

## E-LETTER

Date: 23.12.2022

To

AIGR (Law),  
O/o Inspector General of Registrations and Commissioner of Stamps,  
Kandaaya Bhavan, 8th Floor, KG Road,  
Bengaluru-560001

Copy to

Inspector General of Registrations and Commissioner of Stamps,  
Kandaaya Bhavan, 8th Floor, KG Road,  
Bengaluru-560001

**Sub: Bringing to notice issues with process of registration of apartment units and seeking corrective action**

**Ref:** 1) E-letter sent by email on 02.12.2022  
2) Meeting with the AIGR (Law) on 15.12.2022

Sir,

We would like to express our pleasure and gratitude for giving us an opportunity to meet you and present our views. Further to our discussion on 15.12.2022, we would like to bring to your notice the law and applicable rules as well as our views regarding a few matters that needed clarity through this representation

1. Relevant sections of KAOA 1972 regarding “the register of declarations and deed of apartments” and forms as defined in KAOR 1974 are given below

<i>Karnataka Apartment Ownership Act 1972</i>	<i>Karnataka Apartment Ownership Rules 1974</i>
<b>Section 13(3)</b> In all registration offices a book called “ Register of Declarations and Deeds of Apartments under the Karnataka Apartment Ownership Act, 1972” and Index relating thereto shall be kept. The book and the Index	<b>Rule (8) Form of Book under Section 13(3) and of Index thereto (1)</b> The Register of Declarations and Deeds of Apartments for the purpose of sub-section (3) of Section 13 shall be in Form C. <b>(2)</b> The index to such Register

<i>Karnataka Apartment Ownership Act 1972</i>	<i>Karnataka Apartment Ownership Rules 1974</i>
shall be kept in such form and shall contain such particulars as may be prescribed.	shall be in Form D
<b>Section 13(4)</b> It shall be the duty of every Manager or Board of Managers to send to the Sub-Registrar of the sub-district in which the property containing the apartment is situate, or if there is no Sub-Registrar for the area, to the Registrar of the district in which such property is situate, a certified copy of the Declaration and Deed of Apartment made in respect of every apartment contained in the building forming part of the property together with a memorandum containing such particulars as may be prescribed.	<b>Rule 9 Form of Memorandum under Section 13(4)</b> The memorandum required to be filed by the Manager or Board of Managers for the purpose of subsection (4) of Section 13 shall be in Form E.

Please find form C, D and E enclosed herewith as annexures.

Other relevant section of the law

<i>The Karnataka Apartment Ownership Act 1972</i>
<b>Section 13(1)</b> The Declaration and all amendments thereto and the Deed of Apartment in respect of each apartment and the floor plans of the buildings referred to in sub-section (2) shall be registered under the Registration Act, 1908
<b>Section 13(2)</b> Simultaneously with the registration of the Declaration there shall be filed along with it a set of the floor plans of the building showing the layout, location, apartment numbers and dimensions of the apartments, stating the name of the building or that it has no name, and bearing the verified statement of an architect certifying that it is an accurate copy of portions of the plans of the buildings as filed with and approved by the local authority within whose jurisdiction the building is located. If such plans do not include a verified statement by such architect that such plans fully and accurately depict the layout location, apartment number and dimensions of the apartments as built, there shall be recorded prior to the first conveyance of any apartment, an amendment to the Declaration to which shall be attached a verified statement of an architect certifying that the plans theretofore filed, or being filed simultaneously with such amendment, fully and accurately depict the layout, location, apartment number and dimensions of the apartment as built.

*The Karnataka Apartment Ownership Act 1972*

**Section 13(5)** The Sub-Registrar, or as the case may be, the Registrar shall register the Declaration along with floor plans of the building and the Deed of Apartment in the “Register of Declaration and Deeds of Apartments under the Karnataka Apartment Ownership Act, 1972” and shall also enter particulars in the Index kept under sub-section (3). Any person acquiring any apartment or any apartment owner shall be deemed to have notice of the Declaration and of the Deed of Apartment as from the date of its registration under this section.

**Section 13(6)** Except as provided in this section, the provisions of the Registration Act, 1908, shall mutatis mutandis apply to the registration of such Declarations and Deeds of Apartments, and the words and expression used in the section but not defined in this Act shall have the meaning assigned to them in the Registration Act, 1908.

2. We would like to submit the following regarding the issue of making provisions of the Karnataka Apartment Ownership Act 1972 mandatory for registration of conveyance of apartment units as transferable immovable property

*The Registration Act 1908*

**Section 21(1)** No non-testamentary document relating to immovable property shall be accepted for registration unless it contains a description of such property sufficient to identify the same.

**Section 21(4)** No non-testamentary document containing a map or plan of any property comprised therein shall be accepted for registration unless it is accompanied by a true copy of the map or plan, or, in case such property is situate in several districts, by such number of true copies of the map or plan as are equal to the number of such districts

*The Karnataka Registration Rules 1965*

**Rule 41 Examination of a document by the Registering Officer.**--- Every document shall before acceptance for registration be examined by the Registering Officer to ensure that all the requirements prescribed in the Act and in these rules have been complied with. If there is any informality in presentation of a nature which can be remedied, the Registering Officer shall give the party such information as may be necessary and return the fees and the document with a view to the document being presented again in due form, For instance, in case such as those mentioned below he should explain the defect to the presentant; if the

*The Karnataka Registration Rules 1965*

document is presented in the wrong office; or presented beyond the prescribed time limit or the parties have come without the prescribed fees; if an agent has come without a power-of-attorney or without such a power as the Act required, or if the presentant is not a competent person to present the document, if the description of the property is either insufficient for purpose of identification or does not fulfill the requirements of Rules 13 to 15, if the document is not accompanied by a translation or by copy of a map when such translation or copy is necessary; if there are unattested interlineations, alterations, erasures or blanks, which the Registering Officer considers should be attested by the initials of signature of the executants; if the date of execution is not given in the document or if it is anterior to the date of purchase of the stamp paper on which the document is written, or if the date is given according to both the British and the Indian calendars and these dates do not tally. The action of the Registering Officers in this respect shall be confined to advice and he shall not himself alter the document in any way.

**Rule 43 Manner of presentation of map, etc., with a document.** --- Every copy of a map or plan accompanying a document shall be certified to be a true copy and shall be attested by the signature of the person executing the document or his duly authorised agent.

**Rule 171 Reasons for refusal to register.** ---- When registration is refused, the reasons for refusal shall be at once recorded in Book 2. They will usually come under one or more of the heads mentioned below.\_

(iii) Section 21(1) to (3) and Section 22. ----- that the description of the property is insufficient to identify it or does not contain the information required by Rule 15;

(iv) Section 21(4). ---- that the document is unaccompanied by a copy or copies of any map or plan which it contains;

- a. Every conveyance deed of apartment unit mention the building plan sanctioned by the local body or planning authority but section 21(4) of the Registration Act 1908 never followed
- b. Registration officer also has the responsibility with respect to section 17 of the Registration Act 1908 to ensure that the apartment unit being conveyed has the status of transferable immovable property
- c. An apartment unit is only a small part of the sanctioned plan and the whole property. It gets the status of transferable immovable property only if conveyed under provisions of the Karnataka Apartment Ownership Act 1972

- d. Hence a rule is necessary under the Karnataka Registration Rules 1965 that mandate registration of conveyance deed of apartment unit as transferable immovable property within the meaning of section 17 of the Registration Act 1908
- e. The same rule need to be applied to registration of mortgage and hypothecation of apartment units

Further, we request you to give us an appointment to meet you so that we can present our views.

Awaiting a favorable response,  
Yours faithfully,

Hareesh Sivaraman,  
Member- Legal & Statutory Track,  
Governing Council,  
Bangalore Apartments' Federation

# FORM C

[See Rule 8(1)]

## Register of Declaration and Deeds of Apartments

1. Apartment No. shown in the plans annexed
2. Floor of the building
- 3 Name of building
- 4 Street/Road No. where the building is situated
5. Name of Street/Road where the building is situated
6. Name of builder
7. (a) Cadastral Survey No. of land  
(b) Hissa No,  
(c) Town and peth/Division of land on which building is constructed.
8. Registration, district and sub-district @@@

Sl No	Date of Application for registration	Name of Apartment Owner	Address	Date of Declaration	Date of registration of Declaration

Percentage of undivided interest in common areas and facilities	Date of Deed of Apartment	Date of registration of Deed of Apartment	Price of Apartment settled	Date of payment of price

# Form D

[See Rule 8(2)]

Form of index to register

Name of the Executing Party	Place of residence	Situation of Property	Apartment No, floor of the building and name of the building

Nature of Deed (i.e. Declaration or Deed of Apartment and consideration)	Date of		Serial No. volume and page	Remarks
	Execution	Registration		

# FORM E

[See Rule 9]

Form of Memorandum

1. Apartment No. shown in the plans annexed
2. Floor of the building
3. Name of the building
4. Street/Road No. where the building is situated
5. Name of Street/Road where the building is situated
6. Name of builder
7. (a) Cadastral Survey No. of land  
(b) Hissa No. of land on which building is constructed.  
(c) Town and peth/division in which building is constructed/is situated.
8. Registration district and sub-district in which Declaration and Deed of Agreement are registered.
9. Name of Apartment owner
10. Address
11. Percentage of undivided Interest in common facilities.
12. Date of Declaration
13. Date of Deed of Apartment.