

BIHAR REAL ESTATE REGULATORY AUTHORITY (GENERAL) REGULATIONS, 2021

NOTIFICATION

No..... Bihar, RERA. 2021/Gen. Regulations/21 In exercise of the powers conferred under section 85 of the Real Estate (Regulation and Development) Act, 2016, the Bihar Real Estate Regulatory Authority, hereby makes the following Regulations:-

1. Short title, extent, commencement and application.- (1) These Regulations may be called the Bihar Real Estate Regulatory Authority (General) Regulations, 2021

(2) It shall extend to the whole of the State of Bihar.

(3) These Regulations shall come into force on the date of its notification in the Official Gazette.

(4) These Regulations shall apply in relation to all matters falling within the jurisdiction of the Real Estate Regulatory Authority in the State of Bihar.

2. Definitions.- (1) In these Regulations, unless the context otherwise requires:-

(i) "Act" means the Real Estate (Regulation and Development) Act, 2016 (as amended from time to time);

(ii) "Application" means the full, correct and complete application made under sections 4 or 9 of the Act as the case may be, submitted online to the Authority with all the details and all the documents required to be submitted in compliance of the provisions of the Act and Rules and Regulations made therein;

(iii) "Adjudication" means the process of arriving at decisions on complaints received by the Authority or the Adjudicating Officer under section 31 read with section 71 of the Act;

(iv) "Authority" means the Bihar Real Estate Regulatory Authority;

(v) "Chairperson" means the Chairperson of the Authority;

(vi) "Consultant" includes any person (not in the employment of the Authority) who may be appointed on short term basis to assist the Authority on any matter required to be dealt with by the Authority under the Act and the Rules and Regulations made thereunder;

(vii) "Form" means the form and forms appended to these Rules and Regulations;

(viii) "Member" means a member of the Authority appointed under section 21 and includes the Chairperson;

(ix) "Officer" means an officer of the Authority;



(x) "Proceedings" means and includes proceedings of all nature that the Authority may conduct in the discharge of its functions under the Act and the Rules and Regulations;

(xi) "Regulations" means the Bihar Real Estate Regulatory Authority (General) Regulations, 2021 (as amended from time to time);

(xii) "Rule" means the Bihar Real Estate (Regulation & Development) Rules, 2017 made by the Government of Bihar under the Act, (as amended from time to time);

(xiii) "Secretary" means the Secretary of the Authority;

(xiv) "Section" means the section of the Real Estate (Regulation and Development) Act, 2016.

(2) Words or expressions occurring in these Regulations and not defined herein but defined in the Act or the Rules shall bear the same meanings respectively assigned to them in the Act and the Rules.

3. Formats of Certificates of Architect, Engineer and Chartered Accountant.- The certificates to be issued by the project architect, project engineer, chartered accountant in practice for withdrawal of money from the separate account maintained under section 4(2) (1) (D) shall be in Form 1, 2 and 3 respectively.

4. Formats of Various Certificates in Plotting Project.- In the case of plotted project, the various certificates for withdrawal of money from the separate account maintained under Section 4(2)(1)(D), shall be in Form 1, 2 and 3 with applicable referential modification as to the plotted project details.

5. Submission of Application.- (1) Every application under section 4 and section 9 of the Act shall be submitted online with all the details, relevant documents and stipulated fee to the Authority.

(2) The promoter or agent as the case may be who fails to submit all relevant documents or not complying with other requirement of registration as per the provisions of the Act, Rules and Regulations and as further required by the Authority within a period of seven (7) working days shall be treated as incomplete and would be liable to be rejected. The promoter or agent, as the case may be, pay delay processing charge of Rs.1000/- per day for a maximum period of seven working days to enable further consideration of such applications.

(3) The incomplete application of the promoter or of the agent, as the case maybe which is not as per the provisions of the Act, Rules and Regulations, shall be liable to be rejected after a period of 14 working days from the emailed request for compliance.

(4) In case an application is rejected as per (3) above, the promoter or agent, as the case may be shall be required to make a fresh application to the Authority along with the fee as if it is a new/fresh application for registration.

6. Additional Disclosures by Promoters on the Website and Project site.- (1) In addition to all the details of the proposed real estate project, to be uploaded by the promoter on his webpage



on the website of the Authority, as required under sub-section (1) of Section 11 of the Act and Rule 3 and 4 of the Bihar Real Estate (Regulation and Development) Rules, 2017, the promoter shall upload the audited statement of accounts of projects(s), in Form 5 (issued in accordance with the third proviso to section 4(2) of the Act) duly certified and signed by the chartered accountant in practice who is not the statutory auditor of the promoter's enterprise:

Provided that all promoters/developers of a real estate project shall submit a copy of the audited annual accounts viz. balance sheet, profit & loss accounts, cash flow statement, notes to the accounts and audit report of the statutory auditors along with all schedules and Director's report of the individual/ /firm/cooperative society/ company as the case may be of a particular financial year by the 15th of October of the succeeding financial year.

Provided further that all promoters/developers of a real estate project shall inform of any changes(addition/deletion) in the Board of Directors of the promoter company/firm within a month of the occurrence and / or 1st January and 1st July of every year and,

(2) In addition, all promoters/developers of a real estate project shall give the details of interest (of self, spouse or dependent children) in any other real estate company/project as on the 1st of January of every calendar year.

(3) In cases where there is a development agreement or such like arrangement between the promoter and the landowner/s, unless otherwise mentioned in the agreement, the landowner would be treated as an allottee under the Act as he is getting apartments in lieu of land . In all such cases the promoters of the project would be responsible for fulfilling all obligations under the RERA Act and Rules made there under.

Explanation 1.- The chartered accountant certifying the progress of the registered real estate project for the purpose of withdrawal of amounts from the separate account should be a "different entity" than the chartered accountant, who is the statutory auditor of the promoter's enterprise.

Explanation 2.- If the Form No. 5. issued by the chartered accountant in Practice, who is not the statutory auditor, reveals that any certificate issued by the project architect, engineer or the chartered accountant for withdrawal of funds from the designated bank account has false or incorrect information and the amounts collected for a particular project have not been utilized for the project and the withdrawal has not been in compliance with the proportion to the percentage of completion of the project, the Authority, in addition to taking penal actions as contemplated in the Act and the Rules, may in its discretion also take up the matter with the concerned regulatory body of the architect, engineer or chartered accountant, for necessary penal action against the said professionals which may include cancellation of registration of membership for practice.

7. Other Fees.- (1) The promoter or agent as the case may be shall be required to pay to the Authority the charges at the rates as may be determined by general or special order of the



Authority and declared on website by the Authority from time to time on the following matters: -

- (i) For the periodical updation of website;
- (ii) Fee for application to the Authority for project registration including fee for late submissions and for permission for changes required to be made in the application for registration, before or after registration;
- (iii) Application fee for extension of registration under section 6 and renewal fee for registration under section 9.
- (iv) Fee for any other matter as may be decided by the Authority by order from time to time.

8. Display of sanctioned plan and approved layout.- The sanctioned plans, layout plans, along with specifications, approved by the Competent Authority shall be prominently displayed by the promoter at the project site.

Explanation 1.- Display Boards of a minimum size of six feet by six feet, showing names and address of the Promoters/Developers, landowners, projects, dates of commencement of the project and proposed dates of completion, RERA registration number shall be put at a conspicuous place on the project/ construction sites.

9. Authority's Office, Office Hours and Sittings.- (1) The head office of the Authority shall be at Patna. The Authority may, by order, establish benches and its offices at other places in the State.

(2) The Authority may conduct its proceedings at the head office or at any other place within its jurisdiction on days and time as directed by the Chairperson.

10. Language of the Authority.- (1) The proceedings of the Authority shall be conducted in English or Hindi.

(2) The Authority, at its sole discretion, may accept complaint petitions made in English or Hindi.

(3) The Authority may, in appropriate cases, direct translation of Petitions and their accompanying documents into English or Hindi.

11. Seal of the Authority.- Any document requiring authentication by the Authority shall be issued under the seal of the Authority, and shall be signed by the Secretary, Officer on Special Duty or other Officer authorized by the Authority in this behalf.

12. Officers of the Authority.- (1) The Authority shall have the power to fix the qualifications and experience for the various employees for discharging various duties and perform certain functions. The terms and conditions of service and appointment of such employees shall be subject to such conditions as may be specified by the Authority.

(2) The Authority may appoint, engage, empanel or retain Consultants, Lawyers, Pleaders and Experts to assist the Authority in the discharge of its functions.

(3) The Secretary shall be the Principal Executive Officer of the Authority and shall exercise his powers and perform his duties under the control of the Authority.

(4) In particular, and without prejudice to the generality of the provisions of sub regulation (3) of this regulation, the Secretary shall have the following powers to perform the following duties, viz:-

(i) He shall be custodian of the records and the seal of the Authority;

(ii) He shall receive or cause to receive all documents, including, inter alia, complaints, applications or reference pertaining to the Authority;

(iii) He shall scrutinize documents, including, inter alia, complaints, applications or references and shall be entitled to seek clarifications or rectifications upon the same and issue appropriate directions pertaining to the acceptance or rejection of such documents;

(iv) He shall prepare or cause to be prepared briefs and summaries of pleadings presented by various parties in cases filed before the Authority;

(v) He shall carry out such functions under the Act and the Rules, as may be delegated to him by the Authority, by general or special order;

(vi) He shall assist the Authority in the proceedings relating to the powers exercisable by the Authority, as directed by the Chairperson,;

(vii) He shall provide notice for meeting, prepare the agenda for meetings and record the minutes of the proceedings of the Authority's meetings;

(viii) He shall authenticate the orders passed by the Authority;

(ix) He shall, so far as it is possible, monitor compliance of the orders passed by the Authority and shall forthwith bring to the notice of the Authority any non-compliance thereof;

(x) He shall have the right to collect from the State Government or local authorities or other offices, companies and firms or any other party as may be directed by the Authority, such information and record, report, documents, etc. as may be considered necessary for the purpose of efficient discharge of the functions of the Authority under the Act and the Rules and place the same before the Authority.

(5) In the absence of the Secretary, an officer of the Authority designated by the Chairperson in this behalf shall exercise the powers and discharge the functions of the Secretary.

(6) The Chairperson shall in addition to the powers vested under Section 25 of the Act and Rule 21, at all times, have the power, either on an application made by any interested or affected



party or suo-moto, to review, revoke, revise, modify, amend, alter or otherwise change any order issued or action taken by any Officer of the Authority, if considered appropriate.

(7) The Members may, with the written approval of the Chairperson, delegate to any Officer of the Authority any function required by these Regulations or otherwise to be exercised by the Secretary.

13. Meetings of the Authority.- (1) The provisions contained in sub regulations (2), (3), (4), (5), (6), (7) and (8) below, shall be applicable to the meetings of the Authority, other than the adjudicatory proceedings of the Authority.

(2) The quorum for the meetings of the Authority shall be two.

(3) If in any meeting of the Authority duly convened, the quorum is not present, the meeting shall stand adjourned for the next suitable date & time and place as decided by the Authority.

(4) The Chairperson shall preside over the meetings and conduct the business. Members stationed at Benches, outside Patna, may participate in the meetings through video conferencing. If the Chairperson is unable to be present in the meetings for any reason, or where there is no Chairperson, the senior Member present shall preside over at the meeting.

(5) All questions which come up before any meetings of the Authority shall be decided by a majority of votes of the Members present and voting. In the event of equality of votes, the Chairperson or in his absence, the Member presiding shall have a second or casting vote.

(6) Save as otherwise provided in these Regulations, every Member shall have one vote.

(7) The Secretary or in his absence an Officer of the Authority designated by the Chairperson, shall record the minutes of the meetings and maintain a register which will, amongst other things, contain the names and designation of Members and invitees present in the meeting, a record of proceedings and notes of dissent, if any. In case of dissent, the draft minutes shall, as soon as practicable, be sent to the Chairperson.

(8) The decision taken in a meeting of the Authority shall be recorded in the minutes in a clear and concise manner, along with reasons and a copy of the approved minutes shall be sent to all the members. In case the minutes record any statement/submission made by an invitee, a copy of the minutes shall be sent to such invitee.

14. Adjudication Proceedings before the Authority.- For adjudication proceedings with respect to complaints filed other than the matters falling under sections 12, 14, 18 and 19 of the Act with the Authority, the Authority may, by general order or specific order, direct that specific matters or issues be heard and decided by a single bench or double bench of either the Chairperson or any Member of the Authority.

15. Authorized Representative.- A person who is a party to any proceedings before the Authority may either appear in person or authorise any other person as specified under section

56 of the Act to present his case before the Authority and to do all or any of the acts for the purpose:

Provided that the person appearing on behalf of any person in any proceeding before the Authority shall file a Memorandum of Authorisation/ Vakalatnama, in Form 6 herein:

Provided further that the Authority may, from time to time, determine the terms and conditions subject to which the allottees may authorize representative(s) to plead on their behalf. In such cases the Authority shall have the power to summon and enforce the attendance of all persons who are concerned with the Real Estate Project, including lenders, landowners in case of joint venture or development agreement as well as the persons who have accorded permissions to the Real Estate Project, as Competent Authority.

16. Orders of the Authority.- (1) The Authority, Chairperson or Members as the case may be hearing a proceeding shall pass orders in such proceedings, and such orders shall be signed by the Chairperson, Members or the Authority, as the case may be, hearing such proceeding.

(2) All orders and decisions shall be certified by the signature of the Secretary or an Officer empowered in this behalf by the Chairperson and shall bear the official seal of the Authority and shall be uploaded on the website of the Authority.

17. Records of the Authority.- (1) The Authority shall maintain an indexed database of its records including, inter alia, complaints filed, details of hearings conducted, orders /documents issued from time to time.

(2) The Authority shall, on such terms and conditions as the Authority considers appropriate, provide for supply of certified copies of orders, documents and papers available with the Authority to any person, applying in Form 7, subject to the payment of requisite fee and complying with such terms as the Authority may direct. The Authority shall designate an Officer for ensuring timely response to requests received for supply of certified copies of documents within a period of fourteen (14) working days from the date of receipt of request.

(3) The Authority may, by order, direct that any information, documents and papers/materials maintained by the Authority, shall be confidential or privileged and shall not be available for inspection or supply of certified copies, and the Authority may also direct that such document, papers, or materials shall not be used in any manner except as specifically authorized by the Authority.

(4) The Authority shall endeavour to make information involving public interest accessible and available to the public, , through its website.

(5) The Chairperson may depute an officer of the Authority as Information Officer as provided under the Right to Information Act, 2005 and another officer of the Authority as Appellate Authority under the said RTI Act.

18. Interim Orders, Investigation, Inquiry, collection of information, etc.- (1) The Authority may pass such ad-interim or interim orders, as the Authority may consider appropriate at any stage of any proceedings, having regard to the facts and circumstances of the case.

(2) The Authority may make such direction or order as it thinks fit for collection of information, inquiry, investigation etc. and without prejudice to the generality of its powers, including, inter alia, the following:-

(a) The Authority may, at any time, direct the Secretary or any one or more Officers or any other person as the Authority considers appropriate to study, investigate or furnish information with respect to any matter within the jurisdiction of the Authority under the Act and the Rules;

(b) The Authority may, for the above purpose, give such other directions as it may deem fit and state the time within which the report is to be submitted or information furnished;

(c) The Authority may issue or authorise the Secretary or an Officer to issue directions to any person to produce before it and allow to be examined and kept by an Officer of the Authority directed in this behalf the books, accounts, etc., or to furnish any information to the designated Officer;

(d) The Authority may issue such directions, for the purpose of collection of any information, particulars or documents that the Authority considers necessary in connection with the discharge of its functions under the Act and the Rules;

(e) If any such report or information obtained appears to the Authority to be insufficient or inadequate, the Authority or the Secretary or an Officer authorised for the purpose may give directions for further inquiry, report and furnishing of information;

(f) The Authority may direct such incidental, consequential and supplemental matters to be attended to which may be considered relevant in connection with the above;

(g) The Authority may for the above purposes take the help of the police or such other authorities that may be considered necessary and expedient.

(3) If the report or information obtained in accordance with Regulation 18 (2) above or any part thereof is proposed to be relied upon by the Authority for forming its opinion or view in any proceedings, the parties to the proceedings shall be given a reasonable opportunity for filing objections and making submissions on such report or information.

19. Confidentiality.-(1) The Bench hearing the matter shall appraise and determine whether any documents or evidence provided to it by any party and claimed by that party to be of a confidential nature merits being withheld from disclosure to other parties as being confidential and shall provide brief reasons in writing for arriving at its conclusion.

(2) If the Bench is of the view that the claim for confidentiality is justified the Bench may direct that the same be not provided to such parties as the Bench may deem fit. However, the party

claiming the confidentiality shall provide a brief non-confidential summary of the substance of the documents found to be confidential and the import of the same.

(3) Notwithstanding the above, it shall be open to the Bench to take into consideration the contents of the documents found to be confidential in arriving at its decision.

20. Review of decisions, directions, and orders.- (1) Any person aggrieved by a direction, decision or order of the Authority, from which

(i) no appeal has been preferred or;

(ii) from which no appeal is allowed, may, upon the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the direction, decision or order was passed or on account of some mistake or error apparent from the face of the record, or for any other sufficient reasons, may apply for a review of such order, within forty-five (45) days of the date of the direction, decision or order, as the case may be, to the Authority.

(2) An application for such review shall be filed in the same manner as a complaint under these Regulations.

(3) The Authority shall for the purposes of any proceedings for review of its decisions, directions and orders be vested with the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 and as per clause (iv) of sub - section (2) of section 35 of Act.

(4) When it appears to the Authority that there is no sufficient ground for review, the Authority shall reject such review application.

(5) When the Authority is of the opinion that the review application should be granted, it shall grant the same provided that no such application will be granted without previous notice to the opposite side or party to enable him to appear and to be heard in support of the decision or order, the review of which is applied for.

21. Continuance of Proceedings after death, etc..-(1) Where in a proceeding, any of the parties to the proceeding dies or is adjudicated as an insolvent or in the case of a company under liquidation/winding up, the proceeding shall continue with the other partners, successors-in-interest, the executor, administrator, receiver, liquidator or other legal representative of the party concerned, as the case may be.

(2) The Authority may, for reasons to be recorded, treat the proceedings as abated in case the Authority so directs and dispense with the need to bring the successors-in-interest on the record of the case.

(3) In case any person wishes to bring on record the successors-in-interest, etc., the application for the purpose shall be filed within ninety (90) days from the event requiring the successors-in-interest to be brought on record. The Authority may condone the delay, if any, for sufficient reasons.



22. Issue of orders and directions.- Subject to the provisions of the Act, Rules and Regulations, the Authority may, from time to time issue orders and directions in regard to the implementation of the Regulations and procedure to be followed as it deems fit.

23. Saving of Inherent power of the Authority.- (1) Nothing in the Regulations shall be deemed to limit or otherwise affect the inherent power of the Authority to make such orders as may be necessary for meeting the ends of justice or to prevent the abuse of the process of the Authority.

(2) Nothing in these Regulations shall bar the Authority from adopting in conformity with the provisions of the Act or Rules, a procedure, which is at variance with any of the provisions of these Regulations including summary procedures, if the Authority, in view of the special circumstance of a matter or class of matters and for reasons to be recorded in writing, deems it necessary or expedient for so dealing with such a matter or class of matters.

(3) Nothing in the Regulations shall bar the Authority to deal with any matter or exercise any power under the Act or Rules, for which no regulations have been framed, and the Authority may deal with such matters, powers and functions in a manner as it thinks fit.

24. General power to amend/rectify.- The Authority may, at any time and on such terms as to costs or otherwise, as it may think fit, amend any defect or error in any proceedings before it (including any clerical or arithmetical error in any order passed by the Authority), and all necessary amendments, rectifications shall be made for the purpose of determining the real question or issue arising in the proceedings.

Provided that if the Authority desires to make amendments or rectifications in order to determine the real question or issue arising the Authority shall provide an opportunity to the parties affected by such amendment or rectification touching the real question or issue to make representations and submissions with respect to the proposed amendment or rectification.

25. Power to remove difficulties.- If any difficulty arises in giving effect to any of the provisions of the Regulations, the Authority may remove such difficulties, by such general or special order, which is not inconsistent with the provisions of the Act or Rules and which appears to be necessary or expedient for the purpose of removing the difficulties.

26. Extension of time prescribed.- Subject to the provisions of the Act or the Rules, the time prescribed by the Regulations or by order of the Authority for doing any act may be extended (whether it has already expired or not) for sufficient reason by an order of the Authority.

27. Effect of non compliance.- Failure to comply with any requirement of the Regulations shall not invalidate any proceeding merely by reason of such failure unless the Authority is of the view that such failure has resulted in miscarriage of justice.

28. Costs.- (1) Subject to such condition and limitation as may be directed by the Authority/Bench, the costs of and incidental to, all proceedings shall be awarded at the discretion of the Authority/Bench and the Authority/Bench shall have full power to determine

6

by whom or out of what funds and to what extent such costs are to be paid and give all necessary directions for the aforesaid purposes.

(2) The costs shall be paid within sixty (60) days from the date of the order or within such time as the Authority/Bench may, by order, direct. If a party fails to comply with an order for costs within the permitted period, the order of the Authority/Bench awarding costs shall be executed forthwith in the same manner as a decree/order of a Civil Court.

29. Administrative Charges and Standard Fees.- The Authority may, by order, fix standard fees, to be levied on the litigating parties , promoters or real estate agents or allottees for inspection of documents, certified copies of documents, the updating of website, database management and maintenance of the website etc.

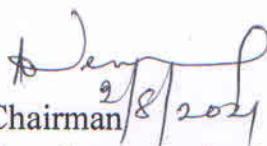
30. Committees.- (1) The Authority shall create an Internal Vigilance Committee for the effective working of the office which may be headed by a retired public servant/ professional having minimum 15 years of experience and the report prepared shall be submitted in the meetings of the Authority.

(2) The Authority may depute/appoint retired public servant/professionals for conducting investigation as enumerated under regulation 18(2).

(3) The Authority shall create Internal Complaints Committee under The Sexual Harassment of Women at Workplaces (Prevention, Prohibition and Redressal) Act, 2013.

31. Common facilities.- (1) The Authority shall provide for a common room with separate crèche facility as far as practicable which may be used by /litigants/advocates and women employees of the Authority.

32. Service Conduct of the Authority.-Except as otherwise provided by an order of the Authority under these Regulations, the Bihar Government Service Conduct Rules, 1976 (as amended from time to time) shall apply to all the employees on the roll of the Authority.


Chairman 2/8/2024

Real Estate Regulatory Authority
Bihar, Patna