

Common queries generally made during the scrutiny of applications submitted for the registration of projects.

Bihar RERA intends to make the registration process query-free, less time-consuming and user-friendly. From an analysis of the registration applications, we have short-listed some common queries which can be avoided if due care is taken by the applicant at the very outset. These queries have been discussed thread-bare, so that you make take caution while applying in order to pre-empt them.

I. Query: Please provide a copy of Khatiyani and Partition deed along with Vanshawali/Genealogy.

Explanation. -This query is generally sent if the land is Khatiyani where development of project has been proposed and as per record the name of any ancestor is reflected in the khatiyani document but no evidence of chain of transfer of title to the person who has executed the Development Agreement has been submitted. In that case a copy of genealogy is generally not submitted with the application indicating family tree starting from the person whose name khatiyani is produced till the current landowner who has executed the Development Agreement in order to substantiate that the current land owner is the valid title holder of the respective share of said land. Moreover, in order to ascertain the distribution of share among all the members of the family tree along with the share of current land owner a copy of partition deed is also not submitted with the application, which lead to raising queries. At times Partition deed submitted is not authenticated which should be signed by all the living shareholders, preferably on affidavit

For Example: Khatiyani land is in the name of someone else, other than the person who has executed the development agreement and there is no evidence submitted through which it can be ascertained that the person had inherited the said land and then transferred it the current landowner who has executed the Development Agreement as the valid title holder of the respective share of said land.

The promoter needs to submit adequate evidence indicating the chain of transfer of title of land through Partition deed and Genealogy to establish the fact that the current landowner has legal title over the parcel of land for which development agreement has been made.

What to submit in this case:

In this case the promoter needs to submit a copy of genealogy issued by competent authority, presently it is the concerned sarpanch of the panchayat and partition deed/Khangi batwara duly authenticated which should be signed by all the living shareholders, preferably on affidavit, copy of order of Mutation. Online copy of Jamabandi, LPC and currently issued Revenue receipt with updated payment of revenue, all in the name of current land owner, who has executed the development agreement so that it could be ascertained that how the legal title of the proposed land got transferred to the present land owner from actual owner of Khatiyani land and how much share came in the name of present executer of the development agreement and how he is the valid title holder of the land on which project has been proposed for development.

II. Query: Please provide a copy of current revenue receipt & Land possession certificate, Mutation Order and online copy of Jamabandi.

Explanation.- This query is generally sent either for non submission of land documents such as Current revenue receipt (CRR), Mutation (Order), online copy of Jamabandi, and Land possession certificate(LPC) or the khata, khesra numbers and the area of land is not matching with that of the figure mentioned in the corresponding land deed

Example: A copy of the sale deed of various plot nos. is submitted measuring certain area but the supporting documents, such as copy of Jamabandi fail to establish that whether the area mentioned in the sale deed is part of the same plot no. or not as there were no matching khata/khesra number mentioned.

Reply: In this case, the promoter submitted a revised copy of LPCs and Jamabandi where land area is clearly mentioned in a row of concerned plot no. After this rectification, the query was resolved.

What to submit in this case:

This query is generally made if the promoter submits incomplete land documents. The promoter needs to arrange all the land documents before filing an application such as Current revenue receipt (CRR) which should be currently issued with all updated revenue payments, Mutation (Order) along with Shuddhi patra issued under the signature of concerned Circle Officer, online copy of Jamabandi, and Land possession certificate (LPC) in accordance with their submitted land deed. The Promoter should also ensure that the documents mentioned above must have same khata

number, khesra number, same measurement of land area and it must be issued in the name of the land owner whose name land deed has been submitted.

III. Query: Please provide a copy of current non-encumbrance certificate.

Explanation. - Rule 3(1)(e) provides for submission of details of encumbrances on the land on which development of project is proposed including details of any rights, title, interest, dues, litigation and name of party in or over such land or non-encumbrance certificate through an advocate having experience of at least ten years from the revenue authority not below the rank of tehshildar, as the case may be; But generally it was submitted under the signature of an Advocate of High Court therefore it could not have been ascertained whether the Advocate of High Court is having experience of at least ten years from the revenue authority not below the rank of tehshildar. Therefore, Promoter were given an option to get the NEC issued from the concerned district Sub Registrar's office. This certificate submitted at times lack the appropriate number of khata, khesra and measurement of area of land. Name of the Land owner is generally missing as it bears the name of applicant who is found to be generally other the actual land owner.

Example: NEC submitted had incorrect land area and incomplete details of Khata Nos. and Plot Nos. So, the promoter was asked to submit revised copy of NEC in which all the plot no., khata no. with area should be mentioned.

Reply: The promoter submitted a rectified copy of NEC in which all the plot no., khata no, and the area of said land is mentioned.

What to submit in this case:

Promoter need to submit either non-encumbrance certificate through an advocate having experience of at least ten years from the revenue authority not below the rank of tehshildar with adequate evidence to verify it or NEC issued from the concerned district Sub Registrar's office. Promoter should also ensure that the submitted certificate bears appropriate number of khata, khesra and measurement of area of land and name the actual land owner.

IV. Query: Please provide supporting documents map/development agreement related to the area mentioned in the sanctioned map and in the development agreement/land documents as the area mentioned in map

is more than the one mentioned in development agreement.

Explanation- There has always been confusion in the area of land given in the map and that of development agreement. This is because of the fact that approved map generally contains Area as per deed, area as per possession, area left for road as per master plan and net plot area. At times Promoters gets the Development agreement executed on the net plot area and submits corresponding land documents of almost similar size. While the area which is to be left for road is not considered by the Promoter which generally leads to objection due to the fact that land required is found deficient. Non-execution of Development agreement on the basis of land area as per deed attracts objection. These objections are major ones and may lead to revision of Development agreements. In case adequate land is not available with the landowner whole projects gets jeopardised. Some times the land area as indicated in development agreement is found less than the area in comparison to that of map with very miniscule area of land in that case generally query is raised to explain whether design of the map and the norms of the bye laws would adversely be affected or not and accordingly final decision is taken.

Scenario 1 : Land area given in development agreement is less than the one mentioned in sanctioned map.

Scenario 2: Land area given in land deed and supporting documents is less than what has been mentioned in the sanctioned map.

Scenario 3: The varying area of Kattha in different districts may lead to confusion.

Scenarios 4: Copies of Mutation Order/Jamabandi and LPCs for whole parcels of land is mentioned instead of the area demarcated for the purpose of the project concerned.

Scenario 5: Development Agreement and other documents indicate that it has been executed for area which is marginally less than the one mentioned in the approved Map.

What to submit in this case:

Promoter, before submitting the application for registration of project, must check that the area of land mentioned in the development agreement and the corresponding land documents must not be less than the area mentioned in the map. Promoter should see that land area given in the map as per deed should match with that of all land documents and development agreement. In case area of road is to be left mandatorily as per master plan by the promoter that should be exclusive of net plot area. Land area in possession, as mentioned in the map has no meaning if it is not substantiated with the land documents.

Note: In some cases, promoters don't submit the legible copy of land deed. Sometimes deed is executed in other languages and translated copy is not submitted. So, a query is generally made on this issue.

Promoter should ensure that duly scanned copy, authenticated by the promoter, is submitted and in case the deed is in other language the same should be translated into Hindi or English and duly authenticated by the promoter before submission.

- V. **Query: Please provide a Notice of Commencement in Form-X which has duly been stamped by the competent Authority.**

Explanation. - Query is generally raised when promoters don't submit the said document in proper format with receipt of it and stamp of the competent authority to which it has been submitted.

What to submit in this case:

For this document promoters need to notify the start of construction of the building to the concerned competent Authority in Form X, in the prescribed format as appended with Building Bye laws and the duly received copy of the same with stamp, submitted to the Competent Authority, needs to be submitted along with the application for project registration.

- VI. **Query: Please provide the details of RERA designated account (70%) which should be in the name of the project under section 4 (2)(1)(D).**

Explanation. - Section 4 (2)(l)(D) specifies that seventy per cent. of the amounts realised for the real estate project from the allottees, from time to time, shall be deposited in a separate account to be maintained in a scheduled bank to cover the cost of construction and the land cost and shall be used only for that purpose. In such case the promoters need to submit a bank account number in which it should be mentioned that the account is RERA designated and it has been opened in the name of the project with all the details like, IFSC code, branch name. But generally, promoters provide Master collection Account/current account no. where 100% of the funds are deposited or account details of the account opened in the name of company or submits the details of account number which is meant for keeping 30% of amount to be kept separated besides designated account.

What to submit in this case:

Promoters need to submit Bank account no. where 70% of the total fund collected is parked and withdrawn after requisite certificates of technical persons are submitted.

RERA account is the designated account from which funds need to be transacted only for execution of project after registration.

VII. Query: Please provide Financial statement viz. Balance Sheet, Profit & Loss Accounts, Note to Account, Auditor's report, Directors' report and Cash Flow Statement of preceding three Financial Year.

Explanation. - Rule3(1) (b) calls for submission of annual report including audited profit and loss account, balance sheet, cash flow statement, directors report and the auditor's report of the promoter for the immediately preceding three financial years; and where annual report is not available, the audited profit and loss account, balance sheet, cash flow statement and the auditor's report of the promoter for the immediately preceding three financial years.

Query is generally made when promoters don't submit the financial statement/Annual report for all the previous three FYs. Or sometimes the promoter submits the partial documents of financial statements of one or two financial years only., mainly notes/Schedule of account is not submitted leading to query.

What to submit in this case:

The promoter needs to submit all the financial statement for the preceding three financial years duly signed by CA and duly authenticated by the promoter as mentioned in the Rule.

VIII. Query: Please provide a Copy of the registered partnership deed which is duly registered with the Registrar of Firms.

Explanation- This query is common in cases where the promoter's firm happens to be a partnership firm who applied for the project registration and in some the applicants submit their partnership deed which is either notarized or registered one.

What to submit in this case:

Such promoters need to submit the certificate of registration of firm issued by the Registrar of Firms along with a copy of deed.

IX. Query: Please provide a copy of Certificate from a Chartered accountant (CA) declaring that no advance has been taken form the customers prior to registration of the project.

Explanation- This query is typically raised when advances taken from customers as reflected in financial statements and notes on accounts or other related documents and Notes to accounts indicate advances taken by the promoter and do not indicate the sources of advance and that for what purpose the advance has been taken. It should indicate that advance taken is not for the current project. In case advances are taken for the current project that too before the registration of project the promoter is liable to pay penalty and it is treated as an ongoing one.

What to submit in this case:

Promoter needs to check before submission oof the application for the registration of project that the in case the advances are reflected in the financial statements and notes of accounts does specify the source and purpose of the advance they must submit a certificate of the Chartered Accountant that the advances reflected in the financial statements do not pertain to current project, if so.

X. Query: Please provide Statement of assets and liabilities of the Directors/Partners/Proprietor of the Promoter's entity as on the date of submitting the application, duly

certified by the Chartered Accountant (CA) to show the financial worth of the promoter to meet at least ten per cent of the estimated development cost of the project to take up the initial cost of the project.

Explanation.- In order to the minimise chances of siphoning of funds taken as advance before entering into registered agreement for sale with the customers for booking a flat/plot in a registered project, it is generally ensured that the Promoter has adequate cash/bank balance or assets reflected in the financial statements, in case the financial statements do not reflect the net worth more than 10% of the estimated development cost of the project, promoters generally do not submit duly signed then this statement of assets and liabilities duly signed by CA showing the total net worth of the promoter entity or that of directors.

What to submit in this case:

Promoter needs to check before submission of the application for the registration of project that the current financial statements reflect the funds and assets adequate , at least ten percent of the estimated development cost of the project , in case this is not so Statement of assets and liabilities of the Directors/Partners/Proprietor of the Promoter's entity as on the date of submitting the application, duly certified by the Chartered Accountant (CA) to show the financial worth of the promoter to meet at least ten per cent of the estimated development cost of the project to take up the initial cost of the project needs to be submitted.

XI. Query: Please provide details of all the projects taken up by the directors of the company in other capacities, either individual or as part of other entities, in last five years in addition to the information about projects taken up by the company along with the details of cases filed in the projects, in whose name the application has been filed for registration of a project.

Explanation. -This query is generally raised to check the legal history of the Directors of the company in other capacity, whether the Directors of the company are associated with other company or not and what is the track record of the director(s), whether any legal cases are there or not. This background helps allottees in taking an informed decision by the allottee before investing in any project. In

this declaration promoter also submits details of projects taken up in past. Thus, homebuyers planning to invest in the current project get a picture of the past performance of the promoter by checking the status of past projects.

Generally, Promoter, either do not submit statement or submit incomplete statement, generally statement of all directors is not given and the details of cases are seldom reported.

What to submit in this case:

Promoter needs to check before submission of the application for the registration of project that all the desired information of all the directors of the company in other capacities, either individual or as part of other entities, in last five years in addition to the information about projects taken up by the company along with the details of cases filed in the projects are given in the statement.

XII. Query: Please provide an affidavit copy of Form B where the promoter's name, project name, date of completion, and landowners name should be mentioned properly.

Explanation. - Rule 3(4) requires the declaration to be submitted under clause (1) of sub-section (2) of section 4, shall be in Form 'B', with requisite information.

In some cases, promoters don't fill the requisite fields properly. Mainly the landowner names in para 1 and date of completion (In date format "dd/mm/yyyy"). Generally, promoters assume that the legal title of land is in their name even if they have executed development agreement for the land of the project.

What to submit in this case:

If promoter submits revised copy of Form B, where the date of completion is mentioned in date format (dd/mm/yyyy), and the statement written in para 1 had been rectified by writing the name of the landowner/s this query gets resolved. Promoter needs to check it before submission of the application for the registration of project.

XIII. Query: Please provide a Copy of the agreement for sale [As the land details with landowner's name in Clause A, project name in clause B and schedule A, B, C, D, and E should be mentioned as per the Bihar Real Estate (Regulation and Development) Rules, 2017 Rule 8].

Explanation. -The reason for raising this query is failure of applicants to mention name of the project in Clause B, the landowners' names with land details in Clause A, and payment plan, as mentioned in Scheduled C, does appear to be in confirmation of stages of construction. In general, the payment schedule should reflect the booking amount is not more than 10% of the total amount to be collected before executing agreement for sale.

For Example: A query for a revised copy of Agreement for sale is made to ensure if promoter does not provide details in the preliminary portion; Khata no, plot no. and land area Clause A and Project name has not been mentioned in the Clause B.

This query is also made when the clauses of the proforma don't conform to the ones mentioned in the proforma given in annexure of Bihar RERA Rules, 2017 notified by the Department of Urban and Housing Development, Government of Bihar.

What to submit in this case:

Promoter needs to check before submission of the application for the registration of project that Copy of the agreement for sale [As the land details with landowner's name in Clause A, project name in clause B and schedule A, B, C, D, and E should be mentioned as per the Bihar Real Estate (Regulation and Development) Rules, 2017 Rule 8].

Promoter may give more than one payment plan in schedule C of proforma of agreement for sale, with one must be proportional to the milestones of the construction, and booking amount must not be more than 10%. {Section 4(2)(g)}

In case if the promoter gives alternative payment plan not linked with the construction milestones, then the promoter should give an option which may allow for discount if allottees make early payments (Clause 1.5 of proforma of agreement for sale)

XIV: Query: Please provide a [Copy of Proforma of allotment letter](#) which should contain column of date of completion and parking space.

Explanation. -This question is generally raised because the promoters fail to include the column for parking space and the project completion date, which are specified in Form B, in the proforma. The completion date in Form B and proforma of allotment letter should be same.

XV: Query: Please provide a NOC from the fire service authority.

Explanation- In case building height is equal or more than 15 Mt or if the ground coverage area of any floor of the building exceeds 500 Sqm (As prescribed from time to time by the competent authority), then NOC needs to be obtained in this case as per the BFSR- 2021.

Example: An NOC from the fire service authority (As the height of the building is 12 M which is less than 15 m but the ground coverage area is 516.38 sqm which is more than 500 sqm, So, a NOC needs to be obtained in this case as per the BFSR- 2021)

What to submit in this case: Promoter needs to check before submission of the application for the registration of project that Fire NOC is issued by State Fire Officer with all the land details mentioned in it in case of the prescribed height and ground coverage area.

XVI. Query: Please provide a copy of NOC from Airports Authority of India.

Explanation. -AAI has prescribed various colour coded zones (CCZM) indicating the location and height of the project where NOC from AAI is required, Promoter needs to check it and submit the NOC from AAI if applicable going online on <https://nocas2.aai.aero/nocas/cczm.html>

XVII. Query: Please provide a copy of Environmental NOC

Explanation - If the built-up area of the project exceeds the area as prescribed by Competent Authority from time to time, then NOC from SEIAA (State Environment Impact Assessment Authority) is required in such cases. Promoters should be clear at their end that in case Environmental NOC is required in a project, the same should be obtained from the competent authority before filing application for registration of project. Queries are raised when no such NOC, when requires, is submitted or promoters claim that they have applied for the same. Mere application for NOC does not mean that it has been issued.

XVIII: Query: Please provide a copy of Memorandum of a division of share between Promoter and landowner available for marketing and selling on Affidavit cum declaration in prescribed format duly

signed by Promoter and Land Owner in the light of O.O No.-115 date: 01/08/2023 available on RERA portal) that came into force for those application filed henceforth i.e. from 1st August 2023.

Explanation. - This affidavit, sworn jointly by the Promoter and Landowners in prescribed format, is taken in case the project is being executed over piece of land over which promoter enjoys legal title by virtue of a registered development agreement entered into between the landowner and promoter. In this affidavit share of promoter and landowner is earmarked before registration of project so that scope of future legal disputes could be avoided. Apart from mentioning the numbers of each flat and shops, if any, the distribution document also mentions the number of garages/ parking space going into respective shares of landowner and promoter.

Query: It is generally observed that this affidavit is given with incomplete information, generally details of parking space is not mentioned. Sometimes the percentage of share distribution does not match with that of given in the Development agreement. It has also been observed that no separate Affidavits are given in case separate development agreements have been executed for various parcels of land.

What to submit in this case:

Promoter needs to check before submission of the application for the registration of project that separate Affidavits are given in case separate development agreements have been executed for various parcels of land and affidavits are complete with all requisite information.

XIX. Query: Please provide the [building permit letter](#) issued with the sanctioned map by the competent authority in which all the details including building size, land area and land details are mentioned.

Explanation: In some cases, promoters submit sanctioned map but forget to submit the building permit letter issued along with it. In some cases promoter claim that building permit letter is not issued for which they need to give an undertaking.

XX. Query: Please provide [all the sheets of sanctioned map](#).

Explanation: This query is made when promoters fail to submit all the sheets of the sanctioned map. Promoters should ensure that this mistake is not done because generally they have all the sheets available with them and only due to ignorance, they fail to submit them.

Common Queries generally made in applications for extension of registration of project

These errors are generally found during the scrutiny of an extension of registered project.

- I. Query: Please provide a copy of **Consent of the two-third of allottees** in which allottees must state that they have no objection if the project gets the extension up to date as per fresh Form B?**

Explanation. -This query is typically raised when the completion date has exceeded and hence the project has come under lapsed category and promoter has not submitted the application in time SOP issued vide Office Order No.123 dated 08/08/2023 specifies that consent of two third of allottees is requires besides other conditions.

If application for extension is filed for the period beyond the specified period of extension before the registration has lapsed, consent of majority (more than 50%) in this light SOP has been issued by Authority vide Office Order No104 date 19/07/2023 of allottees is required.

NOTE: Similar consent is required if promoter is making any substantial changes in the sanctioned map of the project after getting approval from the competent authority. In such cases consent of at least two thirds of the allottees is compulsory under section 14 (2).

- II. Query: Please provide an **authenticated copy of the sanctioned map** from the competent authority which is valid for a period longer than the proposed term of extension of the registration is sought from the authority.**

Explanation. - It is mandated that for extension of the projects besides other conditions, one of the major conditions is to submit the map which is valid for a period longer than the proposed term of extension of the registration. But it has been observed that Promoters do not submit it. Earlier when RERA was granting registering the projects of non-planning area where Mukhiya had passed the maps, when comes for extension and in case such non planning are has been notified as planning area, in that case too Promoter do not get the map passed by competent authority of the

concerned planning area. In such cases generally queries are raised.

What to submit in this case:

Promoter needs to check before submission of the application for the registration of project that the map of the project is valid for a period longer than the proposed term of extension of the registration.

III. Query: Please provide details about current status of the project and details of their plan to complete remaining work.

Explanation: These details need to be provided in Table A and Table B, as mentioned in Bihar RERA (General) Amendment Regulations 2022, for knowing the current status of the project and plan for remaining development work which is to be completed in Building /Wing Number (to be prepared separately for each Building/Wing of the Project) along with the percentage of work done.

IV: Query: Please provide a document explaining the compelling situation due to which the project could not be completed in stipulated time.

Explanation: This is an important document while filing an application for extension of registration and promoter needs to give a well-reasoned explanation and compelling circumstances due to which the project could not be completed in stipulated time.

What to submit in this case:

It has been observed that generally Promoter gives the reason of covid lockdown even if the period of delay is beyond that period and justified reason of delay of project has not been mentioned. Promoter needs to check before submission of the application for the registration of project that the reasons of delay and compelling circumstances given are logical, true and justified.
