

CO-OPERATIVE HOUSING SOCIETY

QUESTIONS AND ANSWERS

(Solutions of Frequently asked
Questions)

- COMPILED BY-

Co-operation Commissionerate, Maharashtra Pune.

CO-OPERATIVE HOUSING SOCIETIES

DOUBTS AND SOLUTIONS (Solution to the frequently asked Questions)

These questions and answers is a broad guidance relating to the general situation. Therefore it should not be presume in any way as a final decision of the co-operation department to a particular problem in your society. It is also explicated here that is would be proper to take decision by adopting prescribed procedure according to provisions under law and bye laws.

Co-operation Commissionorate,
Co-operative Societies, Maharashtra State, Pune.

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QUESTION -ANSWERS

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1. REGISTRATION OF HOUSING SOCIETY

Q. 1. How to register the society and which documents required for it?

Ans.: It is obligatory to apply for co-operative society or Association of Apartment within four months from the taking possession of flats by holders, necessary for forming the co-operative society or Association of Apartment according to provisions mentioned under section 10 of the Maharashtra Ownership Flat Act 1963 and rule 8 of Rules 1964 there under. While taking into consideration of these provisions it is necessary to make an application for getting permission for opening bank account by keeping the name of the proposed society reserve by the builder/promoters/chief promoter to the Registrar, co-operative societies in the concerned. It is necessary to make selection of the chief promoter in the primary meeting of the members. If not desire to work as Chief Promoter for some reason than in such situation, any member from the flat holder can be selected as a Chief Promoter. However while submitting proposal it is necessary to submit consent letter that builder promoters are ready to co-operate for the work of registering the society. Following papers are necessary for submitting the proposal for getting permission for opening the bank account.

1. Application for opening the bank account by reserving the name of the proposed society in the prescribed format. (On adhesive court fee stamp of Rs.2/-)
2. Copy of the minutes of primary meeting (in the prescribed format)
3. Photo copy of the sell deed/development agreement executed between the original owner of the land and builder promoter.
4. Photo copy of the 7/12 extract or the property registered card.
5. Photo copy of the power of attorney if given to the builder, promoter by the original owner.
6. Copy of the order form competent office under Urban Land Ceiling Act 1976.
7. Detailed scheme of the proposed society and its nature
8. List of the proposed members.

It is necessary to submit the proposal for official registration within three months of the date of getting permission for opening bank account by reserving the name of the proposed society for registration. If for some inevitable reasons, it was not possible to submit the registration proposal in the prescribed time limit then it is necessary to submit an application for extension of time limit for submitting the proposal of registration by the Chief Promoter.

In case of registration, the chief promoter should have to submit following documents:-

1. Application for registration in the prescribed format under rule 4(1) of the Maharashtra Co-operative Societies Rules 1961-Form A (Annexure A)

If the number of galas mentioned in the application submitted for registration is more than 10 then inclusion of promoter members for 60 per cent galas out of the total galas built or to be built in the said application. Otherwise, by preserving such proposal as immature, it is denied for registration. It is necessary that 60 per cent members out of the total members included in the application for registration should have to sign be their name. It is necessary that 10 members of the different families (Definition of the family) includes mother, father, son, husband, wife, unmarried daughter). Similarly minimum 10 members should be the residence in the jurisdiction of the society. As per prevalent policy of the government even less than 10 member's society can be formed. However in such proposals the carpet area of each gala should not be more than 700 sq. ft. Similarly it is also necessary to ensured that the entire F.S.I to be available as per prevalent constructions rules has been used and there is no possibility of additional construction work.

2. Form-B : Information of proposed society (In prescribed format)
3. Form-C : Information of Promoter Members
4. Form-D : Accounts statement (In prescribed format)
5. Detailed scheme of the proposed societies and its nature.
6. Balance statement of saving accounts in the Pune District Central Co-operative Bank (Share Capital of Rs.500 and in addition Admission fee of Rs.100/- of each promoter member and its total amount)
7. Original chalan of payment of Rs.25,00/- as a co-operative housing societies registration fee paid in the Government Tresury.
8. A photo copy of the sell deed or Development agreement executed between original land owner and builder/promoters.
9. Photo copy of the 7/12 extract or property registration card.
10. Photo copy of the Power of Attorney given to the builder promoters by the original land lord.
11. Photo copy of the NOC from the Charity Commissioner if the land is of Public Trust.
12. A photo copy of the land search report or title certificate from the advocate.
13. Photo copy of the order issued by the competent officer under Urban Land Ceiling Act.
14. True copy of the construction lay out approved by the Municipal Corporation.

15. Photo copy of the permission for commencing construction or of completion certificate issued by the Municipal Corporation.
16. Architect certificate endorsing to the construction of the building of the proposed society.
17. Minimum 10 persons affidavit on the stamp paper of Rs.20 (individual) regarding they are residence in the jurisdiction of the society and there is no residential house, open plot in their name or in the name of the other persons in the family depend on them in the jurisdiction of the society. (Affidavit should be made before the competent officer)
18. Guarantee letter of the Chief Promoter on the stamp paper of Rs.20/- in the prescribed format registered before the competent officer.
19. Guarantee letter of the builder promoters on the stamp paper of Rs.20/- in the prescribed format 'Z' registered before the competent officer and in accordance with that information in A B C D Table.

Table A : number of gala sale, name to whom it sale, area of the gala and its price.

Table B : number of gala not sold and its area.

Table C : Name of the person to whom the gala was sold and total amount received from him.

Table D : Details of the expenditure, name of the person to him gala was sold, amount of the share capital, amount of the admission fee and price of the gala.

20. A photo copy of the registered agreement executed between the builder promoters and gala holder.
21. A photo copy of the receipt of the payment made in respect of the registration fee of the gala and stamp duty of the promoter members mentioned in the application made for registration.
22. The signature of the minimum 10 promoter members at the end of model bye laws no 175 is necessary.

Q. 2. What are the types of Co-operative Housing Societies?

Ans. Classification of Co-operative Housing Societies is made in the Maharashtra Co-operative Societies Act 1960 and rule 10 of Rules 1961.

1. Tenant Ownership Co-operative Housing Society in which land is holding on lease or independently. Houses are also own by the members.
2. Tenant Joint Ownership Co-operative Housing Society in which land and houses are owned by the society and house are allotted to the members.
3. Other Co-operative Housing Societies-House Mortgage-age Society-House building Society.

Q. 3. What are the main objects of formation of a Society?

Ans.: The main objects of the formation of a Housing Society are as under:

1. To obtain conveyance from the owner/Promoter (Builder), in accordance with the provisions of the Ownership Flats Act and the Rules made there under, of the right, title and interest, in the land with building/buildings thereon as described in the application for registration of the Society;
2. To manage, maintain and administer the property of the society;
3. To raise funds for achieving the objects of the society;
4. To undertake and provide, for on its own account or jointly with cooperative institution, social cultural or re-creative activities;
5. To do all things, necessary or expedient for the attainment of the objects of the society, as specified in the bye-laws.

Q. 4. What is the Area of Operation of the Society?

Ans.: The Area of Operation of the Society is confined to the area in which it is located. The Society has to specify its Area of Operation in its Bye-laws while submitting its bye-laws for approval before the Registering Authority during the registration of the Society. For the societies in Brihan Mumbai, they have to insert the City Survey Number/Gat Number and Ward in its Bye-laws. For the societies located at other places, they have to insert the City Survey Number/Gat Number and Municipal Corporation/City/Village, Taluka and District.

Q. 5. Who is a Chief Promoter?

Ans.: The term Chief Promoter is defined in the Bye-laws under Bye-law No. 3(iii). A "Chief Promoter" is a person who is elected by the Promoters, in their first meeting, or in their subsequent meetings in case the post of the Chief Promoter lies vacant, till the first general meeting of the Society.

Q. 6. Who is a Promoter?

Ans.: The term Promoter is defined under Bye-law No. 3(xii) of the Model Bye-laws of the Society. A “Promoter” is a person, who signs the application for registration of the Society before the Registering Authority.

Q. 7. What do you mean by the term Builder-Promoter?

Ans.: The term Builder-Promoter is defined under the Bye-law No. 3(xiii) of the Model Bye-laws of the Society. A “Builder- Promoter” means a person who constructs or causes to be constructed a block or building of flats or apartments for the purpose of selling some or all of them to other persons, or to a Company, Co-operative Society or other Association of Persons, and includes his assignees; and where the person who builds and the person who sells are different persons, the term includes both. For example, where the land owner gives the development rights of his plot to any other builder for constructing the building of the Society, the land owner and the builder both will be clubbed under the term Builder-Promoter.

Q.8. Minimum how many promoter members are to be participated in the society registration proposal?

Ans.: If the building is built by the Builder and Developer than 60 per cent purchaser or promoter should be participated in the registration proposal

Q.9. Minimum how many promoters’ sign are required on the registration proposal?

Ans.: Sign of sixty per cent promoters/who participated in the registration proposal are necessary.

Q. 10. Whether the registration of the building having less than 10 flats is made?

Ans.: Subject to the following orders the society having less than 10 members can found the only condition is that the built up area of each flat should not be more than 700 sq. ft. and the F.S.I. should not be balanced.

Q. 11. What are the alternations if builder is not co.-operating for forming co. operative society?

Ans.: In such situation, the chief promoter of the society should submit the registration proposal to the concerned registrar in the category of builders' non-co-operation.

Q. 12. What is the registration fee for registering co-operative housing society?

Ans.: It is necessary to pay the registration fee at the rate, prescribed by the government time to time. At present the rate of the registration fee is as under:

Co-owner/Ownership/Co. operative Housing Society	Rs. 2,500/-
Other (general) Co. Operative societies	Rs. 2,500/-

Q. 13. When the condition of minimum 20 percent backward class member is applied while registering the co. operative housing societies?

Ans.: The said condition is applicable if the Authority who gave the financial assistant or land to the society laid down such condition.

Q. 14. Is it necessary that the promoters of the society have to make an application to chief promoter for membership before registration of society?

Ans.: Yes, if an application of membership is made before registration of society, then it would be feasible to the chief promoter to take sign on the "Y" form which is to be submitted to the registrar with the proposal of registration and to give its receipt.

Q. 15. What are the measures to be adopted if the chief promoters did not deposited the amount of the share capital collected by the Chief Promoter in the bank?

Ans.: The said act of the Chief Promoter can become the offence under section 146 of the Maharashtra Co. Operative Societies Act, 1960. Similarly prosecution may be file in the competent court against the chief promoter with the consent of the concerned Divisional Joint Registrar.

Q. 16. What are the remedies to be adopted if some person collected money on account of share capital from the proposal members in the name of registration of society by providing false information?

Ans.: It is a sort of offence under section 146 of the Maharashtra Co-operative societies ACT 1960. Prosecution can be filed against such person by making formed application to the concerned Divisional Joint Registrar and with his consent.

Q.17. Is the chief promoters have rights to withdraw money deposited in the bank in the name of proposal society?

Ans.: The chief promoter no such rights. The chief promoter has a right to withdraw money before registration of society and with the prior consent of the registrar.

Q. 18. If the registrar has not given his decision on the registration proposal within the period of two months then what is alternative on its?

Ans.: If the Registrar has not given his decision on the proposal of registration within the period of two months then the proposed should be submitted to the Sr. Officer within the 15 days of expiry of the two months period. If the Sr. officer has not given decision on this registration proposed within two months period, then it is presumed that deemed registration is executed under the provisions in the Maharashtra co. operative societies Act.

Q.19. What are the remedies if the proposed of societies registration is denied?

Ans.: Divisional Joint Registrar, Co-operative Societies under section 152 of the Maharashtra Co. operative societies Act.

Q.20. When the builder was not registering society then can the flat/ gala owner register the society on their own? How it could be register?

Ans.: If builder promoters has not taken action for registering co. operative society in the prescribed time limit determined under section 10 of the Maharashtra Ownership Flat Act 1963 and under rule 8 of Rules 1964 made there under, then the registration of housing societies can be made without the co. operative of the builder/promoters. For this it is necessary that the gala owners should have to give notice as per conditions of agreement which is executed under section 4 of the Maharashtra Ownership Flat Act 1963 with Builder, Promoter, for forming co. operative society or association of Apartment.

In this notice it be note clearly that if builder, Promoter has not taken action for forming co. operative society in stipulated period, than further action for forming co. operative housing society will be done directly on the level of registrar, co. operative societies.

If builder promoters are not giving co. operation for registering co. operative housing society then in such situation, the gala holders should have to call primary meeting and select chief promoter. Thereafter they can seek permission to the registrar, co. operative societies for opening bank account by reserving the name of the proposed society for registration. It is necessary to submit a copy of the notice issued to the builder/promoter for formation of the society with other documents. When builder promoters not co. operative for forming co. operative society then the opportunity is given to the builder promoters and chief promoter of the proposed society (among the gala holder) to present their side and then only the following decision is taken On such proposal

If building promoter are not co-operating for registration of society, then in the cases of registration the document no. 8, 9, 10, 11, 12, 13, 14, 15, of the document mention above could not be available the zerox copies of the said document can be available through the financial agencies if the gala holder have taken loan for galas. Hon'ble commissioner, co-operation and Registrar, Co-operative Societies, Maharashtra State, Pune has given decision that in the case of registration of society without co-operation of builder, if the above mentioned documents are not necessary for registration of society. The copy of the agreement executed with builder promoter shall be assumed. Similarly policy is decided that the chief promoter shall submit accusation certificate issued by the BMC and receipts of the taxes charged. Similarly in such cases the certificate from Architect and guarantee bond of builder promoter cannot be available. Instead of that following document are necessary for submission.

1. Application in format VI as per provision in the Maharashtra ownership Flat Act 1963 and rules 1964 and to stick the court fee stamp of Rs. 1000/- on it.
2. Guarantee bond the stamp paper of Rs. 20/- in format of the chief promoter registered before competed authority.
3. Affidavit on the stamp paper of Rs. 20/- of the chief promoter in prescribed format registered before the competent authority and relevant to it the details of the gala no. name of the purchaser, are of the gala, price of the gala, and the amount given to the builder promoters for registering the co-operative housing society in Appendix A is necessary.
4. Indemnity bond on the stamp paper of Rs. 200/- in the prescribed format registered by all gala holders before competent authority.

5. Zerox copy of the bill issued by the Municipal Corporation to each gala holder for charging tax.

2. TO MAKE CHANGES IN NAME AND ADDRESS OF THE SOCIETY

Q.21. What is the procedure for changing the name of the Society?

Ans.: The Society has to follow the procedure which is laid down under Section 15 of the Act and Rule 14 of the Rules for changing its name. Section 15 and Rule 14 are reproduced hereunder:

Section 15: Change of Name:

- (1) A Society may, by resolution passed at a General Meeting and with the approval of the Registrar, change its name; but such change shall not affect any right or obligation of the Society, or of any of its members, or past members, or deceased members; and any legal proceedings pending before any person, authority or Court may be continued by or against the Society, under its new name.
- (2) Where a Society changes its name, the Registrar shall enter the new name in its place in the register of Societies and shall also amend the certificate of registration accordingly.

Rule 14: Change in name of Society:

- (1) The name of a Society may be changed under Section 15 so howsoever that it does not refer to any caste or religious denomination and is not inconsistent with the objects of the Society.
- (2) Every change in the name of a Society shall be made by an amendment of its Bye-laws and shall be notified in the Official Gazette.
- (3) After the change in the name is approved by the Registrar, the Society shall send the original registration certificate for amendment to the Registrar, who shall return the same to the Society duly amended.
- (4) The registrar shall enter the new name in the register of Societies maintained by him.

Q.22. What is the procedure for changing the address of the society?

Ans.: For the change in the registered address of the Society, it has to follow the procedure as laid down under Rule 31 of the Maharashtra Co-operative Societies Rules of 1961. Rule 31 of the Rules are reproduced as under:

Rule 31: Procedure for change of address of Societies:

- (1) Every Society shall communicate in writing to the Registrar its postal address as indicated in its Bye-laws registered under the Act and wherever applicable mention the name of the District, Taluka, Tahsil, Town or Village, Municipal Ward or Mohalla, Street, House Number and Postal Circle. While communicating the postal address of the Society, the Committee of the Society shall also send a copy of the resolution passed by it for adoption of the address communicated to the registrar.
- (2) On receipt of the Communication from the Society under Sub-Rule 1, the Registrar shall register the address communicated by the Society in a register to be maintained for that purpose and inform the Society of such registration.
- (3) Every change in its registered address shall be communicated by the Society to the Registrar in the manner laid down in Sub-Rule 1. Any such change shall not be treated as registered unless:
 - i. It is indicated in the Bye-laws by amending them and the amendment so made is registered under the Act, and
 - ii. The change is registered in the manner laid down in Sub-Rule 2.
- (4) The registered address of a Society or such change therein as may be registered, from time to time, shall be exhibited on the notice board of the Society, immediately after registration.

Q.23. Within how many days has the change in the registered address of the Society to be intimated to the Registering Authority?

Ans.: The Society has to intimate the Registering Authority and all others concerned about any change in the registered address of the society within 30 days of such change.

3. REGISTRATION / DE-REGISTRATION OF THE SOCIETY.

Q.24. Under which section of the co-operation Act and in which situation the deregistration of society made?

Ans.: Under section 21 (A) of the Maharashtra co-operative housing society Act 1960, the society can be deregistered. If the society is registered under following situation:-

- 1) Registrar by giving false information
- 2) Work of the society not completed.
- 3) Purpose of not server for which it was format.

Q.25. In which circumstances the registration of the co-operative housing societies becomes cancelled?

Ans.: Under section 21 of the Maharashtra co-operative society Act 1960, the registration of the society becomes cancelled in the following situation.

1. If the society transferred its all property and dues to another society
2. If the society is amalgamate with another society.
3. If the society is divided in two or more part.
4. If the liquidation procedure of the society under section 109 of the Maharashtra co-operation society Act 1960 is completed.

Q.26. What is the advantage of registration of a Society?

Ans.: The registration of a Society renders it to be a body corporate by the name under which it is registered, with perpetual succession and common seal and with power to acquire, hold and dispose of the property, to enter into contracts and other legal proceedings and do all such things as are necessary for the purpose for which it is constituted.

Q.27. How will the Common Seal of a Society be used?

Ans.: The Common Seal of the Society has to be kept in the custody of the Secretary of the society and has to be used under the authority by means of a resolution of the Committee and the deeds of conveyance, share certificate or any other documents, to which the seal is

affixed on behalf of the Society, which shall be attested by the Chairman, the Secretary and one member of the committee, authorized by the committee in that behalf.

4. POWERS OF THE MANAGING COMMITTEE / CHAIRMAN AND DUTIES OF THE SECRETARY

Q.28. What is the Power of the Chairman of the society?

Ans.: The Chairman of the Society shall have the power of overall superintendence, control and guidance in respect of management of the affairs of the society, within the frame work of the MCS Act. 1960, MCS Rule, 1961 the rules and the bye-laws of the society. In case of any emergency, the Chairman of the society may be competent to exercise any of the powers of the committee. However, while doing so he shall record the reasons there of in writing. Any decision, so taken by the chairman of the society shall, be got ratified in the next meeting of the committee.

Q.29. What is the Function of Secretary of the society?

Ans.: The Function of the secretary of the society shall be those mentioned below:

1. To issue share certificates to members within the stipulated period and the prescribed manner.
2. To deal with resignations from members, including associate and nominal members.
3. To enter nominations and revocations thereof in the Nomination Register.
4. To inspect the property of the society.
5. To issue notices regarding repairs to be carried out in flats.
6. To deal with cases of expulsion of members.
7. To deal with cases of cessation of membership, including associate and nominal membership.
8. To deal with the applications for various purposes received by the society.
9. To prepare and issue demand notices/bills for payment of the society's charges.
10. To bring cases of defaults in payment of the society's charges to the notice of the Committee.
11. To issue letter of allotment of flats.
12. To issue notices and agenda of all meetings of the general body.
13. To record the minutes of all the meetings of the body.
14. To call the first meeting of the newly constituted Committee.
15. To issue notices of all the meetings of the Committee.

16. To attend meetings of the Committee and to record minutes thereof.
17. To maintain account books, register and other records, unless otherwise decided by the Committee.
18. To finalize account of the society in the required manner.
19. To produce records of the society before different authorities concerned with the working of the society with the consent of the Chairman.
20. To prepare the audit rectification reports in respect of audit memos received from the Statutory and Internal Auditors.
21. To bring breaches of the bye-laws by the members to their notices under instructions from the committee.
22. To discharge such other functions under the MCS Act, 1960 the MCS Rules 1961 and the Bye-laws of the society and directions of the Committee and the general body meetings, as are not expressly mentioned hereinabove.
23. To place the complaint application with facts, before the Committee, in the coming meeting.

Q. 30. What is the Powers and function of the Committee?

Ans.: Subject to the Bye-laws 113, the committee shall exercise the power and discharge the functions and duties as mentioned hereunder:

1. To consider acceptance of deposits from members and rising of funds.
2. To consider and recommend to the meeting of the general body, the rates of contribution of the Repairs and Maintenance Fund and the Sinking Fund.
3. To consider all matters relating to the creation, investment and utilization of the Repairs and Maintenance Fund, Reserve Fund and Sinking Fund.
4. To consider and decide the resignations received from members, associate members & nominal members.
5. To ensure that nominations and revocations thereof are recorded in the minutes of the meetings of the Committee.
6. To take action on the report of the Secretary on inspection of the flats.
7. To take action on cases of cessation of membership, including associate and nominal membership.
8. To consider and decide the applications for various purposes received by the Society.
9. To consider and decide cases of refund of shares & interest in the capital/property of the Society where the shares and interest in the capital/property are acquired by the society.

10. To fix the rate of insurance premium in respect of commercial use of flats.
11. To fix in respect of every flat the society's charges on the basis of the proportion laid down under the bye-laws 69(a).
12. To review the position of recovery of the charges due to the society from the members and to initiate action against defaulting members.
13. To verify compliance of the provisions relating to charging of interest on defaulted charges of the society.
14. To authorize a member of the committee to attest deed of conveyance, share certificates and any other documents to which the seal of the society is affixed.
15. To issue letters of allotment of flats to those who have purchased flats from the Promoter (Builder).
16. To make available papers of the society for perusal if asked for by the members
17. To ensure holding of every annual meeting of the general body within the prescribed period.
18. To ensure that all matters required to be considered at an annual meeting of the general body is kept on the agenda of the meeting.
19. To call a special meeting of the general body when required.
20. To arrange for election of a new Committee prior to the expiry of the period of the existing committee.
21. To ensure that after elections new committee is duly constituted.
22. To elect office-bearers of the society.
23. To ensure that a meeting of the committee is held once in a month.
24. To fill in vacancies of the Committee.
25. To consider resignation of a member of the Committee.
26. To consider resignation of an office bearer of the society.
27. To obtain securities from the paid employees of the society.
28. To approve the audit rectification reports of statutory and internal audits and to forward them to the authorities concerned.
29. To execute deed of conveyance of the land and building / buildings thereon.
30. To take steps to maintain the property of the society in good condition and to carry out repairs to it & renewals thereof.
31. To insure the property of the society.
32. To suggest to the general body meeting the rates of penalties for breaches of bye-laws and to issue show cause notices.
33. To regulate operation of the lift of the society.
34. To suggest to the meeting of the general body the games to be allowed to be played in the compound of the society.

35. To consider and decide any other matters provided under the MCS Act 1960, the MCS Rules 1961 and the Bye-laws of the society but not expressly indicated herein above.
36. To regulate parking in the society
37. To ensure that the society is affiliated to Housing Federation and its subscription is regularly paid.
38. To take the decision on the complaint application in the managing committee meeting and inform the concerned member of its decision accordingly.
39. To enter into contract with the Architect of the society
40. To scrutinise the tenders, received for construction work and to submit the same along with Committee's report to the meeting of the General Body and to enter into contract with the contractor.

5. ACTION ON THE APPLICATION RECEIVED TO THE SOCIETY

Q.31. What are the kinds of applications and to whom are they to be submitted?

Ans.: The various kinds of applications are:

- (i) Admission to membership of the Society, including associate and nominal membership;
- (ii) Approval to the transfer of Shares and interest in the capital/property of the Society;
- (iii) Permission for sub-letting or giving flats or parts thereof on leave and license or care-taker basis;
- (iv) Permission for additions and alterations in flats;
- (v) Allotment of parking spaces and stilts;
- (vi) Permission for exchange of flats;
- (vii) Permission for holding additional flats;
- (viii) Permission for assigning, mortgaging or creating charge or interest in flats;
- (ix) Permission for use of terrace, and
- (x) For any other purpose provided under the bye-laws but not specifically mentioned above.

All the above applications have to be addressed to the Secretary of the society. Every such application received by the Secretary has to be acknowledged by him.

Q. 32. Within how many days has the Secretary to notify the members regarding the shortcomings in the applications received?

Ans.: The Secretary of the Society, on receipt of the applications has to scrutinise them and bring to the notice of the members concerned any shortcomings therein within 7 days from the receipt of the same for compliance.

Q.33. Before whom does he Secretary have to place the applications for approval of the same?

Ans.: The Secretary has to place all the applications, whether complete in all respects or incomplete, before the meeting of the Committee or the general body, as the case may be held next after receipt of the applications.

Q. 34. Who decides upon the applications received whether to be accepted or rejected?

Ans.: The committee or the General Body, as the case may be, is liable to consider all the applications received from the members at its meetings and take decisions thereon.

Q.35. Within what period does the Society have to dispose of the applications received?

Ans.: The committee has to ensure that all the applications received by the Secretary of the Society are disposed off within a maximum period of 3 months from the date of their receipt.

Q.36. What is the duty on the Committee if they decide to reject any application received?

Ans.: If the Committee or the General Body, as the case may be, decides to reject any of the applications received from the members, it has to record, in the minutes of its meetings, the reasons for the rejection of the applications.

Q. 37. What is the maximum period before which the Committee will have to communicate its decisions to the members and what will be the effect if it fails to do so?

Ans.: The Secretary of the Society has to communicate the decisions of the Committee or the General Body, as the case may be, to the applicants concerned within 15 days of the decisions taken by the Committee or the General Body, as the case may be, and with reasons, where the applications are rejected by the committee or the General Body, as the case may be. If however, the society does not communicate the decision to the applicant within three months from the date of receipt of application for membership, including nominal or associate membership, the applicant shall be deemed to have been admitted as a member as provided under Section 22(2) of the MCS Act 1960.

6 . MEMBERSHIP AND TRANSFER OF MEMBERSHIP

Q. 38. Who is a Member?

Ans.: The term Member is defined in the Bye-law No.3 (xxiv) of the Model Bye-laws of the Society. "Member" is a person who joins in an application for the Registration of a Co-operative Society which is subsequently registered, or a person who is duly admitted to membership of a society after the Registration of the Society and which includes a Nominal as well as an Associate member.

Q. 39. What are the provisions regarding membership in the Co-operative Housing Society?

Ans.: Eligibility for the membership in co-operative Housing Societies is mentioned in section 22(1) Accordingly, any person who is eligible for executing contract under Indian Contract Act 1872, Membership of the Co-operative Housing Society can get to any firm, company or society constituted by law or the registered under societies registration Act 1960 or society, registered under Co-operation law, State Government as Central Government, Local Authority Public Trust. However it is necessary that ownership rights as a flat owner or gala owner of the Housing societies should have to be acquired by legal documents In addition, the following conditions should have to be fulfilled for the membership under rule 19 of the Co-operative law.

1. It is necessary to make an application for membership in prescribed documents format with prescribed documents under bye-laws and co-operation Act for membership of society.
2. It is necessary to give an approval to the membership application first by the managing committee and by the general body meeting.
3. Necessary to have a eligibility under law, rues bye-laws

It is necessary to attached resolution giving powers with an application of membership by company, firm, trust local authorities etc. other than person.

Q. 40. What is the remedy if the society denied in accepting the membership application?

Ans.: If the society denied in accepting the application by forwarding such an application to the Dy/ Assistant Registrar office under section 23 (1) (a), there is a provision to forward

the same to the society through the office of the Dy./Asstt. Registrar However, the cheque of the prescribed should also be attached with such an application Provision is there to give the said application in the prescribed format 'H1' under rule 19 A to the office obligatory to inform the division clearly to the member within in 60 days of the 60 days of the date of application received through the office of the Dy./Asstt. Registrar whether the society has approved the membership or not? And if the society has not given decision then the provision to appeal to the Dy/Asst Registrar has been provided in the same section

Q. 41. What action to be taken if the society denied membership of the Co-operative Housing Society not conveyed the decision regarding membership?

Ans.: If the Co-operative Housing Society did not convey the definite positive or negative decision regarding membership within 3 months from the date of receiving application for membership then by forwarding an application to the Dy/Asstt/ Registrar of the concerned Housing Society can demand for the Deemed Membership the Registrar may passed legitimate order in regard by taking an appeal of the applicant and member.

Q. 42. How many types of membership in the Housing Societies? And Which?

Ans.: There are three types of membership of Housing Societies. They are as follow.

A Member -

Whose name id included in the registration proposal by the Society or who has given membership after registration, such person/Institute, trust company are called member sole name of such members is on the share certificate. Similarly if other persons are joint members with the than the members name is mentioned on sr. No. 1

B Co. Member -

If persons holding shares of the society jointly with original member then there name is on the sr. no. 2, 3, 4, 5 etc. serially.

C Nominal Member -

Nominal member means the membership given by the society without issuing shares or share certificate. Such membership is given under section 91 or under other sections to make it feasible in taking legal action under co. operative law. Housing societies can give such a nominal membership to tenant or care takes.

D Sympathises Members:-

A person who agree with the object of the society is called sympathises member. However definition in this regard is not in the bye-laws of the housing societies.

Only member or in his absence and with his permission a co member can attend the meeting society's general body meeting and can participate in the election as voter or candidate. If the co-member elected, he may also office bearer. However these rights are not available to the nominal member or sympathizer member.

Q.43. When the members of the society start to exercise his membership right?

Ans.: Even if an application for membership of society is given and the society also approved it the member can exercise his right membership only after paying necessary fee to the society. Otherwise even though the society approves membership the right of membership could not be exercised till payment of necessary fee is made.

Q. 44. What are the limitation /percentage of respect of the membership to the firm, companies, and autonomous bodies in the co. operative housing societies?

Ans.: More than 50 percent membership cannot be given to the firm, companies in the co. operative Housing society.

Q. 45. Can a minor or a person of unsound mind become a member of a Society?

Ans.: A minor or a person of unsound mind who inherits shares and/or interest of a deceased member in the capital/property of the society, or if a minor or person of unsound mind is nominated, he may be eligible for admission to membership of the Society through his guardian or legal representative, on through an application in the prescribed form, along with submission of proper undertakings/ declarations, in the prescribed forms, as mentioned in the application.

Q.46. Is there any difference in procedure in case the land on which the Society is situated is given by Government/CIDCO/MHADA or any other authority?

Ans.: In case the society has been given land by the Government/ CIDCO/ MHADA or any other authority for constructing houses thereon, then notwithstanding anything contained in the bye-laws, admission of a person to membership of the Society, direct or as a result of transfer of shares and interest of the existing member in the capital/property of

the Society, shall be subject to the approval of the concerned competent authorities such as collector of the District.

Q. 47. What is the maximum limit of number of members in a Society?

Ans.: The number of members in the Society is limited to the number of flats constructed in the building. Number of members in excess of the number of flats shall neither have any right, title or interest in the society's property nor shall they be eligible for voting. It is binding on the committee to induct the members to the extent of the number of flats.

Q. 48. If A & B jointly purchased the flat then that can exercised the membership rights?

Ans.: Those whose name is first on the share certificate he can exercised the right of membership.

Q. 49. If A is a flat holder member of the housing society and in the meantime B has applied for the membership. In the application he mentioned that for purchasing the said flat his contribution was also paid. In such a situation the housing society give co-membership to B or not?

Ans.: if there is not NOC letter from the original member, then the society may deny the application of B. However if B gave his consent / NOC then B can be made co-member.

Q. 50. If A is a non residential Indian, and a member of the housing society and given a power of attorney in the name of B and B has applied for membership in place of A, then is the society approved the membership of B?

Ans.: The society cannot approve the membership on the basis or power of Attorney.

Q. 51. A & B have jointly purchased the flat in 60:40 proportions. A's name shown first on the share certificate and B's name is on the second number. A has nominated the name of C. Whether the B's name come first on the share certificate after the death of A or so?

Ans.: If the society approved the application of "A" then after the death of "A" the name of "C" Come first on the share certificate the name of "B" remained second.

Q. 52. What are the rights of the co member?

Ans.: If the original member gave consent then the co. member can exercised the rights of the member.

Q. 53. Can a managing committee charged premium while transferring the gale in the name of the person in family?

Ans.: Under provision in bye-Laws No. 38, premium cannot be charged while transferring the gala in the name of the person in family.

Q. 54. Is a member can transfer shares, rights and interest hold by him within a period of one year?

Ans.: Under provisions in section 29(2) of the Maharashtra Co. operative society Act. 1960, any member cannot transfer any part hold by him in the capital or property of the society or interest which he hold not less than one year.

Q.55. Who is an Associate Member?

Ans.: An Associate Member is a member who holds jointly, a share of the Society with the other member, but whose name does not stand first in the share certificate.

Q. 56. What are the conditions to be fulfilled for becoming an Associate member of the Society?

Ans.: Any individual, a firm, a company or a body corporate, registered under any law for the time being in force, who/which is eligible to be an associate member and who/which is intending to become an Associate member and who/which has made an application in the prescribed form for such membership on that behalf, along with the entrance fee of Rs.100/- may be admitted as an Associate member by the Committee.

Q.57. Can the Associate or Nominal member have a right to occupy the Flat?

Ans.: The Associate or Nominal member may be given the right to occupy the flat after taking the consent of the member and permission from the Society, and subject to the conditions set out by the Society.

Q. 58. How can an Associate Member resign from his membership?

Ans.: An Associate Member can resign from his membership of the Society at any time by writing a letter of resignation and submitting the same to the Secretary of the Society, through the member, with whom he was holding the shares of the Society jointly.

Q. 59. What are the duties of the Society on receiving such letter of resignation from an Associate Member?

Ans.: The Secretary of the Society has to place the letter of the resignation given by the Associate member, which has been duly recommended by the member, before the Committee members during the meeting of the Committee, held next after the receipt of the letter of resignation for acceptance by the Committee.

Q. 60. Within how many days does the Secretary have to communicate the decision of the Committee to the resigning Associate member?

Ans.: The Secretary has to communicate the decision of the committee, accepting the resignation of the Associate Member, to the member and his Associate member within 15 days of the decision taken by the committee. If the resignation is rejected, the Committee records the reasons thereof in the minutes of its meeting and the Secretary has to communicate the same to the member and his associate member within the time specified above. If the resignation is not granted within the specified period, then the same is deemed to be accepted.

Q. 61. What are the remedies if an application for membership is rejected by the housing society?

Ans.: A person whose application is rejected by the society then, he may submit an appeal before the concerned Registrar of societies under section 23(2) of the Maharashtra Co. Operative societies Act.

Q. 62. Is a co member can take part in the general body meeting?

Ans.: Yes, in the absence of the original member, a co- member can take part in the proceedings of the society. However, the original member's written consent is necessary for this.

Q.63. Who is a Nominal Member?

Ans.: A Nominal Member is a person who is admitted to the membership of the Society after its registration in accordance with the Bye-laws.

Q.64. How can a person become a Nominal Member?

Ans.: Any Sub-lettee, a licensee or a care-taker, or occupant who/which is eligible to be a nominal member and who applies through the original member for such membership in the prescribed form, applicable to him/it, along with entrance fee of Rs. 100/- may be admitted as such nominal member by the Committee of the Society.

Q.65. Can the Associate or Nominal member have a right to occupy the Flat?

Ans.: The Associate or Nominal member may be given the right to occupy the flat after taking the consent of the member and permission from the Society, and subject to the conditions set out by the Society.

Q.66. Does a Nominal Member have any rights as a member of the Society?

Ans.: A nominal member has no rights as a member of the Society.

Q.67. How can a Nominal member occupying the flat on behalf of a firm, company or any other Body Corporate resign from his membership?

Ans.: A Nominal Member, occupying the flat on behalf of a firm, company or any other body corporate, may resign his nominal membership, at any time, by writing a letter of resignation addressed to the Secretary of the Society through the firm, the company or any other body corporate, on whose behalf he is occupying the flat.

Q.68. What are the duties of the Society on receiving such letter of resignation from the Nominal member occupying the flat on behalf of a firm, company or any other Body Corporate?

Ans.: The Secretary of the Society has to place the letter of the resignation given by the nominal member duly recommended by the firm, the Company or any other body corporate, before the Committee members during the meeting of the Committee, held next after the receipt of the letter of resignation for acceptance by the Committee.

Q.69. Within how many days does the Secretary have to communicate the decision of the Committee to the resigning nominal member?

Ans.: The Secretary of the Society has to communicate the decision of the Committee, accepting the resignation, to the firm, company or the body corporate and the nominal member, within 15 days of the decision by the Committee. If the resignation is rejected, the Committee records the reasons therefor in the minutes of its meeting and the Secretary has to communicate the same to the firm, company or the body corporate and the nominal member within the time specified above. If the committee does not take any decision thereof within 3 months, the said registration shall be deemed to have been accepted.

Q.70. How can a sub-lettee, licensee, caretaker or possessor of a flat or part thereof who has been admitted as a nominal member of the Society resign from his membership?

Ans.: A sub-lettee, licensee, caretaker or possessor of a flat or part thereof, who has been admitted as a Nominal member of the Society may resign his nominal membership at any time, by writing a letter of the resignation addressed to the Secretary of the Society, through the member who has been given the permission by the Committee to sub-let, given on leave and licence or caretaker basis the flat or part thereof or part with its possession in any other manner.

Q.71. What are the duties of the Society on receiving such letter of resignation from a sub-lettee, licensee, caretaker or possessor of a flat or part thereof who has been admitted as a nominal member?

Ans.: The Secretary of the Society has to place the letter of the resignation given by the nominal member duly recommended by the member concerned, before the Committee members during the meeting of the Committee, held next after the receipt of the letter of resignation for acceptance by the Committee.

Q.72. Within how many days does the Secretary have to communicate the decision of the Committee to the resigning sub-lettee, licensee, caretaker or possessor of a flat or part thereof who has been admitted as a nominal member?

Ans.: The Secretary of the Society has to communicate the decision of the Committee accepting the resignation, to the member concerned and his sub-letter the licensee, the caretaker, or as the case may be, the possessor of the flat or part thereof, within 15 days of the decision by the Committee. If the resignation is rejected, the Committee records the

reasons therefor in the minutes of its meeting and the Secretary has to communicate the same to the member concerned and his sub-letter, licensee, or caretaker etc. within the time specified above. If the committee does not take any decision thereof within 3 months, the said registration shall be deemed to have been accepted.

Q.73. What is the period of notice prescribed for resignation of membership from the Society?

Ans.: As provided under Rule 21 (1) of the MCS Act, 1961, a member may resign his membership after giving three months notice, in the prescribed form to the Secretary of the Society.

Q.74. On what ground can the resignation of a member be rejected?

Ans.: The resignation of a member of the Society will be accepted only after the member has made payment of the charges due and payable by him to the society in full.

Q.75. How will the resigning member know if any payment is due from him towards the Society?

Ans.: The Secretary of the society shall, where any charges are found payable by the member of the Society, intimate the same to the member giving him full details and reasons of dues thereof, within 15 days of the receipt of the notice of resignation, and advise him to make the full payment thereof within 30 days from the date of the intimation so given.

Q.76. When is the resignation accepted without any encumbrance?

Ans.: In the event that there are no charges of the society outstanding with or to be paid by the member, the Committee accepts the resignation of the member and the Secretary of the Society communicates the same to the member within a period of 3 months from the date of the receipt of the notice of the resignation. In case nothing is communicated by the Committee to the resigning member during the said period, then it will be deemed that the resignation is duly accepted.

Q.77. What are the formalities to be complied with in case of rejection of resignation of a member?

Ans.: When any resignation is rejected, the Committee has to record the reasons therefore and also communicate the same to the member concerned within 3 months of the date of receipt of notice of resignation.

Q.78. What happens to the shares and interest of the resigning member?

OR

How are the shares and interest of the resigning member dealt with?

Ans.: The society acquires the shares and interest of the member in the capital/property of the Society on acceptance of the resignation of the member under Bye-law No. 27 and pays him the value thereof as provided under the Bye-law No.66.

Q.79. What is Transfer Fees?

Ans.: 'Transfer Fees' is the sum of money payable by a transferor to the Society for the transfer of his shares along with occupancy right as provided under the Bye-law No. 38(e)(vii). The term Transfer Fees is defined under the Bye-law No. 3(xxvi) of the Model Bye-laws of the Society.

Q.80. What do you mean by Premium?

Ans.: The term Premium is defined under the Bye-law No. 3(xxvii) of the Model Bye-laws of the Society. 'Premium' means and includes the amount payable to the society by the member who is transferring his shares and interest in the capital/property of the Society, in addition to the transfer fees to be paid by him as provided under the Bye-law No. 38(e)(ix).

Q.81. What is the time prescribed for giving notice of intention of transfer by a member of the Society?

Ans.: A member who desires to transfer his shares and interest in the capital/property of the Society has to give 15 days' notice of his intention to do so to the Secretary of the Society in the prescribed form, along with the consent of the proposed transferee in the prescribed form.

Q.82. What does the Secretary have to do once he receives the notice of intention from the member?

Ans.: The Secretary of the Society, on receipt of the notice of intention to transfer, has to place the same before the meeting of the Committee, held next after the receipt of the notice, and has to point out whether the member is prima-facie eligible to transfer his shares and interest in the capital/property of the Society in view of the provisions of Section 39(2)(a) of the MCS Act, 1960.

Q.83. What happens if the member who proposes to transfer his share and interest in the capital/property of the Society is not eligible to do the same?

Ans.: In the event that the member who proposes to transfer his shares and interest in the capital/property of the Society is ineligible to carry out the said transfer, the Committee has to direct the Secretary of the Society to inform the member accordingly within 8 days of such decision by the Committee.

Q.84. How can a member obtain a “No Objection Certificate” from the Society?

Ans.: Normally, a “No Objection Certificate” of the Society is not required or mandatory for the transfer of shares and interest of the transferor to the transferee. However where such a certificate is required by the transferor or transferee, he can apply to the Society and the Committee of the Society will then consider such an application on merit within one month from the making of such application.

Q.85. What documents have to be submitted by the Transferor/Transferee for effective compliance of transfer of shares and interest in the capital/property of the Society?

Ans.: The Transferor/Transferee has to submit following documents and make the compliance as under:

- (i) application for transfer of his shares and interest in the capital/property of the Society, in the prescribed form along with the original share certificate;
- (ii) application for membership of the proposed transferee in the prescribed form;
- (iii) resignation of outgoing member in the prescribed form byelaws No.27 (a) Appendix No. 13;
- (iv) Registered agreement duly stamped;
- (v) valid reasons for the proposed transfer;

- (vi) undertaking to discharge the liabilities to the society by the transferor;
- (vii) payment of the transfer fee of Rs. 500/-;
- (viii) remittance of the entrance fee of Rs. 100/- payable by the proposed transferee;
- (ix) Payment of amount of premium at the rate to be fixed by the General Body meeting but within the limits as prescribed under the circular, issued by the Department of Co-operation Government of Maharashtra from time to time;

No additional amount towards donation or contribution to any other funds or under any other pretext shall be recovered from transferor or transferee;

- (x) submission of 'No objection' certificate, required under any law for the time being in force or order or sanction issued by the Government, any financing agency or any other authority;
- (xi) the undertaking/declaration in compliance with the provisions of any law for the time being in force in such form as is prescribed under these bye-laws.

Note: The condition at Sr. No. (ix) above shall not apply to transfer of shares and interest of the transferor in the capital/property of the society to the member of his family or to his nominee or his heir/legal representative after his death and in case of mutual exchange of flats amongst the members or a registered gift deed executed by the member.

Q.86. What is the procedure to be followed for disposal of applications received for transfer of shares?

Ans.: The Secretary and the Committee of the Society have to follow the procedure for disposal of applications for transfers of shares and/or interest of members in the capital/property of the society as laid down under the bye law No. 65.

On receipt of the applications, the Secretary of the society shall scrutinise them and bring any short comings therein to the notice of the members concerned within 7 days of their receipt for compliance.

- (a) The Secretary shall place all the applications, complete in all respects, or incomplete, before the meeting of the Committee or the general body, as the case may be held next after receipt of the applications.
- (b) The committee or the General Body, as the case may be, shall consider all such applications at its meetings and take decisions thereon;

- (c) The committee shall ensure that all the applications received by the Secretary of the Society are disposed off within the maximum period of 3 months from the dates of their receipt ;
- (d) If the Committee or the General Body, as the case may be, rejects any applications, it shall record, in the minutes of its meetings, the reasons for rejection of the applications.
- (e) The Secretary of the society shall communicate the decisions of the Committee or the General Body, as the case may be, to the applicants concerned within 15 days of the decisions of the committee or the General Body, as the case may be, with reasons, where the applications are rejected by the Committee or may be, with reasons, where the applications are rejected by the committee or the General Body, as the case may be if the society does not communicate the decision to the applicant within three months from the date of receipt of application for membership, including nominal or associate membership, the applicant shall be deemed to have been admitted as a member as provided under Section 22(2) of the MCS Act 1960.

Q.87. When can the Committee or the General Body of a Society refuse an application for membership or transfer of shares?

Ans.: A meeting of the Committee or the General Body, as the case may be, do not usually have the power to refuse any application for admission to membership or transfer of shares and interest in the capital/property of the Society except on the ground of non compliance of the provisions of the Act, the Rules and the Bye-laws of the Society or any other law or order issued by the Government in exercise of the statutory powers vested in it.

Q.88. When is the application for transfer of shares and interest in the capital/property of the society deemed to have been admitted?

Ans.: In the event, the decision of the Committee/General Body Meeting as the case may be, on the application for transfer of shares and/or interest in the capital/property of the society is not communicated to the applicant within 3 months of its receipt, the transfer application is deemed to have been accepted and the transferee shall be deemed to have been admitted as a member of the society as provided under Section 22(2) of the Act.

Q.89. What kind of transfer is deemed to be unauthorized or void?

Ans.: Any transfer which is made in contravention of the Act, Rules or the bye-laws is deemed to be unauthorized and void and will not be effective against the society.

Q.90. When will the Transferee be eligible to exercise his rights as a member of the Society?

Ans.: As per Bye-law No. 40 of the Model Bye-laws of the Society, the transferee will be eligible to exercise the rights of membership on receipt of the letter in the prescribed form from the Society; subject to the provisions of the MCS Act 1960 & Rules made there under.

Q. 91. Is a managing committee can charge premium while transferring flat in a name of the person in family?

Ans.: According to provision under bye-laws no. 38, premium cannot charge while transferring the flat in the name of a person in the family.

Q.93. What details have to be mentioned by the members in the Application for exchange of flats?

Ans.: The members, desiring to exchange their flats, have to make a joint application to the Secretary of the society, containing the following details:

- 1) The names of the members concerned;
- 2) The distinctive numbers of their respective flats;
- 3) The carpet areas (in sq. meters) of their respective flats;
- 4) The building number/numbers and name/names of the building/buildings in which their respective flats are situated;
- 5) The reason for exchange of flats;
- 6) Registered Deed of exchange with the necessary stamp-duty having been paid.

7. NOMINATION/ REGISTRATION OF HEIR

Q.94. What do you mean by the term Family?

Ans.: The term Family is defined in the Bye-law No. 3(xxv) of the Model Bye-laws of the Society. 'Family' in respect of a Co-operative Housing Society means group of persons, which includes husband, wife, father, mother, sister, brother, son, daughter, son-in-law, brother-in-law, sister-in-law, daughter-in-law, grandson/ daughter.

Q.96. What is nomination?

Ans.: A member of the Society can, nominate a person or persons, to whom the whole or part of the shares and/or interest of the member in the capital/property of the Society shall be transferred in the event of his death by filing a nomination form before the Society, in the prescribed form.

Q.97. What amount of the fees has to be paid for recording the first nomination and in case of subsequent fresh nominations?

Ans.: No fee is charged for recording of the first nomination. In case of subsequent nominations by a member, every fresh nomination will be charged with a fee of Rs. 100/-.

Q.98. When can a nomination be revoked?

Ans.: A member can revoke or vary his nomination, at any time, by making an application in writing, addressed to the Secretary of the Society. The acknowledgement of the variation in nomination/subsequent nomination by the Secretary is deemed to be the cancellation of the earlier nomination.

Q.99. How is the nomination or the revocation of a nomination recorded?

Ans.: The Secretary of the Society, on receipt of the nomination form or the letter of revocation of the earlier nomination, will place the same before the meeting of the Committee, held next after the receipt of the nomination form, or the letter of revocation of the earlier nomination for recording the same in the minutes of the committee.

Q.100. What is the period within which the Secretary has to record the nomination or its revocation?

Ans.: The nominations or revocations received thereof has to be entered in the register of nominations by the Secretary of the Society within 7 days of the meeting of the committee, in which it was recorded.

Q.101. How is the transfer of the shares and interest in the capital/property of the Society affected on the death of a member when he dies after making nomination?

Ans.: Subject to the provisions of the Section 30 of the M.C.S Act, 1960, Bye-laws Nos. 17A or 19, on the Death of a member, the society has to transfer the shares and interest of the deceased member in the capital/property of the Society to the nominee/nominees and in the proportion with the shares and interest held by the deceased member, in case the property is purchased by the member and associate member jointly.

Q.102. What is the time period prescribed for application for membership to be made by the nominees of the deceased member?

Ans.: In the event of death of a member, his nominee/nominees have to submit an application for membership, within six months from the death of a member.

Q.103. How can a nominee of a deceased member apply for membership where there is more than one nominee nominated by the deceased?

Ans.: In a case where there are more nominees than one, on the death of the member, such nominees have to make a joint application to the Society and indicate the name of the nominee who has to be enrolled as a member. The other nominees can be enrolled as Joint associate members unless the nominees indicate otherwise.

Q.104. Why do the Nominees have to file an indemnity bond?

Ans.: The Nominees have to file an indemnity bond in the prescribed form undertaking to indemnify the society against any claims made to the shares and the interest of the deceased member in the Capital/Property of the society by any of them, in case only one nominee is indicated by the Nominees for membership of the Society.

Q.105. What happens when a single heir/legal representative demands payment for the value of the shares of the deceased member?

Ans.: If, in the opinion of the Committee, there is only one heir/legal representative of the deceased member and if he is demanding payment of the value of the shares and interest of the deceased member in the capital/property of the Society, the Society acquires the same and pays him the value thereof as provided under the Bye-law No. 66 after obtaining the indemnity bond referred to in the Bye-law No. 35.

Q.106. What happens when there are more than one heir/legal representative and they demand payment for the value of the shares of the deceased member?

Ans.: If in the opinion of the Committee, there are more heirs/legal representatives than one and they are demanding payment of the value of shares and interest of the deceased member in the capital/property of the Society, the Society can acquire the same and pay them the value thereof in equal proportion as provided under the Bye-law No. 66 after obtaining the indemnity bond referred to in the Bye-law No. 35 from all the heirs/legal representatives jointly.

Q. 107. Is another person other than persons mentioned in the nomination can claim for membership?

Ans.: Transferred membership in the name of the person nominated in the nomination form could not mean total ownership rights transferred. The other persons by taking their claim of legal heir right before the competent authority and by receiving their ownership right in the property can inform the society to give such orders. The membership given according to nomination means an arrangement to whom the society can made correspondence after the death of a member. A person who obtained membership according to nomination is treated as trustee.

Q.108. What action society would have to take if a member is died without making nomination?

Ans.: If a person died without making nomination under bye-laws No. 35 then the society after knowing the death of a member should have to put notice on the notice board of the society and published notice in at least two local news papers within one month. The society called claims, objection regarding property of the deceased member by this notice considering the claims received after issuing notice, the managing committee should select legal representative of the deceased member under bye-laws No. 17 A and 19 and the

society can take decision of giving membership to such person by taking from him Indemnity Bond and application for membership. However if such person is not one person then more than one person should give joint application to the society. And as per mentioned in it the society should have to give membership to 1st person and co-membership to others. Such person should not be a owners of the property by such membership. They can stay as a trustee. It is necessary that the society should have to give explicit idea that the hereditary certificate from the competent court in respect of the property is necessary. However if there is not unanimity among the member came forward after this notice, then the society may inform all such persons claiming inheritance rights that they should bring inheritance right certificate from competent court.

Q.109. What happens in the event where no person approaches the Society claiming for the shares and interest of the deceased member?

Ans.: In the event that there is no claimant approaching the Society for transfer of the shares and interest in the capital/property of the Society belonging to the deceased member, such shares and interest of the deceased member in the capital/property of the Society will vest in the Society.

Q.110. What happens when a single nominee demands payment for the value of the shares of the deceased member?

Ans.: If the deceased had nominated a single person and the single nominee demands payment of the value of shares and interest of the deceased member in the capital/property of the Society, the Society acquires the same and pays him the value thereof as provided under the Bye-law No. 66.

Q.111. What happens when there are more than one nominee and they demand payment for the value of the shares of the deceased member?

Ans.: In the event there are more nominees than one and they demand the payment of the value of the shares and interest of the deceased member in the capital/property of the Society, the Society acquires the same and pays them the value thereof as provided under the Bye-law No.66 in the proportion as is mentioned in the nomination form. Where no proportion has been mentioned in the nomination form, the payment is done in equal proportion.

8. TO GIVE FLAT ON RENT BASIS. TO TAKE LOAN

Q.112. What is the procedure applicable for a member who is interested in sub-letting his flat?

Ans.: A member can apply to the Society and state his intention to sub-let his flat and on receiving the permission in writing from the Committee, he can subject or give on leave and license basis or care-taker basis his flat or part thereof or part with its possession in any other manner under the following circumstances:

- (i) Where the member is required to go out of the area of operation of the Society for a long duration on account of exigencies of service or business or on account of prolonged illness;
- (ii) Where the member is unable to occupy the flat owing to absence of facilities for education of his children or is unable to secure admission to the school in the locality for them;
- (iii) Where the employer, with a view to ensure efficient discharge of duties, requires the member to stay in the accommodation allotted to him by his employer;
- (iv) Where a member satisfies the Committee about his inability to occupy or continue to occupy the flat for any other genuine reasons.

Q.113 Which documents of application a member has to procedure for getting permission for letting the flat?

Ans.: Without fulfillment the following conditions the committee will not give permission for giving or getting flat or any part of the flat on rent/ licence or an care taking basis.

1. He should make an application in prescribed format.
 2. He should have sent application in prescribed format of proposed sub tenant, license, care taker or other possessor for nominal membership.
 3. He should have give promise purporting below.
- A.** If the sub-tenant, licensee, care taker or other possessor has not return the possession of flat or its part by vacating after the expiration the terms of residing on sub rent, or on the basis of licence, care taker or by other ways, then the member by including the society as a party for the legal proceedings against him for getting possession and start the proceedings and the expenses which the society to be incur will compensate.

- B. The sub tenant member, licensee will paid monthly charges due to the society.
- C. He paid non-occupancy charges. However these non-occupancy charges will be charge subject to the orders, circular issued by the government of Maharashtra and Hon.ble Commissioner of co-operation from time to time and bye-laws. Similarly if the gala is in possession of the individual in family as different in bye-laws then non-occupancy charges shall not be charge. However while giving permission for taking possession of gala or part of it on sub rent, licency system, on care taker basis or in other ways the committee will give period of 11 months or if committee deem fit time to time as per request of the member.
- D. The non-occupancy charges shall not be recover from such gala purchaser who has submitted legal documents of purchasing a gala, similarly has expressed desire to become formed member of the society.

Q.114. What are the formalities to be complied with by a member prior to the application made to the Society for sub-letting of flats?

Ans.: A member will not be permitted by the committee to sub-let, give on leave and licence basis or care-taker basis, and his flat or any part thereof or part with its possession in any manner unless:

- (i) he has made an application in the prescribed form;
- (ii) he has furnished the application for nominal membership of the proposed sub-lettee, licensee, care-taker in the prescribed form;
- (iii) his application contains the undertaking that-
 - (a) he shall, by joining the society as a party to the proceedings initiate necessary legal proceedings against the sub-lettee, licensee, care-taker, on his failure to get vacant possession of the flat or part thereof on expiry of the period of sub-letting, giving on leave and licence or care-taker basis the flat or part thereof or parting with his possession in any other manner and meet the cost of the legal proceedings required to be incurred by the Society;
 - (b) he shall pay the charges of the Society every month during the period of sub-letting, licence etc.;
 - (c) He shall pay non-occupancy charges to the Society. Non-occupancy charges shall be charged in accordance with the circular issued by the Government of Maharashtra and the Commissioner for Co-operation from time to time and shall not be levied if the flat is occupied by the "Family" of the member as defined under these bye-laws.

Provided that while permitting the sub-letting, giving on leave and licence or care-taker basis the flat or part thereof or permitting parting with its possession in any other manner, the committee shall restrict the period thereof 11 months or for more period as desired by the managing committee, which may, on the request of the member be extended for similar period or part thereof from time to time.

- (d) Non-occupancy charges shall not be levied to the flat purchaser who is intending to become a member and who submits the documentary evidence thereof.

Q.115. How has the Application for permission for sub-letting, giving on leave and license or care-taker basis, flats or part thereof or parting with their possession in any other manner by the members to be disposed off by the Society?

Ans.: The Secretary and the Committee of the Society have to follow the procedure for disposal of the application for permission for sub-letting, giving on leave and licence or care-taker basis, flats or part thereof or parting with their possession in any other manner, as laid down under the Bye-law No. 65.

9. MEMBERSHIP CEASED / TERMINATED

Q.116. What are the circumstances under which a person ceases to be a member of the society?

Ans.: The person shall cease to be the member of the Society in the following circumstances:

- (i) On his resignation from membership of the Society having been accepted by the Committee.
- (ii) On transfer of all his shares and interest in the capital/property of the Society.
- (iii) On his death.
- (iv) On his expulsion from the membership of the Society.
- (v) On being adjudged as an insolvent or legally disabled from continuing as member.
- (vi) If the whereabouts of the member are not known for continuous seven years and if his shares and interest in the property/capital of the Society is not claimed by anybody else.
- (vii) On the cessation of right/title and interest as a member in the property of the Society by way of legal attachment or sale.

The committee shall take further action in the matter as indicated in the Bye-law No. 61.

Q.117. What are the circumstances under which the person will cease to be an Associate member of the Society?

Ans.: The person will cease to be an Associate member of the Society when the original member ceases to be the member of the Society or on the death of the Associate member or on the acceptance of resignation from the Associate member by the Committee. The Committee takes further action in the matter as indicated in the Bye-law No. 61.

Q.118. What are the circumstances under which the person occupying the flat on behalf of the firm/company ceases to be the nominal member of the Society?

Ans.: If there is a nominal member, who is occupying the flat on behalf of the firm, company or any other body corporate, he shall cease to be such member of the Society in the following circumstances:

- (i) On his death,

- (ii) On the acceptance of his resignation by the Committee,
- (iii) On the cessation of membership of the original member on whose behalf he occupies the flat in the Society,
- (iv) On the cessation of his nomination on account of expulsion of the original member,
- (v) On intimation from the original member of termination of the occupant's nomination.

The Committee shall take further action in the matter as indicated in the bye-law no.61

Q.119. What are the circumstances under which a Sub-lettee, Licensee or Caretaker ceases to be the nominal member of the Society?

Ans.: The nominal member, who is a sub-lettee, licensee or care taker or possessor in any other manner of the flat or the part thereof, shall cease to be such member of the Society in the following circumstances:

- (i) On his death;
- (ii) On his resignation having been accepted by the Committee;
- (iii) On the cessation of the membership of the original member;
- (iv) On the expiry of the period for which the flat or part thereof was permitted to be sub-let, given on leave and licence or care-taker basis.

Note: The words "original member" used in the by-laws Nos. 57, 58, 59 and 60 mean the member, with whom the associate member held the shares of the society jointly, the Firm, the Company or any other Body Corporate, on whose behalf the nominal member occupies flat in the society's building or the member who has been permitted to sub-let, give on leave and license or caretaker basis his flat or part thereof or part with its possession in any other manner.

Q.120. What will be the action taken by the Committee in cases of cessation of membership of the Society?

Ans.: The Committee has to record the facts of cessation of Members' membership of the Society under the Bye-law No. 57 and of Associate and Nominal members' membership respectively under the Bye-law Nos. 58, 59 and 60, in the minutes of its meetings and accordingly the Secretary of the Society has to inform the concerned members in writing within seven days from the date of such decision of the Committee.

Q.121 To whom a member who is removed from the membership by the society has to give possession of his flat by vacating it?

Ans A member who removed from the society formally, such a member could not continue his stay in his flat. And he has to make an arrangement to give possession of the flat to the secretary of the society without any complaint and hindrance in the period decided by the committee by vacating the flat. If he fails to do that then he is eligible for expulsion.

Q.122. Can the member who has been expelled from the membership of the Society be eligible for re-admission in the Society?

Ans.: A member of the Society, who has been expelled from the membership, will not be eligible for re-admission to membership in the society, until expiry of the period of one year from the date of his expulsion. However, if the expelled member is recommended in the meetings of the general body of the Society, he may be readmitted to its membership, as a special case, before the expiry of the period of one year, with the prior permission of the Registering Authority.

Q.123. What is the procedure to expel the member from the co. operative housing societies?

Ans.: The society may initiate action as prescribed under section 35 of the Maharashtra co. operative societies Act 1960. After registrar given approval for application, the society may take possession of the flats.

Q.124. What is a remedy to take possession of the flats by the society which is in the possession of expelled member?

Ans.: The society can take action under bye-laws no 69 and as answer given on above question.

Q.125. What is the effect of expulsion of the member on the membership of the society?

Ans.: A member, who has been duly expelled from membership of the Society, ceases to be the member of the society, with effect from the date on which the resolution of expulsion from the membership of the Society is approved by the Registering Authority. The forfeiture of the shares takes effect simultaneously with the expulsion of the membership.

Q.126. What happens to the shares of a member who is expelled from the membership of the Society?

Ans.: In case of expulsion from the membership of a Society, it involves forfeiture of the shares held by the member. Where the Committee decides that expulsion from membership should also involve forfeiture of the shares, it has to make necessary reference to the proposed forfeiture of the shares in the notice to be issued under Rule 29 of the MCS Rules, 1961.

10. MANAGING COMMITTEE ELECTION/ ELIGIBILITY ETC

Q.127. What do you mean by a Committee?

Ans.: The term Committee is defined under the Bye-law No. 3(iv) of the Model Bye-laws of the Society. "Committee" means a Committee formed by the members of the Society or any other directing body to which the management of the affairs of the society is entrusted.

Q.128. What is tenure of the committee?

Ans.: The tenure of the committee is decided as per bye-laws of the co-operative housing societies. As per model bye laws the tenure of the committee is 5 years.

Q.129. After interim committee when does the committee came into existence?

Ans.: This committee came into existence as per election rules after the election of committee. As per provisions under section 73 the Maharashtra Co-operative societies Act 1960

Q.130. How much tenure of the interim committee?

Ans.: The date on which the interim committee is formed, one year period from that date is suppose to be the tenure of the interim committee.

Q.131. What is the ineligibility for to elect as a committee member?

Ans.: In the circumstance mentioned below, no person is eligible for getting elected as a committee member or its co-opted member according to the provision under bye-laws No. 118.

1. If a person was convicted for the offence of moral degeneration, then not until 6 years period lapse from the charge proved.
2. If ineligible to pay the dues of the society within three months from the date of receiving notice demanding dues of the society, sent with the acknowledgement of post or by hand delivery.

3. If he was held responsible under section 79 or 88 of the Act or held responsible for paying the enquiry cost under section 85 of the Act.
4. If he has given his share or part of it as subtenant or on lease system or as on case taker basis or by other way possession is given to some other person without written permission of the society or if he had sold share capital or interest of the society.
5. In respect of the co-member if he did not submit NOC and guarantee letter prescribed in the bye-laws of the original member.

Q.132. Whether Ex-committee member can contest election?

Ans.: Any eligible Ex-committee member can contest the election.

Q.133. If a member paid dues of the society before scrutiny of the nomination they can be contest election or not?

Ans.: Yes, if a member paid dues of the society before the scrutiny of the nomination then that member is eligible for contesting the election.

Q.134. Whether a member held responsible under section 79 or 88 or 85 then can be contest election or not?

Ans.: If a member held responsible under section 79, 88 or 85 then he would not be eligible for re appointing on managing committee, for re incorporation, for re election he could be eligible after 5 years from the date on which he was disqualified.

Q.135. What measures to be adopted if there is an outstanding of maintenance or other dues against the managing committee member and if he is become disqualified because of this?

Ans.: In such a situation, the right to stay as a member on the committee is withdrawn from that concerned member and he is expelled under section 78 by making application to the registrar.

Q.136. If a committee member is defaulter and if after some time he paid all dues then is he became eligible as a committee member?

Ans.: After pending of dues, the concerned committee member is become disqualified as a committee member. He could not look after working of the society once he becomes

defaulter. After paying all dues, such member is eligible as a member for re-election, re-incorporating.

Q.137. Whether a committee can make a resolution for expelling a committee member?

Ans.: The committee has no right to expel member in such a way.

Q.138. What measures are to adopted if polling featuring officers denied nomination of election?

Ans.: Appeal can be made before the registrar within 3 days from the date of denial of nomination under section 152 A of the Maharashtra Co. Operative Society Act. 1960.

Q.139. What is provision if distrust arise against the office bearers and similarly against the employees of the office of the Housing society.

Ans.: No confidence resolution can be moved against the chairman/Dy. Chairman, secretary, and treasurer. The concerned office bearer can be expelled by passing a resolution through voting of 2/3 members. Once a no-confidence motion is rejected then it could not be moved for six months from the date of resolution. If there is distrust against employees then the society may take action by giving them sufficient opportunity and by hearing them.

Q.140. Whether two managing committee can work in two separate building of one housing society.

Ans.: Only one managing committee should be existed in one housing society.

Q.141. Who can accept the resignation of the chairman?

Ans.: A secretary can accept the resignation of the chairman under provisions in bye-law No. 132 (1). A written letter is necessary thereof. Thereafter a committee can take decision for approving the resignation.

Q.142. Can an existing committee tenoler Resignation? What are measures in such situation?

Ans.: Such an application put before the general meeting for approval Even after approving resignation by the general meeting, the charge of the office is entrusted to the

previous managing committee only till alternate arrangement is made or ad-hoc committee is appointed. This ad-hoc committee till new committee by taking election came into existence. However it is obligatory that important decisions like financial and policy matters should not be taken by such committee. They should look after day to day working only.

Q.143. What action is taken if elections were not taken within prescribed time?

Ans.: In such a situation the registrar can appoint as administrator.

Q.144. Whether decisions taken after expiration of tenure and till new committee came into existence are legal or so?

Ans.: In section 77 of the Maharashtra Co. Operative societies Act 1960 it has not been noted that the decision taken in the period mentioned above are illegal.

Q.145. Whether the decisions taken by the old committee during the period of formation of new committee are illegal or so?

Ans.: Till the court is not decides such decisions are invalid they are valid. However the new committee can make charges in it.

Q.146. If the old committee negates to give charge of the office to the new committee then what is remedy on it?

Ans.: Office bearers of the new committee can make an application to the registrar. By taking action under section 80 of the Maharashtra co. operative societies act. 1960.

Q.147. What is a remedy if the meeting of the society, was not called by the chairman/Secretary.

Ans.: As provision is made in bye-laws No. 133, if federation was informed then such meeting called by the federation.

Q.148. Whether the chairman have a power of casting vote or not?

Ans.: As provided in the bye-laws no. 135, the chairman has got the right of casting vote.

Q.149. In what circumstance, the co. operative Housing society incorporate the member in the managing Committee?

Ans.: Member are incorporated in the committee on vacant post, vacant due to the reasons of death, resignation, disqualify, dismissal of a committee member.

Q.150. What is provision for reservation of female representative in the managing committee of the Housing Societies?

Ans.: Under Section 9, if the number of managing committee members are 9 or less that 9 then one post, two post if the number of members is 10 to 19 and if the managing committee member are more than 20 then reservation of 3 post for female representatives is obligatory.

Q.151. If there is an equal positive or negative votes on any resolution in the managing committee meeting of the housing society then what decision to be taken?

Ans.: According to provision under section 27(1) of the co. operative Act. If positive and negative voter are equal on some resolution in the managing committee meeting than the chairman of the society has a right to cast his additional votes.

Q.152. What is the remedy if the Secretary of the outgoing Committee fails to convene the meeting?

Ans.: Subject to the provisions of the Bye-law No. 123(a), the Secretary of the outgoing committee has to a issue the notice of the first meeting of the newly elected Committee and the outgoing Committee to the members thereof. On failure of the Secretary of the outgoing Committee to convene the said meeting, the Chairman of the outgoing Committee calls it. On the failure of both, the Registering Authority calls such a meeting.

Q.153. How does the outgoing Committee handover its charge to the new Committee?

Ans.: When the new Committee is elected, the Secretary of the outgoing Committee prepares the list of papers and property of the Society in his custody and hands over the charge thereof to the outgoing Chairman. The retiring Chairman then hands over the charge of the office of the Committee and all papers and property of the Society, in his possession to the Chairman of the new Committee, as per the provisions contained in Section 160 of the MCS Act, 1960.

11. ADMINISTRATOR / NO-CONFIDENCE RESOLUTION

Q.154. On what circumstances the administrator is appointed on the co. operative housing society?

Ans.:

- A. If prima facie it is revealed that the managing committee has committed mismanagement then an administrator can be appointed on the society by giving 15 days notice under section 78 to the managing committee and by hearing their say and after consideration of the remarks of the housing federation.

- B. If a member of the managing committee is not in position to take charge of the office for any reason or if the claim those two separate managing committees elected is made and if such a claim is pending in the co-operative court then under section 77(A), an administrator can be appointed on the society. Appointment of an administrator can be made in exceptional circumstances under this section by publishing a notice on the notice board of the society without giving it to the members of the managing committee and by mentioning the reasons for such an appointment.

- C. If it is explicated that the managing committee of the society is procrastinated in starting the process of election in such way that before expiring the tenure of the managing committee, the new managing committee will be constituted by completing the election process, then by nullifying the managing committee under section 73H, the administrator can be appointed.

- D. If some members holds ineligibility under section 73FF, 73(1) A or for the matters mentioned in other sections or some any other reasons and consequent to that quorum is not fulfilled and therefore managing could not look after the working of the society, and if such situation arise then the administrator can be appointed.

- E. If for reasons that of not taking annual general body meeting under section 75(5) or not presents financial statement before general body meeting, the managing committee is ineligible then administrator can be appointed by taking action under section 78 on the society.

Q.155. What is a procedure to moved no-confidence motion against office bearers of the Housing society?

Ans.: No confidence motion against the office bearers of the housing society can be move under section 73 I. D. (1) (2). Its procedure is as follow:-

- A. It is necessary to give no confidence motion in the format 1-18 prescribed under rule 56(A)(1) under co-operation law by signing at least 1/3 members of the managing committee members to the office of the concerned Dy./Asst. Registrar.
- B. After receiving such no confidence motion then it is necessary that the registrar have to issue orders for calling meeting of managing committee on the motion by appointing authorizing officer under provision in law.
- C. It is obligatory on the part of the officer appointed to organized that said meeting within 15 days from the date of notice under section 73 I.D.(3). In this meeting the no confidence motion should be passed by 2/3 majority of the number of members. This meeting could not be postponing for any reasons.
- D. It is obligatory that the officer appointed for this meeting should have to give his decision the no confidence motion in M-19 format prescribed under 57(V)(7) of co-operative law. If no confidence motion is rejected then no-confidence motion cannot be moved for at least next 6 months.

Q.156. Who should give charge of the office to new managing committee elected after elections? And what is its procedure?

Ans.: After chairman was elected by the new managing committee then it is necessary and obligatory that the chairman of the old committee should have to give charge of the records of the society as per list prepared by the old secretary of the society to that chairman.

Q.157. If the managing committee of the housing society is nullified by deciding ineligible then by which section of the co-operation law the decision taken, work done till the period of expelling then from the office are decided as illegal, invalid?

Ans.: The decision taken by the managing committee & working done before the period of their explanation due to some reason under section 77(1)(2) of the co-operative law, cannot become illegal/invalid for the only reason of ineligibility.

Q.158. What is the provision for submitting M-20 bond by the managing committee of the Housing society?

Ans.: It is obligatory on the managing committee members of the housing society to prepare bond individually in format M-20 as prescribed in rule 56 and under section 73(A) & 73(A) (B) within 45 days from the date of taking charge of the office (from the date of first meeting of newly elected managing Committee) and keep it in the society's office and to inform concerned registrar office accordingly otherwise by presuming that the posts are vacant administrator is elected. The format of the bond is as follow:-

(Form M-20)

See Rule 58-A

I, Shri/Smt. _____ age _____ residing at _____
elected on the managing committee and its term am _____ years. I have stated
the working of the office from this date. I, today means _____ dt. _____
declared I will be jointly and individually responsible for those decisions taken by the
society in its tenure which are related with working of the society. I. will be responsible for
all such acts and disacts which cause damage to the interest of the society and for which
provision is made in Section 71(1) (ab) of the Act.

Sd/-

Seal of the society

Date:

Place:

Signature of the witness

(Secretary / Chief executive officer)

The Bond letter should be executed on the stamp paper under Mumbai Stamp Act 1958.

12. FINANCIAL STATEMENT OF THE SOCIETY

Q.159. What is a provision regarding preparing financial reconciliation statement by the society.

Ans.: It is obligatory to prepare financial statement within 45 days after end of financial year 31st March (up to 15th May) by the housing society. Thereafter annual General Body Meeting within 3 month period (up to 14th August) should have to be called. If it was not possible to call Annual General Body meeting before 14th August then extension upto 14 November can be taken by making request to the Dy/Asst. registrar. However it is obligatory to submit financial statement to such extension taken Annual General Body Meeting. Similarly, if it is not possible to prepare financial statement upto 15th May as per rule 61, then it is necessary on the part of the managing committee of the society to inform the reasons of that to the concerned Dy/Asstt. Registrar and to take extension for preparing financial statement.

Q.160 Up to which date to provide annual financial statement and reconciliation statement to the member for inspection?

Ans.: Preparing financial statement of the society up to 45 days i.e. up to 15th May after ending of the financial year (31st March) is necessary to prepare financial statement up to extension period after 15th May. After preparation of such financial statement, it is obligatory to submit it in the office of the Dy/Asstt. Registrar and auditor of the society within 15 days and thereafter it is obligator to make available the copy of it in the office of the society for inspection to members of the society.

Q.161 In which format the financial statement of the society should be prepared?

Ans.: The financial statement, profit and loss statement, reconciliation statement should be in form N prescribed under Rule 62(1) of co-operative law.

Q.162 Up to which date to publish the financial statement of the society on the notice board of the society in such a way that the members can see it, is obligatory?

Ans.: It is necessary under rules 62(2) of the co-operative law to publish financial statement, profit and loss statement, reconciliation statement Form N format and report of the working of the managing committee of the society in the notice before 14 days of the

date of Annual General Body Meeting in such a way that all members of the society can inspect it.

Q.163 If annual General Body meeting was not called, financial statement were not presents in the annual General Body Meeting then what is the provision in law to take action against managing committee?

Ans.: If annual General Body Meeting was not called upto 14th August under section 75(1) or upto 14th November with the permission of the registrar or called Annual General Body meeting but did not presented financial statement reconciliation statement, profit and loss statement in form or before this meeting then who those managing committee members are ineligible to remain on the post who have the responsibility under section 75(5) of the bye-laws. Similarly they are also ineligible for getting elected on managing committee for 3 years. If this responsibility was entrusted on officer/ employee of the society other than committee member then the provision to panelist Rs. 100/- by issuing show cause notice has been made in section 75(5).

13. RECORD TO BE MAINTAINED BY THE SOCIETY

Q.164. Which record book is necessary to be kept by the society?

Ans.: Under bye-law No. 140 the following record is necessary to be kept by the society.

1. Member record book – I form (under rule 32 of the co-operative Law)
2. Members List – J form (Under rule 32 of the Co-operative Law)
3. Cash Book
4. General Ledger
5. Personal Ledger
6. Property Registrar
7. Share Registrar
8. Sinking Fund Registrar
9. Record of Rectification in audit faults.
10. Investment register,
11. Nomination Register.
12. Loan Register (If a member has taken loan from financial agency and through the society and its recovery is made to the financial agency through the society.
13. Mortgage deed register (if property is mortgage)
14. Record book of the minutes of the managing committee meeting.
15. Recorded book of the minutes of general body meeting.
16. Deposit register (If deposit is given for utilization of electricity, supply of water, telephone etc.)
17. Dead stock register(furniture fans, tube lights, cupboard etc., office furniture)
18. Record book of the book
19. Allotment record book in respect of allotment of flats/ galas.

In addition the society can maintained additional record books as necessary for neatly compilation of record by taking decision in the managing committee meeting and approval of the general body meeting for the convenient of office and administration.

Q.165. Which files of documents are necessary to kept by the society?

Ans.:

1. all type of membership application.
2. Transfer of membership application.
3. Application of resignations of the member.

4. Application in respect of expelling form membership.
5. Nomination application (correspondence with member –member wise)
6. Correspondence with Dy./ Additional Registrar.
7. Correspondence with various machinery (water, electricity etc.)
8. Document regarding property conveyance.
9. Correspondence regarding repairing /Tenders, bills etc.,
10. Application and correspondence regarding transfer of Flats.
11. Correspondence regarding allotment of flat.
12. Correspondence regarding allotment of parking place.
13. Vaucher.
14. Counter file of the bank's challan
15. Counter file of the cheque and share certificates
16. Correspondence regarding issuing of duplicates share certificates.
17. Registration Certificate
18. Correspondence with Dy./ Asst. Registrar regarding amendment in the bye laws.
19. Counter file of the carbon copy in receipt book.
20. Copy of the bill issued to the members.
21. Correspondence in respect of the loan if taken.
22. General Agenda of the society.
23. Annual working report of the managing committee.
24. Audit report
25. Rectification report of the audit and correspondence in that regard.
26. All types of agenda / Notices.
27. All Record of the election as per election rules.
28. Correspondence with the Dy. / Assistant registrar in respect of the complaints of the members, reply given to them.
29. Correspondence with advocate of the society.
30. Bill and receipt of the legal fees given by the advocate.
31. Original file submitted at the time of registration of society.
32. Judicial claims filed by the society or against society and its papers.

Q.166. In which language the minutes of the society should be written?

Ans.: It is necessary to write the minute of the society in Marathi, English or Hindi language.

Q.167 To whom the responsibility of the day to day management of the society is entrusted?

Ans.: The day to day management of the society is entrusted to the managing committee constituted after elected legitimately.

Q.168 By where signature the bank account of the society is operated?

Ans.: The bank account of the society is operated by joint signature of Secretary, Chairman, and Treasurer Resolution is passed in that respect in the Managing Committee.

Q.169 Whose responsibility it is to keep the record of the society up to date?

Ans.: if Society has not entrusted this responsibility to someone else by making resolution by the committee than the responsibility to keep the documents like society's record, accounts book falls on the Secretary of the Society. It is presumed that society's record is also in possession of the Secretary.

Q.170 What is a procedure for getting audit of the Society?

Ans.: It is legitimately obligatory to get audit as per resolution passed by the general body meeting by the certified auditor from the certified auditor panel approved by the Co-operative department.

Q.171 Whose responsibility it is to give record to the Auditor?

Ans.: Since it is the responsibility of the Secretary of the society to keep the record up to date, therefore the responsibility to make available record to the auditor is entrusted with the secretary of the society.

14. FUNDS TO BE KEPT BY THE SOCIETY

Q.172 What are the various funds which can be constituted by a Society?

Ans.: The following funds can be constituted by a Society:

- (a) Reserve Fund,
- (b) Repairs and Maintenance Fund,
- (c) Sinking Fund,
- (d) Major Repair Funds,
- (e) Corpus fund,
- (f) Common welfare fund, etc.

Q.173 What is a Reserve Fund?

Ans.: The term Reserve Fund is defined under the Bye-law No. 3(xviii) of the Model Bye-laws of the Society. "Reserve Fund" is the fund which is constituted by the Society under the provisions of Section 66(1) & 66(2) of the Act and Bye-Law No. 12(i). The Reserve Fund of the society comprises of the following amounts:

- (a) The amounts carried to the said fund, from year to year, out of the net profit of that year, subject to the provisions of Section 66 (1) and (2) of the Act;
- (b) all entrance fees received by the society from its members;
- (c) all transfer fees received by the society from its members on transfer of the shares, along with the occupancy rights;
- (d) all premium received by the society from its members on transfer of their interest in the capital or property of the society;
- (e) all donations received by the society, except those received by it for the specific purpose.

The society while finalizing the accounts for the preceding Co-operative year has to appropriate all the amounts referred to in the Bye-law No. 12(i) (b) to (e) to the Reserve Fund of the Society.

Q.174 What do you mean by Repairs and Maintenance Fund?

Ans.: The term "Repairs and Maintenance Fund" is defined in the Bye-law No. 3(xvi) of the Model Bye-laws of the Society as the fund constituted under the provisions of Bye-law No. 13(a). The society can create and establish the Repairs and Maintenance Fund by

collecting contributions from its members at the rate fixed at the meeting of the General Body from time to time, subject to a minimum of 0.75 percent per annum of the construction cost of each flat for meeting expenses of normal recurring repairs.

Q.175 What do you mean by a Sinking Fund?

Ans.: The term “Sinking Fund” is defined in the Bye-law No. 3(xvii) of the Model Bye-laws of the Society as the fund constituted under the Bye-law No. 13(c). The society can create and establish the Sinking Fund as and when required and decided by the General Body at the rate fixed on the basis of the area.

Q.176 What do you mean by Major Repairs Fund?

Ans.: The term Major Repairs Fund is defined in the Bye-law No. 3(xviii) of the Model Bye-laws of the Society. “Major Repair Funds” means a fund which is created by the society for the purpose of Major Repairs to be done to the Society building, such as plastering, building of compound wall, pavement, total painting, reconstruction, etc.

Q.177. What is Working Capital?

Ans.: The term Working Capital is defined under the Bye-law No. 3(xxviii) of the Model Bye-laws of the Society. “Working Capital” means the funds which are at the disposal of the society and is inclusive of the paid up capital, share capital, funds created out of profits and money raised by borrowing or by any other means.

Q.178 What are the different modes of raising funds of the Society?

Ans.: The funds of the Society may be raised in one or more of the following ways:

- (a) by entrance fees,
- (b) by issue of shares,
- (c) by loans and subsidies,
- (d) by deposits,
- (e) by voluntary donations, (except from the Transferor and the Transferee);
- (f) by contributions towards cost of building or buildings,
- (g) by fee on transfer of shares, along with the occupancy right,
- (h) by premium on transfer of occupancy rights over the flats, [As per G.R.];
- (i) by any other mode permitted under these bye-laws;

- (j) by corpus fund from the Developer (however, such fund cannot be taken while transferring tenement, flats, and right of society to the capital);
- (k) by way of statutory requirement.

Q.179 Is there any restriction on incurring liabilities by the society?

Ans.: Deposits from members and loans may be received by the Society for such period and at such rate of interest and up to such amount and on such terms and conditions as may be determined by the committee, provided that at no time, the total amount of such liabilities shall exceed the limit as prescribed under Rule 35 of the MCS Rules, 1961.

Q.180 How are the amounts to the reserve fund of the Society appropriated?

Ans.: The Society, while finalizing its accounts for the preceding Co-operative year, can appropriate all amounts referred to in the bye-law No. 12 (i)(b) to (e) to the Reserve Fund of the society.

Q.181 How is the Repairs and Maintenance Fund created?

Ans.: The Society can create and establish the Repairs and Maintenance Fund by collecting contributions from its members at the rate fixed at the meeting of the general body from time to time, subject to the minimum of 0.75 percent per annum of the construction cost of each flat for meeting expenses of normal recurring repairs.

Q.182 How is the Major Repairs Fund created?

Ans.: The Society can create and establish the Major Repairs Fund by collecting contributions from its members as and when required and decided by the general body at the rate fixed on area basis.

Q.183 How is the Sinking Fund created?

Ans.: The Society can create and establish the Sinking Fund at the rate decided at the meeting of the General Body, subject to the minimum of 0.25 percent per annum of the construction cost of each flat, excluding the proportionate cost of the land.

Q.184 For what purpose is the Reserve fund utilized?

Ans.: The reserve fund of the society is to be utilized for the expenditure on repairs, maintenance and renewals of the Society's property.

Q.185 How is the Sinking Fund utilized?

Ans.: The Sinking Fund may be used by the society for reconstruction of its building/buildings or for carrying out such structural additions or alterations to the building/buildings, as in the opinion of the Society's Architect, would be necessary to strengthen it/them or for carrying out such heavy repairs as may be certified by the Architect and on approval of General Body after passing an appropriate resolution at the meeting of the General Body of the society.

Q.186 How can a Corpus Fund are utilized?

Ans.: The Society may create and utilise the Corpus Fund by making Rules with the approval of the General Body. However, such fund cannot be taken from a person who is transferring his flat/tenement/right to share/share capital in the society.

Q.187 Which funds the Co-operative Societies have to be raised?

Ans.: The Housing Societies have to raise funds as follows:

1. Repairs and maintenance fund is to be raised by collecting mioney from the members at the rate decided by the general body meeting from time to time to meet the expenditure incurred on frequent repairing However this rate should minimum 0.75 percent every year of the construction cost of each flat in the name of members.
2. To meet the expenses on important repairing, the general body meeting will determined the amount to be collected by each member as per area of the gala as per requirements.
3. Sinking fund is raised by collecting the amount from members at the rate determined by the general body meeting However this rate should minimum 0.25 percent of the construction cost of each galas every year.

Q. 188 Can a Co-operative Housing Society accept donations?

Ans.: Yes, Co-operative Housing Society can accept donations. However it could not be accepted from the transferee and transferor.

15. FEES CHARGES TO BE CHARGES BY THE SOCIETY

Q.189. What is the composition of the charges of the Society?

Ans.: The contribution which can be collected from the members of the society towards outgoings and establishment of its funds, referred to in the bye-laws are termed as 'charges'. The charges to be collected may be in relation to the following:

- (i) Property taxes,
- (ii) Water Charges,
- (iii) Common Electricity Charges,
- (iv) Contribution to Repairs and Maintenance Fund,
- (v) Expenses on repairs and maintenance of the lifts of the Society, including charges for the running the lift,
- (vi) Contribution to the Sinking Fund,
- (vii) Service charges,
- (viii) Car Parking Charges,
- (ix) Interest on the defaulted charges,
- (x) Repayment of the installment of the Loan and Interest,
- (xi) Non-occupancy Charges,
- (xii) Insurance Charges,
- (xiii) Lease Rent,
- (xiv) Non-Agricultural Tax,
- (xv) Any Other Charges

Q.190. What items can be clubbed under the head of Service Tax in a Society?

Ans.: The service charges of the Society can include the following:

- (i) Salaries of the office staff, liftmen, watchmen, gardeners and any other employees of the Society;
- (ii) Where the Society has independent office, the property taxes, electricity charges, water charges etc. for the same;
- (iii) Printing, Stationery and Postage;
- (iv) Travelling Allowance and conveyance charges to the staff and the members of the committee of the Society;
- (v) Sitting fees paid to the members of the committee of the Society;
- (vi) Subscription to the Education Fund of the Maharashtra Rajya Sahakari Sangh Ltd.;

- (vii) Annual Subscription of the Housing Federation and any other cooperative institution to which the Society is affiliated;
- (viii) Entrance Fees for affiliation to the Housing Federation and any other co-operative institution;
- (ix) Audit Fees for internal, statutory and Construction work re-audit, if any;
- (x) Expenses incurred at meetings of the general body, the Committee and the Sub-Committee, if any;
- (xi) Retainer fees, legal charges, statutory enquiry fees;
- (xii) Common electricity charges;
- (xiii) Any other charges approved by the General Body at its meeting.

However such charges should not be contradictory to the provisions of the Act, Rules and Bye-laws of the Society.

Q.191. How shall the Committee apportion the Share of each member towards the charges of the Society?

Ans.: The Committee shall apportion the Share of each member towards the charges of the Society on the following basis:

- (i) **Property taxes:** As fixed by the Local Authority.
- (ii) **Water Charges:** On the basis of total number and size of inlets provided in each flat.
- (iii) **Expenses on repairs and maintenance of the building/ buildings of the Society:** At the rate fixed at the General body from time to time, subject to the minimum of 0.75 per cent per annum of the construction cost of each flat for meeting expenses of normal recurring repairs.
- (iv) **Expenses on repairs and maintenance of the lift, including charges for running the lift:** Equally by all the members of the building in which lift is provided, irrespective of the fact whether they use the lift or not.
- (v) **Sinking Fund:** As provided under the bye-law no. 13(c).
- (vi) **Service Charges:** Equally divided by number of flats.
- (vii) **Parking Charges:** At the rate fixed by the general body of the Society at its meeting under the Bye-law No. 84 & 85.
- (viii) **Interest on the delayed payment of charges:** At the rate fixed under the Bye-law No. 72 to be recovered from the defaulter member.
- (ix) **Repayment of the installment of the loan and interest:** The amount of each installment with interest fixed by the financing agency.
- (x) **Non-Occupancy charges:** At the rate fixed under the Bye-law No. 43(2)(iii)(c).

- (xi) **Insurance Charges:** In the proportion the built up carpet areas of each flat, provided that if there is increase in the insurance premium due to storing any specific goods in any flat, used for commercial purposes, the extra burden of insurance premium shall be shared by those who are responsible for such increased premium in proportion of the built up areas of their flats.
- (xii) **Lease Rent:** The built up carpet area of each flat.
- (xiii) **Non-Agricultural Tax:** The built-up carpet area of each flat.
- (xiv) **Any other charges:** As may be decided by the General body of the Society at its meeting.

Q.192. Who shall fix the Society charges in respect of every flat and on what basis?

Ans.: The Committee has the duty to fix the Society charges in respect of every flat on the basis of the provisions as laid down under the Bye-law No. 69(a).

Q.193. How is the payment of Society charges to be made?

Ans.: The Secretary of the Society has to prepare the bill/demand notice in respect of the charges of the Society payable by the members on the basis of the Bye-law No. 69(a) and issue the same to all the members on or before the date fixed by the Committee in that behalf. Every member of the Society has to pay the amount mentioned therein in the bill/demand notice in full within such period as may fixed by the Committee.

Q.194. When will the member be deemed to have committed default in payment of charges of the Society?

Ans.: A member is deemed to have committed default in payment of charges of the Society, if the payment mentioned in the demand notice/bill is not made within the period as prescribed under Section 73FF(c) of the MCS Act, 1960.

Q.195. What is the duty of the Secretary in case of defaults being committed by any member?

Ans.: The Secretary of the society has to bring the cases of defaults in payment of the Society's charges by the members to the notice of the Committee for taking further necessary action on the same.

Q.196 How can the dues be recovered from a member who was a defaulter and has deceased?

Ans.: On the Death of the defaulter member of the society, the dues pending in his name to the Society can be recovered from the legal heirs of the deceased member or from the occupant of the flat.

Q.197 What is the interest liable to be paid by a member on the defaulted charges?

Ans.: A member is required to pay a simple interest at such rate as is fixed by the General Body of the Society at its meeting, subject to a maximum rate of 21 percent per annum, on the charges of the Society, from the date the amount was delayed till its payment not paid by the member within the period as prescribed under Bye-law No. 70.

Q. 198 Can Service charges be charged per area of gala?

Ans.: As per provisions under bye-laws no. 69 (6) there is a provision to charge the service charges to all flat in equal proportion.

Q. 199 Can water charges be charged on shop/ office owner member?

Ans.: As per provision in the bye-law no 69 (2) there is a provision that the water charges should charge as per size of the tap making available in each members gala and in proportioning of the number. Therefore water charges can be charge only from those members, who have given facility of water supply.

Q.200 There are two buildings in the Society and in one building there is a facility of lift. Then in such circumstances can a contribution of lift be charges on those who have not lift facility?

Ans.: Contribution of lift could not be charging from members of such building where there is not lift facility.

16. PARKING

Q.201. What is a Parking Space?

Ans.: The term Parking Space is defined under Bye-law No. 3(x) of the Model Bye-laws of the Society. A "Parking Space" means any open space which is located within the premises of the society and is earmarked by the Society for the parking of vehicles and it also includes a stilt.

Q.202. Can a member transfer his parking space or stilts if he has been allotted the same?

Ans.: A Member can hold a parking space/stilt if he is allotted the same, and he shall also have a right to transfer the same to the transferee or any other eligible member of the same Society.

Q.203. How is the allotment of parking space/stilt made?

Ans.: The allotment of Parking Space/Stilts is made by the Committee on the basis of "First Come First Serve", in case of the available parking spaces. However in case of Parking Space/Stilts allotted by the Society, the member shall have no right to sell or transfer the said allotted parking space/stilts, to anybody.

Q.204. Is there any restriction on utilization of parking spaces/stilts?

Ans.: A member is not entitled to utilise more parking spaces/stilts than what is allotted to him by the Committee, Builder.

Q.205. How are the parking spaces/stilts marked?

Ans.: Any stilts which have been built or any open space in the society's compound is available for parking of cars, the society has to number the stilts or the open space in such a way that no inconvenience would be caused to any of the members of the Society. The Committee has to further ensure that the space is used by the members for the purpose for which it is allotted to them.

Q.206. Who is eligible for the allotment of parking spaces/stilts?

Ans.: A member, who has a motor vehicle, will only be held as eligible to have stilts or a parking space. A member normally will not be eligible for being allotted more than one stilt or a parking space for parking the car owned by him or allotted to him by his employer, or the firm of which he is the partner of the company of which he is the director.

Q.207. How are the parking spaces/stilts dealt with, which remain unallotted?

Ans.: In case any stilts or parking spaces remain unallotted for want of applicants for allotment, a second or third stilt or parking space may be allotted to the same member who has earlier been allotted the stilt or the parking space. Such allotment of a 2nd or 3rd stilt/parking space can be made on year to year basis, provided the same is not required by another member, who is not allotted even a single stilt/parking space.

Q.208. When is the allotment of parking spaces/stilts made in lots?

Ans.: When the number of vehicles belonging to the eligible members is in excess of the number of available parking space/stilts, the Managing Committee shall allot such parking space/stilts by 'lot' on yearly basis.

Q.209. How is the application for allotment of parking space/stilt to be made?

Ans.: A member, who desires to have a stilt or a parking space, has to make an application to the Secretary of the Society giving necessary details. The procedure for disposal of applications for permission under the Bye-laws of the Society, as laid down under the Bye-law No. 65, has to be followed by the Secretary and the Committee of the Society.

Q.210. How is the payment of charges for parking of vehicles determined?

Ans.: Every member, who has been allotted the stilt or the parking space is required to pay the parking charges at such rate as is decided by the General Body of the Society at its meeting, irrespective of the fact whether he actually parks his motor vehicle or not. Where a member is allotted more than one stilt/parking space, he has to pay parking charges in respect of every such stilt or parking space, as decided in the General Body Meeting.

Q.211. What is the provision regarding parking of other vehicles by the members other than motor vehicles?

Ans.: Every member, who has a scooter, a motor cycle, or an auto rickshaw has to obtain prior permission of the Committee for the purpose of parking his vehicle in the compound of the society and pay the charges fixed by the General Body of the Society at its meeting.

Q.212. What is a provision for parking the vehicles of visitors/outside visitors visiting housing society?

Ans.: As per development rules, 10 per cent place should have to be reserved for visitors/outside visitors vehicles visiting housing society.

Q.213. Can a society charge for visitor parking?

Ans.: The society can take decision by moving resolution in the general body meeting and by considering number of visitors, facilities etc., for e.g. In the premises society people are coming continuously for professional work therefore it would be proper to take decision by the society not to levy such charges. However in this regards the housing society can take decision according to circumstances but by considering the convenience of the members and the general body meeting's approval will be necessary for this A complaint in this regard can be filed in the co-operative court.

17. RECOVERY OF DUES

Q.214 What action the managing Committee of the Co-operative Housing Society can take against the members for recovery of dues.

Ans.: First upon all it is necessary that notice should be issued by the society to the defaulter member. Then also if the found defaulted then by taking action under section 101 of the Maharashtra Co-operative Societies Act 1960, and by obtaining recovery certificate action can be taken against such member.

Q.215 What action the Co-operative Housing Society can take for recovering dues that of prior to the registration of Co-operative Housing Society?

Ans.: Recovery action can be taken by filing a suit in the civil court against the defaulter for recovery of the dues prior to the registration of the Co-operative Housing Society.

Q.216 Is dues can be kept pending on this grounds that the Co-operative Housing Society has not taken note of the complaints from member? Is it prepare to kept pending the dues?

Ans.: Dues cannot ne kept pending on this ground regarding complaint a member can seek justice by making an application to the competent authority as mentioned in bye laws no 175 . It is not proper to kept pending the dues for that reason government has issued instructions not to need the complaints of the defaulter member.

Q.217 What action can be taken from member whose whereabouts is not know?

Ans.: Public Notice should be publishing is daily newspaper for recovery of dues from such member. The membership of such member can be cancel by taking action as per provisions under section 35 of the Maharashtra Co-operative Societies Act 1960 against such member.

Q.218 Can a Co-operative housing society stopped water supply of the defaulter members?

Ans.: The Society cannot stop water supply of defaulter member.

Q.219 What action a member can take against the co-operative Housing Society for charging excess amount from member?

Ans.: Justice can be seek by filing suit against Housing Society for excess charging under section 91 of the Maharashtra Co-operative Societies Act 1960

Q.220 What action can be taken for recovery of dues from the members whose membership has been cancelled?

Ans.: By taking recovery action under section 156 against such members, a recovery can be made by attaching gala or by selling it dues recovery can made from that.

Q.221 If a member has sell his flat by not paying dues then what action the Co-operative Housing Society can take against new member?

Ans.: The Society can take action by making an application under section 101 of the Maharashtra Co-operative Society Act 1960 for getting the recovery certificate against the new member.

Q.222 Whether a Managing Committee has a right to charge or determined the amount of Maintenance charges which is taken from the members or repairing amount to be insure on repairing works?

Ans.: No. The right to determined, increase or reduce any type of charges has been bestowed to the general Body Meeting of the Housing Society.

Q.223 Is it expected that a member of the ground floor also have to pay contribution for expenses incurred on lift? And at what rate it has been charged?

Ans.: Yes, There is a provision that all members should share contribution of expenses on lift in equal proportion. Exception of ground Floor member has not been made in this similarly, Since the expenditure incurred charging of lift of nature of changing of lift machinery is in the nature of capital expenditure. It has been charged on all members including ground floor at the rate of per sq. ft area of the flats/ galas.

Q.224. Can a society general body meeting/ managing committee enact rules if there is parking allotment Societies gym, hall and swimming pool for its rule and fees, similarly in respect of arrange private program on terrace in the premises of the society, playing of children in the premises of the society, to carry cement etc. which is required for repairing from lift and to carry pet animals from lift, to decide time for operating lift through watchman?

Ans.: Yes, The Managing Committee by enacting rules can take approved of the General Body Meeting- for it. However it is necessary to enact these rules in such a way that a feeling that we are residing collectively as per co-operation principle will be increase and it should not be break. While preparing such rules there should not be only present ego. Jealously, mutual hate and completion because of which some particular member to get annoyed. The Society may charge reasonable fee by these rules.

Q.225 Was non-occupancy charges can be charge on Paying Guest?

Ans.: Since it is implied in the concept of paying Guest that while original member residing in the flat, remaining place gives on the rent and earn income from it, in such circumstances it has been prescribed by the government supplementary letter dt. 25/02/2011 that like a non-occupancy charges which cannot be charge more than 10 percent of the maintenance charges when flat is given on rent on the same basis non-occupancy charges can be charge on the Paying Guest.

Q.226 Whether Society can take penalty from members?

Ans.: If members of the society violated bye laws then a secretary of the society inform the members first. After member gave his reply on it, the managing committee hears the member, If violation of bye laws still continue of even after hearing the member, than a member can be penalised by moving resolution in the general body meeting.

Q.227 Whether a Society can give rebates to the members who pay dues (bill) of the society regularly?

Ans.: The society can give rebate by the approval of the general body meeting for paying the bill regularly by members. However it is necessary by ascertaining that the principle of natural Justice and equal justice to all members was observed or not while giving such justice and to take the decision for it in the general body meeting.

Q.228 While a society can charged interest on the defaulter members?

Ans.: Yes, Up to the limit that prescribed in the bye-laws, the society can charged interest with approval of the general body meeting.

Q.229 What is a procedure for filing recovery case under section 101?

Ans.: Under section 101 of the co-operation law and rule 86 A to 86 F made there under the documents and procedure is prescribed. In short it is as under.

1. It is necessary that society should have to issue 2 notices of one month period and final notice after resolution of 15 days period i.e. total 3 notices to the member.
2. If dues amount is not paid even after this notice, resolution of action under section 101 should have to be moved in the managing committee meeting. There after final notice of 15 days should be given to the defaulter member.
3. If dues amount was not paid even after final notice then an application issue should have to be submitted to Dy/Asstt. Registrar under section 101. The format V or it is given in the rules under Co-operation law and such documents are available with Housing Federation.
4. While submitting the said case a Chelan of the amount of the percent up to one lakh and above that one to two percent should be paid in the government treasury/ Reserve Bank. The said amount can be paid in government treasury by purchasing stamp paper. The limit up to Rs. 10,000/- is prescribed for stamp Paper. This assessment is being made in limitation of maximum Rs10,000/- In addition Rd. 500/- (enquiry fee should have to be paid in following head in the Reserve Bank of India for the case under section 101/-

CO-OPERATION & TEXTILE DEPTT.

0425 CO-OPERATION

800 OTHER RECETPTS

RECOVERY FEE.

04250036

18. RIGHTS, RESPONSIBILITIES AND DUTIES OF THE MEMBER.

Q.230 With Membership What Important Rights received to the Member of the Housing Society?

Ans.: A member of the Housing Society received following Powers/Rights after getting membership.

1. He is getting right to take possession of his flat.
2. Get right to make co-member/nominal member.
3. Get a right to received bye-laws copy.
4. Get a right to inspect concerned account and other papers mentioned in Section 32(2) and to get copies of that.
5. Get a right to present in General Body Meeting.
6. Get a right to fill a form as a candidate for Managing Committee Election if he is not defaulter.
7. Right to cast vote in the election of the society.

Q.231 What are the various items of repairs and maintenance to be carried by the Society at its cost?

Ans.: The following repairs and maintenance of the property of the society shall be carried out by the society at its costs:

All internal roads, (ii) Compound walls, (iii) External water pipelines, (iv) Water pumps, (v) Water storage tanks, (vi) Drainage lines, (vii) Septic tanks, (viii) Stair cases, (ix) Terrace and parapet walls, (x) Structural repairs of roofs of all flats, (xi) Stair-case lights, (xii) Streetlights, (xiii) Outside walls of the building/buildings, (xiv) All leakages of water including leakages due to rain water and leakages due to external common pipe line and drainage line, (xv) Lifts, (xvi) The damaged ceiling and plaster thereon in the top floor flats on account of the leakage of the rain water through the terrace.

- (i) The repairs which are not covered under Bye-law No. 160(a) are to be carried out by the members at their cost.

Q.232 Can a member have access to the Bye-laws of the Society?

Ans.: As per the provisions of Bye-law No. 22 of the Model bye-laws of the Society, a member shall be entitled to receive a copy of the registered bye-laws of the society on payment of the price thereof as per Bye-law No. 172 (which is Rs.10/- more than the cost price).

Q.233 Who has the right to occupy the Flat in a Society?

Ans.: A member, who is deemed to have been allotted the flat under Bye-law No. 76(a) of the Society, has the right to occupy the flat subject to the terms and conditions set out in the letter of allotment in the prescribed form under the said bye-law.

Q.234 Can the Associate or Nominal member have a right to occupy the Flat?

Ans.: The Associate or Nominal member may be given the right to occupy the flat after taking the consent of the member and permission from the Society, and subject to the conditions set out by the Society.

Q.235 What is the provision made in the bye-laws if the member is interested in making additions or alterations to his flat?

Ans.: Any member, who is desirous of making any addition or alteration in his flat, has to make an application to the Secretary of the Society, and give him all the required particulars about the additions or alterations intended to be made by him.

Q.236 To whom the member should have apply for taking permission for doing additional construction or charges in the flat?

Ans.: A member desiring additional construction work or changes in the construction, he should have to make application with all necessary details to the secretary of the society. And if necessary should have to take permission of the municipality. Municipal Corporation by making an application with no objection certificate of the society.

Q.237 Which bye laws are used for additional construction work, charges to be carried out in the flat or for permission?

Ans.: Under bye laws No. 47 (B) a member desiring to make additional construction or changes in the construction, he should have to make an application with all details to the

Secretary of the Society. The Secretary and committee of the Society will take further action on such application as mentioned in the bye-laws no. 65.

Q.238 Is there any restriction on a member if he wants to store any goods in the Society premises?

Ans.: No member, without the previous permission of the committee, in writing, is allowed to stock or store any kind of goods or materials, which are combustible, obnoxious or any other kind of goods for the storing of which permit/sanction of the competent authority under any law relating thereto is required.

Q.239 Is there any restriction on a member regarding the activities done by him in the Flat?

Ans.: A member is restricted to do or suffer anything to be done in his flat which may cause nuisance, annoyance or inconvenience to any of the other members of the Society or carry on practices which may be repugnant to the general decency or morals of the members of the Society.

Q.240 What is the copying fee for supply of copies of documents to members of the Society?

Ans.: The member of the society, requiring copies of the following documents shall pay copying fees at the rates mentioned against them:

1. Bye-law of the society Rs.10/- more than the cost price.
2. Amendment of the bye-laws of the society Rs.2/- per page.
3. Last audited Balance Sheet of the society Rs.10/- per page.
4. Application for membership of the society Rs.5/-.
5. Second and Subsequent Nomination by the member of the society Rs.5/-
6. Share Certificate of the society Rs.50/-.
7. List of members of the society Rs. 5/- per page.
8. Correspondence (related to member) Rs. 5/- per page.
9. Minutes of the General Body meetings and Committee meetings Rs.5/- per page.
10. Indemnity Bond Rs.10/-.

Besides this, for certified copies of the documents a fee shall have to be paid as per Rule 27 of the M.C.S. Rules, 1961.

19. GENERAL BODY MEETING.

Q.241 What is a remedy if Chief Promoter has not called first General Body Meeting in prescribed period?

Ans.: Registrar can call such meeting.

Q.242 What proceedings to be transacted in First General Body Meeting?

Ans.: Proceedings to be transacted in the First General Body Meeting is a follow:

- 1) To select Chairman of the Meeting.
- 2) If application for membership received that to give them membership.
- 3) To accept all accounts statement and report prepared before 14 days of the meeting.
- 4) To constitute ad-hoc committee of the society for one year.

Q.243 Whose responsibility it is to call Annual General Body Meeting?

Ans.: The responsibility to call Annual General Body Meeting of the society is of the Secretary under rule 60 of the Maharashtra Co-operative Societies Rule 1961.

Q.244 It is whose responsibility to see whether the Annual General Body Meeting was called in prescribed time limit or not?

Ans.: It is the responsibility of the Committee of the Housing Society under bye-rule no. 139(16) of the society.

Q.245 If the proceeding was not completed or inadequate as per agenda of the General Body Meeting than what is a provision for it?

Ans.: In such situation, by postponing the proceedings for the meeting and by taking decision after deliberation, there is a provision to finish remaining work within 30 days of the meeting and on stipulated day & time.

Q.246 Is Annual General Body Meeting postponed for want of Quorum?

Ans.: Yes. As decided on the day of meeting and as mentioned in the notice the meeting can be postpone upto the time determined on the same day. A postpone meeting can be taken on the date determined and this meeting did not required quorum.

Q.247 Which proceeding could not be transacted in the meeting called by not giving proper notice?

Ans.: Proceeding on the subjects like expelling member of the Co-Operative Housing Society, to make amendment in the bye-laws, partition of the society, to transfer amalgamated society's property etc. which are dealing with important policy matter and causing for reaching effect cannot be transacted in the meeting called by not giving proper notice.

Q.248 What is a minimum period of the Annual General Body Meeting?

Ans.: At least 14 days notice is required.

Q.249 Can a meeting become invalid is some members of the co-operative housing society?

Ans.: Once the general body meeting is called then it cannot be invalid unless the order in that regard passed by the Co-operation court.

Q.250 What is a remedy if the general body of the society was not called before the 14th August.

Ans.: In such situation the society should to more resolution for getting extension for calling meeting and by passing it the application for extension should have to be submitted to the Registrar before 31st July or before that. If the reasons of the society for extension Registrar can give extension up to 3 months period.

Q.251. How can be challenge the resolution passed in Annual General Body Meeting?

Ans.: A dispute can be raised by filing a suit in co-operation court under Section 91 of the Maharashtra Co-operative Societies Act 1960 and Resolution can be challenge.

Q.252. What is a remedy if the accounts of the Co-operative Housing Society are not completed up to 15th May?

Ans.: A Committee of the society should have to applied to the registrar within a time and seek extension for completing accounts.

Q.253. What are the measurements if the society has not finalized the accounts on 15th May or within the standard period?

Ans.: In such a situation the Registrar can take step to finalized the accounts by the authorized officer as per provision under section 79 (2) of the Co-operative law.

Q.254 What should be the minimum notice period for calling special general body meeting?

Ans.: The minimum period should be 7 days .

Q.255 Can a changes be made in the resolution passed in Annual general body meeting or special general body meeting?

Ans.: Once resolution is passed it cannot be put for cancellation or changes in the Annual general body meeting within six months from its passing.

Q.256 Can annual general body meeting or special general body meeting become invalid on the ground that it was not held in the premises of the society?

Ans.: If such a meeting was held then it cannot be invalid without the order of the Co-operation court

Q.257 Can a Co-member participate in the working of the general body meeting?

Ans.: Yes, Co-member can participate in the working of the society in absence of the original members.

Q.258 With in what period it is essential to call first general body meeting?

Ans.: It is essential to call first general body meeting of registration of the society.

Q.259 Who issued the notice for the first general body meeting of the Society and how many days notice to be issue?

Ans.: It is essential to issue total 14 days to all flat owners/gala owners participation in the registration proposal.

Q.260 On what subject working to be conducted in the first general body meeting after the registration is obligatory?

Ans.: Agenda of the first general body meeting after registration is obligatory as follow:-

- 1) To select President of the meeting.
- 2) To membership of other flat owners except Promoter
- 3) To select **ad- hoc** management committee. .
- 4) To accept and approve upto 14 day expenses prior to the first general body meeting by the chief Promoter.
- 5) To give power to the ad-hoc management committee for getting papers like conveyance ownership rights from developer.
- 6) To put restrictions on the loan amount to be raised from out sode.
- 7) To appoint internal auditor and to decide his fees.
- 8) To take decision regarding taking membership of Housing Federation and other institutions.
- 9) To give powers to one member from the Ad-hoc managing of the managing committee
- 10) To think over the eleventh hour subject raised by the members excluding the matter for which advance notice is necessary with the permission of the chairman.

Q.261 Up to which date the annual general body meeting of the society to be called?

Ans.: The annual general body meeting should be called wupto 14th of the month of August,. If extention to be takes for some reasons the extension can be taken upto 14th November by making an application to the right Registrar Officer. If the annual general body meeting was not held by not taking extension upto 14th August and by taking extension upto 14th November then the Registrar can take annual general body meeting by appointing authorized officer.

Q.262 On which subjects working by conducting in the annual general body meeting is obligatory?

Ans.: It is legally obligatory to transact business on the following subjects in the annual general body meeting.

- 1) To read and approve the minutes of the last years general body meeting.
- 2) To present the working report of the managing committee and to present financial statement and to get it approve.
- 3) To consider the statutory Audit Report if it is received and if the society presented it then to consider on rectified report.
- 4) To declare the election result if election was conducted on that year.
- 5) To appoint internal auditor if necessary and to approve his remuneration
- 6) To appoint auditor for next year by the society for getting statutory audit.
- 7) To move resolution for amendment in bye laws as necessary as per circular/ order from Co-operation department.
- 8) To take decision by deliberation in respects of the bye-laws amendment suggested by the managing committee (It is present and suggested amendment bye- laws to the members together with Agenda)

To consider and take decision on major repairs carried out or to be carried by the society, in respect of structural audit., erecting tower, increasing service charges and other charges, changing of lift and such corresponding subject.

- 9) To consider the eleventh hour subject with the prior permission of the chairman by excluding the subject for which advance notice is necessary.

Note : The Society can present other important subjects as per there requirement for which approval of the general body is necessary under Co-operative law, rule and bye-laws.

Q.263 If the Co-operation court not issued probation order or not cancel the resolution passed in the general body meeting then in such situated is the said resolution obligatory to all members?

Ans.: If the Co-operation court has not issued prohibitory order for the resolution or not cancelled it then that resolution can be in force and it is obligatory.

Q. 264 When does the Special General Body meeting called?

Ans.: The Special General Body meeting can be called at any time by the Chairman or majority of the committee members., Similarly it is necessary to call special general body meeting if one fifth of the members of the society made written demand for it. If Society called such meeting then the Registrar arrange it by appointing authorized officer.

Q.265 Who call the Special General Body Meeting after making such demand?

Ans.: The secretary of the Society can call such meeting.

Q.266 What are the members if Special General Body Meeting is not called?

Ans.: If the committee of the society tells to call special general body meeting then the Registrar called such meeting through authorized officer.

20. REPAIRS AND MAINTAINS OF THE PROPERTY

Q.267 Who is responsible for maintaining the property of the Society?

Ans.: It is the responsibility of the Committee to maintain the property of the Society in good condition at all times.

Q.268 Can the Secretary inspect the property of the Society to see if it is in need of repairs?

Ans.: On receipt of complaints about the maintenance of the property of the Society from any members of the Society or on his own motion, the Secretary of the Society shall inspect the property of the Society from time to time and make report to the Committee, stating the need of the repairs, if any, considered necessary. The committee shall consider the report made by the Secretary of the Society and then decide as to which of the repairs should be carried out.

Q.269 What are the limits for incurring expenditure on repairs and maintenance of the Society's property?

Ans.: The Committee is competent to incur expenditure on the repairs and maintenance of the Society's property, if the one time expenditure does not exceed:

Up to 25 members	Rs. 25,000/-
26 to 50 members	Rs. 50,000/-
51 and above Up to	Rs. 1,00,000/-

If the one time expenditure on repairs and maintenance of the Society's property exceeds the limits as mentioned under Bye-law No. I58 (a), prior sanction of the meeting of the General Body of the Society shall be necessary.

Q.270 What can be decided in the meeting of the General Body regarding the limit of incurring expenditure on repairs and maintenance?

Ans.: The meeting of the general body of the society shall decide:

The limit upto which the expenditure on repairs and maintenance of the property of the society could be incurred by the Committee without calling for tenders for the work. In

respect of the work, the cost of which exceeds the limit, so fixed, the Committee shall follow the procedure of inviting tenders, placing them before the general body meeting for the approval and entering into contract with the architect (if appointed) and the contractor. Limits of the expenditure to be incurred on repairing and maintenance during the Co-operative year.

Q.271 Who has the authority to enter into a contract with the Architect?

Ans.: The Committee enters into a contract with the Architect on the basis of the terms and conditions approved at the meeting of the General Body of the Society in that behalf.

Q.272 Who prepares the plans and the estimate of construction?

Ans.: The Architect prepares the plans and the estimate of construction for the building/buildings in consultation with the Committee, which places the same before the meeting of the General Body of the Society. The Architect then submits the plans and estimates of the construction of the building/buildings approved by the meeting of the General Body of the Society to the local authority for sanction.

Q.273 What is the next step to be taken once the plan is approved?

Ans.: After approval of the plans of the construction of the building/buildings by the Local Authority, the Committee shall invite tenders in consultation with the Architect of the Society.

Q.274 When can the Committee enter into the contract with the Contractor?

Ans.: The Secretary opens the tenders received by him in the meeting of the Committee, which scrutinizes them and prepares its report along with the draft of the terms and conditions, in consultation with the Architect of the Society and places the same before the meeting of the General Body for its decision. After the approval of the General Body, the Committee then enters into the contract with the Contractor.

Q.275 How are the disputes settled with the Architect and the Contractor?

Ans.: The contract deeds, entered into with the Architect of the Society and the Contractor, need to provide a stipulation for settlement of the disputes arising out of execution of the contracts under Section 91 of the Act. The Contract Deeds are to be registered under the Registration Act, 1908.

21. REDRESSAL OF COMPLAINTS

Q.276 To who can the complaint applications is submitted?

Ans.: The Member/Members can submit their complaint application to any of the Office bearers of the Society, in writing, giving thereby the details of the complaint.

Q.277 Within what period does the Committee have to give a reply on the member's complaint application?

Ans.: After receiving a complaint application from a member, the Committee has to take a decision thereof, in the coming Managing Committee Meeting. Such decision taken by the Committee has to be communicated to the concerned member, within 15 days thereafter.

Q.278 What is the remedy if the Member/Members are not satisfied by the decision of the Committee or does not receive any communication from the Committee?

Ans.: If the Member/Members are not satisfied by the decision of the Committee, or does not receive any communication from the committee within 15 days, then he / they may make complaint to the Advisory Committee constituted by the General Body of the society. The formation and powers of such Committee is decided by the General Body. If the concerned member is not even satisfied with the decision given by such Advisory Committee, then as per the nature of the complaint, the complainant member can approach the below mentioned authorised officers:

- a. Registrar;
- b. Co-operative Court;
- c. Civil Court;
- d. Corporation/Local Authority;
- e. Police;
- f. General Body;
- g. Federation.

Q.279 What complaints can be made to the Registrar?

Ans.: Complaints can be made to the Registrar relating to the matters pertaining to the following issues:

- a) Registration of Society on misrepresentation;
- b) Non-issuance of the Share Certificates;
- c) Refusal of Membership;
- d) Non registration of nomination by the society;
- e) Non Occupancy charges;
- f) Demand of excess premium for transfers;
- g) Non supply of copies of the record and documents;
- h) Tampering, suppression and destruction of the records of the Society;
- i) Non acceptance of the cheques or any other correspondence by the Committee;
- j) Non maintenance or incomplete maintenance of records and books of the society;
- k) Non preparation of the annual accounts/reports, within the prescribed period;
- l) Misappropriation/Misapplication of the funds of the society;
- m) Defaulter/Disqualified member on the Committee;
- n) Investment of Funds without prior permission;
- o) Reconciliation of Accounts;
- p) Audit;
- q) Non conducting of election before expiry of the term of the Committee;
- r) Rejection of Nomination;
- s) Non calling of General Body Meetings within prescribed period;
- t) Non calling of Managing Committee as prescribed in laws;
- u) Resignation of the Committee;
- v) Any other, like matters which falls within jurisdiction of the Registrar.

Q.280 What complaints can be made to the Co-operative Court?

Ans.: Complaints can be made to the Co-operative Court relating to disputes between the members and/or the members of the Society, which fall under Section 91 of the MCS Act, 1960 such as disputes pertaining to:

- a. Resolutions of the Managing Committee and General Body;
- b. The elections of the Managing Committee, except the rejection of nominations, as provided under Section 152-A of the MCS Act, 1960;
- c. Repairs, including major repairs internal repairs, leakages;
- d. Parking;
- e. Allotment of Flats;
- f. Escalation of construction cost;
- g. Appointment of Developer/Contractor, Architect;
- h. Unequal water-supply;

- i. Excess recovery of dues from the members;
- j. Any other, like disputes which falls within the jurisdiction of the Co-operative Court.

Q.281. What complaints can be made to the Civil Court?

Ans.: Complaints can be made to the Civil Court relating to disputes pertaining to:

- a) Non-compliance of the terms and conditions of the agreement, by and between the Builder/Developer;
- b) Substandard constructions;
- c) Conveyance;
- d) Escalation of Construction cost;
- e) Any other, like disputes which fall within jurisdiction of the Civil Court.

Q.282 What complaints can be made to the Corporation/Local Authority?

Ans.: Complaints can be made to the Corporation/Local Authority relating to Matters pertaining to:

- a) Unauthorized constructions/addition/alterations, made by the builder/member /occupant of the flat;
- b) Inadequate Water supply to the society;
- c) Change of use by the member/occupants;
- d) Building's structural problems;
- e) Any other, like matters which falls within jurisdiction of the Corporation / Local authority.

Q.283 What complaints can be made to the Police?

Ans.: Complaints can be made to the Police relating to matters pertaining to:

- a) Nuisance carried by the unauthorized use of the Flat/Shop/Parking Space/open space in the society, by the members, builder, occupants or any other persons;
- b) Threatening/ Assault by or to the members of the society;
- c) Any other like matters which falls within jurisdiction of the Police.

Q. 284 What complaints can be made to the General Body?

Ans.: Complaints can be made to the General Body relating to matters pertaining to:

- a) Non maintenance of the property of the society by the managing committee;
- b) Non display of board of the name of the Society;
- c) Levy of excess Fine, by the Managing Committee for act of the member which is in violation of the bye-laws;
- d) Not allowing the authenticated use of the available open spaces of the society by the managing committee;
- e) Non insuring the property of the society, by the Managing Committee;
- f) Appointment of Architect;
- g) All other, like matters which falls within jurisdiction of the General Body.

Q.285 What complaints can be made to the Federation?

Ans.: Complaints can be made to the Federation relating to matters pertaining to:

- a) Non allowing of the entry of the Secretary of the society, by the member;
- b) Non acceptance of any communication by the member/ managing committee;
- c) Convening Special General Meeting provided under Bye-law No. 97 and managing committee meeting provided under the Bye-law No. 133;
- d) All other like matters.

22. REDEVELOPMENT

Q.286 Is the sanction of the general body meeting for the re-development of the Society necessary.

Ans.: Yes, The quorum of $\frac{3}{4}$ of the total number of member in the general body meeting going to move resolution regarding re-development. Similarly to pass such resolution by giving approval to the re-development scheme by more than $\frac{3}{4}$ members of the members present in this meeting is obligatory. The government has circulated directives in this regard on dt. 3rd January 2009 under section 79 (AB).

Q. 287 What is the provision if the quorum of the special general body meeting is not completed for re-development?

Ans.: If the quorum of $\frac{3}{4}$ of the total member for the special general body meeting called for the re-development is not completed the meeting shall postpone for 8 days. However if the quorum was not also completed in this postponed meeting then the meeting shall be cancelled.

Q.288 Can members raise objections, suggestions and recommendation regarding redevelopment of the society?

Ans.: Yes, As per directions issued by the government under section 79(AB) on dt. 3rd January 2009, the secretary of the society eight days before the date of the general body meeting. By accepting the received suggestions of the members it is obligatory on the Architect and Project Consultant to note in the project report that whether that suggestion are accepted or not.

Q.289 What is the procedure of the general body meeting called for the re-development?

Ans.: The quorum of this general body meeting is $\frac{3}{4}$ of the total member. It is obligatory that the officer from the Registrar office should have to attend this meeting as a authorized officer, Similarly V.D.O. picturisation of this meeting is necessary. To send the agenda of the meeting before 14 days is obligatory,

Q. 290 In what way the redevelopment of the co-operative housing society can be done?

Ans.: Under section 79 (A) of the Maharashtra Co-operative Society Act 1960 the Government has issued government resolution NO SARUYO 2007/Pra.kra. 554/14-SA, dt. 3rd January, 2009 regarding redevelopment of vacant land and also building owned by co-operative housing society. Vacant land/ building can be re-development as per provisions in the said directives.

23. OPEN SPACE- COMMON SPACE

Q.291. What is an Open Space?

Ans.: Open space means an area, which forms an integral part of the site, and which is left open to sky. The term Open space is defined in the Bye-law No. 3(xx) of the Model Bye-laws of the Society.

Q.292. What do you mean by Open Terraces?

Ans.: The term Open Terraces is defined in the Bye-law No. 3(xxi) of the Model Bye-laws of the Society. "Open terraces" means the area terraces which are otherwise not in the exclusive possession of any of the members of the Society.

Q.293. What do you mean by the term Common Amenities and Facilities?

Ans.: The term Common Areas & Facilities is defined in the Bye-law No.3 (xxii) of the Model Bye-laws of the Society. According to Bye-law No.3 (xxii), "Common Areas & Facilities" means:

1. the land on which the building is located;
2. the foundations, columns, guarders, beams, supports, main walls, roofs, halls, corridors, lobbies, stairs-ways, fire escapes and entrances and exits of the building;
3. the basements, cellars, yards, gardens, parking areas and storage spaces;
4. the premises for persons employed for the management of the property;
5. installations of central services, such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning and generators;
6. the elevators, tanks, pumps, motors, fans, compressors, ducts and in general all apparatus and installations existing for common use;
7. such community and commercial facilities as may have been provided for;
8. all other parts of the property necessary or convenient to its existence, maintenance and safety or normally in common use.

Q. 294 To whom the ownership of open space in housing Society?

Ans.: The ownership of the open Spaces like terrace, compound, parking places etc. of the co-operative housing society lie with the co-operative society No one have private ownership.

24. DEEMED CONVEYANCE

Q. 295 What is Deemed Conveyance?

Ans.: To make conveyance of the land and building on it in the name of registered society or other statutory society after registration or within 4 months after formation is legally obligatory on Promoter (Builder/ Developer). Many Builder/ Developer not make conveyance of the land and building in the name of statutory society. Therefore the government has decided to make deemed conveyance in the name of statutory society by making ownership Rights Act 1963. According to these new provisions. Those statutory societies in whose name deemed conveyance has not been made within 4 months of formation, their conveyance is treated as in the name of the society, One special authorized officer for recording this conveyance in the record of the revenue department. After receiving the application from aggrieved society, this officer by hearing the concerned party, if deem proper will give order for making ownership conveyance in the name of applicant society and will issue deemed conveyance certificate in the name of the society there after appoint authorized officer for signing on that document behalf of the Promoter (Builder/ Developer) and land owner non cooperating for registration of conveyance documents. In this way transfer of Ownership rights on the land and building on it in the name of applicant society means deemed conveyance.

Q. 296 What is the difference between regular conveyance and deemed conveyance?

Ans.: In the regular conveyance builder/ developer and land owner themselves prepared conveyance documents and completed the registration process by submitting it before the Dy. Registrar and sign on it. In the deemed conveyance, the builder/ developer or land owner or their legal heirs did not extent any co-operation. Therefore the aggrieved society placed their side before the authorized officer. By hearing all parties, the concerned authorized officer issued suitable orders regarding conveyance. Deemed conveyance means total conveyance and therefore no question arised for any problem in it.

Q. 297. Generally which complaint received against the builder?

Ans.: Generally following complaints received against the builder.

1. Not giving occupation certificate
2. Not giving electricity connection.
3. Not giving water connection.

4. Not giving building completion certificate.
5. Doing unauthorized construction.
6. Not forming society.
7. Not giving income expenditure.
8. Not doing conveyance.
9. Not making property card in the name of the society.

Q. 298. Which papers collected from builder?

Ans.: Following papers are collected from builder.

1. Development agreement.
2. Death certificate of the deceased land owner.
3. Partnership agreement between partners.
4. Evidence of registering partnership agreement.
5. Conveyance agreement with builder.
6. Paper agreement (with previous owner and with builder.)
7. A will, copy of the authorized will (If the Development Agreement was signed by the legal heir)

Q. 299. What are the benefits of the conveyance?

Ans.: The society can get benefit of increased carpet area and T.D.R

1. If the government at some time take position of the property for extending width of the road or decreasing width of the road then the owner get reasonable compensation of it.
2. If the society decide to erect mobile tower or advertisement display board on the tower of the society then the society can get more income.

Q. 300. Which are the papers of property?

Ans.: Papers regarding property.

1. 7/12 extract.
2. Town plans six.
3. Property card.
4. Summary of all agreements.

5. Receipts of stamp duty and registration.

Q. 301 How much Stamp Duty and Registration for Conveyance?

Ans.: The stamp duty to be paid on the conveyance is depend upon increased carper area and T.D.R. It also depends on the proportion of stamp duty paid by every member for e.g If there are 15 flats in the society and 12 flat owners have paid stamp duty. Flats have sold out but not paid stamp duty then in such situation the stamp duty which is to be paid is paid up to the conveyance date on these 3 flats remaining increased carpet are the remaining T.D.R. not in used. At some time when the increased carpet are T.D.R. in not balance and all members have paid stamp duty then at the time of conveyance only Rs. 100/- stamp duty to be paid.

Q. 302 Who do the Conveyance?

Ans.: Under provisions of section 11 of the Maharashtra Flat Owners Act the builder/ developer/ Promoter should have to do the conveyance in the name of the co-operative housing society.

Q. 303 How much time limit is decided for doing Conveyance?

Ans.: Under Section 11 of the Maharashtra Flats Ownership Rights Act 1963 and Section 9 of the Rule 1964 if there is no any mentioned of the time limit In the agreement then it necessary that the conveyance of the property should have to do within 4 months of formation of the co-operative society?

Q. 304 Why it is necessary to register the deeds?

Ans.: Under Section 17 of the Registration Act 1908, it is obligatory to register the deeds. If that was not register under that section then it cannot be procedure in the court as evidence if some dispute arised in respect of the property. And it has not any legal recognition. Therefore it is necessary to register the deeds.

Q. 305 Why it is necessary to paid proper Stamp duty?

Ans.: If it is a seal of approval and it is treated as valid document And such document can be produced in the court as legal evidence if any dispute regarding property arised. It has

also importance in view of law. Those documents on which stamp duty as not paid property those documents have to value in view of law.

Q. 306 What is the definition of promoter?

Ans.: Section 2(c) of the Maharashtra Flat Ownership Rights Act 1970 explicit the definition of the Promoter, Promoter means partnership society, board or federation of persons whether it is registered or not The objective of this board or federation is to construct building, galas or flat or rooms and to sell it entirety or party to individuals, company Co-operative society or to the federation of individuals. It also includes individuals prescribed by him. Hear the individual build the building and individual. Who sell it may be different. In this both are included. Hear it is not necessary that the builder a owner of the land.

Q. 307 If Promoter is not forming the Co-operative Society then what measures the flat owner to be adopted?

Ans.: In such situation the flat owners should come together on their own and form the Co-operative society.

Q. 308 If Some members of the society have not paid the Stamp Duty and the society wants to do conveyance then what to do?

Ans.: In such situation the society should have to bring to the notice of the Register. This matter and similarly society have a right to issue bill to the member who had not paid stamp duty by moving resolution in the general body meeting. These all are apply to the transactions before 9/12/1985. Therefore many members by not paying stamp duty give their rights on the property to others. At such time the society should have to recover the stamp duty from the new member. The society can take action under section 101 of The Maharashtra Society Act 1960 against the member if he is not paying stamp duty.

Q.309 Which are the rights of the competent Authority?

Ans.: The State Government appoint the competent officer by government Gazette under sections 5 (A) of the Maharashtra Flats Ownership Rights Act 1970. These officer should not be less than District Dy. Register. These officers can exercise their power under section 5, 10 and 11 of the Maharashtra Flats Ownership Rights Act 1970 and can work accordingly. The government has appointed the District Dy. Registrar from Maharashtra

as Competent officer by issuing circular dt. 25th February, 2011. Those wants to apply for deemed conveyance they may apply to their respective District Dy. Registrar.

Q.310 If there are some deficiencies or drawbacks in the construction work of the building then at what period the builder should have to complete it?

Ans.: If there are some deficiencies or drawbacks in the construction work the builder/ Promoter should have to complete it within 3 years period from the date of possession under the Maharashtra Flat Ownership Rights Act 1963.

Q. 311 Which matters are included in the conveyance deed?

Ans.: Following matters are included in the conveyance deed.

1. Seller's name and Address
2. Purchaser Name and address.
3. Name and address of the Builder/ Developer who work as a party permanently.
4. Description of the Property in which area of the Plot, City survey number is included (In this the area of the plot mentioned should have to be tally with the area of the plot in property card.)
5. Statement of amounts given by the flat purchaser.
6. Receipts of the amount paid.
7. Signs of all parties.
8. Other papers of conveyance.
9. Sequence of events regarding ownership of property since last some years.

Q. 312 Registration of society is completed but conveyance has not made then in such situation who gets the rights of the increased carpet area/ T.D.R ?

Ans.: Once the society is registered then it is obligatory on builder to give all his rights and ownership rights in stipulated period under section 11 of the Maharashtra Flats Ownership Rights Act 1970. Builder has no right to make further construction after formation of society. Even though conveyance has not made, the benefit of increase carpet area/ T.D.R. should be get to the society. In such situation if the increased carpet area is not getting then court action should have to be taken against builder.

Q.313 Ten years lapsed in registration of society, however conveyance has not taken place and builder is not ready to make conveyance, What to do in such situation

Ans.: The society can claim as owner after 12 years from the date of taking hostile possession. However the societies have to produce necessary evidence for it. Court order is required in that respect. This court order itself explicated the Deemed Conveyance has taken place, And that could be produce for registration. Stamp Duty should have to period on it by presuming the deemed conveyance took place after court order.

Q.314 What action society should have to take against the builder if he has not provided facilities as per agreement?

Ans.: If society deem fit, it should seek justice against the builder from consumer court.

Q. 315 What are the reasons behind not doing consuming/ time for conveyance?

Ans.: Some of the reasons behind not doing consuming time for conveyance are as follow:

1. Flats not sold.
2. Necessary Stamp Duty on the Conveyance documents not paid by every member.
3. No-Co-operation of land lord/ builder.
4. Builder imposing responsibility on the flat owners for avoiding the payment of stamp duty
5. Non-co-operation of members.

Q. 316 Society is registered however, the builder has not made conveyance then can the society make conveyance with the help of court?

Ans.: It is obligatory on Promoter/ builder to make conveyance of the land & building in the name of the society within 4 months of the date of registration of society under the provision in section 11 of the Maharashtra Flat Ownership rights Act 1970. If builder fell to do this then the society can make an application for deemed conveyance.

Q. 317 Which individuals can make an application for making deemed conveyance in the name of co-operative society?

Ans.: Under the Maharashtra Flat Ownership Rights Act 1970, the following individuals can make an application for conveyance of land and building.

1. Registered Society under the Maharashtra Co-operative Society Act 1960
2. The Company registered under Company Act.
3. Federation form recently.
4. Any independent and individual flat owner.

Q. 318 Whether the stamp duty on the office Premises kept by the builder in his own name is to be paid or not at the time of conveyance? Is the conveyance of the Plot taken place if the builder has given mere understanding that stamp duty will be paid after its sell?

Ans.: As per rules builder should have to paid stamp duty on the office premises which he has kept in his own name while making conveyance.

Q. 319 What Stamp government has taken for deemed Conveyance?

Ans.: By constructing building and after selling flats in it then it is necessary that the builder should have to make registration of society, apartment or company as per company act for that building After making such registration, it is legally binding on the builder/ developer to transfer the entire land of that building, open space and total right on the building to such society by registered deeds. Its call conveyance. However at many places builders are not land is not categorized in the name of the society. Therefore the government by issuing ordinance on dt. 27-09-2010 and by making amendment in section 11 of the MOFA Act, has brought info force the rule regarding making conveyance in absent of the builder if he is not ready to do that.

Q.320 It Stamp Duty be paid for deemed Conveyance?

Ans.: No. The deed is registered on nominal stamp paper. However it is necessary that all flat owners should have to paid total Stamp Duty on their agreement. It is necessary to verify it from the District Stamp Duty Officer.

Q. 321 Is it 100 percent necessary of Index II for deemed conveyance?

Ans.: It is necessary to give evidence of stamp duty paid by all 100 percent flat owners for the conveyance deed you can give Index II, Stamp receipt, registered copy of the agreement for evidence. If Stamp Duty was not paid then it is necessary to paid it by making verification and by checking from the Collector of Stamp Duty about the Stamp Duty of that time when the flat was purchased.

Q. 322 What can be done if the builder is land owner and he is not ready for registering the Apartment?

Ans.: Under section 10 of MOFA Act. You can register co-operative housing society, without the co-operation of the land lord for it necessity of builder or land owner is not required.

Q. 323 What can be done if builder is not at his place, address is change, absconded?

Ans.: By issuing notice on the address with are record, the period should be kept for 21 to 25 days during which the acknowledgement from post came. If the notice return without accepting and new address is not traceable after making enquiry then public notice should be issued from the news paper, As per law such notice is sufficient.

Q. 324 What to do for Conveyance?

Ans.: If builder is died then the notice of conveyance should be given to the original land lord. For this new 7/12 extract or property card should be taken. The notice issued to all of them whose extract or property card should taken. The notice issued to all of them whose name appeared on this new 7/12 extract or property card.

Q. 325 What if some galas in the building are not sold by the builder and they are in his position?

Ans.: Such galas may have with builder. While preparing list is recorded that these are with builder.

Q. 326 When galas are with original owner then what to do?

Ans.: Then it is necessary that they have to register said galas stamp Duty paid by checking with the collection of Stamp Duty.

Q. 327 Is deemed conveyance can take place if the developer taken loan by creating liability on land and it was not repaid?

Ans.: If there is liability then first upon all by filing cheating offence against the developer, it is necessary to recover the said amount. If transfer take place then it will take place with liability and it will be our responsibility to pay it.

Q.328 Is term law is applicable for Deemed Conveyance?

Ans.: The term law is not applicable to deemed conveyance.

Q.329 If a flat was sell two to there times then are all that documents trquired for conveyance?

Ans.: No. Stamp Duty paid evidence of the last owner/ member is necessary.

Q. 330. Is it necessary to issue notice to original owner?

Ans.: If original owner has given power of attorney regarding conveyance to the developer then it is not necessary to issue notice to the original owner. If power of attorney was not given and a developer was died then to issue notice is necessary.

Q. 331 Is there any format for conveyance which documents required?

1. Court fee Stamp Duty of Rs. 2000/-
2. Resolution moved for making the authorized person.
3. True copy of the Registration.
Certificate or Deed of Declaration
4. 7/12 extract or Deed Property card.
5. True copy of the sell agreement of the one of the purchasers executed with developer.
6. Index II of all flat owners and list in prescribed format
7. A copy of the development agreement between original owner and Developer.
8. A copy of the notice regarding making conveyance issued to the Respondent by the applicant.
9. Search Report of the land.
10. Non-agricultural order of the land.
11. Order regarding land sealing.
12. A Copy of the approved construction Plan.
13. Occupation letter/ the construction is as per approved plan of the recognized architect. Certificate showing total number of galas and area of the land.
14. Power of Attorney letter.

Q. 332 How is the total process of the Conveyance?

Ans.: First the proposal for conveyance in prescribed format and with all necessary documents should be submitted to the concerned office. After order is passed from their then the Deed of the conveyance should be made and get it check from the collector of stamp duty for stamp duty. Thereafter it can be registered in the office of the Dy. Registrar.

Q. 333 Is conveyance of the Apartment made?

Ans.: Under section 11, Conveyance of the apartment can made.

25. AMENDMENT IN BYE-LAWS/PARTITION-AMALGAMATION OF SOCIETY

Q. 334. What is a procedure in respect of amendment in bye-laws of the Co-operative Housing Society?

Ans.: Instructions regarding bye-laws amendment should be given to all members through General Body Meeting Notice before 14 days. Bye - law amendment resolution should be passed by 2/3 majority in General Body Meeting. The matter of the bye-law amendment should have to be submitted to the Registrar in prescribed format within two months from the date of approved in the General Body Meeting. The Bye-law amendment came into force only after registration made by the Registrar.

Q. 335. Can Registrar imposed Bye-laws?

Ans.: Registrar has powers under Section 14 of the Maharashtra Co-operative Societies Act 1960 to impose Bye-law amendment which is in the interest of the society.

Q. 336 In what circumstances the amalgamation or division of the Housing Society can be done?

Ans.: Society's division can take place in following circumstances.

- a. If there are two or more than two buildings.
- b. There should be a separate water tank and connections in each building.
- c. There should be a separate entrance.

Q.337 What is a provision for making separation or amalgamation of the Housing Society?

Ans.: According to Section 17 of Co-operation Law if a resolution is passed by the majority of the members present in the General Body Meeting and with prior permission of the concerned Dy/Asst. Registrar than the society can

- a) Merge in another society.
- b) Transfer owns properties and liability in total or part in another society.
- c) Divide in 2 or more societies.

Classification of the society can be changed. However, In this regard, unless following the procedure as mentioned in Section 17 and Rule 16 made there under of co-operation law, the above cannot be completed legally. Similarly even with the orders of the Registrar the process of division or amalgamation of the society can be made under Section 18 and Rule 17.

Q. 338 Is a Registrar competent for making division of the Society?

Ans.: The Registrar may impose division of the Society if he thinks it necessary in keeping with interest of the members of society.

26. INCOME TAX AND STAMP DUTY

Q. 339 Is it necessary to pay Income Tax by the Co-operative Housing Society?

Ans.: Yes. It is necessary to pay income tax by the Co-operative Housing Society.

Q.340 Whether an amount received from transfer premium and donation to the Co-operative Housing Society are taxable?

Ans.: Yes. An amount, received from transfer premium and donation to the Co-operative Housing Society are taxable.

Q. 341 Is an Income received from sell of construction area taxable?

Ans.: Yes. Income received from sale of construction area is taxable.

Q. 342 Which is a taxable income of the income received to the Co-operative Housing Society?

Ans.: Taxable Income is as follow:-

- a. Transfer Premium.
- b. Income received from installing dish antenna.
- c. Income received from giving premises on rent.
- d. Income received from interest on dues of the members.
- e. Income on deposits.
- f. Income received from the sell of construction area.
- g. Any Income eligible for income tax under Income Tax Act.

Q. 343 Whether Co-operative Housing Society deducted Income Tax amount from the amounts to be given to contractor?

Ans.: Yes. Co-operative Housing Society can deduct Income Tax amount from the amount to be given to the contractor.

Q. 344 In which form, the Co-operative Housing Societies have to file Income Tax Returns?

Ans.: Co-operative Housing Societies have to file Income Tax Returns in Form No. 2.

Q. 345 Is it necessary to submit returns when Co-operative Housing Society is in loss or there is no income?

Ans.: Yes. It is necessary to submit returns when Co-operative Housing Society is in loss or there is no income.

Q. 346 Whether the excess fund deposited from members than actual expenses is eligible for income tax?

Ans.: Excess fund deposited from members than actual expenses will not be counted for income tax.

Q. 347 Is a Stamp Duty applicable on Leave & License Agreement? If applicable what are its rate?

Ans.: Yes. It is obligatory to pay stamp duty on Leave & License Agreement. Its rate is as follows:-

- a) Rs. 2000/- Stamp Duty on the agreement which is not more than one year period which there is not a section of renewal.
- b) Rs. 10,000/- Stamp Duty on the agreement which more than one year but not more than 3 years period with section or without section of renewal.
- c) Stamp Duty shall be charged three times of an average annual rent on the agreement which is more than 3 years but not more than 10 years period with renewal section or without it.
- d) Stamp duty shall be charged five times of an average annual rent on the agreement which is more than 10 years but not more than 20 years with renewal section or without section.

Q. 348 Who is responsible to pay Stamp Duty among the persons who transfer flat and on whose name transferring is made?

Ans.: As per provisions under Section 30 of Bombay Stamp Act 1958, the responsibility to pay stamp duty is falls on a person on whose name the gala is transferring or that person who purchased the gala.

Q. 349 Member 'A' of the Co-operative Housing Society has sold his gala to 'B', however stamp duty was not paid and 'B' has sold gala to 'C'. Then whether an amount of stamp duty on the agreement executed between A & B can be recovered from 'C'?

Ans.: No. The amount of stamp duty on the agreement executed between A and B cannot be recovered from C. C is only responsible to pay the amount of stamp duty on agreement executed between B and C. (pls. Check Answer)

Q.350 Where a member of the Co-operative Housing Society transfers his shares and vested interest in his family in which actual transaction does not take place, in such cases is it necessary to stamp duty?

Ans.: Subject to the Provision in Schedule 1, article 25, sub-sections (A) (B) (C) and (D) of the Bombay Stamp Act 1958, Stamp duty has been charged on the gift deed as per market rate of non-movable property.

Q.351 Is it necessary to pay stamp duty if galas in Co-operative Housing Society are exchanged? Is it necessary to execute exchange deed in it?

Ans.: Stamp Duty has been charged in exchange deed as per provision in schedule 1, article 32 of the Bombay Stamp Act, 1958.

Q.352 Is it necessary to pay Stamp Duty on the allotment letter given to the member while land purchased by the Co-operative Housing Society and its allotment made among the members.

Ans.: It is necessary to pay stamp duty on land allotment letter.

Q. 353 Is it necessary to pay stamp duty while transferring rights of power and vested interest to the nominated heirs of the deceased member of the Co-operative Housing Society?

Ans.: To pay stamp duty is not necessary in such cases.

27. LEAKAGE & REPAIRS ETC.

Q.354 What action can be taken if Housing Society is not taking action on repairing of galas and leakages?

Ans.: Justice can be seeking by filing a suit in the Co-operative Court under Section 91 of the Maharashtra Co-operative Societies Act, 1960.

Q.355 If one member while doing repairing in his gala caused damages to the other member's gala then which officer gives decision on it? And whether dues of the society's can be with hold due to this reason?

Ans.: Justice can be seeking in this regard by filing a suit in the Co-operative Court as per provisions in Section 91 of the Maharashtra Co-operative Societies Act, 1960. However the dues of the society cannot be with held for this reason.

Q.356 Member 'A' resides on upper floor, he has made internal repairing in his gala. This caused damage to the plaster of ceiling of the Member 'B' who stay at lower floor, then can a repairing of the ceiling of member 'B' made from the funds of the society?

Ans.: Such expenses should be borne by Member 'A'. If he denied than justice can be seek under Section 91 of the Maharashtra Co-operative Societies Act, 1960 by filing a suit in the Co-operative Court and similarly from the local authorities (Municipal Corporation) by making complaint.

Q.357 Member 'A' resides upper floor. Since he has done repairing work, this cause leakage in the gala of member 'B' who reside low that floor. Then can society made repairing of its own fund?

Ans.: It will be necessary that the said expenses should be borne by the Member 'A'. Justice can seek in this regard by filing suit under Section 91 of the Maharashtra Co-operative Societies Act, 1960.

Q.358 Member 'A' stays on upper floor he has not done any type of repairing or changes in his flat, even then the leakage develop in the flat of member 'B' residing below 'A' then can the cost incur on it made from the funds of the society?

Ans.: Under bye laws it is obligator to incur such cost by the A and B to getherly. The society cost as per the resolution of general body meeting.

Q.359 Member 'A' is holding terrace flat. Damage caused to the plaster of ceiling of his flats, then can the society incur the cost of it from its own fund?

Ans.: If there is outside repairing word of such flats them the society has to bear that cost. However internal plaster work of the ceiling should have to incur by the 'A' him self. Similarly if the work is regarding structural stability (recasting of slab) then the society has to incur it by its fund.

Q.360 What action to be taken if lower floor flat owner make complaints that leakage from the flat caused nuisance, however member from upper floor did not co-operate for repairing?

Ans.: It is expected that members should Co-operate each other for leakages. Society first by calling upon both the members for joint meeting, try to create atmosphere of getting co-operation for repairing. If member is not co-operating and not allowing office bearers of the society/workers in his flat then by making complaint to the local police station repairing work can be get done through the workers by taking help of local police. In this regard a member who caused nuisance of leakage can seek justice from the co-operation court under section 91 in respect of leakage problem.

Q.361. What power does the Society have regarding examination of the Flats and for what purpose?

Ans.: Every member has to allow the Secretary of the Society, accompanied by any other member of the Committee, to enter upon his flat with prior intimation to the Member by the Secretary of the Society, to examine its condition for ascertaining the repairs, if any, necessary for the purpose of facilitating the discharge of functions mentioned under the Bye-law No. 156 by the Committee.

Q.362. What does the Secretary have to state after the examination of the Flat?

Ans.: The Secretary of the Society has to report to the Committee, and indicate therein, the particulars of the repairs which have to be carried out by the society at its cost and those repairs which have to be carried out by the members at their cost.

Q.363 What action has to be taken by the Committee after going through the report for repairs to be undertaken in case the repairs have to be done by the Society at its cost?

Ans.: On receipt of the report, the Committee has to ascertain the cost involved in the repairs, which are required to be carried out by the Society at its cost as provided under the Bye-law No. 160(a) and the notice has to be served on the member for such period as the Committee thinks adequate, and also specify its intention to carry out the repairs and thereupon on the receipt of such notice, the member concerned has to allow the workmen engaged by the society, directly or through its architect, access to his flat for carrying out the repairs.

Q.364 What action has to be taken by the Committee after going through the report for repairs to be undertaken in case the repairs have to be done by the member at his cost?

Ans.: In respect of the repairs to be carried out by the member at his cost, the committee issues the notice to the member, indicating therein, the particulars of repairs necessary at his flat and calls upon him to carry out the repairs to his flat to the satisfaction of the architect approved by the Society, if any, at his cost, within such period as the Committee may allow.

Q.365 What can be done if the member concerned does not agree to comply with the notice issued by the Society to carry out the repairs on his cost?

Ans.: If the member fails to comply with the notice, the Secretary of the Society or the Architect appointed by the Society shall be deemed to have the authority to enter upon the flat after giving due notice to the member concerned and cause the repairs to be carried out. The amount which is spent by the society on such repairs is to be recovered from the member concerned.

Q.366. When can the Society cause the structural audit of the building to take place?

Ans.: The Society has to cause the structural audit of the building of the society as follows:

- a. For the building ageing 15 to 30 years – once in 5 years;
- b. For the building ageing above 30 years – once in 3 years.

Q.367 Who has to conduct such structural audit?

Ans.: The structural audit has to be conducted by the Engineers from the panel of Municipal Corporations in case of the Societies which are in the limits of Municipal Corporations. In case of other societies such structural audit has to be carried out by the Govt. Approved Engineer.

28. AUDIT

Q.368 What is a provision regarding audit of the Co-operative Housing Society?

Ans.: Co-operative Housing Society can get done their society's audit by appointing certified Auditor or by appointing Chartered Accountant under Section 81 and by taking approval of the General Body Meeting to such appointment. However it is obligatory on those Housing Societies who have received financial assistant from the Government, that such housing society's audit should done from the auditor appointed by the Registrar. Similarly the those housing societies which are problem ridden, or having frequent complaints of mal practices for them it is obligatory that they should have to get audit of their societies from the Government Auditor or Auditor appointed by the Registrar. Similarly responsibility of the audit can be given to the Government or Registrar appointed auditor in respect of those societies which are problems ridden and having frequent complaints of mal practice. In such a situation order of appointing auditor is issue by the competent officer from co-operation department under Section 81 and then are obligatory on Society.

Q.369 What is a provision in the law regarding re-audit of the society?

Ans.: If it came to the notice of the Dy./Asst. Registrar of the societies that by conducting primary enquiry of re-auditing application received from the members of the society or society that in prima facie it is necessary to conduct re-auditing, then by sending such a report to the competent Officer of the co-operation department, the action of re-checking audit of the society can be conducted.

Q.370 Whose responsibility it is to give record to the Auditor?

Ans.: Since the responsibility to keep the record up to date is of the Secretary of the Society, the responsibility to make available the record to the Statutory Auditor is entrusted to the Secretary of the Society.

Q.371 What id the provision in the law regarding faults rectification of the auditor of Society?

Ans.: To submit the faults rectification report within three months of receiving the audit report of the society to the concerned Dy/ Asstt. Registrar and to the Auditor by the society is obligatory. Thereafter it is necessary that the auditor of the Society by noting

remarks that whether the fulfilment of the faults have been made satisfactorily or not and submit it again to the concerned Dy. /Assistant Registrar. Thereafter the Dy/ Asstt. Registrar may give orders under section 82 to the society that how the faults which are not fulfil satisfactory can be fulfil within stipulated period. However before to give such orders it is necessary to give hearing to the society and consider the observations of the Housing Federation.

Q.372 How is an internal auditor appointed?

Ans.: The society, if it considers necessary, may appoint an internal Auditor, at the Annual Meeting of the General Body and fix his remuneration to audit the accounts of the Society.

Q.373 How are the books and records to be produced for audit?

Ans.: The Secretary of the Society has to produce or cause to be produced all the books, registers, records before the internal auditor and the Statutory Auditor, in the office of the Society or where the records are normally kept and also has to furnish such information as may be required by him for the conduct of the audit of the accounts of the Society.

Q.374 What is an audit rectification report?

Ans.: The Secretary of the Society has to prepare a draft audit rectification report on the basis of the objections raised and suggestions made, in the form 'O' prescribed under Rule 73 of the MCS Rules, 1961 once he receives the audit reports from the Statutory and Internal Auditors. Then he has to place the same before the meeting of the Committee, held next after the date of the receipt of the audit reports, for its approval. Further action on the audit rectification report is taken as provided under the said Rule.

Q.375 What is the amount of contribution to be made to the Statutory Reserve Fund of the Society?

Ans.: After providing for interest upon any loans and deposits and after making other deductions as required under Section 65(1) and 66 of the MCS Act, 1960 and Rule 49A, of MCS Rules, 1961, twenty five percent (25%) of the net profit of all the business carried on by or on account of the society has to be placed at the credit of the Reserve Fund of the Society.

Q.376. How is the remaining profit of the Society to be distributed?

Ans.: The remaining 75% of the net profit of the society is to be utilized as provided under Rule 50, 51, 52, 53:

- i. To pay dividend not exceeding 15 per cent per annum, upon the paid up share capital at such rate as the Committee may recommend and the Annual General Body Meeting may approve. The dividend on the shares shall be paid to the registered holders of such shares according to the books of the Society as on the last day of the preceding Co-operative year.
- ii. To pay honorarium to office-bearers of the Society not exceeding 15 percent of the net profit to reward them for the sacrifice of their valuable time for the working of the Society. However, the office bearer may take such amount of annual limit 15% or Rs. 2000/-, whichever is less.
- iii. To allocate to a common welfare fund, such part of the profit, as the Annual Meeting of the General Body may determine to be utilised in furtherance of the objects specified in the Bye-law No. 5(d).
- iv. The balance, if any shall be carried forward or dealt with in such manner as the Annual Meeting of the General Body, on the recommendations of the Committee, may determine.

Q.377 Who is responsible for maintaining the account books, registers and other records, etc.?

Ans.: It is the responsibility of the Secretary of the Society to maintain and keep up to date the account books, registers and other records mentioned under the Bye-law Nos. 142 and 143, unless otherwise decided by the Committee.

Q.378 What is the prescribed limit for maintaining cash in hand?

Ans.: The Secretary of the Society or the paid employee, authorised by the Committee in that behalf, can retain in his personal custody, at the close of every day, a sum, not exceeding Rs.300/- (Rupees Three Hundred only), for petty expenses. If due to unavoidable circumstances, the cash on hand has exceeded the above limit, the excess cash has to be credited into the bank within the next 3 days by the Secretary or any other person authorised by the Committee to keep cash on hand.

Q.379 Is there any limit for payments to be made beyond a certain amount?

Ans.: All payments in excess of Rs. 1500/- have to be made by means of crossed A/c Payee Cheques only.

Q.380 When are the accounts to be finalized?

Ans.: Within 45 days of the close of every co-operative year, the Secretary of the society or any other person, authorised by the committee in that behalf, has to finalize the accounts of the preceding co-operative year, prepare the Receipts and Payments Statement, the Income and Expenditure Statement for the said year and the Balance Sheet as at the close of the said year in the forms prescribed under Rule 62(i) of the MCS Rules, 1961 along with the list of members, as at the close of the preceding co-operative year, with amounts to their credit in the share capital account and deposits if any, the schedules of investment, the debtors, the creditors, the furniture, the fixtures and the office equipments etc.

Q.381 What is a Co-operative Year?

Ans.: A Co-operative Year will be the accounting year of the society that will commence on 1st April and end on the 31st March of every year.

29. MISCELLANEOUS.

Q. 382 What is a provision for legitimate enquiry of the mismanagement of the co-operative Housing Society?

Ans.: A) Regarding mismanagement of the managing committee of the housing society, the concerned registrar-

1. By making preliminary enquiry in person,
2. If demanded by 1/3 members of the society,
3. If noticed proper points in the enquiry through the report of audit, then can order enquiry of the working and economic status of the society by in person or by appointing authorized enquiry officer under section 83.

B) If conclusion that financial loss caused to society is established in the enquiry under section 83, then for fixing the responsibility of financial loss under section 88 the concerned registrar can initiate action under section 88 for the compensation of financial loss by conducting enquiry through Dy/Asst. Registrar on ward level in person or through the officer appointed by him.

C) The enquiry under section 88 can also be conducted of the ex and present members of the society and also of the employees and officers concerned with the financial loss of the society and also the person concerned with other societies after suggested in the audit report or inspection report. However the points before 4 years of the date of enquiry order or audit or inspection report can be order under section 88.

Q.383 What is a provision in the law for giving directions to the housing society for obeying the legitimate orders and other matter?

Ans.: A. If the co-operative housing society is not keeping the record of the financial transaction books properly then the concerned registrar can give direction to the housing society under section 79(1) for maintaining property income and expenditure transaction record and to submit regular information to the registrar's office from time to time in this regard and to fulfill the directions in the specified time limit.

B. Many a time societies are not obeying orders given under section, 22, 23 or the legitimate orders. In such time, directives are given under section 79(2) by mentioning stipulated time limit for obeying these orders issued under section and bye-laws of co.

operation law and by the registrars under section 23 and 23 etc., and if these directive are not obeyed then implementation of there can be made by appointing authorized offence and through him.

C. After taking action against responsible office bearer by appointing authorized officer under section 79(2) the registrar can give directives to deposit the penalty amount at the rate of Rs. 25/- per day for the action not taking days in the government treasurer under section 79(3). And for giving such directives, action to nullify the member of the managing committee from the office under section 73FF and section 78 by disqualifying him can be taken.

D. If the society denied giving various no objection certificate and if such type of complaint received then by taking hearing the action to give direction can be taken under this section.

Q.384 How is the charge on share or interest of the member of society?

Ans.: Under section 46 of the Act, if these are dues from any deceased member, any present member or ex-member to the society in respect of any charges, then that share or interest of such a member in the capital, property of the

Q.385 What amounts can be written off?

Ans.: Subject to the Bye-law No. 151, the society can write off any loan and interest thereon like for example, Society's charges due from the members, the expenses incurred on recovery thereof and the accumulated losses, which are certified as irrecoverable by the Statutory Auditor.

Q.386 What is the procedure to be followed before writing off any amount?

Ans.: The amounts mentioned in the Bye-law No. 150 cannot be written off unless:

- i. the meeting of the general body of the society has given due sanction for writing off the amounts;
- ii. the approval of the financing agency to the writing off of the amounts, if the society is indebted to it, is obtained;
- iii. The approval of the Registering Authority is obtained. Provided that, if the society is affiliated to the District Central Co-operative Bank or any other financing agency

but is not indebted to it, the permission of the Bank or the financing agency is not necessary.

Q.387 How is the Notice Board of the Society to be maintained?

Ans.: The society must have its Notice Board fixed at a conspicuous part of the building, on which all notices and communications referred to in the bye-law No. 163 (ii), the Statement of Accounts, the Annual Reports of the committee and other matters of which notices are required to be given to all the members of the society under the MCS Act, 1960 the MCS Rules, 1961 and the Bye-laws of the society will be exhibited. In the event that there is more than one building, then similar Notice Boards have to be fixed in all the other buildings.

Q.388 What can be the hours of operation of the lift in the Society?

Ans.: The Committee can regulate the operation of the lifts after taking into consideration the convenience of the majority of the members of the Society.

Q.389 What are the restrictions on the playing of games in the Society's compound?

Ans.: After taking into consideration the location of the building or buildings of the Society and their surroundings and the open space available for playing games by the members of the society and their children, the meeting of the General Body of the Society may, allow such games to be played during such hours as may be fixed by the meeting of the General Body of the Society and subject to such restrictions, charges and penalties as it may impose.

Q.390 What are the restrictions on letting or giving on leave and license basis the open spaces in the Society?

Ans.: The Society does not allow to let out or give on leave and licence basis or permit any subletting, giving on leave and license basis any open space available under the staircases or to any person whether the member of the Society or not, for any purpose whatsoever.

Q.391 What are the restrictions on use of terrace or open space of the Society?

Ans.: The Committee may allow temporary use of the terrace or available open space of the society's building by any member, on his written application, for any function, subject to such restrictions and on payment of such charges to the society as the meeting of the

General Body of the society may decide, notwithstanding the provisions under the Bye-law No. 170. The Committee may, with the previous permission of the Local Authority, if needed, allow exhibition of advertisement boards or any part of the building including terrace on such terms and conditions as are approved by the General Body Meeting. If any member/members want/wants to install a solar energy water heating system or solar energy electrical system, then space shall be made available to such member/members on the terrace. The said system include A) Solar Collector, Solar Collector Stand, hot water tank, cold water tank, stand for the tank and hot water pipe line etc. and (B) Panels, Battery, Inverter charge controller, cabling etc. for solar energy electricity. If any letter requesting to provide space therefore is received, then it shall be binding on the Society to give space for use therefore.

Q.392 How does the Committee exercise the powers conferred upon it by the Society?

Ans.: The Committee exercises all powers, expressly conferred on it and discharges all functions entrusted to it under the Bye-law No. 139, subject to the directions given or regulations made by a meeting of the General Body of the Society.

Q.393 How is an account opened for the Society in a bank?

Ans.: A Banking Account can be opened by the Society in the nearest State or District Central Co-operative Bank or its branch or in any scheduled Co-operative Bank. If an account is to be opened in a Nationalized Bank, then prior permission of the registering authority is necessary and the account will be operated upon and all acquaintances and discharges is to be signed by the Secretary jointly with the Chairman or treasurer. After an account is opened, it should be informed to that effect to the Registrar within 15 days. However, investment in long term has to be made in the District Central Co-operative Bank only.

Q.394 What should be the strength of the Committee of a Society?

Ans.: The Committee consists of 5/7/9/11 members of the Society. This strength includes the reservation of seats for women members as provided under Section 73 BBB of the Act.

The strength of the managing committee and strength of the quorum for conducting the meeting would be as under:-

No. of Members	Strength of the M. C.			Quorum in M.C.
	General	Women	Total	
Up to 50	4	1	5	3
51 to 100	6	1	7	4
101 to 300	8	1	9	5
301 and above	9	2	11	6

In case women members are not available in the Society or if they are not willing to represent on the committee, the seats reserved for them may be filled from other eligible members.

Q.395 In what matters any office bearer of the society can not keep vested interest, reciprocally or directly or indirectly other than office bearer?

Ans.: Any office bearer of the society cannot keep vested interest reciprocally or directly or indirectly other than office bearer in the following matter.

- a) Any agreement executed by the society or
- b) Any property sold or purchased by the loan taken by
- c) Except investment made in the society or loan taken by the society for Provisioning residential facility to the salaried employees of the society, Vested interest cannot be hold in any other transactions of the society.

Q.396 Which restrictions can be applied when such a subject put forth in which a member of the committee have vested interest in that subject?

Ans.: That member should have to avoid attending the meeting in which his vested interest subject put forth for consideration.

Q.397 At what place society's documents are kept?

Ans.: Documents of the society will be kept at in the building of the society with consent of the managing committee of society.

Q.398 Can a registration of society be made under the society itself?

Ans.: If there is an explicit provision to in the bye laws of those Co-operative Housing Society, then by not insisting of separate amendment of bye laws, the society can be registered under society by taking consent letter of the society.

Q.399 Whether there are instructions from the government not to handle the complaints of members not paying monthly maintenance charges in the Co-operative Housing Society?

Ans.: Yes, These type of circulative instructions are issued regarding under government circular Dt. 2-11-2002. The instructions defaulter members are as follow:

- 1) The members of the Housing Society should not have to stop payment of monthly maintenance charges of the society for any reason.
- 2) If a members have some dispute with managing committee for charging an application to the competent authority. The Registrar should have to take precaution to decide the complaint within one month from its receipt.
- 3) If the competent authority certified that the monthly maintenance charges are excess then the managing committee of the society should have to take action of returning the excess amount to the members or deducting it from the monthly maintaince charges as per orders issued by the completent authority.
- 4) While taking note of the complaints of the members not paying monthly maintains charges, the Registrar should have to instruct such member to pay dues of the society first

Q.400 What are other criterion for registering the Co-operative housing society wing wise apart from the criteria always required for registering society?

Ans.: Apart from the alwas required criterion, following are other criterion for wing-wise co-operative housing Society.

- 1) Every Society should have a separate entrance gate for entrance.
- 2) Every Society shall have Separate light meter.
- 3) Every Society should have separate water tank and water meter.
- 4) Every society should have tank tax assessment from Municipal Corporation.
- 5) Before constricting building, the building, promoter should have to take approved for the layout of the building by dividing electricity, water etc.
- 6) If some matters are common in the surroundings of the building for e.g. compound wall, main entrance, vacant place, swimming pool etc. then under section 20 A of the Maharashtra Co-operative societies Act 1960. the promoter of the society should have to give guarantee bond on Rs. 50/- bond paper for making partnership agreement with the society of other wings.

- 7) The builder Promotor should have to give guarantee bond on Rs. 50/- bond paper in respect of making transfer of land in the proportion of the area hold by all societies to be form wing wise.
- 8) If the Society's registration proposal is filed in a column of Builders non-co-operative the the Promotors of the society should have to give guarantee bond, on Rs. 50/- bond paper in respect of making land transfer in the proportion of the area hold by the society.

While registering wing wise co-operative housing society, it is necessary to inspect of the criteria mentioned above.

Q.401 What can be done if some flat holder denied to become a member of the Housing Society?

Ans.: If a flat/Gala holder has accepted the condition of rendering co-operation for registering of society/apartment at the time of executing agreement while purchasing flat in co-operative housing society, then by filing a suit in civil court (under specific relief act 1963) he can be compel to obey this condition.

Q.402 Can enquiry be order under Section 83 for a reason of making frequent complaints by a member of the society?

Ans.: The enquiry under section 83 cannot be order merely frequent complaints made by one complainant. If such request is made by one third members or if Registrar found truthfulness in primary enquiry than to order enquiry under section 83 will be valid.

Q.403 If members in minority make complaints and denied for shifting then can a hurdle stands in the process of redevelopment?

Ans.: If redevelopment work is going on after taking approval of the majority members then minority members can not create obstruction in it. However, if their complaints stands on merit then they can brought stay on the re-development by the competent judiciary authority. However creating hurdles for migration or obstructing project can not be made.

Q.404 What is a Corpus Fund? How its management look after?

Ans.: When by demolishing old building, new building is constructed at that place, means re-development of the old building, then the developer gives various benefits as follow :-

1. To give additional area than previous area.
2. No amenities like lift, garden, parking place.
3. To provide temporary home or to give its rent during the period of construction.
4. To give consideration for shifting residence or brokerage for searching new residence.

Even after giving these benefits, when new building is completed and after shifting to the new flat and since the Municipal Corporation takes the property tax at new rate it cause increase in property tax in 3 to 4 fold. To help for paying this increased property tax, the developer gives a lump sum amount to each member. Its called Corpus Fund. Some developer gives this corpus fund in the name of the society or some times directly gives in the name of members. Developer gives this fund in different steps. In fact, it is necessary that at least 50% of the fund should be given at the time of agreement by the developer and the balance 50% amount should have to be given after getting permission for construction or before vacating the house.

If some developer giving corpus fund at the time of making available of the new flat then by not obeying this condition it is necessary to take the amount of the fund before vacating the old home. Some developers left after their saleable flats sold out or the get their money without giving corpus fund amount decided earlier.

At the end huge legal action has to be taken for recovering that amount. To avoid this, corpus fund should be taken earlier is better.

It is also discuss many a time that how this corpus fund is distributed among the members? Some members, even if there area of flat is less, demanded for equal distribution of this corpus fund among the members. The reason behind this is that since this benefit is of the society, it is necessary to distribute that fund to each member equally.

While purchasing flat, the amount of the land is also charge on the flat owner with the amount of flat purchase and he is paying that total amount. If some member purchase flat of more area then he also paid more amount of the land in that proportion. Second point

is that, T.D.R. is available equal to the re-development will depend upon the availability of TDR to us. Therefore to distribute corpus fund as per each flat owner's area is necessary. However, it is proper to take decision in majority in this regard in the General Body Meeting.

Q.405 Who will repairs the subsidence Land which may cause danger to the building in the premises of the society?

Ans.: Subsidence land of the society is a very serious matter and it may cause danger to the society and possibility of collapsing building also. It is utmost necessary on the part of the society to get inspected the building from the Structural Engineer immediately and to get report regarding reasons behind the land subsidence and if there is a danger to the Original Structure of the building. Similarly to get instructions from them in respect of building is not dangerous for residence and which necessary repairs adopted for stopping land subsidence. This all work like observation, inspection and repairing is to be done by the society with its own expenses and to put responsibility on the members of ground floor only is not only proper but cause danger also.

Q.406 Is it proper to issue bills like water bill and other charges by the society even though the flat is vacant?

Ans.: It is the responsibility of flat owner to pay all dues of the society once the possession of the flat is taken whether it is in use or close for some period. There is no provision or rule in the bye-laws or Act that if a flat is close then not to charge any charges on that flat or give some concession in it. It is not proper to say that since the flat is close or flat owner, his family members or friends utilizing the flat for very less time and therefore to issue bill. Because to take note of who, when and how much time someone utilized his flat is arduous and complicated work. If in some societies a flat is close for some stipulated time and society is not charging water bill or general body pass resolution in that respect then it may be an exceptional case. Certainly, if personal fittings and supply of water measured by personal meter than only it will be possible for not charging water bill or give concession in it.

Q.407 What precaution to be taken while selecting Developer?

Ans.: Now a days new trend of demolishing old building and constructing new one is arrive. All wants their homes equipped with modern amenities. Government has given

increased F.S.I. Therefore it is necessary to check quality of work of the developer to whom we are joint to select.

If you are thinking re-development of your society then first upon all following matter should be consider.

1. First upon all to select proper developer.
2. To ensured that whether the developer have sufficient capital which is necessary for the re-development.
3. If re-development agreement is materialized, the developer has to give money to each member an alongwith it he has to complete the construction within in time. Therefore it is necessary to ensured that whether the builder you have selected has a capacity of raising huge capital.
4. After selection of a builder and before having talk to him, the enquiry should be made about what is the price of our land and similarly if new construction take place what will be its price.
5. The plan, layout, designs prepared by the developer should be shown to your consultant.
6. What are your society's expectation from builder should be already determined.
7. If members of the society agree with the plan, layout designs shown by the developer then they should appoint their separate advocate and executed agreement with the Developer. Signatures should not be made on any paper without the consent of the advocate.
8. Which amenities builder is going to provide to the members should be explicitly mentioned in the agreement. Thereby confusion of any type and cheating will not happened.
9. Explanation should be made in agreement about how the developer will make temporary accommodation agreement for the members and how much rent and in what form he will going to pay.
10. Consent of the each member of the society for the re-development work should be taken in writing. Take detail information of each flat otherwise there may cause difficulties if any flat in the society is mortgage or any type of loan liability on it.
11. The date of completing the project should be decided first.
12. The information about how much monthly maintenance amount and similarly taxes amount to be incurred should be get from your C.A.
13. In the agreement there should be a detailed information about date of commencement of the project, how much rooms provided in each flat, and what type of amenities to be provided in the flat.

14. How much area of carpet, built up and also open space, parking space after re-development should be mentioned in it.
15. If there is a balcony in the flat, then details of it that whether it is big or small.
16. If any member want big are then there should be explicit information about how much more amount he has to pay.
17. While appointing Developer, bank guarantee should be taken without fail so that if developer fail to return money then the bank will return our money.
18. If we check all these matters, then there would be no any problem in the re-development of our society and the dream of our new home which we saw will be complete.

Q.408 Who should repairs the leakage from the private terrace?

Ans.: In fact the responsibility to repair the leakages due to rainy water is of the management of the society. Because this leakage may cause danger to the structure of the building due to construction of bim, column. However where there are private terrace the security of the building is forgotten in the dispute that whether the repairing work to be carried out by the flat owner (who is the owner of the terrace) or by the society.

Therefore the flat owner residing below the terrace would have to suffer and also bear loss. If complaint regarding water leakage received the management of the society immediately call. Faults repairing report after getting inspection from the Engineer and accordingly compel the concerned flat owner for doing proper repairing and if he is not co-operate then by carried out repairing themselves, recovery of the entire amount should be made from the flat owner. Provision regarding this has been made in the bye-law No. 48. Similarly detailed elucidation regarding repairs has been made in bye-law No. 160. Of repairing of the terrace is successful only if it is made under the supervision of Engineer and from expert workers and by using good quality waterproof material. Of course it is expensive also. Therefore charges were taken monthly and regularly from the flat owner having private terrace to meet the expenses of building maintenance and repairing at the rate mentioned in bye-law No. 69(3). Similarly amount is also collected for major repairs. For both of these the area is calculated as 1/3 of the total area of the terrace. If the management of the society shows apathy for repairing work than making complaint to the Municipal Corporation and by following it then the Municipal Corporation by taking action on the management of the society and against the concerned private contractor compel them to carryout repairing work.

Q.409 Whether a member can utilize residential place for commercial purpose?

Ans.: For utilizing entire residential place for commercial purposes means to change in utilization. And it can be done by prior permission of the committee. In the development rule there is a provision that members are allow to utilize some percent of his residential place for the profession based on their professional education (C.A., Advocate, Doctor, Engineer, Architect etc.). For this no need of prior permission of the society.