ODISHA REAL ESTATE REGULATORY AUTHORITY
371, VIVEKANANDA MARG, BHUBANESWAR

No. 250/2017

Dated

To

All ADMs-cum-District Registrars of All Districts, Odisha.

Sub: Furnishing clarification on Registration of Deeds with Sub-Registrars.
Ref: Revenue & Disaster Management Department Circular No.2712/R&DM dtd.17.01.2018.

Sir,

I am directed to invite a reference to the above mentioned subject and to say that this Authority is receiving requests from different quarters for clarification on various issues relating to Registration of Real Estate Projects with ORERA and its implication on Registration of Sale Deeds, Agreement etc. involving flats/plots/houses which are part of Real Estate Projects.

Some issues which have frequently been raised have been listed with necessary clarification against each in the statement at Annexure-1 for guidance of different Registering Authorities while dealing with such cases.

You are therefore, requested to instruct all the Sub-Registrars under your administrative jurisdiction to follow the guidelines as per the clarification on Registration of Deeds.

Yours faithfully,

Secretary

Memo No. Dated

Copy along with copy of the enclosure forwarded to Addl. Secretary to Govt. R&DM Dept./I.G. Registration, Board of Revenue, Odisha Cuttack for information and necessary action.

Secretary

Memo No. Dated

Copy along with copy of the enclosure forwarded to all Sub-Registrars of the State for information and necessary action.

Secretary
### CLARIFICATION SOUGHT ON REGISTRATION OF DEEDS WITH SUB-REGISTRARS.

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<th>QUERY</th>
<th>CLARIFICATION</th>
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<td>1</td>
<td>Whether Odisha State Housing Board, Bhubaneswar can make lease-cum-sale deed of their earlier projects, those have already allotted to the allottees before commencement of ORERA.</td>
<td>If OSHB has obtained Occupancy certificate in respect of any project prior to 01.05.2017, there is no requirement of registering those project under ORERA.</td>
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<td>2</td>
<td>Whether the provisions of ORERA will be applicable to all the real Estate developers who have sold 70% to 80% of plots before 01.05.2017 i.e. the date of commencement of ORERA.</td>
<td>Section 3(2)(b) of RE(R&amp;D)Act, 2016 provides that where the real estate project has received completion certificate prior to commencement of the Act, such projects are not required to be registered under RERA. Therefore, any project which has not received completion certificate prior to 01.05.2017, shall be required to be registered irrespective of the number of apartment / flats/houses sold. However, in the context of Odisha, occupancy certificate shall be taken into consideration, instead of completion certificate, to decide whether the project is required to be registered or not.</td>
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<td>3</td>
<td>Developers have started selling their plots or flats quite long before the commencement of said act i.e 01.05.2017 and they have already sold 70 to 80% flats/plots from their projects. Under this circumstances, the clarification may please be given if they will produce the RERA certificate for selling the balance No. of flats or completion from the competent authority certificate prior to 01.05.2017 along with all other required documents for registration.</td>
<td>Yes, registration with the Authority is required. Further, for projects which have received occupancy certificate, not completion certificate, prior to 01.05.2017, registration with ORERA is not required.</td>
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4. In some ongoing projects having less than 8 apartments or 500 Sq. mtrs area, the developer has only 2 to 4 flats to be sold at present as balance of flats/plots and all other flats have already sold. The developers are now urging to sell their balance of flats without completion certificate. In this context clarification may please be given regarding necessary steps to be followed by the RO for registration of such flats or plots.

5. Some land owners are selling their lands in Agriculture Kissam or Gharabari Kissam, fragmenting into sub-plots with road sketch map inside the original plot and total area of the said revenue plot is more than 500 Sq.mtrs. and in some other cases less than 500 Sq.mtrs. area in this context clarification is sought for necessary documents to be produced before R.O for selling their sub-plots for ongoing projects and also for new projects.

6. In some real estate ongoing projects, the developer has already sold a large no. of flats that falls in his share as per occupancy certificate and now, owner’s share of 2 to 3 flats are going to be sold by the land owner which remains in his share as per their mutual agreement. Now under this circumstance what sort of documents to be produced by the land owner for selling these flats.

As per provisions of section 3(2)(a) of RE(R&D) Act, 2016 projects developed on land not exceeding 500 Sq. Mtrs or having not more than eight apartments are not required to be registered with ORERA. In the instant cases, registration of projects under ORERA is not required.

Where the plot area exceeds 500 sq.mtrs:
(a) Approval of the planning Authority to the layout plan and
(b) Registration with ORERA, are required.
Where the plot area does not exceed 500 sq.mtrs:
Approval of the Planning Authority to the layout plan will be required, but registration with ORERA is not required.

Registration with ORERA is not required where the land owners sell their share of flats which have accrued to them by virtue of a Development Agreement. An authenticated copy of the Development Agreement shall be insisted upon to ascertain land owner’s share of flats.
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<th>Question</th>
<th>Answer</th>
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<td>7</td>
<td>Whether RERA Act is applicable in G.P area which has not been included in master plan area of BDA?</td>
<td>Yes it is applicable.</td>
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<td>8</td>
<td>Whether RERA Act is applicable in plotting scheme or housing projects of BDA or Housing Board Projects in ongoing projects and also in new projects?</td>
<td>The Act is applicable for plotting schemes and housing projects of BDA /Odisha Housing Board and any similar projects of other Government agencies also.</td>
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<td>9</td>
<td>Whether RERA Act, principles will be followed in case of IDCO lease plots.</td>
<td>The Act is applicable only for Real Estate Projects, not isolated plots leased by Govt. agencies like IDCO.</td>
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<td>10</td>
<td>Completion certificate /Occupancy certificate.</td>
<td>The RE(R&amp;D) Act 2016 recognises certificates issued by the Competent Authority which exercises authority over land under its jurisdiction and has powers to give permission for development of such immovable property. As per the ODA Act, only occupancy certificate is issued by the Development Authorities/Planning Authority. Hence only occupancy certificate will be accepted for the purpose of RE (R&amp;D) Act, and not the completion certificate.</td>
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<td>11</td>
<td>Second and subsequent sale of flats / plots/houses of a real estate projects.</td>
<td>Allottees of a real estate project, whether registered or not registered with ORERA, can sell his/her flat/plot/house as the case may be.</td>
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