

Legal & Advisory Support for Apartment Associations

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Presented By

BANGALORE APARTMENTS' FEDERATION (BAF)

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Additional Disclaimer: BAF urges Members to share their experiences / views of having interacted with various lawyers / experts / advisors with us. Depending on inputs from Members, this document might be further updated to ensure engagement with the right consultants as well as make the engagement successful, in addition to adding more legal expertise in the panel.

Members can reach out to any or all the consultants / experts mentioned in the note on their email ids / telephone for support or reach out to any lawyer / consultant / expert that they already know and make their independent choice on engagement.



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Introduction

This note has resulted from the need of BAF members to have a list of recommended lawyers & consultants to handle various issues faced by Apartment Associations (RWA). BAF has put together this note based on its interactions with lawyers, consultants and self-learned & experienced experts, who can guide, advise, support, educate and litigate on behalf of BAF members.

Issues Faced by Apartment Associations

Below is a list of a few issues that are typically faced by RWAs, for which Managing Committees typically seek services from lawyers & consultants (Specific issues are provided in Annexure – I):

Issues with Government / Civic Agencies

1. Alleged encroachment notices issued to RWA by BBMP / Town Planning departments
2. Compensation for land owned by RWA being acquired by GoK / BBMP for infrastructure projects

Issues with Builders

3. Getting original documents like OC, Sanctioned Plans, NoCs & land documents from builder
4. Handover of facilities to the RWA not done by the builder / non-delivery of agreed amenities
5. Builders retaining the corpus & maintenance contributions without accounting

Issues related to running of RWA

6. Forming the RWA under Karnataka Apartment Ownership Act (KAOA)
7. Filing Annual Returns / renewal of registration
8. Financial misappropriation of Association Accounts etc.

Issues with Owners / Residents

9. Default on Maintenance charges payment by some owners
10. Inter-se disputes between owners in which RWA is also made a party to the dispute
11. Police station related issues resulting from disputes with owners / residents

General Issues

12. RTI Information, PIL support etc.



Legal / Advisory Engagement Guidelines

The following guidelines can aid the decision-making process for an RWA or individuals in engaging with the right legal counsel / advisor:

- 1. Before deciding to take legal action, it is always better to evaluate if direct engagement & discussions with the parties involved in the issue would help find solutions. Only when that does not work, legal solution may be explored. Advisory inputs from subject matter experts / consultants / lawyers even at exploratory stage may help this process.**
2. Speak with / meet different lawyers / consultants and present the case scenario to get diverse opinions, which will help define the scope of the problem and desired outcome.
3. Run a conflict check to see if any of the consultants have represented the other party in the case either currently or prior, and if so, take a call on whether to engage with them further.
4. Evaluate all inputs to assess each consultant's expertise, views on case, prior experience in handling similar cases along with their progress & if they were successful etc.
5. Choose your advisor based on their expertise, approach, ease of discussions & communication, responsiveness to client, costs, their availability etc.
6. Form a dedicated sub-committee from among your MC members and ensure continuity of at least some of them for the entirety of the case, particularly if it is long-drawn out.
7. Follow up diligently with your advisor in addition to doing your own research on matter.
8. Have regular discussions with fellow team members and keep updating your community at important milestones.
9. Maintain chronology of events (dates / minutes of meeting / participants etc.) of the issue, since cases tend to prolong. It is important to keep track of events as the cases progress as committee members might change.





Contacts of Lawyers / Consultants / Subject Matter Experts

Legal Counsel / Service Providers

1. GR Law firm
Advocate Raghavendra
Mobile: +91 98803 91937 Email: raghu_0104@yahoo.com
2. Trial Base (RERA Consultants also)
Advocate Suhail Ahmed
Mobile: +91 97400 12003 Email: suhail.inbox@gmail.com
3. AKS Associates
Advocate Ajesh Kumar
Mobile: +91 98451 62629 Email: aks@akslawassociates.com
4. MV Partners
Advocate Vikram, Advocate Medha
Tel: +91 80 41623211 Email: mvpartners@outlook.com
5. NSK Attorneys
Advocate Narasimhan Sampath
Tel: +91 91089 80980 Email: narasimhan@nskattorneys.com
6. Prop Seva
Suraj Prithviraj Singh
Tel: +91 98453 34000 Email: surraj@propseva.com

Subject Matter Experts (For Advisory Services)

The following are activists who can give practical information on various RWA related issues.

1. Mr. Anil Kalgi
Mobile: +91 94488 22238 Email: kalgirti@gmail.com
2. Mr. Ajit Naik
Mobile: +91 98452 43544 Email: ajit.n.naik@gmail.com

Please indicate that you are a BAF Member when you reach out to the above people.

A representative set of Acts are provided in Annexure – II for reference.



ANNEXURE – I

Specific Advisory Services that can be provided by the lawyers / consultants

1. Advisory on the right Act to register an RWA under, depending on the context of the RWA
2. Helping register an Association
3. Assistance in getting documents handed over from the builder
4. Advisory for original apartment-related documents which are lost / not available
5. Procuring A-Khata, B-Khata, E-Khata etc.
6. Advisory for apartments not having Occupancy Certificate
7. Procuring OCs for apartments which have received only part OC
8. Advisory for mixed-development apartments without UDS being defined
9. Assistance in handover process from builder to RWA
10. Advisory for old apartments facing implementation of retrospective law
11. Managing landowner / developer owning large number of flats in a single apartment complex
12. Taking action against members who default on maintenance payments
13. Assistance in fighting cases against Government, civic agencies, 3rd parties, builder, defaulting owners etc.



ANNEXURE – II

Relevant Acts

These are some of the relevant acts that provide the framework on issues stated above.

1. THE KARNATAKA OWNERSHIP FLATS (REGULATION OF THE PROMOTION OF CONSTRUCTION, SALE, MANAGEMENT AND TRANSFER) ACT, 1972 -KOFA
2. TRANSFER OF PROPERTY ACT
3. KARNATAKA APARTMENTS OWNERSHIP ACT 1972
4. KARNATAKA SOCIETIES REGISTRATION ACT, 1960
5. REAL ESTATE REGULATION ACT 2016 / KARNATAKA
6. THE KARNATAKA MUNICIPAL CORPORATIONS ACT, 1976
7. KMCA / BMP BUILDING BYELAWS 2003
8. NATIONAL BUILDING CODE-1984 / 1997 / 2005 / 2016
9. OTHER ACTS APPLICABLE TO APARTMENTS
 - a. BWSSB ACT
 - b. ELECTRICITY ACT
 - c. MoEF / POLLUTION CONTROL BOARD ACTS
 - d. FIRE SAFETY
 - e. NGT / COURT ORDERS
 - f. INCOME TAX ACT
 - g. GST

