Deed of Declaration filed by any promoter at the counter only after cross checking the following items:

- 1) The Deeds are unregistered from the office of the Sub-Registrar with competent jurisdiction.
- 2) The Deeds should disclose the original size of the group Housing plot as per original sanctioned plan.
- 3) The Deed of declaration has not been modified by selectively deleting certain column and even rows to deny information.
- 4) The common areas and facilities listed in Annexure 'D' have not been shifted to Annexure 'F'.
- 5) The cost of the condominium has been provided.
- 6) The details of flats like covered area (in Sq. mtrs)(instead of super area calculation), proportionate undivided share in land (essential in the event of re-development), Proportionate representation for voting (essential for the elections of associations who have adopted Model Bye-laws), Approved use (essential to stop violation of land use and GDA bye laws) and Value of the each Apartment have been either not provided or provided in batch to frustrate the purpose of the 'Deed of Declaration'.
- 7) The sanctioned drawings, maps and documents of plants and machineries have not been supplied or uploaded.(essential for facilitating the deemed handing over of section 14(5) of the Act).

- 8) The photo copy of the Demand Draft of the security fund along with statement of security deposit indicating interest component (if any).
- 9) Original copies of certificates 'to whom it may concern' declaring no objection if the passwords, AMC's and other contracts are handed over or shifted to AOA/RWA by the Competent Authority.
- 10) An affidavit declaring that all the contents of the Deed of Declaration is in conformity with the prescribed format and as per the order passed in Writ 33826 of 2012 (supra).

Since a very large number of promoters are either not submitting their 'Deed of Declaration' even after giving opportunity or filing defective 'deed of declarations', it is advisable to:

- A) shortlist qualified and credible architects and valuers to create the deed of Declaration on the basis of drawing and maps mandatorily in the possession of GDA and spot verification on sq. ft. basis and recover the cost of preparation of the 'Deed of Declaration' from the promoter through the land revenue department if the promoter fails to pay the demanded amount.
- B) It has also come in the public domain that more than 200 promoters were sent Notices to file the Deed of Declaration within 3 days or face prosecution under section 25 of the U.P. Apartment Act 2010 yet no FIR has been registered against a single promoter for reasons best known to you. It has been revealed in RTI dated 00.00.2014 that the Competent Authority has now changed its stance to say that prosecution under section 25 can be only initiated by the Apartment Owners association for not filing the Deed of Declaration and not by GDA even though the promoter has violated the Notice of GDA.
- C) Provide a check list to the officer/staff of the Authority to verify that all the details are provided before issuing the receipt of the 'deed of declaration'.
- D) Demand an Affidavit from the authorized person from all the promoter to certify that the registered 'deed of declaration' has been submitted in full without any modification or alterations as per the terms of building bye-laws and U.P. Apartment



Act 2010 and that any deliberate error shall make them liable for action under section 25 of the U.P. Apartment Act.

After receiving the valid and legal Deed of Declarations the same may be approved by the Competent Authority and then

- A. Issue public notice or upload in the Authority web site the names of Group Housing Project and date of registration of the 'Deed of declaration'.
- B. Direct the promoter to supply the 'Deed of Declaration' and other documents like original sanction plan and final completion plan to the Association of Owners and or owners against payment of photocopying charges in Bank.
- C. Direct the Association/owners to give the written NOC verifying the content of the 'Deed of Declaration' or point out the discrepancies if any within 60 days from the date of receipt of the copy of the 'Deed of declaration' from your office.
- D. Call of a meeting(s) of the Association or the aggrieved allottees (through one single representative) to approve the 'Deed of Declaration' and obtain the N.O.C.
- E. Pass and Order based on the contention within 60 days.
- F. Carry out process (2) in case of correction in 'Deed of Declaration' till NOC is obtained.

For **FED OF AOAO**

  
**Chairman**