

उत्तराखण्ड सर्विसेस हाऊसिंग एसोसिएशन, देहरादून

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Minutes of the Special GBM held on 30/7 at 5.30 pm ay the Community Centre /Club House of USHA

Quorum

As ..were present in person, and .. online, the quorum of 48 members was complete , and the President called the meeting to order .

The list of members present , physically and online is given as Annex A .

1. Introductory

The President Sanjeev Chopra , called the meeting to order and spoke about the context in which the Special GBM had been convened to discuss changes in the AoA of USHA which was necessitated on account of anomalies observed in the construction of a few houses which were not in conformity with the extant norms. So far , the decisions of USHA had been based on an informal consensus , which worked well when there were fewer houses , the space was abundant and the pressure on common resources was not very high . 'However , today we have reached the stage where we are likely to face 'the tragedy of the commons' if we do not evolve rules for our interaction with each other . For the past seventeen years , we have followed the spirit of USHA, but now it is time to follow both the letter and the spirt – and that is why this AGM has been convened that we take a clear look at the proposed changes in the Articles of association.' He also pointed that while many things were 'permissible', they may not be 'desirable'. There was also the need to make certain technical changes like the name and address of the Society , the value of the share certificate , procedure for the conduct of elections and governance of society . The full text of the President's address is given as Annex B The House was informed that the copy of the existing Articles of Association (AoA) as well as the revised Bye laws had been circulated on email , and also displayed on the website of USHA.

2. Views of members

The President then invited all members to share their views on the proposed changes for a maximum of of five minutes each and EC member Ravinath Raman was requested to record the names of members wishing to speak, and also record their key observations .

Views expressed by members :

Past President Sh Indu Kr Pande raised the issue about the legal competence of the society to make and implement its internal bye laws . He also wanted to know if the society had the requisite expertise to vet the building plans .

Past President Sh N Ravi Shanker said that a balance had to be struck between the permissible and the desirable . While it was desirable that members voluntarily accepted the extant norms , the permissible limits of MDDA were to be treated as the final cap.

Sh Harish Joshi raised the issue on the need of changing the provisions with regard to eligibility criterion of membership in Article 4 . The revised 4.1 now opened the membership to all members of the All India services – serving or retired . He was informed that vide the decision of the 12th AGM of , the membership had already been opened to serving and retired officers of All India services from all the cadres. This was only the post facto ratification in the AoA.

Sh Joshi was also informed that the share certificate being issued already had the inscribed value of Rs 9 lakhs inscribed on them.

Sh Vijay Kumar said that while he was supportive of the general policy of Ground plus one plus mamty (attic)(G+1+attic/mamty) , he was concerned about the location of the gate . Some discretion may be given to the plot owner , subject to the concurrence of the immediate neighbours.

Sh Puneet Kansal made the point that the members who have not yet constructed their houses should not be placed at a disadvantage vis a vis those who have already made more than G+1+Attic. G+2 can serve requirements of a growing family and it is permissible under MDDA rules. He was of the opinion that in view of the requirements of some members , additional floors may be allowed as this was permissible under MDDA rules. He also said that if the society tried to enforce any rule which was to the detriment of an individual members interest, the society may be involved in needless litigation. In fine, he said that he was opposed to the proposed amendments with regard to construction norms and termination of membership.

Sh Ashok Kumar said that the norms were always advisory, and not mandatory . He said that his own house was absolutely compliant , both with regard to height , as well as G+1+attic. He however said that applying the new norms retrospectively may not meet legal muster . He said that rather than termination of membership, provisions like steep fine and other sanctions could be thought of .

Sh Vinod Kumar Nautiyal made the point that very tall buildings were affecting the micro environment of the colony , and more residents meant more stress on resources , especially roads, and water He said that the gap between the desirable and the permissible was increasing , and therefore it was imperative that some regulation was brought in place immediately.

Ms Radhika Jha pointed out that the society was competent to make its own rules . She pointed out that the membership criterion itself was a clear indication that the society could regulate itself . All institutions had to the right and ability to make rules and regulations for the benefit of their own members. She expressed the view that the society was fully competent , not only to make its own bye laws, but also implement them.

Sh RK Sudhanshu also reiterated the above by stating that the society had the

requisite competence to regulate its own affairs. He also clarified that the land belongs to the Society, and not to any individual member. As such members were only permitted to utilise their plot as per the provisions of the bye laws and articles of association. He stressed on the fact that USHA society had members, not owners. He also pointed out that everything permissible cannot be acceptable because the Uttarakhand Tourism policy also encourages 'home stays', and thus every house can also be converted into B&B, thereby distorting the very purpose of the society.

Sh Prasad pointed out that there were three types of members – those who had complied with the extant norms, those who had violated them, and those who were yet to construct their houses. He wanted the norms to be applied retrospectively so that the members who had violated should be held responsible, and that the rights and interests of members who had violated the norms should not be adversely affected.

Ms Padma made the point that the society should be concerned not just with the vertical heights, but also about set backs. She also suggested that instead of trees with a large canopy, only short stature trees, shrubs or bushes should be planted to ensure that the resplendent view of the Himalayas is not affected.

Sh Manoj Pant wanted a clarification with regard to the eligibility of those to whom the house could be rented. It was explained that the house could not be given on rent to more than one family. Sh Pant agreed that under no conditions should USHA houses be let out for commercial purposes.

Sh J S Pandey wanted the Society to seek legal opinion with regard to its competence to framing norms, especially penal provisions. He cautioned that EC was appropriating too much power unto itself.

Ms Sangeeta Bansal pointed out that rules were required for parking of vehicles. She pointed out that in some houses, tenants had more than one car each thereby creating a parking problem.

Sh VC Goel made the point that all members had agreed to come together voluntarily and abide by the norms. No one had been compelled against his/her will to join the society. As a self-regulating society, it was well within the competence of the members to formulate their own rules.

Sh Satyavrat also mentioned that members of the society must adhere to the rules that governed them.

Sh Ajay Kumar observed that there should be a restriction with regard to eligibility of tenants as well. Those who were otherwise ineligible to become members were enjoying the same privileges as USHA members. He felt that one way to ensure that the members had free access to resources was to restrict tenancy.

Ms Nipunika Singh said that this was a society of the crème de la crème, and that the aesthetics of the society was being destroyed on account of non compliance of the extant norms. The views of the hills had been restricted, and that if we, as senior officers did not follow rules, we were setting up a bad precedent.

Sh Sanjay Srivastava recalled that the Society had indeed been conceptualised on the basis of an ideal neighbourhood 'without fencing and borders'. Based on USHA example, many other states and cadres had also established similar societies, but none had been able to match the measure established by USHA. He was keen that the nature of the society be retained as such.

Sh Hridyesh Mohan said that it was obvious that the ownership of all land vested in USHA, and that members were only entitled to build as per the extant norms. In addition to ensuring that the 'desirables' were implemented, the minimum setbacks and FAR as envisaged by MDDA for G+1+M should also be enforced.

Sh Amit Verma felt that the penal provisions were too stringent. These had to be applied in a phased manner, and members must get an opportunity of making a representation.

Dr Rakesh Kumar held the view that the housing societies are meant for the peaceful existence of like minded people. Societies can frame rules and implement them. Members must adhere to the rules of society, including the advisory of sticking to G+FF +mamty. This had been agreed to while taking the membership. Before taking the strict action of termination, penalties like enhanced incremental maintenance cost may be taken from members who had done some violation.

Sh Surendra Mehra said

Without having a clearly worded amendment placed before this GB, after taking legal opinion on retrospective implementation clause, it wouldn't be prudent to include amendment just by decision of EC only. It should be put before GB again after legal opinion. Otherwise there might be legal complications in future and we might loose on 'prospective implementation' clause too.

Violations are not only w.r.t vertical norms, but there are violation of horizontal norms too(offset related), which can't rectified now.

So, legally we will be on on weak grounds, if we press retrospective clause.

Our more and more effort should be on prospective regulations.

Sh Jogendra Singh felt that Rule 6 (penal provisions) was very strict. He also wanted some clarification of Rule 9. He was informed that members were allowed to construct G+1+attic, and not G+attic.

Past President Sh NS Nepalchayal felt that as some G+2+mamty had already been made, this should be treated as the cap, but that those who have built G+2+mamty should pay exponentially higher charges to discourage others from doing so. He also supported the view that there cannot be more than one tenant family in any house.

Sh Ramaswamy was of the view that such financial disincentives may not work: rather they may have the same impact which compounding has. The Society was registered under the Self Reliant Co-op societies Act, and was well within its competence to frame its own bye laws and enforce them.

Ms Anju Rana was of the view that the amendments were need as some members

had violated the Advisory. Had they not done so, the need for such an amendment was not required. She also suggested charging AMC from tenants who are staying in houses where owners also stay.

Past president Sh Subhas Joshi read out the share certificate which clearly stated that the member has agreed to be a member and accept the bye laws of the society. As such, there was no need to refer to any external authority. While supporting the amendments, he felt that the penal provision was stringent, and that before implementing it, adequate time should be given to the members, and punitive measures, other than expulsion should also be examined.

Sh T N Singh gave the background to the formation of the society and gave his views in favour of the proposed amendments.

Dr Raturi, speaking on behalf of his father wanted to know the steps being envisaged to ensure that the violation in construction norms that have already taken place do not affect existing house owners who have built their houses according to the stipulated norms, as this directly affects their rights to air, light and view.

In addition to the above points which have been attributed to individual comments, there was also a discussion on the overall height of building from the ground (society's road), plinth area, plinth level, parking issues with cars being parked on road and not enough parking space provided for within some members' plots, legality of retrospective operation of AoA, distinction between advisory and mandatory for purpose of enforcement as well as the modalities for enforcement of the AoA. Points were raised on some cases where setback was not provided even as per MDDA norms.

3. Seeking Legal Opinion

Before asking the members to vote on the resolutions, it was agreed, that given 'sense of the house' a legal opinion should be obtained, in the first instance as to whether the proposed changes could be implemented retrospectively, especially in the light of the fact many members felt that prior to invoking the clause regarding termination, members should be given sufficient time to rectify the anomaly.

Voting on Amendments

That Article 1 (name and address) Article 4 (Membership), Article 5 (value of share certificate) Articles 10 and 11 (Governance and Empowered Executive Committee (Board of Directors)) are passed unanimously.

That Article 9 will read as follows:

Only ground floor plus first floor with attic (attic area restricted to 200 sq ft) covered by sloping roof shall be permitted. Second floor shall not be permitted except for mamty to provide for water tanks and servicing area restricted to 100 sq ft.

The map will be submitted to MDDA/competent authority only after obtaining NOC from the EC of the society.

This was passed with a voice vote. The video recording of the members raising their

This was passed with a voice vote . The video recording of the members raising their hands is uploaded on the website .

It was also agreed that with regard to Article 6.2 any member who violates the building bye laws of the society will be given an adequate opportunity to rectify their building to the extent of violation within a stipulated time period . This will be followed by enhanced and escalating maintenance charges to be decided by the EC. However , in the exceptional circumstances of a gross continuing violation , the membership may be terminated as the last resort .

The video recordings of the vote are placed on the website .

Finally the meeting ended with the Chair thanking all the participants - both physical and online for their active participation in the deliberations of the meeting .

Q 16/8
Honorary Secretary
SECRETARY (Honorary)
USHA
EXECUTIVE COMMITTEE
USHA COLONY
SAHASTRADHARA ROAD
DEHRADUN

SCM
President
USHA
16/8

AGM of Attendance Sheet USHA on 30 July 2023, at 05.30 PM.

Sr. No	Name of Members	Plot No	
01.	Shri Sanjeev Chopra	43	
02	Shri S Ramaswamy	55	
03	Smt Radhika Jha	22	
04	Smt Radhika Pant W/o Shri Pramod Pant	56	
05	Shri Vijay Kumar	45	
06	Shri Ajay Joshi	03	
07	Shri J S Pandey	35	
08	Shri Dinesh Bhatt	39	
09	Mrs Neelu Gera	79	
10	Shri Subhash Joshi	48	
11	Shri Promode Kant	80	
12	Shri Anand Bardhan	38	
13	Mrs. Anju Rana	14	
14	Dr. PVK Prashad	05	
15	Shri Vinod kumar Nautiyal	33	
16	Shri L Fanai	63	
17	Shri V C Goel	68	
18	Shri Satyavart	65	
19	Shri Ramesh K Aima	66	
20	Shri H C Joshi	88	
21	Mrs. Jaishree Pant	41	
22	Shri I K Pande	12A	
23	Mrs. Miru Srivastava	54	
24	Shri N S Napalchyal	37	
25	Shri N. Ravi Shankar	31	
26	Shri Ashok Kumar	49	
27	Ms. Padma Murugesan W/O V Murugesan	51	
28	Shri S P Subudhi	07	
29	Shri Manoj Pant	70	
30	Shri Deepankar Aron	53	
31	Shri Piyush Raturi S/O P D Raturi	60	
32	Shailesh Bhagoli	20	
33	Shri S K Bhagat	62	
34	Ms. Anjali Sinha W/O Dr. Sameer Sinha	64	
35	Shri Amit kumar Sinha	12	

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AGM Attend in on lion, on 30 July 2023,

36	Shri Sanjay Srivastava	10	
37	Shri Hirdesh mohan	84	
38	Shri Alok Kumar	86	
39	Shri Ajai Kumar	87	
40	Shri amit Verma	57A	
41	Mrs. Asha mathur	06	
42	Dr. Rakesh Kumar	34	
43	Dr. Sameer Sinha	64	
44	Shri P D Raturi	60	
45	Shri Jogendra Singh	74	
46	Ms. Pooja Garbiyal	59	
47	Mrs. Poonam Joshi	95	
48	Shri Prabhat Tyagi	81	
49	Shri Puneet Kansal	47	
50	Shri R K Sudhanshu	88	
51	Shri Rajeev Bhartari	76	
52	Shri T N Singh	78	
53	Shri S K sukla	09	
54	Shri Surendra Mehra	73	
55	Shri Sanjay Gunjiyal	25	
56	Mrs Nipunika Singh	--	

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