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Boom for the Real Estate Agents

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Real Estate Agents got themselves registered.....

History

Section 20 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as “RERA”) mandates all the States and Union Territory to establish a Real Estate Authority within one year from date of the commencement of the Act. Pursuant to the section 85 read with 20(1) of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred as “RERA”), in exercise of the power conferred to the Maharashtra Government, the Maharashtra Real Estate Authority (hereinafter referred to as “MahaRERA”) was formulated with the enactment of Maharashtra Real Estate Regulatory Authority (General) Regulations 2017.

Before the RERA, Real Estate Agents were not required to get their business registered and thus resulted into many manipulation and fraudulent activities. RERA has streamlined most of the procedural steps, registration mandate, compliance to be followed, penal provision in case of the non-compliance of the Acts and Rules, etc.

Registration Procedure of and Real Estate Agents:

Maharashtra Real Estate (Regulation and Development) (Registration of Real Estate Projects, Registration of Real Estate Agents, Rates of Interest and Disclosures on Website) Rules, 2017 gives the detailed procedure of the compliance to be done by real estate agents. Section 9 of RERA requires the Real Estate Agents to apply for the registration of their businesses with the authorities and the rules define the procedure to be followed for the registration and renewal of the registration.

Quick highlights of the Registration procedure of Real Estate Agents:

Pursuant to Section 9(2) of RERA read with Regulation 11 of Maharashtra Real Estate (Regulation and Development) (Registration of Real Estate Projects, Registration of Real Estate Agents, Rate of Interest and Disclosures on Website) Rules, 2017, Real Estate agents are required to make an application for registering their business.

- Real Estate Agents should apply for the registration of their business in Form “G”.
- Registration application should be made prior to the involvement in the activities relating to marketing, advertising or sale or purchase of any kind of apartment.
- Details like name, registered address of the place of business, type of business, registration number, PAN, Aadhar Card No, etc.
- Particulars of the registration obtained to undergo other business, along with the articles and memorandum of the company (incase if the real estate agent is a company).
- Returns of income tax for last three preceding financial years. In case if the entrepreneur was exempted from filing of annual returns, then declaration for such effects.
- Proof of address of the principal place of business, along with number of branch office, contact details, FAX no., email address of the company.

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- Detail information of all real estate projects and the promoters with whom Agent had carried out its business in last five years
- In case of any civil or criminal cases pending against agent or directors, partners or trustees of its business, if any
- In case if the applicant is individual, then he has to pay the fees of Rs. 10,000 and Rs. 1 lakh for the applicant other than an individual.
- Within 30 days from the application made, if satisfied by all the documents, Authority to grant the registration certificate in Form "H".
- In case, if the Authority is not satisfied with the documents submitted with the application, an applicant should be heard before rejecting an application. In case of the rejection, reason in writing should be communicated in Form "I"
- Registration will be valid for the period of five years (validity may change subject to any amendment, modification, etc.).

Procedure for the Renewal of the Registration by Real Estate Agents:

Real Estate Agents are required to apply for the renewal of the Registration before the expiry of 60 days of the registration. Application for the renewal to be made in Form "J" and the fees for the renewal will be similar as applicable for the new registration.

- Applicant are required to submit all the documents as supporting attachment as required to be submitted in the new registration. Hence, this also amount in updating the information / documents submitted in the original application for the previous registration.
- If Authority is not satisfied, applicant should be given an opportunity before rejecting application.
- Authority shall inform the reason of the rejection of the renewal application in Form "I".
- Applicant shall be informed about the renewal of the registration in Form "K"
- Authorities grant the renewal of the registration based on the ongoing and the continuity of the compliance with the terms and condition of the Registration Certificate and the provision of the Acts and rules as applicable to the business of the real estate agents.
- Renewal of the Registration shall be valid for the period of five years from the date of its renewal.

Following are the list of documents / information to be submitted by the Real Estate Agents:

Regulation 11 mandate certain list of documents / information to be submitted with the application. Requirement of the registration for the Real Estate Agents comes much earlier than the requirement of the registration of Real Estate Projects, as the promoters are required to provide the details of the registered real estate agents to work in the proposed project.

- Brief details of the enterprise, which includes its name, registered address of the place of business
- Copy of PAN and Aadhar of the agents
- Photographs of the agent, and of all the concerned person in service for the respective project
- Copies of letterhead, rubber stamp images

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- Copy of Board resolution or authority letter, in case if other person is authorities by the Agent to make the application on its behalf

Note:

Above mentioned list of documents / information is tentative list and as per the Act and Regulations. Additional list of documents may be asked for verification by the Authority depending upon the application made to the authority by the agents.

Quick highlights on the compliances of the Real Estate Agents:

Real Estate Agents to display the number of his registration at the principal place of the business and at its branch office. In case of the midsize and large number of Agents, where the business of the firm is functioned from more than one place, becomes mandatory for the Agents to mentioned the address of the Registered office and that of the principal place of the business. Further, it is required for the real estate agents to mention the registration number on the letterheads, communication letters, bills, invoice and any other related documents.

Important point to be noted here is that Promoters are required to submit the details of the real estate agents registered with the promoters for the particulars projects while making the application for the registration. Hence, this mentioning the registration of the real estate projects is also mandatory for the real estate agent for all the communication as discussed above.

Real Estate Agents are required to maintain the books of accounts, records and documents as per the applicable laws. Different laws and regulations has its own requirement to fulfil the compliance pertaining to the maintenance of the books of accounts and to get the books of accounts audited. Agents are not only required to follow RERA for maintaining the books of account and records, but also to follow the compliance of the applicable laws based on the type of organization like partnership firm, Limited Liability Partnership, Company, etc.

Buyer of the property entrust their responsibilities in Real Estate Agents to assist them in purchasing the best property. Real Estate Agents are vested with lot of responsibilities to assist buyer and to exercise their roles and responsibilities and fulfill their obligations towards the buyer and promoters too. Real Estate Agents should not indulge in any sort of unfair trade practices, should be more transparent with promoters and buyer. Real Estate Agents should facilitate the buyer with all the information as required by them about the projects.

Criteria which are looked by Authority for accepting the registration application:

There is various benchmark based on which authority can consider your application as deemed fit to accept the registration. Agents are required to submit the details of their business along with the details of the business carried out with promoters in past five years, this will help the authorities to identify the strength of the business and to ask for any additional requirement. Agents are the one who are entrusted with the procedure and allotment of the properties to the allottees. Hence, there is huge responsibilities on the agents and also the obligations. Regulations are strict in terms of unfair trade practice and can attracts the penal provision of the regulations on the agents.

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Further, many other facts like profits of the organization; background of the directors, partners who are connected with the promoters; litigation against the organization and promoters; turnover; legal title of the premises; etc. are certain criteria which can be deciding factor for the authority to sanction the approval of the agents.

Conclusion:

Interest of the buyers are expected to be safeguard to the great extent after the enactment of RERA act and constitution of the Authorities under MahaRERA. Lot of procedural steps for the registration and the ongoing compliance of promoters and real estate agents will be transparent with the buyer as these details will be made available on the website of MahaRERA.

This is the new beginning, many of the financial sectors are expected to invest in real estate business as most of the business will be carried out with more transparency and with the knowledge of the buyer.

Agents were never governed with any such acts, hence most of their activities lead to manipulation of funds, incorrect allocation of the properties. With the increase in the motivation of the buyers towards this sector, RERA has also lead to the streamline the business of the Agents.

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