



THE ASSAM GAZETTE

অসাধাৰণ

EXTRAORDINARY

প্ৰাপ্ত কৰ্তৃত্বৰ দ্বাৰা প্ৰকাশিত

PUBLISHED BY THE AUTHORITY

নং 106 দিশপুৰ, সোমবাৰ, 14 ফেব্ৰুৱাৰী, 2022, 25 মাঘ, 1943 (শক)

No. 106 Dispur, Monday, 14th February, 2022, 25th Magha, 1943 (S. E.)

GOVERNMENT OF ASSAM

REAL ESTATE REGULATORY AUTHORITY, ASSAM

NOTIFICATION

The 10th February, 2022

No. RERA/ASSAM/2020/General Regulation/2.- In exercise of the powers conferred on it under Section-85 of the Real Estate (Regulation and Development) Act, 2016 and powers enabling it in that behalf, the Real Estate Regulatory Authority, Assam hereby makes the following regulations: -

Short Title, Object, Commencement and Extent:

1. (a) These Regulations may be called The Assam Real Estate Regulatory Authority, (General) Regulations, 2021.
(b) These Regulations are meant to establish procedures of functioning of the Authority, and for conduct of business of the Authority;
(c) These Regulations will come into force on the date of their notification in the Official Gazette;
(d) These Regulations shall apply to all matters falling within the jurisdiction of the Real Estate Regulatory Authority, Assam.

Definitions

2. (a) Unless the context otherwise requires in these regulations: -

(i) “Act” means the Real Estate (Regulation and Development) Act, 2016 as amended from time to time;

(ii) “Chairperson” means the Chairperson of the Real Estate Regulatory Authority, Assam;

(iii) “Authority” means the Real Estate Regulatory Authority, Assam;

(iv) “Consultant” includes any person or organisation not in the employment of the Authority who may be appointed or engaged as such to assist the Authority in any matter required to be dealt with by the Authority under the Act and the Rules and Regulations made there under;

(v) “Member” means a member of the Authority;

(vi) “Proceedings” means and includes proceedings of all nature that the Authority may conduct in discharge of its functions under the Act and the Rules and the Regulations;

(vii) “Regulations” means the Real Estate Regulatory Authority, Assam (General) Regulations, 2021 as amended from time to time;

(viii) “Rules” means the Assam Real Estate (Regulation and Development) Rules, 2017 as amended from time to time;

(ix) “Secretary” means the Secretary of the Authority;

(b) The words or expressions occurring in these Regulations and not defined herein but defined in the Act or the Rules shall bear the same meaning as assigned to them in the Act and the Rules;

Authority’s office, office hours, sittings and discharge of business:

3. Head office of the Authority shall be located at Guwahati, Assam. The Authority may, by order, establish benches comprising of one or more member, at place other than Guwahati.

4. The Authority shall follow the office timings and holidays as notified from time to time by the State Government of Assam for its offices, unless otherwise decided by the Authority in the interest of timely disposal of its business.

5. The Authority may conduct its proceedings at the Head Office or at any other place within its jurisdiction on the days and time as decided by the Authority.

Seal of the Authority:

6. The Authority shall have its own seal. Any document requiring authentication by the Authority shall be issued under the seal of the Authority. The seal shall remain in the custody of the Secretary or any other officer authorised by the Authority in this behalf.

Officers of the Authority:

7. (a) The Chairperson shall be the appointing Authority for all posts as provided under rule 21 of the Assam Real Estate (Regulation & Development) Rules, 2017. The Secretary, officers and other employees shall discharge duties as assigned to them by order of the Chairperson.

(b) The qualifications, experience and terms & conditions of service of the officials of the Authority shall be as decided by the Chairperson by way of regulations.

(c) The Chairperson may appoint or engage Consultants to assist him/her in discharge of its functions.

8. (a) The Secretary shall be the Principal Executive Officer of the Authority and shall exercise his/her powers and perform his/her duties under the control of the Authority.

(b) The Chairperson, in the discharge of him/her functions, may take such assistance from the Secretary as he/she may deem appropriate.

(c) In particular, and without prejudice to the generality of the provisions of this regulation, the Secretary shall have the following powers and perform the following duties, viz: -

(i) He/she shall have custody of the records and the seal of the Authority.

- (ii) He/she shall receive or cause to receive all documents correspondences, including, inter-alia, complaints, applications, or references pertaining to the Authority.
- (iii) He/she shall scrutinize documents, including, inter alia, complaints, applications or references and shall be entitled to seek clarifications or rectifications upon the same and issue appropriate directions pertaining to the acceptance, return or rejection of such documents in accordance with these regulations.
- (iv) He/she shall carry out such functions under the Act or the Rules, as may be delegated to him by the Chairperson, by general or special order.
- (v) He/she shall assist the Authority in the proceedings relating to the powers exercisable by the Authority, as directed by the Authority.
- (vi) He/she shall provide notice for meetings; prepare agenda for the meetings, and minute of proceedings of the Authority's meetings.
- (vii) He/she shall authenticate the orders passed by the Authority.
- (viii) He/she shall have the right to collect from the State Government or other offices, companies and firms or any other party as may be directed by the Authority, such information and record, report, documents, etc., as may be considered necessary for the purpose of efficient discharge of the functions of the Authority under the Act and the Rules and place the same before the Authority.
- (ix) In the absence of the Secretary, the officer of the Authority designated by the Chairperson in this behalf, shall exercise the functions of the Secretary.
- (x) The Chairperson shall, at all times, have the power, either on an application made by any interested or affected party or Suo moto, to review, revoke, revise, modify, amend, alter, or otherwise change any order issued or action taken by the Secretary or any Officer of the Authority, if considered appropriate.

Meetings:

9. (a) The Authority may meet as frequently as considered necessary by the Authority for timely and efficient disposal of the business, but at-least twice a week, on the days to be decided by the Authority.

(b) The Authority may meet:

(i) To carry out proceedings relating to adjudication of complaints;

(ii) To consider applications for registration of real estate projects and real estate agents;

(iii) Discharge other functions.

Quorum

10. The quorum for the meeting of the Authorities shall be two. If in any meeting of the Authority duly convened, the quorum is not present, the meeting shall stand adjourned for the next working day at the same time.

11. Chairperson shall preside over the meetings and conduct the business. All questions which come up before any meeting of Authority shall be decided by a majority of votes of the members present and voting. In the event of an equality of vote, the Chairperson or in his absence, the senior member presiding shall have a second or casting vote.

12. (a) The Secretary or in his absence an Officer of the Authority designated by the Authority, shall record minutes of the meetings and maintain a register which will, amongst other things, contain the names and designation of Members and invitees present in the meeting, a record of proceedings and notes of dissent, if any. The draft minutes shall, as soon as practicable, be sent to the Chairperson and the attending Members.

(b) The decision taken in a meeting of the Authority shall be recorded in the minutes in a clear and concise manner, along with reasons. In case the minutes record any statement/submission made by an invitee, a copy of the minutes shall be sent to such invitee.

(c) The minutes of the previous meeting shall be confirmed by circulation or at the next meeting of the Authority.

Authorised Representatives:

13. A person who is a party to any proceedings before the Authority may represent himself in person or authorise in writing any other person to present his case before the Authority and to do all or any of the acts in relation to the proceedings. Such representative however must carry a written authorisation from the person concerned.

14. The Authority shall have the power to summon and enforce attendance of all the persons who are concerned with the proceedings before it including the lenders, architects, contractors, or the persons or officials who have accorded various permissions to the real estate project.

Orders of the Authority:

15. The Chairperson/ Member(s) conducting a proceeding shall pass orders in such proceedings, and such orders shall be signed by the Chairperson /Members of the Authority hearing such proceeding. Every order made by the Authority shall be a reasoned order.

16. All orders and decisions issued by the Authority shall be certified by the signature of the Secretary or an Officer empowered in this behalf by the Authority and shall bear the official seal of the Authority and be communicated as expeditiously as possible from the date of passing thereof to all parties in the proceeding.

Documentation and Accessibility:

17. The Authority shall, as soon as may be practicable, maintain an indexed database of its records including, inter alia, complaints filed, details of hearings conducted, orders / documents issued from time to time.

18. (a) The Authority shall, on such terms and conditions as it considers appropriate, provide for supply of certified copies of documents and papers available with the Authority to any person, subject to the payment of fee and complying with the terms as the Authority may direct.

(b) The Authority may, by order, direct that any information, documents and papers / materials maintained by the Authority, shall be confidential or privileged and shall not be available for inspection or supply of certified copies,

and the Authority may also direct that such document, papers, or materials shall not be used in any manner except as specifically authorised by the Authority.

19. The Authority shall endeavor to make information involving public interest accessible and available to the public, including, inter alia, through its website.

Investigation, inquiry, collection of information, etc.:

20. The Authority may pass such ad-interim or interim orders, as the Authority may consider appropriate at any stage of any proceedings, having regard to the facts and circumstances of the case.

21. The Authority may make such direction or order as it thinks fit for collection of information, inquiry, investigation, production of document of books of account and other documents without prejudice to the generality of its powers, including, inter alia, the following: -

(a) The Authority may, at any time, direct the Secretary or any one or more Officers, or Consultants, or any other person as the Authority considers appropriate to study, investigate or furnish information with respect to any matter within the jurisdiction of the Authority under the Act, the Rules and Regulations.

(b) The Authority may, for the above purpose, give such other directions as it may deem fit and state the time within which the report is to be submitted or information furnished.

(c) The Authority may issue such directions, for the purpose of collection of any information, particulars or documents that the Authority considers necessary in connection with the discharge of its functions under the Act and the Rules.

(d) If any such report or information obtained appears to the Authority to be insufficient or inadequate, the Authority or the Secretary or an Officer authorised for the purpose may give directions for further inquiry, report and furnishing of information.

(e) The Authority may direct such incidental, consequential and supplemental matters to be attended to which may be considered relevant in connection with the above.

22. If the report or information obtained in accordance with above Regulation or any part thereof is proposed to be relied upon by the Authority for forming its opinion or view in any proceedings, the parties to the proceedings shall be given an opportunity of being heard before forming such opinion.

Review of decisions, directions, and orders:

23. (a) Any person aggrieved by a direction, decision or order of the Authority, from which (i) no appeal has been preferred or (ii) from which no appeal is allowed, may, upon the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the direction, decision or order was passed or on account of some mistake or error apparent from the face of the record, or for any other sufficient reasons, may apply for a review of such order, within forty-five (45) days of the date of the direction, decision or order, as the case may be, to the Authority.

(b) When it appears to the Authority that there is no sufficient ground for review, the Authority shall reject such review application.

(c) When the Authority is of the opinion that the review application should be granted, it shall grant the same provided that no such application will be granted without previous notice to the opposite side or party to enable him to appear and to be heard.

Issue of orders and directions:

24. Subject to the provisions of the Act, Rules and Regulations, the Authority may, from time to time issue orders and directions in regard to the implementation of the Regulations and procedure to be followed.

Saving of inherent power of the Authority:

25. Nothing in the Regulations shall be deemed to limit or otherwise affect the inherent power of the Authority to make such orders as may be necessary

for meeting the ends of justice or to prevent the abuse of the process of the Authority.

26. Nothing in these Regulations shall bar the Authority from adopting in conformity with the provisions of the Act or Rules, a procedure, which is at variance with any of the provisions of these Regulations including summary procedures, if the Authority, in view of the special circumstance of a matter or class of matters and for reasons to be recorded in writing, deems it necessary or expedient for so dealing with such a matter or class of matters.

27. Nothing in the Regulations shall bar the Authority to deal with any matter or exercise any power under the Act or Rules for which no regulations have been framed, and the Authority may deal with such matters, powers and functions in a manner it thinks fit.

General power to amend/rectify:

28. The Authority may, at any time and on such terms as to costs or otherwise, as it may think fit, amend any defect or error in any proceedings before it (including any clerical or arithmetical error in any order passed by the Authority), and all necessary amendments, rectifications shall be made for the purpose of determining the real question or issue arising in the proceedings.

Provided that if the Authority desires to make amendments or rectifications in order to determine the real question or issue arising before the Authority shall provide an opportunity to the parties affected by such amendment or rectification to make representations and submissions with respect to the proposed amendment or rectification.

Power to remove difficulties:

29. If any difficulty arises in giving effect to any of the provisions of the Regulations, the Authority may, by general or special order, do anything not being inconsistent with the provisions of the Act or Rules, which appears to be necessary or expedient for the purpose of removing the difficulties.

Effect of non-compliance:

30. Failure to comply with any requirement of the Regulations shall not invalidate any proceeding merely by reason of such failure unless the Authority is of the view that such failure has resulted in miscarriage of justice.

Costs:

31. (a) Subject to such condition and limitation as may be directed by the Authority, the costs of and incidental to, all proceedings shall be awarded at the discretion of the Authority and the Authority shall have full power to determine by whom or out of what funds and to what extent such costs are to be paid and give all necessary directions for the aforesaid purposes.

(b) The costs shall be paid within thirty (30) days from the date of the order or within such time as the Authority may, by order, direct. If a party fails to comply with an order for costs within the permitted period, the order of the Authority awarding costs shall be executed forthwith in the same manner as a decree/order of a Civil Court.

32. The Authority may, by order, fix standard fees, including annual fees, to be levied on the promoters or real estate agents or allottees for inspection of documents, certified copies of documents, updating of website, database management and maintenance of the website.

T. Y. DAS,
Chairperson,
Real Estate Regulatory Authority, Assam.