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## Jharkhand Real Estate Regulatory Authority

**JHARERA Circular No : 01/2019**

**Date: 20.11.2019**

**Subject: Land Owners/Investors having Area/Revenue share in Real Estate project to be treated as promoter (landowner/ investor)**

This circular is being issued under the power granted to JhaRERA and its Chairman in view of section 37 of the Real Estate (Regulation and Development) Act, 2016 ("said Act") in the interest of promoter, developers and consumers in the Real Estate sector in the state of Jharkhand.

**Whereas**, section 37 of the said Act empowers JhaRERA to issue direction from time to time to the promoters, allottees or real estate agents, as it considers necessary from time to time.

**Whereas**, the Chairperson, JhaRERA is also vested with the powers of general superintendence and directions in the conduct of affairs of the Authority under section 25 of the said Act.

**Whereas**, Section 2(zk) of the said Act defines the term 'a promoter' as follows:

*'Promoter' means,- (z) a person who constructs or causes to be constructed an independent budding or a budding consisting of apartments, or converts an existing building or a part thereof into apartments, for the purpose of selling all or some of the apartments to other persons and includes his assignees; or*

*(ii) a person who develops land into a project, whether or not the person also constructs structures on any of the plots, for the purpose of selling to other persons all or some of the plots in the said projects, whether with or without structures thereon; or*

*(iii) any development authority or any other public body in respect of allottees of- (a) buildings or apartments, as the case may be, constructed by such authority or body on lands owned by them or placed at their disposal by the government;- (b) plots owned by such authority or body or placed at their disposal by the Government, for the purpose of selling all or some of the apartments or plots; or*

*(iv) an apex state level co-operative housing finance society and a primary co-operative housing society which constructs apartments or buildings for its Members or in respect of the allottees of such apartments or buildings; or*

*(v) any other person who acts himself as a builder, coloniser, contractor, developer, estate developer or by any other name or claims to be acting as the holder of a power of attorney from the power of the land on which the building or apartment is constructed or plot is developed for sale; or*

*(vi) such other person who constructs any budding or apartment for sale to the general public.*

*Explanation- For the purpose of this clause, where the person who constructs or converts a building into apartments or develops a plot for sale and the persons who sells apartments or*

*plots are different persons, both of them shall be deemed to be the promoters and shall be jointly liable as such for the functions and responsibilities specified, under this Act or the rules and regulations made thereunder;*

**Whereas,** Keeping in view the overall purpose, object and the intention behind enacting the said Act so as to bring maximum transparency in the real estate sector and awareness about the provisions of the said Act and educate the general public about nuances of it, it is incumbent upon JhaRERA to issue appropriate clarification and/or explanation, for the better working and implementation of the said Act and Rules framed there-under as also for removal of the doubts in regard to the definition of the terms 'promoter' contain in the said Act.

**Whereas,** it has been observed that several developers (who actually obtain approvals of building and do construction work) of real estate projects, have entered into arrangement with individuals/organizations like landowners or investors by which the said individuals/organizations are entitled to a share of the total revenue generated from the sale of super built-up area is apartments/buildings or a share is the total area developed or super-built-up area developed/built for sale, which are also marketed and sold by such individuals/organizations.

**Whereas,** a careful consideration of the aforesaid definition in the light of the true object and purpose of the said Act leaves no manner of doubt that such individuals/organizations are also covered and clearly fall within the aforesaid definition of the terms 'Promoter' and as such are Promoters within the meaning of the said terms for the purpose and for the implementation of the said Act and all the rules framed there under. They are therefore jointly liable for the function and responsibilities specified in the Act in the same manner as the promoter/builder who actually obtains building permissions and carries out construction.

Therefore, it is directed that

- (i) Such individuals/organizations who fall within aforesaid definition of the term 'promoter' on account of being land owners or investors shall be specified as such at the time of registration with JhaRERA.
- (ii) Though liabilities of such land owner promoter or investor promoter shall be co-terminus with the written agreement/arrangement governing their rights in the real estate project, for the purpose of withdrawal from the designated bank account of a real estate project, the obligations and the liabilities of all such promoters shall be at par with each other.
- (iii) A Copy of the written agreement or arrangement among the promoters (whether land owner or investor) should be submitted to JhaRERA along with other details which will reveal rights and shares of each promoter.
- (iv) Such landowner promoter and investor promoter should also submit declaration in from-B of Jharkhand Real Estate (Regulation and Development) Rules, 2017.
- (v) Further each such landowner promoter or investor promoter, who is entitled to a share of the total area developed, should also open separate bank account for deposit of 70% of the sale proceeds realized from the allottees of their share.

This circular shall come into force with immediate effect.

By the approval of Chairperson, JhaRERA

**(Ranjeet Kumar Chaudhary)**  
**Secretary, JhaRERA**

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