

Introduction

*In this session we shall
examine the
Condominiums under
the Maharashtra
Apartment Owner's
Act, 1970*

GDP : For every Indian rupee invested in the construction of houses in India, INR 0.78 is added to the gross domestic product.



Maha. Apartment Ownership Act, 1970.

- The Act extends to Maharashtra.
- Useful where Society does not exist / not possible
- Apartment to constitute heritable and transferable property
- Act applies only to property where owner(s) register Declaration
- Property must be for residence, business , trade or any other independent use
- Lease of land by owners possible (Proviso S.2]

Maha. Apartment Ownership Act, 1970.

■ Definitions

- “Apartment” means a property intended for any type of independent use. [S. 3 (a)]
- “Apartment” covers one or more rooms, enclosed places located on one or more floors or parts of a building
- “Apartment” can be used for residence, profession or business.
- Direct access to public road or to common area leading to such road.



Maha. Apartment Ownership Act, 1970.

- **“Apartment owner” [S. 3 (b)] means a person :**
 - **owning an apartment**
 - **Having undivided interest in the common areas and facilities**
 - **Interest in the percentage specified and established in the Declaration**
- **“Building” means :**
 - **A building containing 5 or more Apartments**
 - **2 or more buildings each containing 2 or more apts with a total of 5 or more apts**

Maha. Apartment Ownership Act, 1970.

Common Areas & Facilities [S. 3(f)] are:

- The land on which building is located
- Foundation, Columns, Walls, halls, corridors, lobbies, stairways, Fire escapes, entrances, exits.
- Basement, Cellars, yards, gardens, parking areas & Storage spaces
- Central Services e.g. power, gas, water, heating, air conditioning, etc.
- Elevators, tanks, ducts, etc.
- Community & Commercial facilities as per declaration



Mystery : The lowest step of the Asiatic Library has '0' engraved on it.

University hall : The stained glass windows of the Mumbai University Convocation Hall features the 12 signs of the Zodiac.

Maha. Apartment Ownership Act, 1970.

Common Expenses [S. 3(g)] are:

- All sums lawfully assessed against Apartment owners by the Association
- Expenses on Administration, Repair, Replacement of Common areas and facilities
- Expenses agreed upon as common expenses by the Association
- Expenses DECLARED as common expenses by the Act, Declaration or Byelaws



Maha. Apartment Ownership Act, 1970.

Limited Common Areas & Facilities [S. 3(n)] are:

- Common areas and facilities reserved in the Declaration for use of certain Apartments alone

Property [S. 3(r)] means :

- Land, Buildings, Improvements, Structures, Easements, Rights, Appurtenances & articles of personal property intended for use in connection therewith submitted to the provisions of the Act.



Maha. Apartment Ownership Act, 1970.

Declaration & Deed of Apartment

- Declaration to be registered by sole owner or all owners of property to be in Form “A”
- Transfers of Apartments by such sole owner or all owners of property to Apt. Owner and all subsequent transfers must be made by executing Deed of Apartment.
- [Rules 3 & 5]



Maha. Apartment Ownership Act, 1970.

Status of Apartment [S. 4]

- Each Apartment with undivided interest in common areas & Facilities constitutes heritable & transferable immovable property.
- Owner may transfer apartment + interest by sale, mortgage, lease, gift & Exchange
- Owner may also bequeath the same



Maha. Apartment Ownership Act, 1970.

Ownership of Apartment [S 5]

- Owner entitled to exclusive ownership as per declaration registered u/s 2
- Owner to execute Deed of Apartment in prescribed manner
- Property taxes payable on each Apt + UI in CAF separately (S. 18)



Storeys : The floors of buildings are called stories because early European builders used to paint picture stories on the sides of their houses. Each floor had a different story.

Maha. Apartment Ownership Act, 1970.

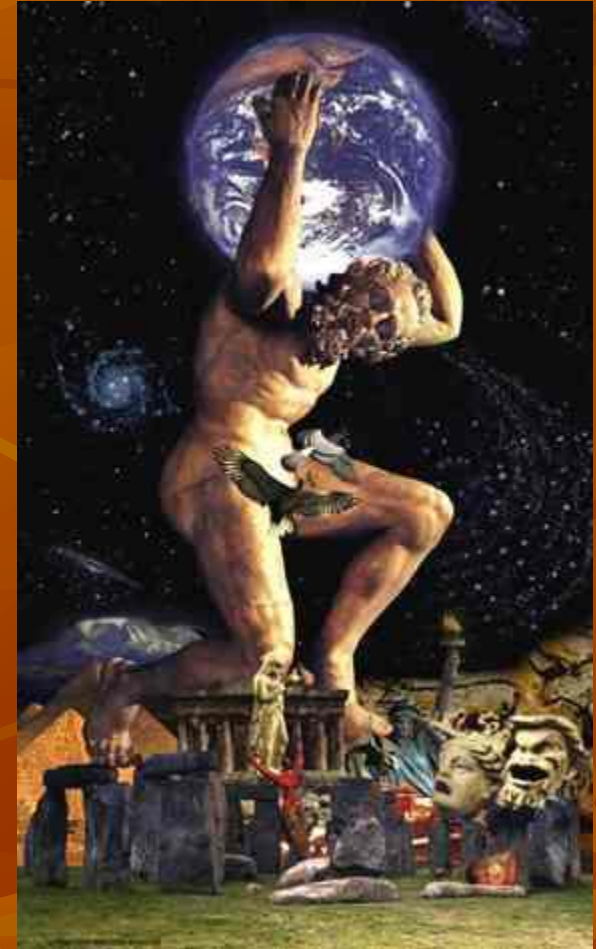
Interest in Common Areas & Facilities [S 6]

- Owner entitled to undivided interest in
- CAF as per declaration registered u/s 2
- Percentage based on value of Apt to Value of property
- Percentage to reflect limited CAF
- Undivided interest is permanent in nature
- Alteration by registering amended declaration by all owners
- Percentage in CAF is attached to Apartment
- No partition or division of CAF possible till Act applies

Maha. Apartment Ownership Act, 1970.

Duties of Apartment Owner [S 7, 8]

- To allow access to Manager of Association
- To comply with covenants, byelaws & rules
- Not to carry out work which jeopardizes safety of property, reduces it's value or impairs Easement
- Not to add any material structure, dig basements sans consent of other owners



Maha. Apartment Ownership Act, 1970.

Encumbrances [S 9]

- No encumbrance possible against property post recording of declaration
- Encumbrance possible only against Apartment & CAF percentage
- No partition/subdivision of Apartment + CAF interest even if Apt + CAF encumbered
- Material/Labour charge cannot be attached to other Apartment sans express consent
- Consent deemed to given for emergency repairs

Gilbert Hill : Is a 200 foot (91 m) monolith column of black basalt rock in Andheri. The rock has a sheer vertical face and was created when molten lava was squeezed out of the earth's clefts during the Mesozoic Era about 65 million years ago.



Maha. Apartment Ownership Act, 1970.

Emergency Repairs [S 9]

Consent deemed to given for emergency repairs if :

- Material/Labour for CAF authorized by Association
- Declaration/ Byelaws deemed to contain express consent of individual Apartment owner.
- Such consent to be basis of charge/Encumbrance



Maha. Apartment Ownership Act, 1970.

Common profits & expenses [S 10]

- Common Profits to be distributed as per CAF Percentage
- Common expenses to be charged similarly
- Common profits means all income & revenues from CAF after deducting common expenses



The image shows a yellow notepad with handwritten calculations and a printed 'Expense Table Example' with a pencil resting on it. The handwritten notes include:

4118
 $\frac{2}{36}$ 15 years
 $\frac{3}{36}$ 2nd year

The printed table is titled 'Expense Table Example' and includes the following text: 'You would pay the following expenses, including the maximum sales charge, on a \$1,000 investment in a fund assuming (1) a 5% annual return and (2) full redemption at the end of each time period.'

	1 Year	3 Years	5 Years	10 Years
\$	70	\$ 118		
	65	103		
	63	97	\$ 169	
	73	125	142	\$ 306
	63	95	132	265
	65	101	180	233
	62	93	129	329
	58		139	225
	59		126	246
		81		219
		85	106	
		66	112	176
		45	79	189

Metro Cinema : is constructed on land which the Metro Goldwyn Corporation acquired for an annual lease of Re 1 for 999 years.

Maha. Apartment Ownership Act, 1970.

Declaration Contents [S 11]

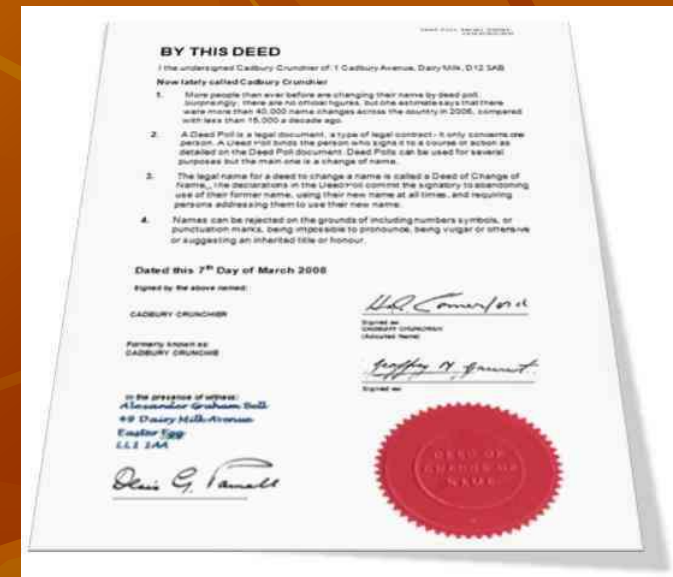
- Description of land
- Whether land is leased or freehold
- Description of building e.g. number of **storeys**, basements, no. of Apartments
- Apartment number, area, no.of rooms, etc.
- Description of CAF
- Description of limited CAF & related Apartments



Maha. Apartment Ownership Act, 1970.

..... Declaration Contents [S 11]

- Value of property & each apartment
- CAF percentage of each apartment
- Statement of No encumbrance on date of declaration
- Statement of usage & restrictions on usage of building
- Name of person to receive service of process
- Percentage of votes for determining rebuilding, repair, restoration or sale of property in the event of damage/destruction
- Procedure for amendment of declaration



Maha. Apartment Ownership Act, 1970.

Deed of Apartment Contents [S 12]

- Every member to execute DoA
- Description of land as above
- Declaration date, registration details & date of filing with competent authority
- Apartment number & identification details
- Statement of usage & restrictions on use of Apartment
- Percentage of undivided interest in CAF relating to the apartment



Byculla Police Station was the first police station established in 1673.

Maha. Apartment Ownership Act, 1970.

Removal from Applicability IS 14 & 15I

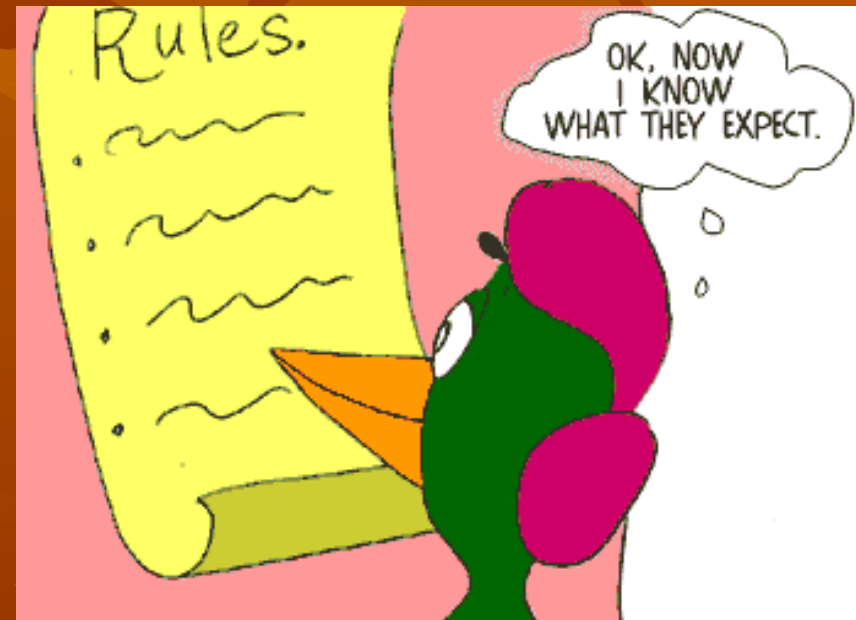
- Removal from MAOA by duly executed instrument by all Apartment owners
- **Property deemed to be held in common**
- Undivided share shall be CAF percentage
- Holders of charge must consent to transfer charge to percentage of undivided interest
- Such Consent by duly executed instrument
- Property may be resubmitted to Act provisions at any time



Maha. Apartment Ownership Act, 1970.

Byelaws Contents [S 16]

- Administration governed by byelaws
- True copy of byelaws copy to be annexed to declaration
- Modification of byelaws valid only if declaration amended
- Copy of amended declaration to be filed with Competent authority



Realtor: first you folks tell me what you can afford, then we'll have a good laugh and go on from there.

Maha. Apartment Ownership Act, 1970.

What Byelaws MUST Provide IS 16 (2)

Board of Managers – Election, Number, Powers, duties, compensation, removal, 1/3rd to retire annually, appointment of Secretary/Manager & delegation of powers

Calling of meetings & Quorum

Election of President, Secretary & Treasurer

Maintenance, Repairs & Replacement of CAF

Method of collection of common expenses

Adoption & amendment of rules & regulations for use of CAF

Restrictions on use of Apt & CAF not stated in declaration

Percentage of votes required to amend the byelaws



Maha. Apartment Ownership Act, 1970.

What Byelaws MAY Provide [S 16]

- Provisions for regulating transfer or partition of Apartment & CAF UI
- Provisions enabling Board to retain & lease certain areas of the building to non residents for commercial purposes
- Provisions enabling Board to distribute or apply proceeds
- Provisions relating to Accounts, Audit, Administration, annual & Special general meetings, etc.
- Method of Adoption/Amendment of rules & regulating CAF use
- Reasonable restrictions to ensure peaceful usage by Owners
- Percentage of votes required to amend byelaws.

There is no longer a need for the neutron bomb. We already have something that destroys people and leaves buildings intact. It's called a mortgage.

Maha. Apartment Ownership Act, 1970.

Destruction & Damage to Property [S 22]

- Damage/Destruction to part or whole of property
- Assn must determine to repair, rebuild or reconstruct within 60 days of event
- Failure results in property being deemed held in common
- Undivided interest shall be interest in CAF
- Encumbrance on Apt. transferred to Undivided Share of owner
- Property subject to action for partition upon suit by any owner
- Sale + insurance proceeds to be distributed in CAF UI proportion after satisfaction of charge

