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PART IV-B

Rules and Orders (Other than those published in Parts I, I-A, and I-L) made
by the Government of Gujarat under the Gujarat Acts

URBAN DEVELOPMENT AND URBAN HOUSING DEPARTMENT

Notification

Sachivalaya, Gandhinagar, 29th October, 2016.

Real Estate (Regulation and Development) Act, 2016.

No.GH/V/197 of 2016/MIS-102016-328145-L:- In exercise of the powers conferred by section 84 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016), the Government of Gujarat, hereby makes the following rules, namely: —

1. Short title and Commencement.-

- (1) These rules may be called the 'Gujarat Real Estate (Regulation and Development) (Matters Relating to the Gujarat Real Estate Appellate Tribunal) Rules, 2016.
- (2) It shall come into force with effect from the date of this notification.

2. Definitions.-

- (1) In these rules, unless the context otherwise requires, -
 - (a) "Act" means the Real Estate (Regulation and Development) Act, 2016 (16 of 2016);
 - (b) "Annexure" means an annexure appended to these rules;
 - (c) "authenticated copy" shall mean a self-attested copy of any document required to be provided by any person under these rules;
 - (d) "Authority" means the Real Estate Regulatory Authority as defined in clause (i) of section (2) of the Act;
 - (d) "Form" means a form appended to these rules;
 - (e) "Government" means the Government of Gujarat;
 - (f) "section" means a section of the Act; and

(g) "Appellate Tribunal" means the Gujarat Real Estate Appellate Tribunal established under section 43 of the Act.

(2) Words and expressions used herein and not defined, but defined in the Act, shall have the meaning respectively assigned to them in the Act.

3. Form for filing Appeal and the fees payable.-

(1) Every appeal filed under sub-section (1) of section 44 shall be accompanied by a fee of rupees one thousand in the form of a demand draft drawn on a nationalized bank in favour of the Appellate Tribunal and payable at the main branch of that Bank at the station where the seat of the said Appellate Tribunal is situated.

(2) Every appeal shall be filed in Form 'A' along with the following documents:

(a) An attested true copy of the order against which the appeal is filed:

(b) Copies of the documents relied upon by the appellant and referred to in the appeal;

(c) An index of the documents.

(3) Procedure for filing the appeal shall be as may be decided by the Appellate Tribunal.

4. Manner of selection of members of the Appellate Tribunal.-

(1) As and when vacancy of a Member in the Appellate Tribunal exists or arises, or is likely to arise, the Government may make a reference to the Selection Committee in respect of the vacancy to be filled.

(2) The Selection Committee may, for the purpose of selection of the Member of the Appellate Tribunal, follow such procedure as deemed fit including the appointment of a Search Committee consisting of such persons as the Selection Committee considers appropriate to suggest a panel of names possessing the requisite qualifications and experience and suitable for being considered for appointment as Member of the Appellate Tribunal.

(3) The Selection Committee shall select two persons for each vacancy and recommend the same to the Government.

(4) The Selection Committee shall make its recommendation to the Government within a period of sixty days from the date of reference made under sub-rule (1).

(5) The Government shall within thirty days from the date of the recommendation by the Selection Committee, appoint one of the two persons recommended by the Selection Committee for the vacancy of the Member.

5. Salary and allowances payable and other terms and conditions of service of Chairperson and Members of the Appellate Tribunal.-

(1) The salaries and allowances payable to the Chairperson and Members of the Appellate Tribunal shall be as follows:

(a) The Chairperson shall be paid a monthly salary equivalent to the last drawn salary by such person, as a Judge of a High Court.

(b) The Member shall be paid a monthly salary equivalent to the last drawn salary at the post held by such person, prior to his appointment as a Member of the Appellate Tribunal.

(c) Every Member, who is not a servant of the Government, shall be paid a monthly salary equivalent to the Secretary to the Government.

(2) The Chairperson and Members shall be entitled to thirty days of earned leave for every year of service.

- (3) The other allowances and conditions of service of the Chairperson and the Members shall be such as may be notified by the Government from time to time.

6. Procedure for inquiry of the charges against the Chairperson or Member of the Authority or the Appellate Tribunal.-

- (1) In the event of the Government becoming aware of occurrence of any of the circumstances specified in clause (d) or clause (e) of sub-section (1) of section 26 in case of a Chairperson or Member of the Authority or as specified under sub-section (1) of section 49 in case of a Chairperson or Member of the Appellate Tribunal, by receipt of a complaint in this regard or *suo motu*, as the case may be, the Government shall make a preliminary scrutiny with respect to such charges against the Chairperson or any Member of the regulatory Authority or Appellate Tribunal, as the case may be.
- (2) If, on preliminary scrutiny, the Government considers it necessary to investigate into the allegation, it shall place the complaint, if any, together with supporting material as may be available, before a Judge of the High Court.
- (3) The Government shall forward to the Judge, copies of-
 - (a) the statement of charges against the Chairperson or Member of the Authority or Appellate Tribunal, as the case may be; and
 - (b) material documents relevant to the inquiry.
- (4) The Chairperson or Member of the Authority or Appellate Tribunal, as the case may be, shall be given a reasonable opportunity of being heard with respect to the charges within the time period as may be specified in this behalf by the Judge.
- (5) Where it is alleged that the Chairperson or Member of the Appellate Tribunal is unable to discharge the duties of his office efficiently due to any physical or mental incapacity and the allegation is denied, the Judge may arrange for the medical examination of the Chairperson or Member of the Appellate Tribunal.
- (6) After the conclusion of the investigation, the Judge shall submit his report to the Government stating therein his findings and the reasons thereof on each of the articles of charges separately with such observations on the whole case as he thinks fit.
- (7) The Government, thereafter shall in consultation with the Chief Justice of the High Court decide to either remove or not to remove the Chairperson or Member of the Authority or Appellate Tribunal, as the case may be.

7. Salary and allowances payable and other terms and conditions of service of the officers and other employees of the Appellate Tribunal.-

- (1) The conditions of service of the officers and employees of the Appellate Tribunal and any other category of employees in the matter of pay, allowances, leave, joining time, joining time pay, age of superannuation and other conditions of service, shall be regulated in accordance with such rules and regulations as are, from time to time, applicable to officers and employees of the Government drawing the corresponding scales of pay;
- (2) The Government shall have power to relax the provisions of any of these rules in respect of any class or category of officers or employees or consultants and experts, as the case may be.

8. Additional powers of the Appellate Tribunal.- The Appellate Tribunal may call upon such experts or consultants from the fields of economics, commerce, accountancy, real estate,

competition, construction, architecture or engineering or from any other discipline as it deems necessary, to assist the Appellate Tribunal in the conduct of any inquiry or proceedings before it.

9. Administrative powers of the Chairperson of the Appellate Tribunal.- The administrative powers of the Chairperson of the Appellate Tribunal shall include making decisions with regard to the following:

- (a) matters pertaining to staff strength, wages and salaries structures, emoluments, perquisites and personnel policies;
- (b) matters pertaining to creation and abolition of posts;
- (c) matter pertaining to appointments, promotions and confirmation for all posts;
- (d) acceptance of resignations by any Member, officer or employee;
- (e) officiating against sanctioned posts;
- (f) authorization of tours to be undertaken by any Member, officer or employee: within and outside India and allowance to be granted for the same;
- (g) matters in relation to reimbursement of medical claims;
- (h) matters in relation to grant or rejection of leaves;
- (i) permission for hiring of vehicles for official use;
- (j) nominations for attending seminars, conferences and training courses in India or abroad;
- (k) permission for invitation of guests to carry out training course;
- (l) matters pertaining to staff welfare expenses;
- (m) sanction scrapping or write-off of capital assets which due to normal wear and tear have become unserviceable or are considered beyond economical repairs;
- (n) matters relating to disciplinary action against any Member, officer or employee;
- (o) any other powers that may be required for the efficient functioning of the Appellate Tribunal and enforcement of the provisions of the Act and these rules.

FORM 'A'

[See rule 3(2)]

APPEAL TO THE APPELLATE TRIBUNAL

Appeal under section 44 of the Act

Every appeal shall be filed in English and in case it is in some other Indian language, it shall be accompanied by a copy translated in English and shall be fairly and legibly type-written, lithographed or printed in double spacing on one side of standard petition paper with an inner margin of about four centimetres width on top and with a right margin on 2.5 cm, and left margin of 5 cm, duly paginated, indexed and stitched together in paper book form.

For use of Appellate Tribunal's office: Date of filing:

Date of receipt by post: _____

Registration No.: _____

Signature: _____

Registrar: _____

IN THE GUJARAT REAL ESTATE APPELLATE TRIBUNAL (Name of place)

Between

_____ Appellant(s)

And

_____ Respondent(s) Details of appeal:

1. Particulars of the appellants: (i) Name of the appellant:
(ii) Address of the existing office / residence of the appellant: (iii) Address for service of all notices:

2. Particulars of the respondents: (i) Name(s) of respondent:
(ii) Office address of the respondent: (iii) Address for service of all notices:

3. Jurisdiction of the Appellate Tribunal:

The appellant declares that the subject matter of the appeal falls within the jurisdiction of the Appellate Tribunal.

4. Limitation:

The appellant declares that the appeal is within the limitation specified in sub-section (2) of section 44

OR

If the appeal is filed after the expiry of the limitation period specified under sub-section

(2) of section 44 specify reasons for delay _____

5. Facts of the case:

(give a concise statement of facts and grounds of appeal against the specific order of Regulatory Authority or the Adjudicating Officer, as the case may be, passed under section(s) _____ of the Act.

6. Relief(s) sought:

In view of the facts mentioned in paragraph 5 above, the appellant prays for the following relief(s) _____

[Specify below the relief(s) sought explaining the grounds of relief(s) and the legal provisions (if any) relied upon]

7. Interim order, if prayed for:

Pending final decision on the appeal the appellant seeks issue of the following interim order:

[Give here the nature of the interim order prayed for with reasons]

8. Matter not pending with any other court, etc.:

The appellant further declares that the matter regarding which this appeal has been made is not pending before any court of law or any other Authority or any other tribunal(s).

9. Particulars of bank draft in respect of the fee in terms of sub-rule (1) of rule 28:

(i) Amount

(ii) Name of the bank on which drawn

(iii) Demand draft number

10. List of enclosures:

- (i) An attested true copy of the order against which the appeal is filed
- (ii) Copies of the documents relied upon by the appellant and referred to in the appeal
- (iii) An index of the documents

Verification

I _____ (name in full block letters) son / daughter of _____ the appellant do hereby verify that the contents of paragraphs [1 to 10] are true to my personal knowledge and belief and that I have not suppressed any material fact(s).

Place:

Date:

Signature of the appellant(s)

By order and in the name of the Governor of Gujarat,

NEELA MUNSHI,

Officer on Special Duty & Ex-Officio Joint Secretary
to the Government of Gujarat

Urban Development and Urban Housing Department.
