## **VALUATION METHODS FOR APARTMENTS & RERA ACT**

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#### 1.0. Introduction

An apartment, or flat, is a self-contained housing unit (a type of real estate) on a single storey or multi storey that occupies a part of a larger building with several units. The term "apartment" can be generically applied to any individual portion inside a building complex. The building can be a house, large residential building, and even condominium high-rise, where multi dwelling or commercial or office space units are provided.

Every local authority and municipal corporation prescribe rules, byelaws and regulations for development and constructions within its jurisdiction. Important provisions in the building byelaws are floor space index, open space rules and height restrictions.

Market of the land will be less for those using as residential purpose and higher for commercial purpose. Because of the income generation nature in commercial properties, their market value is more.

While comparing two similar plots in a neighbourhood within a radius of 200 metres, the higher the market value if the FSI is more and lower if the FSI is less. In some cases, the permissible FSI cannot be achieved.

For example, a narrow plot cannot be developed for an apartment. As per the provisions of development rules, only ground and first floor can be constructed. With the minimum open space requirement and set back rules, prevent from consumption of using FSI fully. This provision reduces the market value.

## 1.1. Factors affecting the value

At a time when apartment-based projects have become an inherent part of urban living, this method is often put in practice, to arrive at the worth of flats. Let us say two flats were recently sold in a housing society for Rs 2 crore each. If the seller wishes to sell his property in the near future, the same amount would be the asking (quoted) price for his property.

The property valuation method can be carried out, since we live in an active market where comparable data exists. However, when we actually put the flat up for sale, we might find that buyers are not willing to pay more than Rs 90 lakhs for this flat. This could be because of the following reasons.

#### 1.1.1. Location

Even within a housing society, location plays a major role in deciding a property's worth. Flats that are closer to the main entry point, for example, will fetch a lower price.

Because of the continuous disturbance that the residents may be subjected to. Similarly, a park-facing flat is more lucrative for a buyer and hence worthier than a flat that is surrounded by other flats.

## 1.1.2. Shape

While nobody prefers a house with an irregular shape, the possibility of such homes getting as much as the asking price are further diminished with Vastu making a big comeback in India. Under the principles of Vastu, flats with irregular sizes hamper the owner's personal, as well as professional growth.

#### 1.1.3. Size

If our property is even slightly smaller than the neighbour's, our property would never command the same monetary value as neighbour's.

#### 1.1.4. Level

Depending on the location where the apartment is, the level of the apartment would also decide the value of the property.

In many metropolitan cities, an upper-storey flat in a housing society costs more than an apartment at the ground floor, because of recurring flooding during the monsoons.

And there are cases, where, the opposite is true where ground floor homes command a premium.

#### 1.1.5. Frontage

A corner flat or a corner plot, by virtue of having easier entry and egress points, would command a premium, as compared to other properties especially commercial.

#### 1.1.6. Legal issues

Always in an apartment, as regards to maintenance, we are more dependent on the coowners. This affects the quality and life of the structure. This encumbrance will always sustain in these types of buildings.

Also, suppose the property is jointly owned and the joint owners are not willing to sell their shares in the property. Such a problem may stall the sale and results in value depreciation.

# 2.0. Apartment Valuation

Apartment **valuation** is given to the property owner to indicate the condition of the property and how much it is worth in the market. The report helps a buyer as well as a seller in assessing the value of a property. There are 7 ways to ensure that the valuation is correct.

# 2.1. Determination of the apartment and associated areas

One of the most important aspects of determining a value of an apartment is the size of the apartment itself, the size of associated areas such as balcony/terrace area and storage cage, if applicable. In short, the valuer assesses value of the apartment on these units of comparison. There cannot be a variance between the actual size and perhaps what the valuer measures. This is critically important.

#### 2.2. Recent sales evidence

If the valuer has that information available for the property with a copy of details of the sale. Or knows the sale prices achieved of any recent property sales within the specific development, within the last 3 months, or even the last 1 year, it is assumed the valuer will be fully equipped to value the property.

#### 2.3. Apartment features

The property, while valuation or sales process depend on the interior and exterior of the apartment. This feature is more important within an apartment, as to the living and associated areas, in addition to common areas and car parking. From the point of view of a valuer, they should be original and, in a condition, needed for an open inspection, make sure the cosmetic or structure improvements are completed prior to the valuation, OR the value will be of a negative impact.

#### 2.4. Apartment Income

The valuer is advised to be mindful of the specific market segment the property is for the utilisation of whether it be owner or occupier or investor segments. Remember, the price points of the development and general locality.

# 2.5. List the recent improvements

Any additions / modifications / alterations on property prior to valuation, receipts or cost analysis etc. definitely provides the valuer with a clear picture when inspecting the property. The valuer must ensure or aware of any changes made subsequent to an initial valuation (or purchase of the property).

## 2.6. information gathering

Acquire all the sales data, confirmatory building area, building cost receipts, Point out common facilities of the development; maybe pool area, garden area, courtyard area to the apartment specific and others.

## 2..7. Valuation Report

Remember, a valuation is relatively subjective, and based on a variety of factors, but none more important within the apartment sector as the per square metre rate on an overall living area, net of balcony and other areas.

### 3.0. Methods of Valuation

There are many methods of valuation to determine the market value of an apartment. The methods vary with the purpose of valuation. These also vary for the use and type of development like multi dwelling or commercial or office space. Some of the methods are:

- Comparable sales method
- Investment or Income Capitalization Method.
- Development Method (Residual Techniques)

# 3.1. Comparable Sales Method

Sales Comparison Method is based on Principle of Comparison and Value Substitution. Difference of value attributes with respect to price and quality of similar properties has to be investigated. Suitable discounting factor must be applied for specific property.

- 1. Sales comparison method provides an indication of value by comparing the asset with identical or comparable (that is similar) assets for which price information is available. The heterogeneous nature of many assets means that it is often not possible to find market evidence of transactions involving identical or similar assets.
- 2. When comparable market information need not be an exact or substantially the same asset, the valuer must perform a comparative analysis of qualitative and quantitative similarities and differences between the comparable assets and the subject asset.

It will often be necessary to make adjustments based on this comparative analysis. Those adjustments must be reasonable and valuers must document the reasons for the adjustments and how they were quantified.

- 3.. The comparable transaction method can use a variety of different comparable evidence, also known as units of comparison, which form the basis of the comparison. For example, a few of the many common units of comparison used for real property interests include price per square foot (or per square metre), rent per square foot (or per square metre) and capitalization rates. The units of comparison can differ between asset classes and across industries and geographies.
- **4..** The key steps in the comparable transactions' method are:
- (a) identify the units of comparison that are used by participants in the relevant market,
- (b) identify the relevant comparable transactions and calculate the key valuation system of measurement for those transactions,
- (c) perform a consistent comparative analysis of qualitative and quantitative similarities and differences between the comparable assets and the subject asset,
- (d) make necessary adjustments, if any, to the valuation metrics to reflect differences between the subject asset and the comparable assets
- (e) apply the adjusted valuation metrics to the subject asset, and

## 5. Choosing of comparable transactions

Evidence of several transactions is generally preferable to a single transaction or event, or of very similar assets (ideally identical), transactions that happen closer to the valuation date are more representative of the market at that date, particularly in volatile markets, should be "arm's length" between unrelated parties.

## 6. Factors of adjustments

A valuer should analyse and make adjustments for any material differences between the comparable transactions and the subject asset. Examples of common differences that could warrant adjustments includes,

- Material characteristics (age, size, specifications, etc),
- Restrictions on either the subject asset or the comparable assets
- Geographical location and situation
- > Related economic and regulatory environments,
- Profitability or profit-making capability of the assets
- Demand and supply
- yields/ interest rates
- > unusual terms in comparable transactions, (gift, auction, relative/ company / friend sale)
- > ownership characteristics (e.g., legal form of ownership, amount percentage held).

- 7. Some of the most common adjustments made in the market approach are known as discounts and premiums.
- (a) Discounts for Lack of Marketability should be applied when the comparable are deemed to have superior marketability to the subject asset. A DLOM reflects the concept that when comparing otherwise identical assets, a readily marketable asset would have a higher value than an asset with a long marketing period or restrictions on the ability to sell the asset.
- (b) Control Premiums participants' willingness to pay a Control Premium will generally be a factor of whether the ability to exercise control enhances the economic benefits available to the owner of the subject asset.
- (c) Blockage discounts are sometimes applied when the subject asset, such that an owner would not be able to quickly sell in the public market without negatively influencing the market price. (Example: Stigma factors, Racial habitation, Religious and personal factors)

# 3.2. Methods of valuation for comparable sales

The methods of sales comparison methods are:

- ❖ Ad-hoc Comparison Technique (Hedonic Pricing Model)
- Adjustment Grid Model
- Weightage Store System of Valuation

# 3.2.1. Ad-Hoc Comparison Technique (Hedonic Pricing Model)

This is common and popular method in sales comparison method. Under this model, price of the property is expressed by the formula:

P = f(STLA)

P = Market price of the property

f = stands for the function of

S = Size or covered area of the premises

T = Time factor at which the asset is traded in the market

L = Location of the property (demand & supply, civic amenities)

A = Age or physical conditions of the property

**Comparison Example:** A residential flat of 150 sq.m of size is situated on a 12m wide road with superior interior planning. Flat was sold a year back at Rs 40,000 per sq.m.

Advice for fair purchase of flat of 90sq.m. In same locality but on 20m wide road with poor interior planning though both are of same specifications. This flat enjoys amenities of swimming pool & large garden.

**Solution:** Consider location, size, interior planning, amenities &time factor. Adjustments can be made for:

1. Size (150 & 90 sqm)	- 05%	4. Interior planning	- 10%
2. Time factor (1 year)	+10%	5. Amenities	+15%
3. Location (Road)	+ 15%	Overall decrease / increase	+ 25%
Purchase price - 90 sq.m fla	t = 90 sqm	x Rs 40,000 x 125% = Rs 4	5,00,000

# 3.2.2. Adoption of Weightages

Land has innumerable characteristics of attributes. These attributes can be the deciding factor to have precise market on the property value.

When comparing the sales instances these attributes decides the market value of a specific property. These attributes will be Adhoc and would change from locality to locality depending upon the local market.

Therefore, a detailed market study and surveys and appropriate local enquiry on these attributes before deciding on the market value has to be done.

Again, these attributes are based on the economic, physical, social and legal factors or location, size, time aspect &age and physical state of the property. The total number of factors affecting different aspects of real estate and causing dissimilarities between them may be much more than this.

In most cases however, valuers generally consider four principal aspects of real estate and make an Adhoc comparison between them to arrive at a valuation conclusion.

First step is to collect suitable comparable as far as possible within the same locality and as similar to the subject property and recent sale transactions as possible.

The attributes of the comparable are then compared with those of the subject property. Find out all relevant factors and give positive or negative weightages over the rate of the comparable.

Finally, the comparison is carried out by weighing positive weightages and negative weightages. Derive the market value of the subject property with positive and negative factor over the rate of the comparable unit.

## 3.2.2.1. Attributes Credit Score Adoption

The proper weightages of each attribute should be ascertained from analysis of sale transactions in the real estate market. There is no hard and fast rule in applying percentage as ad-hoc. But with an experienced valuer these percentage may bring good result.

A few attributes which can affect the market value is given under in the annexure as reference. And many more attributes we may find, may be there for the property while inspection. We have to consolidate all the attributes by assuming credit score for them.

All the positive weightage on social, economic and physical factors are added to the evidentiary market rate to get a true picture of the market rate for that subject asset. The negative weightage on social, economic and physical factors can be deducted from the evidentiary market rate. All the positive and negative legal factors must be clearly recorded towards and for the marketability of the subject asset in the report. Assumptions have to be made for the Increase / decrease in value towards attributes of subject land:

No	Attribute of subject land	Comparable sale Apartment	Subject Flat under valuation
Α	General		
1	Income fetching marketable property		
	Hotel		
	Cinema		
	Mall		
	Petrol pump		
	Industrial		
	Leasehold		
2	Non-income fetching but marketable		
	Self-occupied house		
	Residential Apartments		
	Shops		
	Factories		
	Freehold		
3	Non-income fetching / non-marketable		
	Educational Institution		
	Temple		
	Public and Govt buildings		
	Museum etc		
4	Market Type - Based on occupancy		
	Residential		

	Commercial	
	Industrial	
	Agricultural	
	Special purpose	
5	Sub market Type of Residential	
	House site	
	Individual houses	
	Apartments	
6	Location	
	Urban area	
	Sub urban area	
	Rural	
	High Priced	
	Medium Priced	
	Low Priced	
7	Ownership	
	Single	
	Joint ownership	
	Co-ownership	
	Title Defect/ pending litigation/ court stay	
	Easement rights provided or given	
	Property subject to Land acquisition act	
	Property subject to coastal regulation act	
8	Tenancy	
	Property tenanted	
	Rental agreement	
	Tononov quality	
	Tenancy quality	

	Contractual rent
	Lease Agreements
	License agreement
	Lease Covenants
	Lease / License Period
	Lease Specific purpose use
9	Enforceability aspects
10	Marketability aspects
В	Land
1	Land Classification
	Residential
	Commercial
	Industrial
	Agricultural
	Special purpose
2	Approved / Unapproved layout
3	Soil Safe Bearing Capacity (Poor / Good)
4	Size (large / small / medium)
5	Shape (irregular / square / rectangle)
6	Area
7	Outlook
8	Frontage (corner, double frontage)
9	Orientation
10	Soil Type-rocky soil, gravelly soil, clay soil, reclaimed soil and filled up soil
11	Topography
12	Tandem / Recessed Plots
13	Land locked land

14	Wide road	
15	Road network	
16	Prominent location	
17	Main road	
18	By-lane	
19	Remote area (village / less population)	
20	Noise, air water pollution level	
21	Sea or water body frontage	
22	Vibration and noise due to nearby railway track, airport or industries	
23	Climatic conditions	
24	Earthquake prone	
25	Cyclones prone	
26	Tsunami prone	
27	Flooding due to low lying	
28	Locality location	
	Poor class (slums / squatter settlements)	
	Middle class	
	Upper class	
	Posh areas	
29	Neighborhood	
	Well-developed	
	Less developed	
	Under developed	
	Slums	
	Cremation ground, cemetery	
	Garbage dumping yard	
	Nuisance due to nearby community hall, cinema theatres, schools and colleges	

	Near to Government banned lands Mines & Quarries		
	Surrounding area development		
30	Civic amenities Proximity to		
	Shops, malls, market		
	Schools and colleges		
	Community hall, Hospital		
	Railway station, Bus stand		
	Garden, parks		
31	Racial habitation - Hindu / minority / Christian colony, Backward community colony		
32	Religious factor Nearby temples, church, mosque		
33	Personal factors - Sentimental value, Vastu belief, Speculative interest, Specific liking for that area		
34	Stigma factor - haunted house, three road junction plots, fear over the past cyclone / tsunami effect, murder or suicide in the property, land used previously as cemetery.		
35	Means of communication – railways, roads, airports and seaport		
36	Prestige aspect - prestigious building, prominent location, renowned personality as neighbor		
37	Population - density in area, population growth, congestion		
38	E B power line above the property		
39	Height restriction due to Air fly zone		
40	Heritage town Zone		
41	Availability of infrastructure		
42	Non availability of infrastructure		
43	Availability of Water potential (good / poor)		
44	Natural water supply (Borewell / well)		
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45	Groundwater quality (good / saline / poor)	
46	Availability of Treated water supply	
47	Availability of Sanitary system - Septic tank system or Underground Sanitary Drainage system	
48	Availability of Storm water Drainage system	
49	Availability of Electricity	
50	Telecommunication network	
51	Approved / unapproved layout	
52	Encroachment on any side	
53	Encumbrances, if any	
54	Compliance to Departures	
	Transfer of Property Act (Eg: POA / Minor)	
	Easement Act	
	RERA Act	
	RFCTLAAR Act	
	Railways Act	
	National Highway Act	
	Civil Aviation Authority regulations	
	Indian Electricity Act regulations	
	Building bylaws	
	Coastal Regulation Zone	
	Waterbodies Regulation	
	Hill Conservation Regulations	
	Conversion of land for other use	
С	Building	
1	RCC framed / Load bearing	
2	Technical specification	
3	Standard / poor / Rich	

4	Plinth height
5	Ceiling height
6	Floor
7	Joineries
8	Walls specification
9	building age
10	Expected future life
11	Deterioration
12	Building cracks
13	Water supply services
14	Sanitary Services
15	Electrical services
16	Aesthetics
17	Workmanship quality
18	Present conditions
19	Modern, old fashioned, plain looking
20	Building Heritage value
21	Optimum space use
22	Good planning and design
23	High utility value
24	Modern habitual style
25	Earthquake resistant buildings
26	Gated Community
27	Swimming pool
28	Garden
29	Presence of any other landscape elements
30	Lift
31	Security system

32	Vehicle parking	
33	Health club	
34	Play area	
35	Uninterrupted power supply	
36	Compound wall	
37	Obsolescence due to life style change	
38	Obsolescence due to technology concept	
39	Open space reservation	
40	Car parking restrictions	
41	Town planning and zoning regulations	
42	Environment friendly building materials use	
43	Green Building techniques	
44	Rain water harvesting	
45	Solar heating systems	
46	Lightening systems	
47	Industrial environmental pollution nearby	
48	Industrial environmental pollution nearby due to heavy traffic	
49	System of air-conditioning	
50	Provision of firefighting	
51	Compliance to Departures	
	Town Planning Act	
	Municipal Corporation Act	
	Urban Land Ceiling Act	
	Development control rules	
	building byelaws	
	Planning Area / Non planning Area	
	Permissible FSI	

	Classification of locality	
	Heritage controls	
	Possibility of land conversion to another zone	
D	Demographics	
1	Local population	
2	Employment opportunities	
3	Changes in services	
4	Trend in city growth or expansions	
5	Demand and supply of properties	
6	Government polices (Central / State) for land development	
7	Government economic and taxation policies	
8	Resident's income, wage level, saving trend and paying capacity	
9	Money market situation (Inflation Factors)	
10	Cyclical boom in real estate market	
11	Recession period in real estate market	
12	Expected rental yields and return from investments	
13	Availability of money on credit from financial institutions	
14	Interest rate offered for credit from financial institutions	
15	Property tax burden and maintenance outgoes	
16	Better alternative use against current inferior use	
17	Employment potential and development potential	
18	Availability of alternate asset in the market	
19	Local population and per capita income	
20	Less Sales Transactions frequency	
21	No Sales Transactions frequency	

22	More Sales Transactions frequency
23	Poor Sales Transactions frequency
24	Market heterogeneity is organised / regulated
25	Market heterogeneity is unregulated
26	Lack of transparency for buyer / seller
27	Open market Sale instances
28	Closed market Sale instances
29	Stable market Sale instances
30	Supply is more
31	Supply is less
32	Demand is more
33	Demand is less
E	Asset Sale Comparison
1	Willing buyer
2	Willing seller
3	Unwilling buyer
4	Unwilling seller
5	Asset has recently been sold for consideration
6	Asset or similar assets are publicly traded
7	Frequent/recent sale transactions in similar assets
8	Time Factor for comparable sale instance
9	Future expectations
10	Type of property comparable sale
	Commercial
	Residential
	Industrial
	Office
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	Specific purpose building	
F	Asset Data Collection	•
1	Sales recorded in Registration Departments	
2	Local broker / real estate agents	
3	Newspaper advertisement	
4	Land acquisition cases	
5	Auction sales information	
6	Data bank by valuers' fraternity	
7	Area of plot as conveyed, and as per revenue records	
8	Approved / unapproved area	
9	Area of plot as shown in approved plan	
10	Area of plot as per actual survey by the valuer	
11	Four boundaries Correlation with respect to all above	
12	Buildings technical details	
12	Buildings technical details  Layout	
12		
12	Layout	
12	Layout Design	
12	Layout  Design  Internal planning	
12	Layout  Design  Internal planning  Construction type & method	
12	Layout  Design  Internal planning  Construction type & method  Specifications	
12	Layout  Design  Internal planning  Construction type & method  Specifications  Floor area	
12	Layout  Design  Internal planning  Construction type & method  Specifications  Floor area  Age	
12	Layout  Design  Internal planning  Construction type & method  Specifications  Floor area  Age  Depreciation	
	Layout  Design  Internal planning  Construction type & method  Specifications  Floor area  Age  Depreciation  Obsolescence etc.	
13	Layout  Design  Internal planning  Construction type & method  Specifications  Floor area  Age  Depreciation  Obsolescence etc.  Marketability of property	

	depth				
	shape				
	facing direction				
	local body regulations on land use				
	FSI				
	other contrary attributes				
16	Property may be a Mortgaged property				
17	Owner's occupation / tenant				
18	Property may be rented or leased out				
19	Property's rental income might have been frozen under rent control act				
20	Location of the property- This gives accessibility to roads, services, public open spaces, proximity to amenities or undesirable features etc.				
21	Neighbourhoods characteristics - Use zoning or other restrictions by planning authorities, presence of slums, social aspects, historic aspects 'amenities etc.				
22	Transactional characteristics - One-time payment, stage payment, time aspects etc				
Analy	ysis of data of collected from Comparable sale				
1	Excess Amount paid on parallel economy aspect				
2	Sale - a distress sale as per comparable sale instance				
3	Sale - premium or speculative value paid as per comparable sale instance				
4	Comparable sale property - for a larger plot, too far away from this subject property				
5	Comparable sale not done at arm's length (by gift, to relatives)				
6	Comparable sale taken place much earlier– time factor				
Investment or income capitalization method					
1	License agreement				

2	Business type of license						
3	License period						
4	License fees						
5	License premium paid						
6	Net profit of the licensee						
7	Lease agreement						
8	Type of lease (occupational, building, full repair lease)						
9	Lease agreement registered?						
10	Lease covenants						
11	Lease period						
12	Unexpired lease						
13	Provision for subleasing						
14	Lease premium						
15	Lease rent						
16	Sublease rent						
17	Outgoes						
18	Net maintainable rent						
19	Comparable evidence on rent						
20	Market rent						
21	Contractual rent						
22	Capitalization rate						
Evaluation by Profit Method							
1	Gross income for the last 3 years						
2	Average gross income						
3	Outgoes						
4	Net income						
5	Capitalization rate for tangible / intangible						

6 Any other factor affecting the value

# 3.2.3. Adjustment Grid Model & Evaluation Grid

The proper weightages of each attribute should be ascertained from an analysis of sale transactions in the real estate market. There is no hard and fast rule in applying percentage as Adhoc. E.g., valuation of a flat under this approach.

The introduction of this model has been made to make the approaches of sale comparison less ad hoc. A number of sale instances as similar as possible to the subject property is chosen as comparable. About four or five major attributes of the subject property are then selected for comparison with those of the comparable. Each attribute is classified under a suitable rank.

In practice, the number of attributes may be more although only three have been chosen here. Choose the maximum attributes according to their importance.

- **Step 1:** Now, all the comparable, their attributes with ranks and the subject property are placed in the evaluation grid. Here also, there is no regulation in ranking.
- **Step 2:** Next, rank of each attribute of the comparable is compared with the rank of the said attribute of the subject property and positive or negative weightages are given.
- **Step 3:** Rank of the attribute of a comparable negative weightage is given whereas for inferior rank of attribute of the comparable positive weightage is given.
- **Step 4:** Then all weightages of all the attributes of each comparable are summed up to find the resultant effect on the sale figure of each comparable.
- **Step 5:** The finally adjusted sale figure of the comparable are then considered for arriving at the value of the subject property.

# Specific differences that should be considered in valuing real property interests include:

- (a) the type of interest providing the price evidence and the type of interest being valued,
- (b) the respective locations,
- (c) the respective quality of the land or the age and specification of the buildings,
- (d) the permitted use or zoning at each property,
- (e) the circumstances under which the price was determined and the basis of value required,
- (f) the effective date of the price evidence and the valuation date, and

(g) market conditions at the time of the relevant transactions and how they differ from conditions at the valuation date.

The example given below is given as reference considering only 5 aspects for weightage adjustment.

There may be many weightage adjustments factors for a particular property in comparison. The valuer must understand the weightage adjustments factors based on the site inspection and adopt suitable factors of adjustment.

**Example:** 75 sq.m of A residential flat of 5 years old situated on a main road and closed to civic amenities and services. The building is of marble flooring, good specification and good internal planning. What is the value of the flat today based on sales of three comparable given below?

**Sale X:** flat of 130sq.m, sold @ Rs 40,000 per sq.m, 6 months back. The building is 18 years old and situated on a narrow lane away from civic amenities. The building is of standard specification within mosaic floor tiles.

**Sale Y:** flat of 100sq.m sold @ Rs 35,000 per sq.m, one year back. The building is 20 years old and situated in a middle-class locality on a narrow lane but close to civic amenities and services. The building is of poor specification.

**Sale Z:** A flat measuring 80sq.m sold @Rs 45,000 per sq.m about 9 months back. The building is 12 years old and situated on the main road in a locality dwelt in by a wealthy community but away from civic amenities and services. The building is of good specification with marble flooring. The evaluation grid is given below showing the adjustments.

Flat details	area	Price sold	Time factor to sale date	age	specification	location	Civic amenities
saleable Flat	75 sqm	To calculate	Now	5 years	Marble good specs good internal planning	Main road	nearby
Flat x	130 sq.m	Rs 40000 per sq.m	6 months	18 years	Mosaic standard specs.	narrow lane	away

Flat y	100 sq.m	Rs 35000 per sq.m	12 months	20 years	Poor specs.	narrow lane	nearby
Flat z	80 sq.m	Rs 45000 Sqm	9 months	12 years	Marble good specs. good internal planning	Main road	good

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Property characteristics	Sale flat 75 sq.m.	Sale X 130 sq.m. flat	Sale Y 100 sq.m. flat	Sale Z 80 sq.m. flat
Sale data	To find	Rs 40000 sqm	Rs 35000 sqm	RS 45000 sqm
Time aspect	today	+6 months	+ 12 months	+9 months
Adjustment time		+ 6% = + Rs 2400 / sqm (Allowance +1 % per month)	+ 12% = + Rs 4200 / sqm (Allowance +1 % per month)	+ 9% = + Rs 4050 /sqm (Allowance +1 % per month)
Adjusted rate for time		Rs 42400 / sqm	Rs 39200 / sqm	Rs 49050 / sqm
Location aspect     Weightage		+20%	+10%	+10%
Size aspects     Weightage		+5%	+2.50%	nil
Age aspect weightage		-6.50% (18-5) =13 yrs)	-7.50% (20-5) = 15 yrs	-3.50% (12-5) =7 yrs
Specification aspect weightage		+10%	+20%	nil
5. Overall weightage Over adjustment for		+28.50%	+25%	+6.50%
time (4)		+ Rs 12084	+ Rs 9550	+ Rs 3188
Final rate in Rs / sqm	Rs 51824	Rs 54484	Rs 48750	Rs 52238

# 3.2.4. Development Method (Residual Techniques)

- a) Actual Sales Basis (Owner Occupied)
- b) Actual Sales Basis (Tenant Occupied)

- c) Hypothetical Building Method (Ownership concept)
- d) Hypothetical Building Concept (Income Concept)
- 1. In sale comparison method a direct comparison of market value is determined. This method is an indirect manner of deriving land rate from sale transactions or the land value is derived in an indirect manner.
- 2. If a property is fully developed or under-utilized or of inferior use, to get best and high use, and where there is no prior sale instances available (Example: commercial / industrial / non-availability of plots sales there may not be many sale instances available) for a direct comparison, to find out the land rate, these types of residual techniques are used.
- 3. In cases, where sales of developed properties available, this indirect method provides the probable land value in the locality. In cases, where residential apartment's composite rates are available, this residual technique can be adopted to find out the rate for land component.
- 4. For apartments, the outgoings towards promoter's profit, architect fees, interest components, plan approval charges, FSI stipulations, development charges, etc. have to be ascertained.
- 5. If it is a tenanted or leasehold property, then the land is arrived with the help of rental income method and by cost approach method.

**Example**: Sale consideration -Rs 20 lakhs (land 1000 sqft & building -1000 sqft), age -10 years, replacement cost - Rs 1200/ sqft, salvage value @10%, physical life - 60 years.

#### Solution:

Building value = Depreciated Replacement Value

Replacement value =1000 sqft building x Rs1200 plinth area = Rs 12,00,000

Depreciated value =  $12,00,000 \times 50/60 \times 0.90$  = Rs 9,00,000.

1000 sqft of Land value = Rs 20,00,000 - Rs 9,00,000 = Rs 11,00,000.

Land rate per sqft = Rs 11,00,000 / 1000 sqft = Rs 1,100 per sqft.

#### 3.3. Valuation Procedure

Collection of suitable comparable as far as possible within the same locality and as similar to the subject property and recent sale transactions as possible will be the first step.

The attributes of the comparable are then compared with those of the subject property. We can find out all relevant factors and give positive or negative weightages over the rate of the comparable.

Finally, the comparison is carried out by weighing positive weightages and negative weightages. Derivations of the market value of the subject property will be with positive and negative factor over the rate of the comparable unit.

Documentary evidence may or may not be for the similar or identical properties in the nearby locality, and for the property under valuation, sold at a different period.

Suitable additions or deletions can be made over the prevailing documentary evidentiary market rate with the credit score rating which will reflect the real market value and we can defend diligently our value with more accuracy.

#### 3.3.1. Sales data collection sources

- ✓ Sales recorded in Registration Departments
- √ Local broker / real estate agents
- √ Newspaper advertisement
- ✓ Land acquisition cases
- ✓ Auction sales information
- ✓ Data bank by valuers' fraternity

# 3.3.2. Details that has to be collected

- ✓ Area of plot as conveyed, and as per revenue records
- ✓ Approved / unapproved area
- ✓ Area of plot as shown in approved plan
- ✓ Area of plot as per actual survey by the valuer
- ✓ four boundaries Correlation with respect to all above
- ✓ Buildings technical details: Layout, design, internal planning, construction type & method, specifications, floor area, age and obsolescence etc.

#### 3.3.3. Analysis of data of collected

- ✓ Marketability of property
- ✓ Location of the subject property
- ✓ Size of the property: frontage, depth, shape, facing direction, local body regulations on land use, FSI, other contrary attributes
- ✓ Property may be a tenanted or leased out
- ✓ Mortgaged property
- ✓ Property's rental income might have been frozen under rent control act

#### 3.3.4. External characteristics

- ✓ Location of the property- This gives accessibility to roads, services, public open spaces, proximity to amenities or undesirable features etc.
- ✓ Neighbourhood characteristics Use zoning or other restrictions by planning authorities, presence of slums, social aspects, historic aspects 'amenities etc.
- ✓ Transactional characteristics One-time payment, stage payment, time aspects etc

# 3.3.5. Analysis of data of collected from Comparable sale

- ✓ Excess Amount paid on parallel economy aspect
- √ Sale a distress sale as per comparable sale instance
- ✓ Sale premium or speculative value paid as per comparable sale instance
- ✓ Comparable sale property for a larger plot, too far away from this subject property
- ✓ Comparable sale not done at arm's length (by gift, to relatives)
- ✓ Comparable sale taken place much earlier

   time factor

The attributes of the comparable are then compared with those of the subject property. Find out all relevant factors and give positive or negative weightages over the rate of the comparable.

Finally, the comparison is carried out by weighing positive weightages and negative weightages. Derive the market value of the subject property with positive and negative factor over the rate of the comparable unit.

# 3.4. Investment or Income Capitalization Method.

Various methods are used to indicate value under the general heading of the income approach, all of which share the common characteristic that the value is based upon an actual or estimated income that either is, or could be, generated by an owner of the interest.

In the case of an investment property, that income could be in the form of rent in an owneroccupied building, it could be an assumed rent (or rent saved) based on what it would cost the owner to lease equivalent space.

Investment or income capitalization method is used where rental data of properties are available in the market. Since capital value of a property is derived from the net rent and yield for capitalization, these two data are investigated in the market for applying in the valuation method. Obviously, comparable evidence of rental values and yields are required to be made available for the purpose of valuation. So, this method is designated as the investment method, the basic ingredients and steps are dependent on comparison or comparable evidence.

- **1. Collection of Sale & Rental instances** Similarity in character, proximity to the subject property, amenities, advantages, and sale date of transaction or rental details.
- **2. Analysis of sale instances –** process of estimating the rate of interest yielded by a property from its sale transaction.
- **3.** Inspection of property, sale & rental instances To collect data and information on aspects: Physical & Technical, Legal, Social and Economic aspects
- **4. Estimation of Fair Rent of the Subject Property** Comparing with the rental instances to estimate its Fair Market Rent, Gross Annual Rent and Net Annual Income.
- **5. Selection of Interest rate for capitalization –** Comparison of Subject Property with Sale Instances to select suitable Interest Rate for capitalization. Compare the Interest Rate selected for capitalization with Economic Indices to estimate final Interest Rate for capitalization.
- 6. Comparison of subject Property with Sale Instances for selection of suitable interest rate & Compare Interest Rate selected for capitalization with Economic Indices to estimate final Rate of Interest for capitalization The remunerative rate of interest is inversely proportional to the security of investment. Lessee's interest in property is considered less secured than interest of the lessor's interest. Hence capitalization rate for lessor's interest is taken 1 % less than the rate of capitalization for lessee's interest.

## 7. Estimation of Capitalized Market Value of property

Gross Annual Rent = rent per Sq. M. x Built up area

Net annual income = Gross Annual Income – Outgoings

Y. P. = 100 / Estimated Rate of Interest

Capitalized Market Value = Net Annual Income x Y. P.

**8. Estimation of Market Value – Market** Value = Capitalized Market Value less (immediate repairs cost+ taxes unpaid + pending liabilities)

**Example:** In a commercial Complex, a shop located in ground floor of 750 square feet of shop plinth area with an undivided share of 375 sqft of land is rented out @ Rs 60 per sqft of plinth area. The prevailing market rate is rs 12,000 per square foot for built-up area of shop. Advice the client for purchase of the shop.

#### Solution

# By Market Approach (Derived from market forces)

Shop of 750 square feet with an undivided share of 375 sqft of land in CBD. FSI permissible

= Rs 12,000

2.00. The prevailing market rate is rs 12,000 per square foot for built-up area of shop

Area of the shop = 750 sqft

Market value of shop = 750x Rs 12,000 = Rs 90,00,000

# Based on Market Value, by income approach

Prevailing Market Rate for Shop per sqft

Prevailing market rent in the nearby area for shop is Rs 60 /- per sq ft P.M.

GMR receivable PA =  $750 \times Rs = 60$ /- per sqft x 12 months = Rs = 5,40,000

Deduct: 10% on outgoes, the NMR = Rs = 54,000

Net maintainable rent = Rs. 4,86,000

Years' Purchase @ 5% = 100 / 5

Actual worth of the shop = Rs 97,20,000

(Fair Value / Entry price for buyer) or

(Fair Value / Exit price for seller) = Rs 97,20,000

# 3.5. Hypothetical Building Scheme

By adopting a hypothetical building to be proposed in the property, the sale value of the proposed flats / shops can be derived.

The sale value will be inclusive of profits, interest components, construction cost, outgoings, and management expenses for implementation of the project, etc. After adjustments the net proceeds will be taken as hypothetical building cost. The land component can be determined from the sale proceeds after deducting the hypothetical building cost.

In case of properties are considered for redevelopment as shopping/ office/ malls and others subject to assumption of rental income or profit, this method can be adopted both by income and cost approach method. Profitability of development project is based on the Probable rental income receivable from redeveloping the property.

Same can be reviewed, if it is a tenanted or leasehold property, then the land is arrived with the help of income approach method. The following basic elements require consideration in any application of the method to estimate the market value of development property and if another basis is required, alternative inputs may be required.

- (a) Completed property value
- (b) Construction costs
- (c) Consultants fees

- (d) Marketing costs
- (e) Timetable
- (f) Finance costs
- (g) Development profit,
- (h) Discount rate.

# 3.6. Joint Venture Development

It is defined for the development of a property where the land and building components are from two different persons and they join together for execution of property development.

The existing property may be can be converted in to a new one for various purpose. The existing property may be a vacant land, or an old building is existing in the property or current usage of the property is not in tune with the latest regulations or the property owner wants to get the highest and best use of the property for getting a higher income from the property. This method is applicable in case of residential apartments and commercial complex and malls.

The land owner for want of investment to be made in the property for conversion, he may get the assistance of a person whom can invest the money and develop the property. The person who is investing the money is called the developer of property or otherwise called a promoter. The promoter joins with the property owner (land owner) and they jointly promote the project. Both the land owner and promoter gets the share of money proportionately for investment made by them. This is called a joint venture ratio. This ratio normally represented in terms of Promoter's share: land lord's share.

In the joint venture agreement, the factors deciding on the aspects are:

- Demand
- Prevailing market of land
- Location
- ➤ FSI
- Usage (commercial, residential)
- Building specifications.

The joint venture ratio depends on aspects:

#### For land lord

Land lord gets his share for the investment made based on the prevailing land cost component.

The promoter gets his share on the building components.

The land rate is determined based on the local market rate and construction rate is defined by the specification of the proposed building. In these type of joint venture projects, the share of the landlord will be more, if the prevailing market rate of land is more.

But every local authority and municipal corporation prescribe rules, area classification, byelaws & regulations for development and constructions within its jurisdiction.

If the plot is on the main road, it is sensible for the landlord and developer to go for commercial and residential complex in order to get higher profit.

If the locality is classified as commercial cum residential by the local corporation, the marketability will be better and getting construction plan sanction is not difficult at all. If the property is located in lesser width of the road, the permissible FSI may be less or it may not be achieved.

So, the building byelaws or development control rules affect the market value of land. Important provisions are FSI / FAR, open space rules and height restrictions. With the open space requirement and set back rules, prevent from consumption of using FSI fully. This provision reduces the market value.

Market of the land will be less for those using as residential purpose and higher for commercial purpose.

# For the promoter

For the promoter, his share is based on the area of construction, nature of permitted usage of the building, period of construction, and technical specifications of the construction.

The share of the promoter will be less than the land component, if the land component value is more.

The sale value will be inclusive of profits, interest components, construction cost, outgoings, and management expenses for implementation of the project, etc.

After adjustments the net proceeds will be taken as hypothetical building cost.

The outgoings towards promoter's profit, architect fees, interest components, plan approval charges, FSI stipulations, development charges, etc. have to be ascertained.

# 4.0. Project feasibility

Valuations of Proposed project for development may be required for different purposes. It is the valuer's responsibility to understand the purpose of a valuation.

- (a) proposed projects are financially feasible
- (b) in acquisition and loan security
- (c) taxation analyses
- (d) for litigation requiring valuation analysis

- (e) for financial reporting purposes, valuation is required for accounting purpose, **asset** acquisitions and sales, and impairment analysis, and
- (f) for compulsory purchases.

Methods adopted under either the market or income approach

- (a) the estimated market value on completion is based on values that are current on the valuation date on the special assumption the project had already been completed in accordance with the defined plans and specification, or
- (b) the estimated value on completion is based on the special assumption that the project is completed in accordance with the defined plans and specification on the anticipated date of completion.

Market practice and availability of relevant data should determine which of these assumptions is more appropriate. Ensure that consistent assumptions are used throughout the residual value calculation,

Check list for valuation of a development property before a project commences:

- (a) market potential for the proposed development
- (b) proposed development is HABU in current market
- (c) any non-financial obligations (political or social criteria)
- (d) legal permissions or zoning, conditions or constraints on permitted development
- (e) limitations, encumbrances or conditions imposed
- (f) rights of access to public highways or other public areas
- (g) geotechnical conditions, including potential for contamination or other environmental risks
- (h) availability of, or improve needed for services
- (i) requirement for any off-site infrastructure improvements and the rights required
- (j) archaeological constraints / archaeological investigations required
- (k) sustainability and client requirements in relation to green buildings
- (I) economic conditions / their potential impact on costs & receipts during development period
- (m) current / projected supply and demand for proposed future uses
- (n) the availability and cost of funding
- (o) the expected time required to deal with preparatory matters prior to starting work, for the completion of the work and, if appropriate, to rent or sell the completed property
- (p) any other risks associated with the proposed development.

#### **RERA ACT 2016**

The Real Estate (Regulation and Development) Act, 2016 aims to regulate and promote the real estate sector by regulating the transactions between buyers and promoters of residential as well as commercial projects. It also has provisions for establishing a regulatory authority at state level called "Real Estate Regulatory Authority" (RERA) for monitoring the real estate sector and adjudicating disputes relating to Real Estate Projects. The main aim of the Act is to protect buyers and help investment in Real Estate Sector.

## 1. Prior period before RERA

Flats were sold based on super area or built up area or super built up area as saleable area. The saleable area includes two components.

- Plinth area of flat
- Proportionate common areas

Plinth area is the covered built up area measured at the floor level including and external walls. The plinth area is generally 10% to 20% more than the carpet area.

Common area includes staircase rea, common amenities, corridor passage, lift, overhead tank, Head room, Water treatment plant, STP, motor and pumps etc.

**Vehicle parking:** Generally, promoters use the term car parking space and not garage. As for as car parking space, is concerned it is being charged on unit rate basis.

The promoter, prior to RERA Act, the car parking slot usually is a separate entity and charged exclusively and not included in the flat cost.

#### 2. Post RERA Act period

The buyers while purchasing the flats are unaware of the actual useable area.

On the other hand, the promoters, while selling the flats, were using super area or built up area or super built up area as saleable area.

Hence, Real Estate (Regulation and Development) Act 2016 was enacted in the Indian Parliament. In RERA Act, it is mandatory for the promoters to sell the flat on the basis of carpet area.

The promoter has to provide break up details of carpet area, cost of the apartment, Proportionate cost of common areas / facilities, preferential charge for location of apartment, and taxes etc.

As for as the reserved car parking slot is concerned, the promoter shall allocate exclusive right of usage of the slot to the allottee and shall form an indivisible part of the apartment and shall be transferred with the flat.

Carpet area means the net useable floor area in the flat. It excludes the external walls area, service shaft area, exclusive covered balcony area, open verandah area and open terrace area. It includes the internal walls within the apartment.

Detailed plan showing the carpet area as per Maharashtra RERA is shown as Annexure

## 3. Salient Features of RERA Act 2016

**Section 2.** In this Act, unless the context otherwise requires, —

- (b) "advertisement" means any document described or issued as advertisement through any medium and includes any notice, circular or other documents or publicity in any form, informing persons about a real estate project, or offering for sale of a plot, building or apartment or inviting persons to purchase in any manner such plot, building or apartment or to make advances or deposits for such purposes;
- (c) "agreement for sale" means an agreement entered into between the promoter and the allottee;
- (d) "allottee" in relation to a real estate project, means the person to whom a plot, apartment or buildings, as the case may be, has been allotted, sold (whether as freehold or leasehold) or otherwise transferred by the promoter, and includes the person who subsequently acquires the said allotment through sale, transfer or otherwise but does not include a person to whom such plot, apartment or buildings, as the case may be, is given on rent;
- (e) "apartment" whether called block, chamber, dwelling unit, flat, office, show room, shop, godown, premises, suit, tenement, unit or by any other name, means a separate and self-contained part of any immovable property, including one or more rooms or enclosed spaces, located on one or more floors or any part thereof, in a building or on a plot of land, used or intended to be used for any residential or commercial use such as residence, office, shop showroom or godown or for carrying on any business, occupation, profession or trade or for any other type of use ancillary to the purpose specified;
- (j) "building" includes any structure or erection or part of a structure or erection which is intended to be used for residential, commercial or for the purpose of any business, occupation, profession or trade, or for any other related purposes;
- (k) "carpet area" means the net usable floor area of an apartment, excluding the area covered by the external walls, areas under services shafts, exclusive balcony or verandah area and exclusive open terrace area, but includes the area covered by the internal partition walls of the apartment;

Explanation.— For the purpose of this clause, the expression "exclusive balcony or verandah area" means the area of the balcony or verandah, as the case may be, which is appurtenant to the net usable floor area of an apartment, meant for the exclusive use of the allottee; and "exclusive open terrace area" means the area of open terrace which is appurtenant to the net usable floor area of an apartment, meant for the exclusive use of the allottee;

- (*m*) "commencement certificate" means the commencement certificate or the building permit or the construction permit, by whatever name called issued by the competent authority to allow or permit the promoter to begin development works on an immovable property, as per the sanctioned plan;
- (n) "common areas" mean—
- (i) the entire land for the real estate project or where the project is developed in phases and registration under this Act is sought for a phase the entire land for that phase;
- (ii) the stair cases, lifts, staircase and lift lobbies, fire escapes, and common entrances and exits of buildings;
- (iii) the common basements, terraces, parks, play areas, open parking areas and common storage spaces;
- (*iv*) the premises for the lodging of persons employed for the management of the property including accommodation for watch and ward staffs or for the lodging of community service personnel;
- (v) installations of central services such as electricity, gas, water and sanitation, air-conditioning and incinerating, system for water conservation and renewable energy;
- (vi) the water tanks, sumps, motors, fans, compressors, ducts and all apparatus connected with installations for common use;
- (vii) all community and commercial facilities as provided in the real estate project;
- (*viii*) all other portion of the project necessary or convenient for its maintenance, safety, etc. and in common use:
- (q) "completion certificate" means the completion certificate, or such other certificate, by whatever name called, issued by the competent authority certifying that the real estate project has been development according to the sanctioned plan, layout plan and specifications, as approved by the competent authority under the local laws;
- (s) "development" with its grammatical variations and cognate expressions, means carrying out the development of immovable property, engineering or other operations in, on, over or

under the land or the making of any material change in any immovable property or land and includes re-development;

- (t) "development works" means the external development works and internal development works on immovable property;
- (v) "estimated cost of real estate project" means the total cost involved in developing the real estate project and includes the land cost, taxes, cess development and other charges;
- (w) "external development works" includes roads and road systems landscaping, water supply, sewerage and drainage systems, electricity supply transformer, sub-station, solid waste management and disposal or any other work which may have to be executed in the periphery of, or outside, a project for its benefit, as may be provided under the local laws;
- (y) "garage" means a place within a project having a roof and walls on three sides for parking any vehicle, but does not include an unenclosed or uncovered parking space such as open parking areas;
- (z) "immovable property" includes land, buildings, rights of ways, lights or any other benefit arising out of land and things attached to the earth or permanently fastened to anything which is attached to the earth, but not standing timber, standing crops or grass;
- (*zb*) "internal development works" means roads, footpaths, water supply, sewers, drains, parks, tree planting, street lighting, provision for community buildings and for treatment and disposal of sewage and sullage water, solid waste management and disposal water conservation, energy management, fire protection and fire safety requirements, social infrastructure such as educational health and other public amenities or any other work in a project for its benefit, as per sanctioned plans;
- (*zc*) "local authority" means the Municipal Corporation or Municipality or Panchayats or any other Local Body constituted under any law for the time being in force for providing municipal services or basic services, as the case may be, in respect of areas under its jurisdiction;
- (*zf*) "occupancy certificate" means the occupancy certificate, or such other certificate by whatever name called issued by the competent authority permitting occupation of any building, as provided under local laws, which has provision for civic infrastructure such as water, sanitation and electricity;

(*zh*) "planning area" means a planning area or a development area or a local planning area or a regional development plan area, by whatever name called, or any other area specified as such by the appropriate Government or any competent authority and includes any area designated by the appropriate Government or the competent authority to be a planning area for future planned development, under the law relating to Town and Country Planning for the time being in force and as revised from time to time;

# (zk) "promoter" means, —

- (i) a person who constructs or causes to be constructed an independent building or a building consisting of apartments, or converts an existing building or a part thereof into apartments, for the purpose of selling all or some of the apartments to other persons and includes his assignees; or
- (ii) a person who develops land into a project, whether or not the person also constructs structures on any of the plots, for the purpose of selling to other persons all or some of the plots in the said project, whether with or without structures thereon; or
- (iii) any development authority or any other public body in respect of allottees of—
- (a) buildings or apartments, as the case may be, constructed by such authority or body on lands owned by them or placed at their disposal by the Government; or
- (b) plots owned by such authority or body or placed at their disposal by the Government; for the purpose of selling all or some of the apartments or plots, or
- (iv) an apex State level co-operative housing finance society and a primary co-operative housing society which constructs apartments or buildings for its Members or in respect of the allottees of such apartments or buildings; or
- (v) any other person who acts himself as a builder, coloniser, contractor, developer, estate developer or by any other name or claims to be acting as the holder of a power of attorney from the owner of the land on which the building or apartment is constructed or plot is developed for sale; or
- (vi) such other person who constructs any building or apartment for sale to the general public. Explanation.—For the purposes of this clause, where the person who constructs or converts a building into apartments or develops a plot for sale and the persons who sells apartments or plots are different persons, both of them shall be deemed to be the promoters and shall be jointly liable as such for the functions and responsibilities specified, under this Act or the rules and regulations made thereunder;
- (zl) "prospectus" means any document described or issued as a prospectus or any notice, circular, or other document offering for sale or any real estate project or inviting any person to make advances or deposits for such purposes;

(*zm*) "real estate agent" means any person, who negotiates or acts on behalf of one person in a transaction of transfer of his plot, apartment or building, as the case may be, in a real estate project, by way of sale, with another person or transfer of plot, apartment or building, as the case may be, of any other person to him and receives remuneration or fees or any other charges for his services whether as commission or otherwise and includes a person who introduces, through any medium, prospective buyers and sellers to each other for negotiation for sale or purchase of plot, apartment or building, as the case may be, and includes property dealers, brokers, middlemen by whatever name called;

(*zn*) "real estate project" means the development of a building or a building consisting of apartments, or converting an existing building or a part thereof into apartments, or the development of land into plots or apartment, as the case may be, for the purpose of selling all or some of the said apartments or plots or building, as the case may be, and includes the common areas, the development works, all improvements and structures thereon, and all easement, rights and appurtenance belonging thereto;

- (zo) "regulations" means the regulations made by the Authority under this Act;
- (zp) "rule" means the rules made under this Act by the appropriate Government;

(*zq*) "sanctioned plan" means the site plan, building plan, service plan, parking and circulation plan, landscape plan, layout plan, zoning plan and such other plan and includes structural designs, if applicable, permissions such as environment permission and such other permissions, which are approved by the competent authority prior to start of a real estate project;

**Section 3.** (1) No promoter shall advertise, market, book, sell or offer for sale, or invite persons to purchase in any manner any plot, apartment or building, as the case may be, in any real estate project or part of it, in any planning area, without registering the real estate project with the Real Estate Regulatory Authority established under this Act:

Provided that projects that are ongoing on the date of commencement of this Act and for which the completion certificate has not been issued the promoter shall make an application to the Authority for registration of the said project within a period of three months from the date of commencement of this Act:

Provided further that if the Authority thinks necessary, in the interest of allottees, for projects which are developed beyond the planning area but with the requisite permission of the local authority, it may, by order, direct the promoter of such project to register with the Authority,

and the provisions of this Act or the rules and regulations made thereunder, shall apply to such projects from that stage of registration.

- (2) Notwithstanding anything contained in sub-Section (1), no registration of the real estate project shall be required: —
- (a) where the area of land proposed to be developed does not exceed five hundred square meters or the number of apartments proposed to be developed does not exceed eight inclusive of all phases: Provided that, if the appropriate Government considers it necessary, it may reduce the threshold below five hundred square meters or eight apartments, as the case may be, inclusive of all phases, for exemption from registration under this Act:
- (b) where the promoter has received completion certificate for a real estate project prior to commencement of this Act;
- (c) for the purpose of renovation or repair or re-development which does not involve marketing, advertising selling or new allotment of any apartment plot or building, as the case may be under the real estate project;

Explanation. —For the purpose of this Section, where the real estate project is to be developed in phases, every such phase shall be considered a stand-alone real estate project, and the promoter shall obtain registration under this Act for each phase separately.

**Section 4(2)(L)(D)** - It has been made obligatory for promoters to deposit 70% of the money collected from buyers for a particular project in a separate account that will cover the cost of land and construction and the same can be withdrawn only after certification from an engineer, an architect and a chartered accountant.

**Section 5 -** RERA shall approve or reject the application for registration within 30 days, failing which it shall be deemed to have accepted the application for registration.

**Section 11 -** It is mandatory for a promoter to upload details of proposed project on the website of RERA, including details of registration, types of apartments or plots booked, list of approvals taken and the approvals which are pending subsequent to commencement certificate, status of the project, sanction plan, layout plan etc.

**Section 13 -** Any promoter shall not accept a sum more than 10% of the cost of the apartment, plot, or building, as an advance payment, from a buyer without first entering into a written agreement for sale with such person and register the same.

**Section 15(1) -** The promoter shall not transfer or assign his majority rights and liabilities in respect of a real estate project to a third party without obtaining prior written consent from at least 2/3rd number of Allottees, except the promoter, and without the prior written approval of RERA

**Section 16 -** It is now obligatory for all the promoters to obtain insurance in respect of title of the land and buildings and construction of every project.

**Section 18** -The promoter shall compensate the buyer in case any loss caused to him due to defective title of the land, on which the project is being developed or has been developed, and the claim for compensation under this subsection shall not be barred by limitation provided under any law for the time being in force.

**Section 20 -** Establishment and incorporation of Real Estate Regulatory Authority (RERA) at every State in India for monitoring and adjudicating disputes relating to real estate projects.

**Section 31 -** An aggrieved person may file a complaint with RERA, as the case may be, for any violation or contravention of provisions of this Act or rules and regulations made thereunder against any promoter, buyer or real estate agent.

**Section 36 -** During the pendency of enquiry, RERA can restrain any promoter, buyer or agent from continuing with the act complained of.

**Section 43 & 44 -** Establishment of fast track dispute resolution mechanism for settlement of real estate disputes through dedicated adjudicating officers and Appellate Tribunal.

**Section 43 -** A person aggrieved by any direction or decision or order made by RERA or by an adjudicating officer may prefer an appeal before the Appellate Tribunal having jurisdiction over the matter.

**Section 59(2) -** If a promoter continues to violate the provisions of Section 3, he shall be punished with imprisonment for a term which may extend to three years or fine which may extend to 10% of the estimated cost of the project or both

**Section 63 -** If a promoter fails to comply with orders or directions of RERA, he shall be liable to a penalty, which may extend up to 5%, of the estimated cost of the project as determined by the Authority.

**Section 64 -** If a promoter fails to comply with orders of the Appellate Tribunal, he shall be punished with imprisonment for a term which may extend to three years or fine, which may extend up to 10% of the estimated cost of the project, or with both.

**Section 69 -** Where an Offence under this Act has been committed by a company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished.

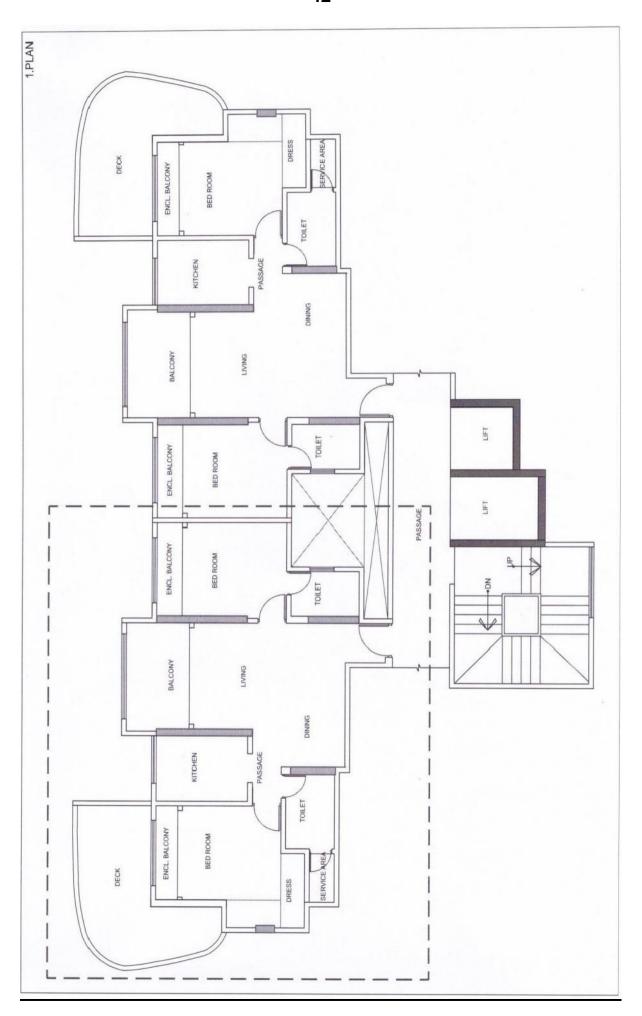
**Section 79 -** No civil court shall have jurisdiction to entertain any suit or proceeding in respect of any matter which RERA or the Appellate Tribunal is empowered by or under this Act to determine and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

# **ANNEXURE**

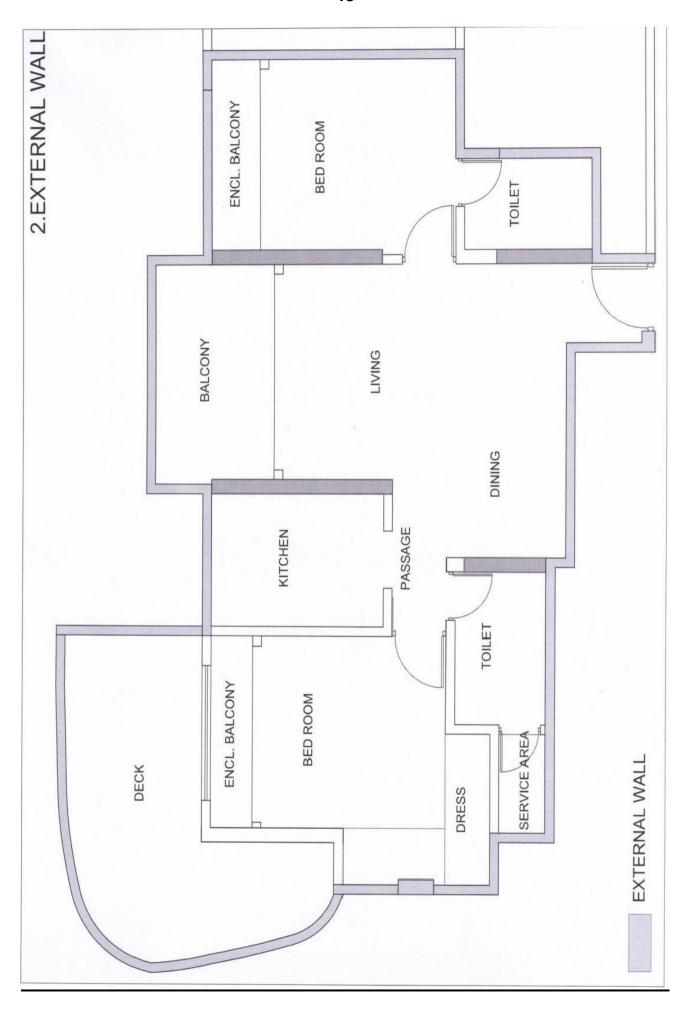
# (MAHARASTRA RERA)

# PLANS SHOWING THE CARPET AREA DESCRIPTION

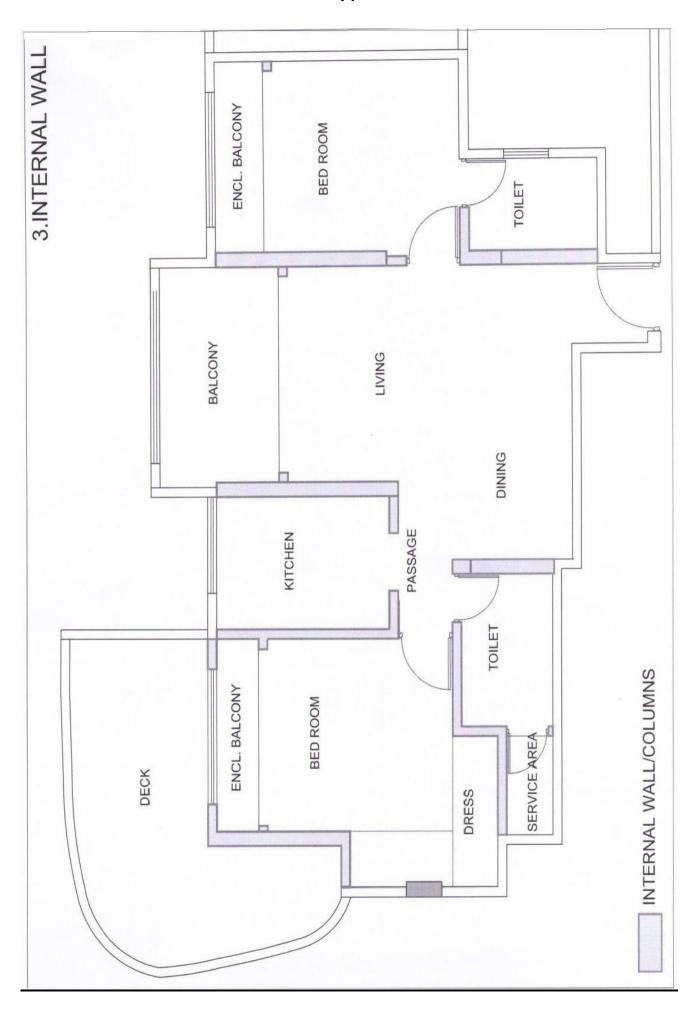
REFERENCE PURPOSE ONLY (MAY VARY FROM STATE TO STATE)



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