

## **GUJARAT OWNERSHIP FLATS RULES, 1974**

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## **GUJARAT OWNERSHIP FLATS RULES, 1974**

Whereas the Gujarat Ownership Flats Rules, 1973 were published as required by sub-section (1) of section 44 of the Gujarat Ownership Flats Act, 1973 (Guj. Act No. 13 of 1973) at pages 155 to 165 of the Government of Gujarat Gazette, Part/IV-B, dated the 13th September, 1973 under the Government Notification, Public Works Department, No. GH/J/I7/73/ FOB-1073/A-1, dated the 7th September, 1973 inviting objections and suggestions from all persons likely to be affected thereby, till the 1st October, 1973; And whereas no objections and suggestions were received; Now, therefore, in exercise of the powers conferred under sub-section (2) of section 44 of the Gujarat Ownership Flats Act, 1973 (Guj. Act No. 1 of 1973), the Government of Gujarat hereby makes the following rules namely :

### **1. Short title :-**

These rules may be called the Gujarat Ownership Flats Rules, 1974.

### **2. Definitions :-**

In these rules, unless the context otherwise requires,

(a) "Act" means the Gujarat Ownership Flats Act, 1973.

(b) "section" means a section of the Act;

(c) "Form" means a Form appended to these Rules.

[(d) "Competent Officer" means the officer appointed under sec. 5.]

### **3. Manner of Making disclosure :-**

(1) A promoter for the purposes of making disclosure of any document referred to in section 3 or prescribed thereunder shall produce the original of such document before the person intending to take or taking one or more <sup>1</sup> [flats or apartment]. Such person may ask the promoter all relevant questions for seeking further information or clarification in respect of any document or matter required to be disclosed, produced or furnished by or under the provisions of the Act; and the promoter shall be legally bound to answer all such questions to the best of his knowledge and belief;

(2) The promoter while making disclosure of the outgoings as required by clause (j) of sub-section (2) of section 3 shall state the basis on which any estimated figures or other information is given.

1. As amended by G.G.Z: Extra, Ph. IV B dt. 22-12-1977 P. 966.

### **4. True copies of certain documents to be given :-**

A promoter shall on demand and payment of a reasonable charge therefore give to any person intending to take or taking one or more <sup>1</sup>[flats or apartment]. True copies of the following documents, namely :

(a) all documents of title relating to the land on which the <sup>2</sup> [flats or apartment] are constructed or are to be constructed which are in the promoter's possession or power;

(b) the certificate by an attorney-at-law or advocate referred to in clause (a) of sub-section (2) of section 3;

(c) all documents relating to encumbrances (if any) on such land including any right, title, interest or claim, of any party in or over such land.

- (d) the plants and specification of the building built or to be built on the land referred to in clause (c) of sub-section (2) of section 3,
- (e) a list of fixtures, fittings and amenities (including the provisions for one or more lifts) provided or to be provided for the [flats or apartment].
- (f) a list referred to in clause (g) of sub-section (2) of section 3;
- (g) a list of all outgoing referred to in clause (j) of sub-section (2) of section 3 and the basis on which any estimated figures or other information is given to the person intending to take or taking the [flats or apartment].

1. As amended by G.G.Z: Extra, Ph. IV B dt. 22-12-1977 P. 966.
2. Subs. for "flat" by No. 1.

#### **5. Particulars to be contained in agreement for sale :-**

The agreement for sale referred to in section 4 shall, inter alia, contain the following particulars, namely.

- (a) If the building is to be constructed, the liability of the promoter to construct it according to the plans and specifications approved by the local authority where such approval is required, under any law for the time being in force.
- (b) the date by which the possession of the [flats or apartment] is to be handed over to the purchaser;
- (c) the price to be paid by the purchaser of that and intervals at which instalments thereof may be paid;
- (d) the precise nature of the organisation to be constituted of the persons who have taken or are to take the <sup>1</sup>[flats or apartment];
- (e) the nature, extent and description of the common areas and facilities;
- (f) the nature, extent and description of limited common areas and facilities, if any;
- (g) percentage of undivided interest in the common areas and facilities appertaining to the <sup>1</sup>[flat or apartment] agreed to be sold;
- (h) statement of the use for which the apartment is intended and restriction on its use; if any.

<sup>3</sup> [(hh) Percentage of undivided interests in the limited common

areas and facilities, if any, appertaining to the apartment agreed to be sold.]

1. Subs. for "flat" by No. 1.
3. Cl. (hh) added by No. 1.

**6. Documents copies whereof to be attached to agreement :-**

The promoter shall attach to the agreement referred to in section 1, copies of the following documents, namely;

- (a) the certificate by an attorney at law or advocate under clause (a) of sub-section (2) of section 3;
- (b) the plans and specifications of the <sup>1</sup> [flats or apartment] as approved by the concerned local authority.

1. Subs. by No. 1.

**7. Fees to be paid under section 7(2) :-**

The fee to be paid for making a reference under sub-section (2) of section 7 shall be one hundred rupees.

**8. Period for submission of application for registration of co-operative society or company of 2[flats or apartment] purchasers :-**

Where society or a company of persons taking the <sup>1</sup>[flats or apartment] is to be constituted the promoter shall submit an application to the Registrar for registration of the co-operative society or the company, as the case may be, within four months from the date on which the minimum number of persons required to form such organisation have taken flats. <sup>2</sup> [Where the promoter proposes to submit the property to the provisions of the Act by executing and registering a Declaration as required by the Act, then the promoter, shall inform the Registrar accordingly as soon as possible.]

1. Subs. by No. 1.
2. Added by No. 1.

**9. Period for conveyance of title of promoter to organisation of flat or apartment purchasers :-**

<sup>1</sup> : If no period for conveying the title of the promoter to the organisation of the flat or apartment purchasers is agreed upon, the promoter shall (subject to his right to dispose of the remaining flats or apartments, (if any) execute the conveyance within four

months from the date on which the co- operative society or the company or an association of flat takers or apartment owners is registered or, as the case may be, the association of flat takers or apartment owners is duly constituted.

1. Subs. by No. 1.

**10. Manner of making disclosure before the Officer appointed under section 5 :-**

(1) For the purpose of making disclosure of all transactions in respect of the account referred to in section 5 for the purpose of making disclosure of information and documents in the manner prescribed in these rules, a promoter shall produce before the officer appointed under the said section, the following documents in relation to such account within such time as that officer may fix in that behalf, namely : 1. The Cash Book. 2. The General Ledger. 3. The Personal Ledger. 4. The Nominal Accounts. 5. The Receipts of Advances and Deposits. 6. The Vouchers of Expenditure. 7. Bank Pass Book. 8. The Register of flat purchasers or apartment owners 9. The Register of flats or apartments. 10. The statement indicating Receipt and Disbursement (General.) 11. The Statement indicating Receipts and Disbursement of Individual Accounts.

(2) The Register of <sup>1</sup> [flat or apartment] purchasers or apartment taker and the Register of flats or apartments shall be maintained in forms A and B respectively, and the statements at serial numbers 10 and 11 in sub- rule (1) shall be maintained in Form C and D, respectively. The other documents referred to in sub-rule (1) may be maintained according to the trade practice.

1. Subs. by No. 1.

**11. Forms in which Book and index under sub-section (3) of section 28 to be kept :-**

<sup>1</sup> . The book called "Register of Declaration and Deeds of Apartments under the Gujarat Ownership Flats Act, 1973 and index relating thereto to be kept under sub-section (3) of section 28 shall be in Form 'E' and Form 'E(1)' respectively.

1. Subs. by No. 2.

**12. Form in which memorandum to be sent by Manager or Board of Managers under sub sec. (4) of section 28 :-**

The memorandum required to be filed by a Manager or Board of Managers under sub-section (4) of section 28 shall be in Form F.

**13. Declaration under section 17 :-**

**1** . The Declaration to be executed and registered under section 17 by the sole owner or all the owners shall be in form G.

1. Rr. 13 to 17 added by No. 1.

**14. Declaration under sub-section (2) of section 20 :-**

(1) The Declaration to be executed by each apartment owner under sub-section (2) of section 20 shall be in Form H.

(2) The Declaration shall be signed by the apartment owner and verified in the presence of a Magistrate or any other person competent to administer oath and shall be filed with the competent officer within thirty days from the date of its execution or within such longer period as that authority may permit.

**15. Conveyance of Apartments :-**

All transfers of apartment by the sole owner or all the owners of the property (being an owner or owners who has or have executed and registered a Declaration in Form "H") to an apartment owner and subsequent transfers from an apartment owner to his transferee shall be by a Deed of Apartment.

**16. Parties to Deeds of Apartment :-**

In the case of the first Deed of Apartment, the part of the first party shall be either the sole owner or all the owners of the property who has or have executed and registered the Declaration in Form "G" and the party of the second part shall be by the apartment owner himself. In the case of subsequent Deeds of Apartment the party of the first part shall be the owner himself and the party of the second part shall be his transferee.

**17. Contents of Deeds of Apartment :-**

(1) The first Deed of Apartment shall be accompanied by a copy of the relevant floor plan of the building filed under sub-section (2) of section 28 and by a certificate of an architect certifying that the said floor plan shows the number and dimensions of the apartment being conveyed and of the immediately adjoining apartments and that the said floor plan fully and accurately depicts the layout of the apartment, its location, apartment numbers, dimensions, approximate area, main entrance, common areas and facilities and limited common areas and facilities, if any, to which it has access, as built.

(2) In addition, the first and every subsequent Deed of Apartment shall include the following particulars, namely:

(a) Description of the land as provided in section 26 (1) (a) or the post office address of the property, including, in either case, the liber, page and date of executing the Declaration, the date and serial number of its registration under the Registration Act, 1908, and the date and other reference, if any, of its filing with the competent officer;

(b) The apartment number of the apartment in the Declaration and any other data necessary for its proper identification;

(c) Statement of the use for which the apartment is intended and restrictions on its use, if any;

(d) The percentage of undivided interest appertaining to the apartment in the common areas and facilities;

(e) Any further details which the parties to the Deed may deem desirable to set forth which are consistent with the Declaration and the Act; (i) The provisions of this rule may be given effect to by referring to the relevant provisions made in the Declaration for the purpose of avoiding repetition of these relevant provisions in the Deed of Apartment.

(3) The apartment owner shall file a true copy of every Deed of Apartment to which he is a party in the office of the competent officer within thirty days from the date of its execution.