



K-RERA/T3/102/2020

17-09-2020

PUBLIC NOTICE TO PROMOTERS OF REAL ESTATE PROJECTS

Sub: **Submission of Application for Registration of Projects** - reg:

Ref: Order No: K-RERA/T3/102/2020 dated 17/09/2020 of the Kerala Real Estate Regulatory Authority

With regard to submission of applications for registration of ongoing as well as new projects, the Kerala Real Estate Regulatory Authority vide order cited above has resolved the following:

(1) **'Ongoing Projects' and 'New Projects' – Further Clarification:**

The authority issued a clarification on the term 'ongoing projects' mentioned in section 3 of the Real Estate (Regulation & Development) Act, 2016 vide Public Notice No: K-RERA/T3/102/2020 dt. 22/02/2020. It was then clarified that, to consider a project as ongoing, it should have obtained permit from the local authority prior to 01.01.2020 (date of official launching of K-RERA).

As per section 3 of the Act, no promoter shall advertise, book, sell or offer for sale or invite persons to purchase in any manner, any plot/ apartment/ building in any real estate project or part of it without registering the real estate project with the authority. Definition of 'allottee' as per Section 2(d) of the Act indicates that *sale* include *freehold* as well as *leasehold*.

In this context, it is further clarified that, *the real estate projects for which permits have been obtained prior to 01/01/2020 but none of the activities (to advertise, market, book, sell or offer for sale or invite persons to purchase in any manner any unit(s) in the real estate project) have been started, will be considered by the Authority as 'New Projects' (not 'ongoing') for the purpose of registration.*

In order to consider the applications for registration of ongoing real estate projects without penalty, the promoter shall ensure that such application reach the office of the Kerala Real Estate Regulatory Authority on or before 30th September 2020. The penalty for not submitting application for registration of ongoing projects after 30th September 2020 as per Section 59 of the Real Estate (Regulation and Development) Act 2016 will be determined by the authority in due course.

(2) **Plotted Subdivision Development with Buildings/villa:**

Applications for registration of Plot Subdivision projects with buildings(villas) are being received in K-RERA. As per the general practice followed in the state by many promoters, Development Permit is first obtained for the plot subdivision layout and as and when the

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need arises, building permits are obtained for villa (building) in each subdivided plot of the layout.

In the case of such plot subdivision villa projects, it is hereby clarified that the date of development permit shall be considered for determining whether a project is 'ongoing' or not, irrespective of the date of building permit(s) of individual villa(s).

(3) Registrability of ongoing real estate projects with regard to occupancy certificate:

As per first proviso to section 3(1) of the Real Estate (Regulation & Development) Act 2016, the project that are ongoing on the date of commencement of the Act and for which the completion certificate has not been issued, the promoter shall make an application to the Authority for registration of the said project within a period of three months from the date of commencement of the Act. Section 3(2)(b) of the Act stipulates that registration of project is not required if the promoter has received completion certificate for the project prior to commencement of this Act. Rule 3(2) of the Kerala Real Estate (Regulation and Development) Rules 2018 also makes it clear that ongoing projects on the commencement of the Act, 2016 for which *occupancy certificate* has not been issued have to register with the Authority.

The constitution of RERA in the state got delayed and the Authority was officially launched only on 01/01/2020. Hence, with due regard to the practical concerns on processing of registration of ongoing projects, the date of official launching of K-RERA (01/01/2020) was considered as the 'date of commencement of the Act' for the purpose of first proviso to section 3(1) and for section 3(2)(b) of the Act. Accordingly, the Authority has issued public notice dated 27/12/2019.

Considering the above aspects, it is hereby made clear that *all ongoing real estate projects which have obtained occupancy certificate on or after 01/01/2020 shall be registered with the Authority. In order to avoid penalty as per Section 59 of the Real Estate (Regulation and Development) Act 2016, promoters of such ongoing projects shall submit duly filled application for registration of ongoing projects (Form A1) on or before 30th September 2020.*

It shall be noted that, due to the COVID19 pandemic situation, only the last date of submission of application for registration of ongoing project without penalty was extended till 30-09-2020 vide public notices No: K-RERA /T3/102/2020 dated 21-08-2020 and 26-08-2020.

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(4) **Clarification with regard to ongoing plot subdivision projects**

For the purpose of registration of ongoing projects involving only plot subdivision, the 'Development certificate' issued under the provisions of the Kerala Municipality Building Rules or the Kerala Panchayat Building Rules shall stand applicable in lieu of 'Occupancy certificate'. Also in the case of projects involving plot subdivision and buildings, it is further clarified that the date of both 'occupancy certificates' of such buildings and 'Development certificate' for plot subdivision layout as applicable shall decide the registrability of such ongoing project.

Hence it is further clarified that, *such ongoing plot subdivision/villa project, which have not obtained Development Certificate and wherever applicable Occupancy Certificate(s), all prior to 01/01/2020, require registration with the Authority. In order to avoid penalty as per Section 59 of the Real Estate (Regulation and Development) Act 2016, promoters of such ongoing projects shall submit duly filled application for registration of ongoing projects (in Form A1 together with enclosures) on or before 30th September 2020.*

Sd/-
Member

Sd/-
Chairman



Issued by:

Secretary (T&A)