



On common ground

Regular payment of dues for the maintenance of common areas in your housing society is a must

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Reducing the widening gap between the urban population and the housing stock is a pressing need. However, given the acute shortage of land in urban areas, providing adequate housing is easier said than done. Given this stark scenario, the government has been vigorously promoting affordable multi-storied buildings where more persons can be provided housing facilities on a common parcel of land.

With the growth of apartments and cooperative group housing societies

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there is a need to regulate such growth to safeguard the interests of both buyers and sellers. Accordingly, many state governments have a state-specific apartment act and corresponding rules in place. Apartments in Noida, Greater Noida and other parts of Uttar Pradesh are governed by the Uttar Pradesh Apartment (Promotion of Construction, Ownership, and Maintenance) Act, 2000. Likewise, apartments in Gurgaon and other areas in Haryana are governed

by Haryana Apartment Ownership Act, 1983. These acts provide for the ownership of apartments, owner's rights, rules governing common areas and facilities and related incidental matters. In a multi-storied building common areas and facilities usually refer to areas earmarked for basements, gardens, parking area, etc. meant for use by all occupants and owners of apartments in the complex. Under these acts, an apartment owner has ownership not only of his/her apartment, but also holds a particular percentage of undivided interest in common areas and facilities of the building/apartment complex.

Such undivided interest in common areas and facilities is conveyed to the apartment owner along with his ownership of the apartment. Since such interest is undivided, an apartment owner cannot seek partition of his separate share of land underneath the complex and common areas.

For the effective management of affairs concerning the apartments, these acts also mandate the creation of an 'association of apartment owners' governed by a set of bye-laws. To ensure the upkeep of common areas and facilities, the acts mandate all apartment owners to proportionately share the common expenses incurred lawfully for maintenance and repairs works in common areas.

Under Haryana Apartment Ownership Act, 1983, common expenses are charged to

owners according to the percentage of undivided interest they have in the common areas and facilities. Thus, the bigger the size of a particular apartment, the larger the owner's percentage of undivided interest in the common areas and facilities. This means a bigger contribution made towards the common expenses of the complex. No apartment owner can claim or demand to be exempted from contributing towards the common expenses, irrespective of whether the apartment is inhabited or being vacant.

There are similar provisions for sharing of common expenses in the Uttar Pradesh Apartment Act, 2000. In addition, if an apartment owner fails to pay his share of common expenses for more than six months, the association of

apartment owners may call for an essential or essential service except the illegal direct owners. The amount to be paid for more than 12 months, the association can even approach a competent authority for legal action and recovery of dues.

Apartment owners are required to use common areas without encroaching upon the rights of other apartment owners. Given that these are integral to the enjoyment of an individual apartment as well as the entire complex, it is important that residents (owners, tenants) as well as association members comply with the applicable act.

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Mall receives LEED Gold Certification from IGBC

The DLF Mall of India at Noida, which will be operational soon, has been awarded the Leadership in Energy & Environmental Design (LEED) Gold Certification by Indian Green Building Council (IGBC). With this achievement, the Mall of India, Noida, has become India's First LEED Gold Certified Mall. The coveted Gold rating is awarded based on many state-of-the-art and advanced features related to building design and construction.

The mall spans over 2.8 million sq ft (built-up area) and is in the heart of Noida's commercial district. The energy efficiency measures incorporated along with the advanced building management systems shall enable 25% annual energy savings over ASHRAE 90.1 2004. Speaking on the occasion, Ramesh Sarkis, MD, Retail Business, said, "We are extremely proud and excited that Mall of India has got this coveted rating. This amply demonstrates our commitment towards conservation of environment and natural resources."

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HT ESTATES QUIZ OF THE WEEK

Answer the following questions and win a prize. The answers can be found in this edition:

- Q1** What does LARR stand for?
- Q2** Where are Bessas apartments located?
- Q3** Who is Shobhi Agarwal?

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'Don't give loans for 80:20 schemes'

"As a basic tenet, construction finance entails higher risks and, therefore, such risks have to be built into the pricing. Construction finance should not, through any innovative structuring, be available to developers at the rate of interest being offered

on individual home loans. Further, to pay construction finance upfront to developers even before the ground is broken is dangerous," Parikh said.

This move by the RBI is aimed at protecting the interest of property buyers who

are not aware of the long term financial implications of such schemes. It is definitely meant to address the cause of greater transparency in the Indian real estate sector, and also to protect the financial institutions that provide funding in it, says Shobhi

Agarwal, managing director, capital markets, Jones Lang LaSalle India.

How they work
In an 80:20 scheme, the buyer initially pays 20% of the purchase price upfront and the balance on possession. There's no pre-EMI and the builder agrees to pay interest on the borrower's behalf for a specific period

while the bank disburses the entire loan amount to the builder.

The loan remains in the name of the buyer. The builders get construction finance at a cheaper rate and under the best of a residential loan through the buyer. If the builder defaults, the liability falls on the consumer since the bank loan is in his name. The provision

stems from the fact that the schemes entail a tripartite agreement between the bank, the builder and the buyer of the housing unit. Builders generally assert to such schemes when demand is low and sales are slow. Banks can be saddled with disproportionately higher exposures with the concomitant risk of diversion of funds.

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