

ਗੀਅਲ ਅਸਟੇਟ ਰੈਗੂਲੇਟਰੀ ਅਥਾਰਟੀ ਪੰਜਾਬ

ਪੰਜਾਬ ਮੰਡੀ ਭਵਨ, ਸੈਕਟਰ-65, ਐਸ.ਏ.ਐਸ ਨਗਰ

To

The Additional Chief Secretary to Govt. Punjab,
Department of Housing & Urban Development
(Housing-2 Branch), 4th Floor, Punjab Civil Secretariat-2,
Sector-9, Chandigarh

Memo. No. RERA-2018/5645

Dated 12/7/2018

Sub:

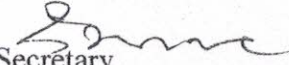
Approval of Regulation-The Punjab Real Estate Regulatory Authority
(Procedure for handling complaints and related matters) Regulation 2017.

Reference:

Your Memo. No. 23/08/17-5Housing-2/1265927/1, dated 6.7.2018

The Real Estate Regulatory Authority, Punjab has issued the "Punjab Real Estate Regulatory Authority (Procedure for handling complaints and related matters) Regulation 2017 vide no. RERA/Regulations (handling complaints)/2018/5644, dated 12.7. 2018, a copy of which is enclosed for information and necessary action.

2. It is requested that these may kindly be got published in the official gazette of the Punjab Government and 50 copies of the same may kindly be supplied for official use in the Authority.


Secretary


Encl: As above

Endst.No. RERA/2018 5646-53

Dated 12/7/2018

A copy along with enclosure is forwarded to the following for information:-

1. Chairperson
2. Member/ JSK
3. Member/SG
4. PA/Secretary
5. Legal Advisor
6. M/F&A
7. AMA (M) & AMA (N)


Secretary

Real Estate Regulatory Authority Punjab

Punjab Mandi Bhawan , Sector 65-A, MOHALI-160062

NOTIFICATION

Dated the ~~12~~ July, 2018

No Rera/Regulations (handling complaints)/2018/5644 In exercise of the powers conferred by section 85 of the Real Estate (Regulation and Development Act) 2016, [Act NO.16 of 2016] the Real Estate Regulatory Authority, Punjab, with the previous approval of the Government of Punjab, makes the following regulations, namely:-

1. Short title and commencement:-

- (1) These regulations may be called the **PUNJAB REAL ESTATE REGULATORY AUTHORITY** (Procedure for handling complaints and related matters) **REGULATIONS, 2017**
- (2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions: -

- (1) In these rules, unless the context otherwise requires,-
 - (a) "Act" means the Real Estate (Regulation and Development) Act, 2016 (Central Act No. 16 of 2016);
 - (b) "Adjudicating Officer" means an officer appointed under Section 71 of the Act
 - (c) "Authority" means the Real Estate Regulatory Authority, Punjab and includes its various benches hearing complaints under these Regulations.

- (d) "Chairperson" means the Chairperson of the Real Estate Regulatory Authority appointed under section 21;
 - (e) "complaint" means any allegation in writing in Form M or N, and accompanied by the prescribed fee, made by any aggrieved person,
 - (f) "Member" means a member of the Real Estate Regulatory Authority appointed under section 21 and includes the Chairperson;
 - (g) "notification" means a notification published in the Official Gazette and the expression "notify" shall be construed accordingly;
 - (h) "rule" means the Rules made under this Act by the Punjab Government;
 - (i) "regulations" means the Regulations made by the Authority under this Act;
- (2) Words and expressions used in these regulations and not defined herein but defined either in the Act or in the Rules shall have the same meaning respectively as assigned to them either in the Act or in the Rules, as the case may be.

3. Cause List:-

- (1) The Cause List of complaints pending before the Authority, and the Adjudicating Officer, for the following week shall be made ready before the close of working hours of the last day of the preceding week and displayed on the notice board and the Authority's website.
- (2) The Cause List shall be split into three different parts, namely:-
 - (i) Matters for consideration, notice or reply;
 - (ii) Matters where evidence is to be received;
 - (iii) Matters for Arguments/Final disposal.
- (3) Every cause list shall contain the following particulars, namely:-
 - (i) Serial Number, (ii) Number assigned to the complaint, (iii) Names of the parties, and (iv) Names of counsel or representative of parties
- (4) If the next date of hearing is given in the presence of parties or their counsel or representatives, omission of a complaint or its particulars from the cause list will not be a material ground for their absence on that date.

4. Institution of complaints:-

- (1) Every complaint addressed to the Real Estate Authority or Adjudicating officer shall be filed online at the Authority's website.
- (2) Every complaint shall clearly contain the name of the project to which it relates, the registration number of the concerned project, particulars of the dispute, the specific provisions of the Act and Rules alleged to have been violated, and the relief claimed; and also be accompanied by copies of such documents as are necessary to prove the claim made in the complaint.
- (3) A hard copy of the complaint, and additional copies equal in number to the number of respondents, shall be submitted at the first date of hearing before the Member or Adjudicating Officer to whom the complaint is entrusted under Regulation 7 below.
- (4) The complainant will be required to submit two additional sets of the complaint, and its supporting documents, if it is to be heard by the full Authority under Regulation 7 below.

5. Nomenclature to be given to the complaints: -

- (1) A complaint addressed to the Authority shall be referred to as General Complaint (GC), and a complaint addressed to an Adjudicating Officer shall be referred to as Adjudicating Complaint (AC).
- (2) All complaints received in a particular calendar year shall be numbered serially, in chronological order of their submission.

Provided that separate numbers shall be allotted to GCs and ACs respectively.

6. Scrutiny of complaints:-

- (1) Every complaint shall after its filing, be scrutinized by the Secretary or any officer authorized by the Authority in this behalf.
- (2) The Secretary or the Authorized officer shall scrutinize the complaint regarding the fees paid, compliance with Form M or N of the Rules, and the matters listed in Regulation 4 above.

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- (3) If there are any defects in the filing of the complaint, the particulars of such defects shall be recorded and the complainant or his representatives shall be asked to remove the same within 15 days.
- (4) In case the party disputes in the correctness of the defects pointed out, the matter shall be placed before the Authority or the Adjudicating Officer as the case may be for appropriate orders.
- (5) After the expiry of the time given, the matter shall, irrespective of the fact as to whether the defects have been removed or not, be placed before the Authority or the Adjudicating Officer as the case may be for appropriate orders.
- (6) If the objections raised by the Secretary or the Authorised Officer are substantial and are not removed within 15 days, the days taken in excess of this period shall not be excluded for calculating the period of limitation.

7. **Entrustment of complaints:-**

- (1) Every complaint scrutinized under Regulation 6 shall be entrusted to a single-Member Bench of the Authority, or an Adjudicating Officer (if there are more than one), on random basis, for further proceedings.
- (2) If a single-Member Bench feels that a particular matter needs to be considered by the full Authority he shall refer it to the Chairperson for placing before the Authority.
- (3) The Chairperson may, on a request from a single-Member Bench or an Adjudicating Officer, or *suo motu* for appropriate reasons order the transfer of a complaint from one Bench or Adjudicating Officer to another; and also direct that a particular matter be considered by the full Authority.

8. **Maintainability of complaints:-**

- (1) The Member or Adjudicating Officer to whom a complaint has been entrusted will satisfy himself about the maintainability thereof before issuing notice.

Provided that complaint shall not be rejected unless an opportunity of hearing has been provided to the complainant.

Provided further that the maintainability of a complaint shall ordinarily be decided within 15 days of its entrustment.

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9. Issue of notice.-

- (1) Notice of the complaint shall be served on the respondents by email wherever the email id of the respondent(s) is available to the complainant or the Authority; and otherwise by registered post, or speed post, or by reputed courier.
- (2) The notice should contain copies of the complaint and its supporting documents.
- (3) In the notice the respondents should be asked to submit their reply within 15 days of its receipt, with a copy to be sent to the complainant through registered post, Speed Post, or a reputed courier.

Provided that the Authority may prescribe a lesser period for reply by the respondents if the circumstances of a case so warrant.

- (4) The notice should also mention the date, subsequent to the date fixed for submission of reply, when the matter would be taken up for further consideration.
- (5) A presumption of due service of notice to the respondents through post or courier can be raised 30 days after its dispatch.

10. Procedure after issue of notice:-

- (1) Once the reply to a complaint has been received, the procedure prescribed in Rule 36 and 37 of the Rules shall be followed. The specific steps will be as follows:
 - (a) The respondent shall submit his reply within the time frame mentioned in the notice, and attach copies of relevant documents in support of his case.
 - (b) On the date specified under Regulation 9(4) above, or a subsequent date to which the proceedings are adjourned, the contraventions alleged in the complaint will be explained to the respondent who will also be asked whether he pleads guilty or not to these allegations. If the response is of not being guilty, he shall be asked for an explanation. The Member or Adjudicating Officer may then seek the production of further documents, if considered necessary.
 - (c) The interim order to be recorded by the Member or Adjudicating Officer shall reflect the events noted in para (b) above, including the respondent's stand on whether he accepts the alleged contraventions or pleads not guilty.

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(d) If the respondent pleads guilty, the Authority shall record the plea, and pass appropriate orders in accordance with the provisions of the Act.

(e) If the respondent pleads not guilty, the Authority shall consider his explanation and decide if there is need for further hearing. In such an eventuality, the Authority will consider the evidence/documents submitted by the parties, and proceed to decide the issues raised before it.

- (2) Every complaint shall be heard as expeditiously as possible.

Provided that no adjournment shall be ordinarily granted by the Regulatory Authority unless sufficient cause is shown.

- (3) Where the complainant fails to appear on the date of hearing the Authority, or Adjudicating Officer may either dismiss the complaint for default, or decide it on merits.

- (4) Every order, interim or final, shall be signed by the Member or Adjudicating Officer who conducted the proceedings during which such order was passed.

11. Arguments:-

- (1) Arguments should be as brief as possible and relevant to the point at issue.
- (2) The Authority may direct the parties to file written arguments if it finds this necessary for a just and appropriate decision.

12. 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 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.

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13. Final order:-

- (1) An order on the top right hand corner shall show the number of the complaint, the date when the complaint was filed, and the date of the order.
- (2) The title of the order shall contain the names of all the parties with their addresses.
- (3) The order of the Authority disposing of a matter shall be as short and precise as practicable.
- (4) The Authority shall endeavor to pass final orders within fifteen days of the conclusion of the arguments.
- (5) The Authority shall upload its orders on its official website as soon as possible.

14. Finality of orders:- Every order of the Authority or Adjudicating Officer, shall, if no appeal or legal remedy available against such order under the provisions of this Act has been preferred/availed of during the period of limitation, be final.

15. Preservation of records: -

- (1) In the case of complaints, the actual paper record containing the main file with original order sheet shall be preserved for a period of 7 years, or till the decision of any appeal preferred against any order of this Authority, whichever is later.

Provided that a soft copy of orders passed more than 7 years ago will be maintained on the Authority's website.

- (2) The Authority shall maintain a register containing complete particulars of record after the period stipulated in para (1) above.
- (3) All extra sets of documents submitted with the complaint shall be returned to the parties at their request, or by an order of the Authority.

16. Certified copy.-

- (1) A copy of the final order shall be given to the parties free of cost, in person or through registered post. It shall be signed on the last page, carry the Authority's seal on every page, and also show the date of dispatch of the order.
- (2) In case a party requires an extra copy, it shall be issued to it duly certified by the Secretary or the Authorized Officer on payment of such fee as may be determined from time to time.

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(3) Certified copies of any miscellaneous order passed by the Authority shall be supplied on payment of such fee as may be determined by the Authority from time to time.

17. **Inspection of records:-** Parties or their representatives can inspect the records of any matter by filing an application on payment of such fee as may be determined by the Authority from time to time.
18. **Filing of criminal complaint:-** Wherever a complaint is required to be filed by the Authority under sub-section (1) of section 80, it may authorize its Secretary or any other officer to file the complaint.
19. **Dismissal of frivolous or vexatious complaints:—** Where a complaint is dismissed by the Authority and it is found to be frivolous or vexatious, it may, for reasons to be recorded in writing make an order that the complainant shall pay to the opposite party such cost and compensation, as may be specified in the order.
20. **Language of the Authority:-**
- (1) The proceedings of the Authority and any Adjudicating Officer shall be conducted in English, provided that any complainant shall be allowed to plead or represent his case in Punjabi if he so desires.
- (2) The Authority may, in appropriate cases, direct translation of complaints and their accompanying documents into English from the original Punjabi.
21. **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, entry, search, seizure 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 authorize 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.
- (3) If the report or information obtained in accordance with Regulation 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.

22. Review

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- (1) Any person aggrieved by a direction, decision or order of a Member, the Authority, or an Adjudicating Officer, 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, may apply for a review of such order,

within thirty (30) 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 format prescribed in Form 1 appended to these Regulations, and be accompanied by the same fees 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.
- (4) When it appears to the Authority that there is no sufficient ground for review, the Authority shall dismiss 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.

23. **Saving of inherent power of the Authority:** - 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.
24. **Amendment of orders:-** Clerical or arithmetical mistakes in orders or errors arising therein from any accidental slip or omission may at any time be corrected by the Authority either of its own motion or on the application of any of the parties.
25. **Power to remove difficulties:-** If any difficulty arises in giving effect to any of the provisions of the Regulations, the Authority may, by general or special order, do anything not being inconsistent with the provisions of the Act or Rules, which appears to be necessary or expedient for the purpose of removing the difficulties.
26. **Extension or abridgement 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) or abridged 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. **Miscellaneous.-**

- (1) In all proceedings before the Authority or an Adjudicating Officer, the provisions of the Code of Civil Procedure, 1908, except those that are specifically mentioned in the Act, Rules, or these Regulations will not be applicable.
- (2) A complainant may either appear in person or authorize any other person to represent his case before the Authority or Adjudicating Officer 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 Authorization, in Form 2 herein.

Provided further that if such representative is a legal practitioner, he shall file a *Vakalatnama* in the prevailing format.

- (3) The fees collected for inspection of the documents and supply of certified copies shall be deposited in the Real Estate Regulatory Fund constituted under Section 75 of the Central Act no. 16 of 2016.
- (4) The Authority and any Adjudicating Officer shall endeavour to decide cases filed by or against senior citizens, persons with disabilities, and widows in an expeditious manner.

Dated the July, 2018



(Jaspal Mittal) PCS (Retd)

Secretary,
Real Estate Regulatory Authority
Punjab

Form 1 [see Regulation 22]

BEFORE THE REAL ESTATE REGULATORY AUTHORITY, PUNJAB or
THE ADJUDICATING OFFICER

Review Application no -----

..... Applicant

V/s

..... Respondents

Details of the case:

1. Particulars of order against which review is being filed:

- (i) Names of Parties
- (ii) Case number of original decision
- (iii) Date of original decision

2. Particulars of respondent(s):

- (i) Name of respondent(s)
- (ii) Office address of respondent(s)
- (iii) Address for service of notice

3. Gist of order of which review is sought (Give a brief account of the operative part of the original order).

4. Grounds on which review is sought (Give justification of how the review application falls within the purview of Regulation 22)

5. Relief sought

6. Particulars of fees paid (Give details of DD, online payment etc.)

7. List of enclosures



Verification

I ----- (name in block capitals), son/daughter/wife of -----, resident of --
----- (applicant) do hereby verify that the contents of paras 1 to 7 above are
true to my personal knowledge and belief and I have not suppressed any material fact(s).

Place:

Date:

Signature of applicant

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Form 2 [see Regulation 28]

BEFORE THE REAL ESTATE REGULATORY AUTHORITY, PUNJAB or
THE ADJUDICATING OFFICER

Complaint No. -----

..... Petitioner

V/s

..... Respondents

Memo of Authorisation

I/We, the petitioner/respondent above named do hereby nominate, appoint and constitute
....., to act, plead and appear on my/our behalf in the aforesaid matter.

IN WITNESS WHEREOF I/We have set and subscribed my/our hands to this writing on
this..... day of

Place:
Date:

Signature
(Petitioner/Respondent)

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