

What is the exact meaning of the Deemed Conveyance?

A Co- Operative Housing Society is the owner of the Land & Building & individual member enjoys the ownership right of the Flat/ Shop based on the Share Certificate issued by the Co- Operative Housing Society. A vast majority of Co- Operative Housing Societies does not have the Conveyance in their favour & hence are not the owners of their Land & Building. In this situation, even though each member of the Co- Operative Housing Society has paid full consideration and is in possession of the Flat/ Shop allotted, he does not enjoy the benefits of title ownership of the Flat/ Shop.

In case of Co- Operative Housing Societies formed long back, many of the Buildings are in dilapidated condition and their repairs are not economically viable. The best solution available for these Co- Operative Housing Societies is to go ahead with Redevelopment. The non- availability of the Conveyance & therefore free/ marketable Title affects the Redevelopment Process badly.

The Promoter (Builder/ Developer) is legally required to convey the land and the building within 4 months of formation to the society or any legal body of the flat purchasers. However, it has been the experience that many promoters (Builders/Developers) have not conveyed the land and building to the legal bodies. Therefore, government has amended the Maharashtra Ownership Flats Act, 1963 (MOFA) and provided for the deemed conveyance in favour of the legal bodies. Under the provision, deemed conveyance means after the expiry of 4months of formation of the legal body, the land and building is deemed to have been conveyed to the legal body and to bring the same in the revenue record, a Competent Authority has been designated who will hear the parties on the basis of applications received from the aggrieved party and transfers the title in favour of the legal body by passing the necessary order and deemed conveyance certificate and appoint an authorized officer to execute the conveyance deed in favour of the society and execute on behalf of non co-operative builder or the land owner. Deemed Conveyance is obtained as a legal remedy against the defaulter builder/ landowner who do not want to part with the land and the building in favour of the society. Getting the title of land and building by adopting the above procedure is known as deemed conveyance.

The Conveyance is to be executed by way of Conveyance Deed between the Land Owners & the Co- Operative Housing Society where the Property Developer is the Confirming Party. This Conveyance Deed is required to be adjudicated & properly stamped as per the Bombay Stamp Act, 1958 & thereafter registered as per the Registration Act, 1908. It is required to obtain the Index II of the Registered Conveyance Deed. The copy of Registered Conveyance Deed along with the Index II is to be submitted to various Government Offices for change in the mutation entries of the Property.

After the Land and Building is conveyed in favour of the Co-operative Housing Society and the Title of the property is fully and finally recorded in the Property Card and other Revenue Records then only the Co- Operative Housing Society becomes absolute owner of the Property & the Title of the Co- Operative Housing Society becomes completely free and marketable.

What is the Regular Conveyance?

In case of regular conveyance, the builder/ Developer/ Landowner prepare a conveyance deed, execute the same and appear before the Sub-Registrar of assurance for admitting their signature. Without any problem, the legal bodies get the conveyance with the co-operation of the builder/ landowner.

What are the provisions for payment of stamp duty on deemed conveyance?

Like regular conveyance, even on deemed Conveyance, the stamp duty will be only Rs.100/-, if all the flat owners have paid the stamp duty and have done the registration of their respective flats including on all the transactions (Chain of Agreements) done in those flats. In case there are some flat owners who have not paid the stamp duty or has escaped the duty, the same will have to be paid at the time of registration of the deemed conveyance deed by the legal bodies and the same can be recovered from such flat owners. If there any differences come between the BUA of members and the plot area (means the consumed area comes lesser than the plot) then the difference of the area comes under revenue which has to pay by the concerned party.

How the conveyance in favour of the legal body will be done in case of layout plot where the builder carries out the construction in phases?

In case of layout plot, the provision for part conveyance has been done in the new proposed Rule No9 (2). It has been clearly pointed out that in case of layout plot, the legal body will be entitled to get the proportionate undivided rights, title and interest in the layout plot based on the FSI/TDR used for the respective building out of the total development potential of the entire layout plot as on the date of conveyance of the land and the building and as per the disclosure made by the builder. In case the builder has not disclosed the same, the entire balance FSI/TDR will be transferred to the legal bodies proportionately otherwise it will be available to the builder.