

UTTAR PRADESH SHASHAN
AWAS EVAM SAHARI NIYOJAN ANUBHAG-1

In pursuance of the provisions of clause (3) of article 348 of the Constitution, the Governor is pleased to order the publication of the following Notification no. 3977/8-1-11-115D.A./02T.C.-I dated 16 November, 2011

NOTIFICATION

No. 3977/8-1-11-115D.A./02T.C.-I

Lucknow : Dated 16 November, 2011

In exercise of the powers under sub-section (6) of section 14 of the Uttar Pradesh Apartment (Promotion of Construction, Ownership and Maintenance) Act, 2010 (U.P. Act no. 16 of 2010), the Governor hereby makes the following Model Bye-laws in accordance with which every Association of Apartment Owners shall make its Bye-laws at its first meeting for the administration of the affairs in relation to the apartments and the property appertaining thereto:-

MODEL BYE-LAWS

CHAPTER I

PRELIMINARY

1. Short title, and application—

- (1) These bye-laws may be called the Bye-laws of the..... (here insert the name of condominium) Condominium.
- (2) The provisions of these Bye-laws apply to the Condominium.

2. Definitions—In these bye-laws, unless the context otherwise requires,—

- (a) 'Act' means the Uttar Pradesh Apartment (Promotion of Construction, Ownership and Maintenance) Act 2010.
- (b) 'Association' means the Association of all the apartment owners constituted by the such owners for the purpose of the condominium;
- (c) 'Board' means the Board of management consisting of 4 to 10 Office Bearers who shall be the owners of apartments in the..... condominium;
- (d) 'Building' means the building located at and known as the Condominium and includes the land forming part thereof;

- (e) 'Majority' of owners means those owners holding 51 per cent of the votes.
- (f) 'Owners' or 'apartment owners' means the person owning an apartment in the condominium;
- (g) 'Section' means a section of the Act;
- (h) 'Unit' means a Dwelling or Non-dwelling Unit in the condominium;
- (i) 'Registrar' means the Registrar under the provisions of the Societies Registration Act.

3. Objects of Association (1) The objects of the Association shall be—

- (a) to be and to act as the Association of Apartment owners of the building called (hereinafter called the said building).
- (b) to invest or deposit money;
- (c) to provide for maintenance, repair and replacement of common areas and facilities by contributions from the apartment owners and if necessary by raising loans for that purpose;
- (d) to retain and rent out on license suitable portions of the common areas to outsiders for commercial purposes if all the members agree and give written consent after obtaining the permission of the concerned authority and to accumulate the same for making a reserve fund; to be used for major repairs of the building.
- (e) to provide for and do all or any of the matters provided in sub-section (7) of section 14.
- (f) to advance with the consent of the apartment owners, any short-term loan to any apartment owner(s) in case of any emergent necessity and to provide for the repayment thereof in lumpsum or in instalments;
- (g) to establish and carry on, on its own accord or jointly with individuals or institutions, educational, physical, social and recreative activities for the benefit of the apartment owners;

- (h) to frame rules with the approval of the general meeting of the Association and after consulting the Competent Authority and to establish a provident fund and gratuity fund, if necessary for the benefit of the employees of the Association ;
- (i) to do all things necessary or otherwise provide for their welfare expedient for the attainment of the objects specified in these bye-laws.
- (2) The Association shall not act beyond the scope of its objects without duly amending the provisions of these bye-laws for the purpose.

4. Members of Association—

- (1) All persons who have purchased apartments in condominium and executed a deed of apartment, shall automatically be the members of the Association and will pay the entrance fee of one thousand rupees. Each apartment owner shall receive a copy of the bye-laws.
- (2) Upon the sale, bequest or transfer of apartment, the purchaser of the apartment or the grantee or legatee or the transferee shall automatically become the member of the Association and shall be admitted as member on payment of the entrance fee of one thousand rupees.

5. Joint Apartment Owners—Where apartment has been purchased jointly by two or more persons, they shall be jointly entitled to the apartment and the share certificates shall be issued in their joint names, but the person whose name stands first in the share alone have the right to vote.

6. Holding one share compulsory—Every apartment owner must hold at least one share of the Association.

7. Disqualification— No apartment owner is entitled to vote on the election of members of the Board or President, Vice President, Secretary, Treasurer or any other office bearer or entitled to stand for election to such office, if he is in arrears, of any sum due from him in respect of his contributions for common expenses, for more than sixty days on the last day of the year preceding the year in which the election to Board would take place.

CHAPTER II

VOTING, QUORUM AND PROXIES

- 8. Voting**—Voting shall be on percentage basis, and the percentage of the vote to which the owner is entitled is the percentage assigned to the Dwelling unit or units in the Declaration.
- 9. Quorum**—Except as otherwise provided in these bye-laws, the presence in person of 30 percent of owners shall constitute a quorum.
- 10. Votes to be cast in person**—Votes will be cast in person. Except as otherwise provided resolution of the Association shall require approval by a majority of owners casting votes in person or proxy.

CHAPTER III

ADMINISTRATION

- 11. Powers and duties of Association**—The Association shall have the responsibility of administering the condominium, approving the annual budget, establishing and collecting monthly assessments and arranging for the management of the condominium in an efficient manner.
- 12. Place of Meetings**—Meetings of the Association shall be held at a suitable place convenient to the owners as from time to time to be fixed by the Association.
- 13. Annual Meetings**—The first meeting of the Association shall be held on(date) ...Thereafter the annual meetings of the Association shall be held on such date as the Association may decide. At such meetings Board of Management shall be elected by ballot of the apartment owners in accordance with the requirements of bye-law 23. The owners may also transact such other business of the association as may properly come before them.
- 14. Special Meetings**—It shall be the duty of the President to call a special meeting of apartment owners as directed by a resolution of the Board or

upon a petition signed by a majority of the owners and having been presented to the Secretary or at the request of the Competent Authority or as the case may be, or any officer duly authorised by him in this behalf. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No other business shall be transacted at a special meeting except as stated in the notice without the consent of two-third owners present in person in the meeting.

- 15. Notice of Meetings**—It shall be the duty of the Secretary to mail or send notice of each annual or special meeting, stating the purpose thereof as well as the time and place where it is to be held to each apartment owner at least two days but not more than seven days prior to such meetings. Notices of all such meetings shall be mailed or sent to the competent authority, or the registrar as the case may be.
- 16. Adjourned Meeting**—If any meeting of owners cannot be held for want of quorum the owners who are present, may adjourn the meeting to a time not less than forty-eight hours from the time to original meeting was called. If at such adjourned meeting also, no quorum is present, the owners present in person being not less than two shall form a quorum.
- 17. Order of Business**—The order of business at all meetings shall be as follows:-
 - (a) Roll Call.
 - (b) Proof of notice of meeting or waiver notice.
 - (c) Reading minutes of the preceding meeting.
 - (d) Reports of officers.
 - (e) Reports of Competent Authority or any officer authorised by them.
 - (f) Report of Committee.
 - (g) Election of Board.
 - (h) Unfinished business, if any.
 - (i) New Business.

CHAPTER IV

BOARD OF MAGAGEMENT

18. Management of Association—The affairs of the association shall be governed by a Board. The Board of Management shall comprise of neither less than 4, nor more than 10 persons to be constituted and elected by the members by simple majority in the General Body Meeting. The principal office bearer of the Association shall be a President, a Vice-President, a Secretary and a Treasurer, all of whom shall be elected by and from the Board. The Board may appoint an Assistant Secretary and an Assistant Treasurer and such other Office bearer as the Board may consider necessary

19. President—The President shall be the Chief Executive Officer of the Association. He shall preside over all meetings of the Association and of the Board. He shall have all the general powers and duties which are usually vested in the office of the President of an Association, including the power to appoint committees from amongst the owners from time to time.

20. Vice-President—In the absence of the President the Vice-President shall perform the duties of the President and in case both the President and the Vice-President are absent, the Board shall appoint some other member of the Board to act as President on an interim basis. The Vice-President shall also perform such other duties as may from time to time assigned to him by the Board.

21. Secretary—The Secretary shall keep two separate minutes books, one for the Association of the Apartment Owners and the other for the Board, pages of each of which shall be consecutively numbered and authenticated by the President of the Association of Apartment Owners and shall record in the respective minutes books, the resolutions adopted by the Association of Apartment Owners or the Board, as the case may be. He shall have charge of such books and papers as the Board may direct and he shall perform all duties incidental to the office of the Secretary.

22. Treasurer—The Treasurer shall be responsible for Association funds and securities and shall also keep full and accurate accounts of all receipts and disbursements in the books.

23. Manager—The Board may employ for the Association a manager at a compensation determined by the Board to perform such duties as the Board may authorise.

24. Powers and Duties of the Board —The Board shall have powers and duties necessary for the administration of the affairs of the Association.

25. Other Duties—In addition to the duties imposed by these bye-laws or by resolution of the Association, the Board shall be responsible for the following :—

- (a) maintenance, repair and replacement of the common areas and facilities,
- (b) Collection from apartment owners share of common expenses.
- (c) resignation and removal of persons employed for the maintenance, repair and replacement of common areas and facilities.
- (d) to provide for the manner in which the audit and account of the Association shall be carried out.
- (e) to inspect the accounts kept by the Secretary/Treasurer and examine the registers and account books and to take steps for the recovery of all sums due to the Association,
- (f) to see that cash book is written up promptly and is signed daily by one of the members of the Board.
- (g) to specify the times at which and the manner in which the annual general meetings and special general meetings of the Association shall be held and conducted.

26. Election and term of office—.

- (i) The annual general meeting of the Association, to be held in the first quarter of each financial year, shall elect neither less than 4, nor more than 10 Members including the President, Vice President, Secretary, and Treasurer from Members of the Association. Provided that no member shall be eligible for election if he has been found guilty of misusing the post during his previous term.

The term of office of the office-bearers of the Board shall be one year from the date of assuming office and they will be eligible for re-election. Provided that a person can not hold the same post continuously for more than 2 years.

- (ii) An arrangement shall be made by the board to ensure that one third of members of the board retire annually.
- (iii) The office bearers shall hold office until their successors have been elected and hold their first meeting.

27. Vacancies—The vacancies in the Board caused by any reason other than the removal of a office bearer by a vote of the Association shall be filled by vote of the majority of the remaining office bearers, even though they may constitute less than a quorum and each person so elected shall be a office bearer until a successor is elected at the next annual meeting of the Association.

28. Removal of office bearers—At any regular or special meeting duly called, any one or more of the Office bearers may be removed with or without cause by a majority of apartment owners and a successor may then and there be elected to fill the vacancy thus created. Any Office bearer whose removal have been proposed by the owners shall be given an opportunity to be heard at the meeting.

29. Organisation of meeting—The first meeting of a newly elected Board shall be held within ten days of election at such place as may be fixed by the office bearers at the meeting at which such office bearers were elected and no notice shall be necessary to the newly elected office bearers in order legally to constitute such meeting, provided a majority of the members of the Board shall be present.

30. Regular Meetings—Regular meeting of the Board may be held at such time and such place as may be determined from time-to-time by a majority of office bearers but at least two such meetings shall be held during each year. Notice of regular meetings of the Board shall be given to each office bearer personally or by mail at least three days prior to the date of such meeting.

31. Special Meetings—Special meetings may be called by the President on three days' notice to each office bearer and notice of such meeting may be given personally to each office bearer. Special meetings of the Board shall be called by the President or the Secretary on a written request of at least three office bearers.

32. Waiver of notice—Before any meeting of the Board any office bearer, may in writing waive notice of such meeting and such waiver shall be deemed equivalent to the giving of such notice.

33. Quorum—In all the meetings of the Board 1/3rd of the total strength of the office bearers shall constitute a quorum. If at any meeting of the Board there be less than a quorum present the majority of those present may adjourn the meeting, the members present in person being not less than 3 shall form a quorum and the business which might have been transacted at the meeting originally called may be transacted without further notice.

34. Fidelity Bonds—The Board may require that all officers and employees of the Association handling or responsible for Association funds shall furnish adequate fidelity bonds. The premium on such bonds shall be paid by the Associations.

CHAPTER V

OBLIGATION OF THE APARTMENT OWNERS

35. Assessments—All the owners are obliged to pay monthly assessments imposed by Association to meet all expenses related to the condominium. The assessment shall be made on the value of the unit.

36. Maintenance and Repairs—

- (1) Every owner must perform all maintenance and repair work within his own unit.
- (2) All the repairs of internal installations of the unit such as water, light, gas, power, sewerage, telephone, air-conditioners, sanitary installations, doors, windows, lamps, and all other accessories, shall be at the expense of apartment owner concerned.
- (3) The Owner shall re-imburse the association for any "expenditure" incurred in repairing or replacing any common area and facilities damaged due to his fault.
- (4) The apartment owner shall obtain police verification report of the proposed tenant from the concern police station while letting out the apartment on rent to ensure that the proposed tenant is not a criminal or troublesome.

37. Major repairs

If a building requires major repairs for its structural safety or other sufficient reason, a detailed estimate thereof shall be got prepared by the association through an engineer to be appointed by the Board and thereupon, after the approval of the estimate by the Board, the members shall contribute their share for carrying out such repairs.

38. Use of Dwelling Units : Internal Changes—

- (1) All the Units shall be utilised for residential/approved purposes only.
- (2) An owner shall not make any structural modifications or alterations in his unit or installations located therein, without notifying the association in writing and obtaining the requisite permission of the prescribed sanctioning authority. The Association shall have the obligation to answer within thirty days and failure to do so shall mean that there is no objection to the proposed modification, alteration or installation.
- (3) No owner shall undertake any work that affects the external facade of the building from any angle i.e. covering of balconies and terraces, change of colour, etc..
- (4) No owner shall undertake any work that affects the structure of the building.
- (5) No owner shall undertake any work that,-
 - (i) result in encroachment of common areas,
 - (ii) result in damage or disturbance of common areas, adjacent upper or lower floors.

If any of the above changes are effected by any owner, he will make them good at his own cost, failing which the Association is entitled to effect recovery of the cost of rectification from him.

39. Transfer of an Apartment

The transfer of an apartment shall be made by a registered deed of an apartment. The transferor shall produce "no dues certificate" from the association of the apartment owners at the time of the transfer of the apartment;

Provided that if the certificate is not granted and its refusal is not communicated within 15 days after the receipt of the application for its grant, it shall be deemed that the No Dues Certificate has been granted by the Association

Provided further that the transferor of an apartment owner shall pay ½ percent of the transfer value to the association for transferring his apartment to his prospective buyer and such amount shall be kept in a fund by the association for being used in future for the major repairs of the building.

40. Use of Apartments, Common Areas and Facilities and Limited Common Areas and Facilities—

(1) An apartment owner of a residential unit shall use it for only residential purpose and similarly, an apartment owner of a non-residential unit use it for non-residential purposes alone.

(2) No apartment owner would exempt himself from liability for his contribution towards the common expenses by waiver of the use or enjoyment of any of the general and/or limited common areas and facilities, or by the abandonment of his dwelling unit.

(3) An owner shall not place or cause to be placed in the lobbies vestibules, stairways, elevators and other areas of facilities of a similar nature both common and restricted, any furniture, packages or objects of any kind. Such areas shall be used for no other purpose than for normal transit through them.

(4) If an apartment owner causes any obstruction in the use of the common area or facility by reason of creating an obstruction by putting his furniture and packages etc., and fails to remove it despite a written request of the Association, the Association may approach the competent authority for its removal who will take an appropriate action in accordance to the provisions of law.

(5) If lift and/or elevators are provided in the building, as part of the common areas and facilities, they shall be used by the owners of the apartment and/or their tenants and/or any one claiming under them for the transportation of the owners, the tenant and their guests as also the employees of the owners, their tenants and of the management and heavy article or any other articles, the transportation of

which in the lift or elevator along with the owners, tenants or their guests or the employees shall cause discomfort or inconvenience to other users of the lift or the elevators, shall be transported only with the lifts or elevator are not in use by other users; provided this restriction shall not apply, if an elevator or lift is provided for the exclusive transportation of articles, packages, merchandise and such other objects.

(6) In non-residential buildings, the association of apartment owners may manage the parking space by earmarking it for the apartment owners and also separately reserving parking space for the vehicles of the visitors. The association may also levy a parking fee from the visitors to meet the expenses for the management of the parking space of the visitors..

(7) The apartment owners shall use their apartments in a manner which does not spread any smell while cooking food etc. from their apartment to cause any irritation or annoyance to their neighbouring apartment owners.

(8) The convenient shops within the building shall be regulated in a manner that no inconvenience is caused to the apartment owners. Such convenient shops should be to cater the needs of the apartment owners and not the outsiders..

(9) The association of the apartment owners may frame its scheme and regulations for admitting the members of a club situated within the building and it may also frame regulations for permitting the guest of the members. Such scheme and the regulations would bind the apartment owners as well as the agency which may manage the club.

(10) If the terrace of a building / block is declared as 'common area and facility' by the promoter, the association shall maintain it and its maintenance expenses shall be part of the common expenses of the building. Provided that if the terrace or its part is declared by the promoter as 'limited common area' or an 'independent area', the beneficiary /holder of such terrace or its part shall be bound to keep such terrace in good condition and water proof, failing which the association shall maintain it at its own expense and recover it from the concerned defaulting beneficiary /holder of the terrace.

41. Right of Entry—

(1) An owner shall grant the right of entry to the office bearer or to any other person authorised by the Board in case of emergency whether the owner is present at the time or not.

(2) An owner shall permit other owners or their representatives when so required to enter his unit for the use of performing installation and alterations or repairs to the mechanical or electrical services provided, that requests for entry are made in advance and that such entry is at a time convenient to the owner, but, in case of emergency, such right of entry shall be immediate.

42. Rules of Conduct—

(1) No resident shall post any advertisement or poster of any kind in or on the building, except as authorised by the Association.

(2) The residents shall exercise extreme care about making noises or the use of musical instruments, radios, television and amplifiers etc. that may disturb others. Residents keeping pets shall abide by the municipal sanitary bye-laws or regulations.

(3) It is prohibited to hang garments, rugs etc. from the windows, balconies or from any of the facades.

(4) It is prohibited to throw garbage or trash outside the disposal places provided for such purpose in the service areas. If such place is not provided, all garbage or trash shall be collected in a vessel and thrown in the municipal dustbin.

(5) No owner, resident or lessee shall install wiring for electrical or telephone installation, television antenna, machines or air-conditioning units etc., on the exterior of the building except as authorised by the Association.

43. Damages: Any damages due to the negligence, misuse or faults on the part of an apartment owner, family member (s), or guest (s) shall be the responsibility of the apartment owner. The Association shall charge the apartment owner for such repairs, an amount to cover the cost of time, labour, materials and/ or outside contractors. The charge must be paid by the apartment owner within 30 days of the demand of the charge.

44. Unlawful activities: The apartment owner, his family or guest (s) shall not engage in any act intended to facilitate criminal activity, including act of violence in the apartment, building or common areas.

45. Visitors /Guests: The visitors / guest (s) of the apartment owner are to be refrained from any conduct which disturbs the privacy and quiet enjoyment of the other apartment owners or occupants. The apartment owners shall be responsible for the actions of their guest (s) who would be expected to abide by all rules and regulations at all times without any exceptions.

CHAPTER VI

FUNDS AND THEIR INVESTMENTS

46. Funds— Funds maybe raised by the Association in all or any of the following ways:-

(a) by shares;

(b) by contributions and donations by the apartment owners;

(c) from common profits which shall form the nucleus of the reserve funds;

(d) by raising loans, if necessary, subject to such terms and conditions as the Association, with the approval of the Competent Authority, may determine in this behalf.

47. Investment— The association may invest or deposit its funds in one or more of the following:-

(a) in the Central Co-operative Bank or in State Co-operative Bank; or

(b) in any of the securities specified in section 20 of the Indian Trust Act, 1882; or

(c) in any Co-operative Bank other than referred to in clause (a) or in any Banking Company approved for this purpose by the Association.

48. Affiliation – The Association shall become a member of a federation of the Associations of Apartment Owners and shall pay the subscription to it from time to time and shall also follow the instructions and directions issued by such federation.

49. Accounts—

(1) The Association shall open a banking account and deposit the money received on behalf of the Association. The Secretary may retain in his personal custody an amount not exceeding Rs. 20000/- for petty expenses. All payments above Rs. 2500/- shall be made by cheque, signed by the Secretary and one member of the Board.

(2) Each apartment owner shall have a passbook in which the Secretary shall enter amounts paid to or received for his share in receipts of profits from common areas and contributions towards common expenses and his share of the assessment and other dues if any, in respect of his apartment.

(3) The Association shall on or before the 31st day of July in each year publish an audited financial statement in respect of the common areas and facilities containing,-

(a) the profit and loss accounts;

(b) the receipts and expenditure of the previous financial year; or

(c) a summary of the property and assets and liabilities of the common areas and facilities of the association giving such particulars as will disclose the general nature of these liabilities and assets and how the value of fixed assets have been arrived at.

(4) The audited financial statement shall be opened to the inspection of any member of the Association during office hours and a copy shall be submitted to the Competent Authority not later than the 15th day of August of every year.

(5) Every financial statement shall be accompanied by a list of the apartment owners and the similar list of loanees.

(6) The association shall send a summary of its audited financial statement to its every apartment owner within a period of 15 days from the date of the publication of its audited financial statement referred to in sub-clause (3) above.

50. Publication of Accounts and Reports—A copy of the last financial statement and of the report of the auditor, if any, shall be kept in a conspicuous place in the office of the Association.

51. Appointment of Auditors—The Association shall appoint at its general meeting an auditor who shall audit the accounts of the Association to be prepared by the Board.

52. Power of Auditor—The auditor shall be entitled to call for and examine any papers or documents belonging to the Association relating to the common areas and facilities and common expenses and shall make a special report to the Association upon any matter connected with the accounts which appears to him to require notice.

CHAPTER VII

MORTGAGES

53. Notice to Association—If an owner mortgages his unit, he shall notify the Association through the office bearer or President of the Board, the name and address of the mortgagee and the Association shall maintain such information in a book entitled "Mortgagees of Units".

54. Notice of un-paid Assessments—The Association shall, at the request of a mortgagee of a unit, report any un-paid assessment due from the owner of such unit.

CHAPTER VIII

COMPLIANCE

55. Compliance—These bye-laws are set forth to comply with the requirement of the Act. In case any of these bye-laws conflict with the provisions of the Act it is hereby agreed and accepted that the provisions of the Act shall prevail.

56. Seal of the Association—The Association shall have a common seal which shall be in the custody of the Secretary and shall be used under the authority of a resolution of the Board and every Deed of Instrument to which seal is affixed shall be attested for and on behalf of the Association by two members of the Board and the Secretary or any other person authorised-by the Association.

CHAPTER IX

57. Power of competent authority to inspect the building

The competent authority, *suo motu* or on an application, may make an inspection of the building to which the Act applies. A memo of inspection may also be prepared by the competent authority about the status of the building including the common areas and facilities and, thereupon, the competent authority may take such action in respect thereto as may be deemed necessary by him.

CHAPTER X

AMENDMENTS TO PLAN OF APARTMENT OWNERSHIP

58. Amendment of Bye-Laws—These Bye-laws may be amended by the Association in a duly constituted meeting for such purpose and no amendment shall take effect unless approved by owners representing at least two third of the total number of the units in the building with the prior approval of the competent authority.

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प्रमुख सचिव।