

### Clarification regarding the sale/ allotment, by Promoters, of open parking areas for monetary consideration

Vide Circular No. 36/2021 dated 30.07.2021 (the "Circular"), the Maharashtra Real Estate Regulatory Authority (the "MAHARERA"), under Section 25 of the Real Estate (Regulation & Development) Act, 2016 (the "Act"), issued the Circular, issuing certain specific directions in respect of "Garage", "Covered parking space", and "open parking areas".

**Garage**, as per Section 2(y) of the Act, is defined as, *a place within a project having a roof and walls on three sides for parking any vehicle, but does not include an unenclosed or uncovered parking space such as open parking areas.*

**Covered parking space**, as per Rule 2(1)(j) of the Maharashtra Real Estate (Regulation and Development) (Registration of real estate projects, Registration of real estate agents, rates of interests and disclosures on website) Rules, 2017, is defined as *an enclosed or covered area as approved by the Competent Authority as per the applicable Development Control Regulations for parking of vehicles of the allottees which may be in basements and/or stilt and/or podium and/or space provided by mechanised parking arrangements but shall not include a garage and/or open parking.*

**Open parking areas** is specifically included and forms part of 'common areas', as per Section 2(n)(iii) of the Act.

The clarifications/ directions issued by MAHARERA in respect of "Garage", "Covered parking space", and "open parking areas" are as follows:

- Open parking areas are provided free of Floor Space Index (FSI).
- **Promoters are not entitled to sell/ allot open parking areas for monetary consideration.**
- Further, in real estate projects, the open parking areas, Garage and Covered parking space shall be specifically marked, numbered and shall be in accordance with the approved/ sanctioned plans and be tagged to the apartment to which it is allotted.

- Wherein the garage/ covered parking space is being sold/ allotted for monetary consideration, the following shall be mentioned in the Agreement for Sale that is being entered into:

- ≡ the type,
- ≡ numbers,
- ≡ the size, and
- ≡ place where the garage/ covered parking space is situated.

Further, the plan showing the exact location/ allotment and the abovementioned particulars shall be annexed to the Agreement for Sale.

As per the said Circular, any failure to comply with the above directions shall be considered as violations of the provisions of the Act, rules and regulations made thereunder and action shall be as per the Act.

The directions in the Circular shall come into force from the date of issue of Circular, i.e. 30.07.2021.

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