

## **5.The Maharashtra Housing and Area Development (Disposal of Land) Rules, 1981.**

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### **HOUSING AND SPECIAL ASSISTANCE DEPARTMENT**

**Mantralaya, Bombay 400 032, dated the 24th December 1981.\**

### **MAHARASHTRA HOUSING AND AREA DEVELOPMENT ACT, 1976.**

No. ARD. 1080/365-X – In exercise of the powers conferred by clause (viii) of sub-section (2) of section 184 read with clause (iii) to sub-section (3) of section 28 and section 64 of the Maharashtra Housing and Area Development Act, 1976 (Mah. XXVIII of 1977), and of all other powers enabling it in that behalf, the Government of Maharashtra hereby makes the following rules, the same having been previously published as required by sub-section (3) of the said section 184, namely :-

### **PART I**

#### **1. Short title and commencement.-**

(i) These rules may be called the Maharashtra Housing and Area Development (Disposal of Land) Rules, 1981.

(ii) They shall come into force at once.

**2. Definition.** - In these rules, unless the context otherwise requires,-

(a) "Act" means the Maharashtra Housing and Area Development Act, 1976 (Mah. XXVIII of 1977);

+[(aa) 'Commercial Center' means any specific area referred to as such in which Authority has constructed or proposes to construct a building or a group of buildings consisting of tenements intended to be used for a commercial purpose or any other non-residential purpose, as may be approved by the Authority;

(ab) 'Commercial tenement' means a tenement in a building constructed by the Authority in a commercial center;]

+Inserted by notification No.ARD, 1080/943-IX dated 18.11.1982.

(b) "Denotified tribe" means such tribes or tribal communities in the State as specified by the Government,

(c) "Ex-Serviceman" means a former member of the armed forces of the Union (not being a person who has ceased to be a member of the armed forces as a result of his being duly dismissed after a court martial or on account of bad character or as a result of desertion or who has been arrested);

\*[(d) "Freedom Fighter" means a person who receives pension duly granted by the Government of Maharashtra or the Government of India or who has been awarded a Tamrapatra or Sanmanpatra on account of his participation in the National Movement for emancipation of India or the next-of-kin or dependent of such person, namely, the widow or widower, father, or mother, son, daughter, grand-son, granddaughter, son's wife, grand-son's wife, widow of predeceased son or grandson;]

\*Substituted by notification No.MAH 1086/490/D.XII dated 22.5.1987.

(e) "Government" means the Government of Maharashtra;

(f) "Household income" means the income from all sources earned by a person and his or her spouse;

\*[(g) 'Journalist' means a person whose principal avocation is that of a journalist and who is employed as such in, or in relation to, any newspaper establishment, and includes an editor, a leader writer, news editor, feature writer, copy tester, reporter, correspondent, cartoonist, news photographer, proof reader and a person who contributes regularly and meaningfully on matters of public interest to renowned weeklies, magazines and periodicals as a free lancer, but does not include any such person who-

(i) is employed mainly in a managerial or administrative capacity;

or

(ii) being employed in a supervisory capacity, performs either by the nature of the duties attached to his office or by reason of the powers vested in him, functions mainly of a managerial nature;]

\* Substituted by notification No.ARD 1080/365-X dated 28.1.1982.

(h) "land appurtenant" means the land which is required to be kept open around a building, in accordance with the Development Control Rules of the concerned Planning Authority

(i) "Neo-Buddhist" means a person belonging to a Scheduled Caste. A Scheduled Tribe, a Nomadic Tribe or Denotified Tribe, who has been converted to Buddhist faith.

(j) "Nomadic Tribe" means a tribe or tribal community in Maharashtra recognized as such by Government.

(k) "Planning Authority" means, in relation to Municipal areas, the Municipal Corporation or the Municipal Council, as the case may be;

+[(kk) "Plot" means a demarcated place of vacant land in an approved layout of an area development scheme in an urban area prepared by the Board and approved by the Planning Authority and includes a developed plot with or without plinth area having all or any of the infrastructural facilities such as common roads, electricity, water supply, drainage, provided by the board];

- Inserted by notification No.ARD 1080/(1156)-IX dated 17.12.1983.

\*[(l) 'Schedule Castes' means such castes, races or tribes or parts of or groups within such castes, races or tribes as are deemed to be Scheduled Castes in relation to the State of Maharashtra under article 341 of the Constitution of India;

(m) 'Schedule Tribes' means such tribes or tribal communities or parts of, or groups within, such tribes or tribal communities as are deemed to be Scheduled Tribes in relation to the State Maharashtra under article 342 of Constitution of India residing in any part of the State of Maharashtra;]

\* Substituted by Notification No.ARD 1080/365-X dated 28.1.1982.

(n) "Vacant land" includes land which has been built upon unauthorisedly but excludes land appurtenant;

(o) Words, expressions used in these rules but not defined therein shall have the same meaning respectively assigned to them in the Act.

## **PART II DISPOSAL OF VACANT LANDS**

**3.Publication of list of vacant lands available for disposal.** - At the commencement of every financial year the Authority shall publish, on notice boards of all its offices, a complete list of every vacant land together with its location map available for disposal during the course of the financial year.

### **4.Disposal in accordance with area development schemes and layouts:-**

(1) Where the Authority has acquired vacant lands for the purpose of development of existing urban areas to ensure

an orderly urban development, the Boards shall prepare a detailed area development scheme and after obtaining the approval to the layout from the appropriate planning Authority shall obtain administrative approval to the scheme from the Authority.

(2) The Authority shall, while according approval to a scheme, give directive to the Board about the manner of

disposal of the vacant lands or plots therein, and may reserve to itself, for reasons to be recorded, the right to dispose of any vacant land or plot in the scheme.

(3) The disposal of vacant lands under these rules shall be in accordance with area development scheme and the layout so approved.

### **5.Disposal of land by lease:-**

(1)\*[Subject to the provisions of rule 5A and except for the purpose] of raising loans, the vacant lands shall ordinarily be disposed of by a grant of lease.

(2)Subject the directions given by the Authority from time to time, the Chief Officer, may dispose of any vacant land or plot reserved for residential use in the approved schemes, by a lease to be granted in consideration of premium or rent or both for a term not exceeding 90 years and in the manner prescribed in the regulations to be made by the Authority for the purpose.

(3)The premium and lease rent to be charged shall be worked out in a manner to be laid down by the

Authority in its regulations or by charging lease rent on the market value at a rate to be decided by the Authority.

\* Substituted for the words "Except for the purpose" by Notification No.ADL-1085/1706/D-X dated 15.4.1986.

**Transfer of land not required for purpose of authority, to original owner. -**

**+ [5A]** Notwithstanding anything contained in rule 5 or any other rule of these rules, the authority may, with the previous sanction of the State Government, and on such terms and conditions as it may deem fit, transfer by conveyance land or any part thereof acquired by the State Government under section 41 of the Act and made available to it under Sub-section (3) of section 42 thereof, to the original owner of the land, if such land or any part thereof is not required by the authority for the purpose of the execution of any of its schemes.]

+Inserted by Notification No.ADL – 1085/1706/D-X/dated 15-4-1986.

**6.Concessions to Schools etc. -** The Authority may dispose of vacant land at a concessional rate of premium and lease rent or of lease rent, as the case may be, for any of the following purposes, namely:-

- (a) Educational Institutions,
- (b) Hospitals or dispensaries,
- (c) Gymnasiums,
- (d) Play-grounds,
- (e) Institutions for the blind, dumb, deaf or for persons physically or mentally handicapped in any other manner as decided by the Authority,
- (f) any other public purpose subject to the approval of the Government:

Provided that, the Authority shall satisfy itself, for the reasons to be recorded in writing, the lease shall provide the amenity in a manner which subserves the common good and will not exploit it for profit:

Provided further that, the institutions are open to all persons without restrictions on grounds of religion, caste, creed or place of residence.

**7.Concessions for residential use, -**

(1) The Authority may also dispose of vacant land for residential purposes to individuals or to co-operative housing societies at concessional rates of premium and lease rent or of lease rent regard being had to the total household income, percentage of expenditure on food and clothing in the total consumption expenditure of the household and the likely surplus which the individual or the member of the co-operative housing society would be able to set apart for housing.

(2) The Authority shall, by regulations, formulate groups in which every person can be classified on the basis of the factors enumerated in sub-rule(1) and prescribe rates of concessions admissible to each of such groups.

**8.Disposal of Land for industrial and Commercial purposes. -** The disposal of vacant land for industrial or commercial purpose shall be strictly in accordance with the approved layout and subject to the provisions of any other law for the time being in force governing the setting up of new industrial or commercial establishment:

Provided that, the restrictions of the approved layout shall not apply to the lease of vacant land for a short period not exceeding three months, for the purposes of a fair, exhibition, circus, drama and festival.

**9.Disposal of land for religious purposes. –** No vacant land shall be leased by the Authority for a religious purpose except with the previous sanction of the State Government.

**10.Power of the Authority to permit laying of water mains in or over its lands.-**

(1) The Authority may permit the laying of water mains, pipes and underground cables and construction of cess-pools, through, on, over or underneath any land vested in the Authority on payment of an annual sum (rent) not exceeding five per cent of the market value of the land occupied for the purpose.

(2) The Authority may permit the erection of poles, towers, stayrods or stayrails for overhead cables on its lands on payment of annual rent at the rate of twenty-five paise per pole and fifty paise per tower, stayrod or stayrail.

### PART III DISPOSAL OF TENEMENTS

### **11.Manner of disposal of +[ ] tenements in buildings constructed by the Authority.-**

\*[(1) The Authority may dispose of –

(a) residential tenements in the building constructed by it on any of the following basis namely:-

- (i) out-right sale,
- (ii) hire-purchase,
- (iii) rental; and

(b) Commercial tenements in the building constructed by it by outright sale.]

(2) The Authority shall lay down the manner in which the sale price, the hire purchase installment or the rent is to be determined.

+ The word 'residential' deleted, and \* Substituted by notification No.ARD.1080/943 – IX dated 18.11.1982.

### **12.All disposal to be by public notice.**

+[(1)] As soon as any residential tenements in a scheme are ready for disposal, either on account of new construction, completed or proposed, or on account of vacancies caused in the existing tenements, the Authority shall invite applications by a notice to be published in a manner laid down by the Authority :

\*[Provided that such a notice may not be published if there is in force a waiting list of applicants for that scheme in respect of the same group of tenements prepared in pursuance of the provisions in the regulations made in that behalf.]

#[(2) As soon as any commercial tenements are ready for disposal, either on account of new construction, or development of a commercial centre, completed or proposed, or on account of vacancies caused in the existing tenements, the Authority shall invite tenders by a notice to be published in a manner laid down by the Authority.]

+ Renumbered as sub-rule(1) and #Sub-rule (2) inserted by Notification No.ARD 1080/943-IX dated 18.11.1982 \*Proviso substituted by Notification No.1083/(1297/IX dated 22.10.1984.

## **PART - IV MISCELLANEOUS**

### **13.Reservation of tenements.-**

+[(1)] In respect of every group of tenements, or plots of Vacant Land in a layout to be disposed of for residential use, the Authority shall reserve, for the following categories of persons, tenements / plots in the percentages shows against them:-

#### **Category**

*[(1)	Scheduled Castes including Neo-Buddhist	.. 11%
(1-a)	Scheduled Tribes	.. 6%
(1-b)	Nomadic Tribes	.. 1.1/2%
(1-c)	Denotified Tribes	.. 1.1/2%]
(2)	Journalists	.. 2.5%
(3)	Freedom Fighters	.. 2.5%
(4)	Blind or physically handicapped persons or person in absolute need of accommodation on health ground.	.. 2%
(5)	Families or Defence personnel and personnel of Border Security force, who have been killed, disabled or declared missing in 1962 Sino-Indian Conflict, or in 1965 or 1971 indo-Pak Conflict, in any combat thereafter.	.. 2%
(6)	Ex-Servicemen and their Dependents	.. 5%
(7)	All sitting and ex-members of Parliament Assembly or Council,representing constituencies in Maharashtra	.. 2%

(8)	Employees of the Authority	.. 2%
(9)	State Government Servants and employees of the Statutory Boards,Corporations, etc.(except the Maharashtra Housing and Area Development Authority) under the State Govt.including those who have already retired.	.. 5%
(10)	Central Government Servants occupying Staff quarters and due for retirement within three years or those who have already retired.	.. 2%
#[(11)	Artists in Film,Television,Drama, Tamasha,or Radio and also all other persons engaged in performing arts, including painters, sculptors, craftsmen, musicians (both vocal and instrumental),dancers, poets, kawals or mimics]	.. 2%

\$(Provided that,-

(a)If sufficient number of applications are not received from the persons belonging to any of the categories (1), (1-a), (1-b),and (1-c), the applications from persons belonging to any of the other said four categories shall be considered for the reservation;

(b)If sufficient number of applications are not received from the persons belonging to category (5), the applications from persons belonging to category (6) shall be considered for the said reservations;

(c)If sufficient number of applications are not received from the persons belonging to any of the reserved categories, other than those mentioned in clause (a) above, tenements or plots reserved for such categories remaining unallotted may be released for allotment to persons belonging to the general category. The tenements or plots reserved for categories (1), (1-a), (1-b) and (1-c) shall not however, be released for allotment to persons belonging to the general category subject to the provision of clause (a) above to persons belonging to any other reserved category, without the approval of Government.]

Provided further that, the reservation made for persons belonging to category (7) shall be subject to the following conditions, namely:-

(a) A person shall be entitled to get one tenement or plot at any place in the State.

(b) He shall not be in possession of a tenement or plot on ownership basis, hire purchase basis or rental basis at a place where he desires to have a tenement constructed by the Authority, or a plot.

If he already possess from Government or Authority a tenement or a plot either on rental or on leave and licence basis, he shall have to surrender the said tenement(s) to the Government or the Authority, as the case may be.

He shall not be eligible to get accommodation in the M.L.As. Hostel either at Bombay or at Nagpur if he secures a tenement from the Authority at that place or has already constructed a house on a plot secured at that place from the Authority:

(d) Provided further that, the eligibility of a person for inclusion in category (ii) shall be decided by the Cultural Affairs Department of the Government and the eligibility of persons for inclusion in any other category shall be decided in the manner laid down by the Authority.

\$(2) Notwithstanding anything contained in sub-rule (i) the Authority shall not be required to reserve any tenements or plots for the categories of persons mentioned at serial numbers (2) to (11) in respect of tenements or plots to be disposed of in pursuance of any Urban Development Project assisted by the World Bank.]

+Renumbered as Sub-rule (1), and \*Entries Substituted by Notification No.ARD 1083/(1297)/IX dated 22.10.1984 \*Substituted by notification No.ARD 1080/943/IX dated 29.3.1984.

\$Proviso substituted by Notification by Notification No.ARD 1083/ (1297) / IX dated 22.10.1984

\$Inserted by Notification No. ARD 1083/(1297)/IX dated 22.10.1984.

(3) In respect of every group of tenements or plots of vacant land in a lay out to be disposed off for the commercial use, the Authority shall reserve 20 per cent tenements or plots for the persons specified in categories (1),(1a),(1-b) and (1-c) of sub-rule(1) in the percentage shown against them and the same shall be disposed off by inviting tenders from the categories of the said person :

Provided that, if sufficient number of applications are not received from the persons belonging to any of the categories, the same may, subject to approval of Government, be released for allotment for the person belonging to the general category"

**14.Drawal of lots and preparation of +[waiting list for residential tenements/plots] –**

In case more applications are received than \*[the residential tenements/plots] available for disposal for any of the reservation or for the unreserved category, #[the allotment of such tenements/plots] shall be decided by drawal of lots and a waiting list shall be prepared in the manner laid down by the Authority.

+Substituted for the words "waiting list" \*Substituted for the words "the tenements/plots", and

#Substituted for the words "the allotment of tenements" by Notification No.ARD. 1080/943-IX. dated 18.11.1982.

**+ [15]. Disposal of amenity tenements.**

(1) Tenements in building constructed by the Authority exclusively for providing amenities, such as school, post office, Police station, hospital, shop and such like purpose for the benefit primarily of residents of a housing colony and the tenements reserved for providing such amenities in commercial centers shall be disposed of by the Authority by out-right sale.

(2) Tenements reserved for providing amenities of the type referred to in sub-rule (1) of this rule in buildings constructed by the Authority for residential purposes shall be disposed of by it either by lease or by out-right sale.

(3) Where the amenity tenements are proposed to be disposed of by the Authority on out-right sale as provided in sub-rule (1) or sub-rule (2) of this rule, the purchases price therefore shall be;-

in the case of tenements providing public or essential services such as school, post office,  
(a) police station, hospital and such other like noncommercial purpose, as may, having regard to its general pricing policy, be determined by the Authority; and

(b) in the case of tenements providing amenities of a commercial nature, as may be determined by the Authority on the basis of tenders invited for the purpose.

(4) Where the purchaser of an amenity tenement is Government, a local authority, or a public sector undertaking the Authority may, if it considers so necessary, allow the purchase price to be paid in more than one installment, subject to such terms and conditions as may be deemed fit by it in that behalf.

(5) (a) When amenity tenements are proposed to be disposed of by the Authority by lease, the premium to be charged therefore shall-

in the case of tenements providing public or essential services of the type referred to in clause  
(i) (a) of sub-rule (3) of this rule, be worked out in the manner provided in sub-rule (3) of rule 5 of these rules; and

(ii) in the case of tenements providing amenities of a commercial nature, be determined on the basis of tenders invited for the purpose;

(b)The lease rent to be charged in such case shall be at a rate to be decided by the Authority.

(6) The procedure prescribed for the disposal of commercial tenements shall apply, mutatis mutandis, when the amenity tenements are proposed to be disposed of or the premium in respect of which is proposed to be determined on the basis of invitation of tenders.]

+ Substituted by Notification No.ARD 1080/943-IX dated 18.11.1982.

**+ [16. Disposal of land under building. –** The land underneath a building including a building comprising single storied tenements, constructed by the Board and disposed of on an out-right sale basis or hire purchase basis together with the land appurtenant thereto, shall, subject to any directions issued by the Authority from time to time, be conveyed by lease to the person purchasing the building or the single storied tenement, as the case may be, or to a co-operative society, company or an association of apartment owners formed by the occupants of the building.]

+ Substituted by Notification No.ARD 1083/(1156)-IX, date 17.12.1983.

**+ [16-A Disposal of amenity and Commercial tenements on hire purchase basis in certain circumstances, -** Notwithstanding anything contained in any of the foregoing rules or in any of the regulations made thereunder, if after notifying and renotifying the tenements for disposal in accordance with the provisions of the foregoing rules or regulations made there under the Chief Officer finds that all or any of the amenity tenements or Commercial tenements in a building cannot be disposed of on out-right sale basis, such of the tenements as cannot be so disposed of may, with the approval of the Authority be disposed of on hire purchase basis. The amount of deposit or earnest money or both, the period of hire-purchase, and the amount of hire purchase, and the amount of hire purchase installment shall be such as might be determined by the Authority from time to time. The tenders shall be invited and considered for the disposal of such tenements on hire purchase basis in the same manner they are invited and considered for the disposal of tenements on out-right sale basis.

**16-B Special provisions for disposal of tenements in certain circumstances. –** If, after following the procedure prescribed in the foregoing rules or the Regulations made there under, it is found that there is no adequate response and demand for tenements in any particular scheme, such of the tenements as cannot be so disposed of may be disposed of in any other manner deemed fit by the Authority.]

+Inserted by Notification No.ARD 1083/(1297)/IX dated 22-10-1984.

**17.Regulations to be made by Authority –** The Authority may with the previous sanction of the State Government, make such supplemental regulations, not inconsistent with the provisions of the Act or these rules, as are considered necessary by it for the proper implementation of these rules, and especially for -

- (1) Matters in respect of which the foregoing provisions of these rules require the Authority to make regulations;
- (2) Housing Schemes;
- (3) All matters pertaining to allotment of tenements, formation of Co-operative Societies, Companies or Association of apartment owners formed by the occupants of the Authority's tenements;
- (4) Transfer of tenancies.

By order and in the name of Governor of Maharashtra.