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THE HARYANA REAL ESTATE REGULATORY AUTHORITY, GURUGRAM

Notification

The 14th Feb, 2019

The Haryana Real Estate Regulatory Authority Gurugram (procedure to be followed in the hearing of complaints, causes and other matters by the authority) Regulations, 2019.

No. 15/RERA GGM Regulations 2019.— In exercise of the powers conferred on it under Section 85 of the Real Estate (Regulation and Development) Act, 2016 and all other powers enabling it in that behalf the Haryana Real Estate Regulatory Authority Gurugram, hereby makes the following regulations: –

1. Short Title, Object, Commencement and Extent:

- (a) These regulations may be called the Haryana Real Estate Regulatory Authority, Gurugram (procedure to be followed in the hearing of complaints, causes and other matters by the authority) Regulations, 2019.
- (b) The purpose of the regulations is to establish procedure and guidelines regarding fixing of hours of business, constitution of benches in accordance with the number and nature of cases. Accordingly, these regulations are meant to specify procedure for allocation of complaints, cases and other matters to benches if constituted by the authority.
- (c) These regulations will come into force from the date of their publication in the official gazette.
- (d) These regulations shall apply to all matters falling within the jurisdiction of Real Estate Regulatory Authority, Gurugram as notified by the State Government of Haryana *vide* its notification no. 1/92/2017-ITCP dated 14.12.2017 which comprises entire area of Gurugram District.

2. Definitions:

Unless the context otherwise requires in these regulations: -

- (i) "Act" means the Real Estate (Regulations and Development) Act, 2016 as amended from time to time;
- (ii) "Rules" means the Haryana Real Estate Regulatory Authority (Regulation and Development) Rules, 2017 as amended from time to time;

- (iii) "Regulations" means the Haryana Real Estate Regulatory Authority, Gurugram (procedure to be followed in the hearing of complaints, causes and other matters by the authority) Regulations, 2019 as amended from time to time;
- (iv) "Hearings" means the process of arriving at decisions on complaints submitted to the authority as per provisions of the Act;
- (v) "Chairperson" means the chairperson of the Real Estate Regulatory Authority appointed under section 21;
- (vi) "Authority" means the Haryana Real Estate Regulatory Authority, Gurugram;
- (vii) "Member" means a member of the authority;
- (viii) "Secretary" means the secretary of the authority;
- (ix) "Proceedings" mean and include proceedings of all nature that the authority may conduct in the discharge of its functions under the Act and the rules and regulations made thereunder;
- (x) "Bench" means the constitution of plenum of legal minimum consisting of chairman and members/members /single member for hearing a complaint;
- (xi) "Quorum" means the minimum number of members and or chairman of the authority required to be present hearing the complaint cases and conducting the proceedings;
- (xii) Words or expressions occurring in these regulations and not defined herein but defined in the Act or the rules shall bear the same meanings respectively assigned to them in the Act and the rules.

3. Hours of business:

The proceedings of the authority shall be conducted every week on tuesday, wednesday, and thursday except on official holidays, for the transaction of judicial business, between the hours of 11:00 a.m. to 4:00 p.m. with lunch break of 30 minutes from 1:30 p.m. to 2:00 p.m.

No fresh case will ordinarily be called on for hearing after 3:30 p.m. but the hearing of a partly heard case may be continued so long as the hearing of the case may be deemed necessary by the authority.

"Provided that the chairman reserves the right to change the weekly days/ timing of the sitting of the authority for the transaction of judicial business at his sole discretion."

4. Roster of Single and Division Benches:

The authority may comprise single number or a bench of two or more members or full bench, in accordance with the roster to be prepared on regular intervals and such roster shall be prepared by the registrar/ secretary with the approval of the Hon'ble chairman. The complaints shall be allocated accordingly.

5. Distribution of work to be made by the Registrar/ Secretary:

- (a) Complaints, applications and petitions for a preliminary hearing will be distributed by the AO (petitions) under the supervision of registrar/secretary two days in advance. The distribution of lists will be initiated by the AO (petitions), and no change in the same will be made without his authorization and initials. A copy of the list will be supplied to the reader(s)/PS/PA/ judgement writer and shall be displayed on the notice board of the court proceeding hall and the member's PS/ PA readers will bring the same to the notice of the members.
- (b) Ordinarily complaint cases shall be heard by the full bench of the authority, provided that the routine judicial business may be heard by a single member but in no case the arguments can be heard, or a complaint can be disposed, unless there is a requisite quorum consisting of at least two members
- (c) Chairman, may constitute benches of two or more members including himself.
- (d) Penal proceedings shall not be conducted by a bench having less than three members and one such member shall be the chairman or a judicial member, if appointed.
- (e) Matters involving no law point may be heard by two members bench.
- (f) Matters involving a substantial point of law or interpretation of Act, rules or regulations shall be heard by the full bench.
- (g) Petitions and applications specifically for compliance of obligations by the promoter, real estate agent or allottee as the case may be shall be heard by minimum two-member bench.

- (h) Chairman may dispose of miscellaneous applications relating to complaints or compliance of obligations by the promoter, real estate agent or allottee or may authorise any single member to dispose the same.

6. Weekly and daily lists of complaint cases and their adjustment:

- (a) A register titled as "Complaint Cases Register" shall be maintained by the authority and detail of all the cases shall be entered into such register in order of institution on regular basis and the case shall be heard by the division/single bench according to such date of incorporation. However, to facilitate the aggrieved parties and counsels, a copy of weekly cause list of each bench will be uploaded on the website of the authority prior to the proceeding date of hearing, more so the same cause list will also be displayed on the board outside of the court room.

Note. — Where an application for withdrawal of case or drawing a decree, in accordance with the compromise arrived at parties is preferred, such a case shall be placed in daily cause list after hearing partly heard cases and shall be treated as complete case.

- (b) A separate register of penalty cases within the jurisdiction of the authority, complete in every respect, will be maintained in the authority, from this register cases will be taken according to the order of institution for incorporation in weekly lists of cases to be heard by the various benches. For the convenience of counsel, a copy of the weekly list of the cases will be uploaded on the website of the authority at least a week before the date of hearing. These weekly lists will be open to adjustment by counsel only on Friday's. The weekly list will be broken up into daily list and dealt with as in paragraph 4(a) as above.
- (c) Full/special bench cases such as rectification of orders, under section 39 of the Real Estate (Regulation and Development) Act, 2016 which cannot be conveniently heard on ordinary Bench days, will be heard on the first and third Monday of every month or on other day/days as decided by the chairman.

7. Cases to be heard in the order of date of admission:

Cases will be set down in the lists in the order or the date of admission except as directed below and will be heard in that order, unless directed otherwise by the authority.

Exceptions. —

- (a) Cases postponed shall take priority over other cases in the list.
- (b) Remanded cases from appellate tribunal shall take priority of all other cases except all other postponed cases.
- (c) Cases fixed for "actual dates" under the second provision of rule 8, shall be listed first in the daily lists subject to partly heard cases. Cases fixed by the members for actual dates shall be listed next.
- (d) Cases marked "very early", or "early" by order of the chairman and "emergency" shall take priority over ordinary cases.

8. Postponement of cases:

- (i) An application for the postponement of a case shall be presented to the registrar/ secretary and shall not be taken directly to a member.
- (ii) Cases may be postponed by the registrar/ secretary or, in his absence, under the orders of such other officer as may be in-charge of the judicial department for the time being with the approval of the member of the authority.
- (a) if, two days before the date of hearing, the record has not been received, or the case is otherwise incomplete;
- (b) if, before the day of hearing, the death of a party is announced, and an adjournment is thereby necessitated;
- (c) if the department of Town and Country Planning, HUDA or any other government agency or public body or a person have not complied with a precept or process.
- (iii) Except as provided above, no application for the adjournment of a case shall be entertained unless a bench or member, as the case may be, is satisfied for the reason like sudden death, illness or domestic bereavement, a party cannot be properly represented at the hearing unless such order is made.
- (iv) Ordinarily partly heard cases will be proceeded with on the following day or days till they are concluded.

9. Duty of Counsel to attend on the date of hearing:

Parties/ legal representatives or advocates are required to attend the authority on the day or days for which their cases are set down, and on subsequent days until their cases are disposed of or are postponed:

Provided that intimation of the date fixed in a case will be sent by an e-mail or SMS, to such parties which are not represented by the counsels. Such intimation shall be sent on the registered e-mail address and registered mobile number given by the party. The e-mail and SMS delivered shall be deemed to be sufficient intimation to the party of the date fixed in the case:

Provided further that in a case in which an advocate is not resident of Gurugram and has to appear, the AO (petition) with approval of authority may fix an "actual date" if such advocate puts in a written request for that date to which he himself has obtained the consent of other counsel in the concerned case. Such date shall not be altered except by an order of the bench concerned, or of the chairman, if the case is not listed before a particular bench.

10. Disposal of urgent petitions:

- (i) Urgent petitions must ordinarily be presented one day in advance before 11:00 a.m., but can be received upto 3:00 p.m. in an exceptional case.
- (ii) These petitions will be laid before the registrar/secretary who shall ordinarily fix them for hearing on the next day with the approval of the chairman, however, if the chairman is satisfied with the urgency in the matter, he shall mark the petition for hearing on the same day.

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Haryana Real Estate Regulatory Authority, Gurugram.