ADVOCATE UPADHYE & ASSOCIATES

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BY R. P. A. D / E-mail

Date: 18 Fed 2026

THROUGH:

Advocate Upadhye and Associates

Adv Upadhye & Associates

1144 Sadashiv Peth, Siddhivinayak Apartment, opp to Rohit Enterprises, near Perugate Police Chowky, Pune 411030

To:

1.The Chairman,

Mr. Ramesh Deshmukh

Flat no. C-4, Dr. V. N. Shirodkar

Co-operative Housing Society Ltd.,

Bhosalenagar, Range Hills Road,

Near MSEB Colony, Pune – 411007.

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2.Mr. Devendra Dhere,

PMC Consultant, DD Architects,

36 Shyamsundar Society, Navi Peth, Pune – 411030.

SUBJECT: NOTICE FOR FRAUDULENT FINANCIAL MISREPRESENTATION, SUPPRESSION OF REDEVELOPMENT ENTITLEMENT, BREACH OF FIDUCIARY DUTY, AND DEMAND FOR IMMEDIATE DISCLOSURE & HALT OF NON-TRANSPARENT REDEVELOPMENT PROCESS

1. This legal notice is issued under the instruction of and on behalf of my client, to formally record, with full legal consequences, a series of grave, systemic, and financially prejudicial irregularities committed by you in the redevelopment process of the society property, Dr. V. N. Shirodkar Hsg. Soc., Bhosalenagar, Range Hill Road, Pune – 411007, admeasuring approximately 2850 sq. metres and consisting of 65 residential flats. My client is a lawful and bona fide member residing in a modest residential unit of approximately 500 sq. ft., for whom redevelopment represents the sole opportunity to secure equitable residential enhancement. My client has at no point opposed redevelopment; rather, he has consistently supported redevelopment provided it is conducted lawfully, transparently, and

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in the financial interest of society members. However, redevelopment carried out through suppression of lawful entitlements, distortion of regulatory parameters, and financial structuring favouring third-party commercial gain ceases to be a welfare exercise and instead becomes economic deprivation of members.

2. The redevelopment feasibility report prepared under your supervision forms the financial backbone of the entire project. Every entitlement parameter within such report determines the economic rights of 65 families. Any suppression of permissible area, inflation of project cost, or artificial creation of builder surplus directly translates into financial loss to members. The PMC feasibility restricts additional area to members within a narrow band of 30–43%, whereas an independent feasibility assessment obtained by my client from a qualified architect demonstrates that much more additional area is achievable under applicable development control regulations. This divergence is not a matter of professional interpretation; it is a structural financial suppression. In redevelopment economics, member entitlement and builder surplus operate inversely. Artificial compression of one necessarily inflates the other. Thus, the figures presented in the PMC feasibility are not neutral calculations but economically directional.

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3. It is a settled principle of cooperative redevelopment governance that consultants engaged to prepare feasibility and financial models act in a representative and advisory capacity affecting the economic rights of all members. The feasibility framework is not a neutral academic exercise; it directly determines the distribution of redevelopment value between members and the developer. Any structuring that restricts permissible entitlement to members or artificially enlarges surplus allocation alters this distributional balance. Accordingly, accuracy, regulatory fidelity, and financial objectivity at the feasibility stage are critical, as deviations at this foundational level carry direct economic consequences for beneficiaries.

4. Municipal records obtained under statutory process clearly establish that the approach road width of the society is 30 feet (approximately 9.14 metres). Under prevailing development regulations, such width does not require land surrender or deduction for road widening. Nevertheless, the PMC calculations include a deduction on the premise of road widening. This deduction has no factual or regulatory foundation. In redevelopment financial modelling, area deduction directly reduces the quantum of saleable built-up area attributable to the society and proportionately increases the developer's margin. Thus, an unwarranted deduction

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is not a harmless technicality; it is a financially operative distortion. When a consultant inserts a deduction unsupported by planning records, the legal significance lies in the economic direction of the error against members and in favour of developer surplus.

5. The feasibility report further treats Green Building incentive FSI as a project cost component. Incentive FSI granted under policy does not involve premium payment and cannot be loaded as cost input. Treating a free regulatory incentive as cost inflates the project's expense base and correspondingly reduces distributable surplus available for member benefit. This misclassification affects the internal rate of return model, artificially narrows member entitlement, and enlarges the financial envelope within which the developer can claim profit. Such treatment is inconsistent with standard regulatory and financial practice and operates prejudicially.

6. Another structural anomaly is the assumption of a 10% "buffer" in saleable area. Saleable area under development control regulations is a determinable figure based on sanctioned parameters; it is not a speculative range permitting discretionary augmentation. The introduction of a buffer creates additional developer inventory without regulatory sanction. This increment directly feeds profit

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projections and produces crores in additional builder revenue. Courts have repeatedly recognised that where computational deviations systematically favour one stakeholder and prejudice beneficiaries, the pattern of directionality becomes probative of misconduct or, at the least, culpable professional negligence.

7. Profit modelling disclosed within the PMC framework indicates margins of an extraordinary scale, translating into annualised returns substantially exceeding established industry norms for redevelopment projects of comparable size and risk profile. An independent feasibility assessment obtained by my client demonstrates that the project remains commercially viable even when developer profit is structured at approximately one-third of the levels reflected in the PMC model. Such divergence is not a minor variation in estimation but a material distortion in financial architecture. When profit projections deviate so significantly from realistic market benchmarks while entitlement to members remains restricted, the modelling framework itself becomes questionable and warrants independent financial scrutiny.

8. The consultancy remuneration for end-to-end PMC services is approximately ₹2 lakh in a project exceeding ₹70 crores. Professional

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markets operate on proportionality of risk, responsibility, and project value. A remuneration model grossly disproportionate to project scale is commercially irrational. Where minimal remuneration coexists with modelling that enlarges third-party commercial gain, legal doctrine recognises presumption of non-arm's-length structuring requiring strict scrutiny. This is a fiduciary risk indicator recognised in commercial jurisprudence.

9. Members have not been furnished with the complete feasibility workings, underlying assumptions, comparative tender data, or financial modelling basis forming the foundation of the redevelopment process. Decisions affecting collective property rights must be supported by full and intelligible disclosure of material financial parameters. Where essential economic inputs remain undisclosed, the decision-making process risks being based on incomplete information, rendering member consent procedurally vulnerable and the resulting resolutions open to legal challenge.

10. It is anticipated that you may attempt to set up a defence that you are not personally receiving redevelopment advantage in terms of additional area or monetary allotment. Such a contention is legally irrelevant. Fiduciary breach, cheating, and conspiracy do not require

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visible flat-related benefit. Wrongful gain may be indirect, deferred, or routed through third parties. Where decision-makers adopt parameters that systematically depress beneficiary entitlement and enhance third-party surplus, the law infers non-transparent advantage. The absence of overt gain does not exculpate; it heightens scrutiny. The actionable wrong lies in distortion of financial parameters and abuse of fiduciary position, not the mode of benefit receipt.

11. The combined effect of the identified deviations restricted member entitlement, inflation of saleable inventory assumptions, abnormal profit projections, and misapplication of regulatory principles indicates that the financial model is not operating on neutral computational footing. When multiple financial parameters consistently operate to reduce member benefit while expanding the developer's projected surplus, the overall modelling framework requires independent verification. Such convergence of economically directional assumptions justifies closer scrutiny of the feasibility structure as a whole.

12. Office bearers of cooperative societies are fiduciaries. Authority exists to protect members, not restructure economics against them.

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Exercise of power for a purpose other than that for which it is conferred is colourable in law. When decisions produce unjust enrichment for a commercial entity at the cost of beneficiaries, civil liability arises under the doctrine of unjust enrichment irrespective of intent. Fiduciary duty is judged by effect on beneficiaries, not by subjective explanations.

13. Even assuming, without admitting, the absence of deliberate wrongdoing, the technical deviations identified including unsupported area deductions, incorrect treatment of incentive FSI, and speculative saleable assumptions constitute material professional lapses in financial and regulatory modelling. Where feasibility calculations affecting collective property rights reflect such inconsistencies, liability may arise on the basis of negligent advisory conduct resulting in foreseeable economic prejudice to members, independent of any allegation of intentional misrepresentation.

14. The tender process presently underway is legally vulnerable where feasibility assumptions shaping member expectations are themselves disputed and undisclosed. Once a developer is finalized and binding agreements executed, prejudice becomes practically irreversible. Post-facto remedies are illusory when third-party rights

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crystallize. This establishes urgency for corrective transparency before further steps.

15. Each member stands to lose substantial monetary value in suppressed entitlement, cumulatively amounting to crores across the society. Financial loss at this scale is neither hypothetical nor remote; it flows directly from feasibility structuring. You are placed on notice that fiduciary breach and financial misrepresentation expose you to personal civil and criminal liability; the society's corporate structure does not shield individual misconduct in fiduciary roles.

16. Accordingly, you are called upon within seven days to provide complete feasibility workings, regulatory basis for each deduction and assumption, full tender documentation, comparative evaluation records, and financial modelling sheets; to suspend builder selection pending independent audit; and to convene a Special General Body Meeting for transparent disclosure.

17. The circumstances surrounding the appointment and functioning of the PMC consultant further raise serious concerns regarding conflict of interest and compromised independence. It is on record that objections were raised by my client regarding the

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selection of the present PMC consultant at the initial stage, yet such objections were neither meaningfully deliberated nor transparently addressed before finalization of the consultant's role. In fiduciary environments, particularly where large-scale financial consequences flow from advisory inputs, the process of consultant appointment must itself be beyond suspicion. When an advisory entity subsequently produces financial models that disproportionately favour third-party commercial gain and diminish beneficiary entitlement, the existence of earlier objections becomes legally relevant. Courts recognize that conflict of interest need not be proved through direct evidence of benefit transfer; structural bias combined with compromised appointment process is sufficient to attract judicial scrutiny.

18. In redevelopment projects involving collective immovable property, decision-making and advisory functions must be exercised with demonstrable independence and objectivity, particularly where financial modelling directly affects member entitlements. Where the appointment process of an advisory consultant is itself disputed and the resulting feasibility structure disproportionately favours developer surplus, the situation warrants heightened scrutiny to ensure that the advisory process reflects impartial financial evaluation rather than compromised independence.

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19. The redevelopment decisions taken thus far suffer from suppression of material financial facts. Members were not furnished with full working sheets of feasibility assumptions, regulatory basis for FSI treatment, profit modelling logic, or tender evaluation methodology. In corporate and cooperative jurisprudence alike, consent based on incomplete disclosure is legally defective. The principle of informed consent demands that beneficiaries be made aware of all material financial parameters before resolutions affecting their property rights are adopted. Where disclosure is selective, partial, or framed in a manner that obscures economic impact, resulting resolutions are susceptible to being declared voidable. The managing committee cannot rely on procedural majority to validate decisions that lack substantive transparency.

20. The conduct described above also attracts the doctrine of colourable exercise of power. Authority vested in society office bearers exists for the purpose of safeguarding member interests and securing optimal redevelopment benefit. When such authority is exercised in a manner that produces a result antithetical to that purpose namely, reduced member entitlement and inflated third-party profit the exercise of power becomes colourable. In constitutional and administrative law, colourable exercise refers to

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using lawful authority for an unlawful objective. Cooperative governance principles apply similar reasoning: power exercised contrary to beneficiary interest is ultra vires the fiduciary mandate.

21. Further, the financial structure evident in the feasibility modelling raises issues under the doctrine of unjust enrichment. Unjust enrichment arises where one party is enriched at the expense of another without legal justification. If feasibility structuring artificially enlarges developer inventory and profit while suppressing member entitlement, the developer stands unjustly enriched. Those who facilitated such structuring through fiduciary positions may be held liable for enabling enrichment at the cost of beneficiaries. This doctrine operates irrespective of whether enrichment has yet crystallized; prospective enrichment based on impugned structuring suffices to trigger judicial intervention.

22. Professional standards governing architects and project management consultants impose duties of competence, diligence, and adherence to regulatory norms. Even absent fraudulent intent, deviation from basic regulatory principles such as misclassification of incentive FSI, unsupported road deduction, and speculative saleable buffer constitutes professional misconduct. Professionals

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entrusted with advising cooperative bodies must exercise heightened care because their calculations directly affect property rights of multiple families. Where professional advice displays directional bias and technical inconsistency, liability arises both in tort and under professional discipline frameworks.

23. The tender process is intrinsically linked to feasibility assumptions. If member expectations are framed by a suppressed entitlement model, the comparative value of developer bids becomes distorted. A developer offering seemingly higher surplus may in reality be operating within an artificially depressed entitlement framework. Transparency in tender evaluation therefore requires prior validation of feasibility assumptions. Conducting bid evaluation without first addressing contested financial modelling renders the process procedurally and substantively vulnerable. Courts have repeatedly intervened where tender processes are tainted by non-transparent foundational criteria.

24. The stage at which redevelopment decisions are challenged carries significant legal consequence. Once a developer is finalised and contractual arrangements progress, third-party rights, financial commitments, and project execution steps may arise, making later

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correction increasingly complex. Where foundational financial assumptions are under dispute, scrutiny at the pre-finalization stage is essential to prevent avoidable economic prejudice and procedural complications at a later stage.

25. Members' financial loss is neither speculative nor contingent. The difference between additional area given by PMC architect and obtained by my client translates into measurable square footage per flat. At prevailing market rates, this difference amounts to lakhs of rupees per member, aggregating to crores across the society. Loss quantification is a critical element in establishing civil liability and grounds for injunction. When financial prejudice of this magnitude is foreseeable from feasibility structuring, fiduciaries cannot claim neutrality.

26. You are hereby reminded that fiduciary breach exposes office bearers to personal liability. Cooperative society office does not confer immunity for acts performed in breach of duty. Courts have held that fiduciaries acting beyond mandate or in conflict of interest cannot seek shelter behind the corporate personality of the society. Civil damages, recovery actions, and criminal proceedings may be pursued against individuals responsible for decision-making.

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27. In light of the above, you are once again called upon to provide, within seven days, complete feasibility working documents, regulatory justifications, full tender copies, comparative statements, and evaluation criteria; to suspend any further steps in builder finalization; and to convene a Special General Body Meeting for comprehensive disclosure and independent audit consideration.

28. Failure to comply shall compel my client to initiate civil injunction proceedings, cooperative court action, and criminal complaints before competent authorities. This notice shall form part of the record evidencing prior warning, opportunity, and good-faith effort to secure transparent resolution.

29. The conduct detailed in the preceding parts does not remain confined to civil irregularity; it carries potential criminal dimensions under established principles governing financial misrepresentation, breach of trust, and conspiracy. Where fiduciaries entrusted with managing collective property adopt financial parameters that systematically diminish beneficiary entitlement and facilitate disproportionate third-party gain, the ingredients of dishonest misrepresentation and breach of trust become legally examinable.

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Criminal jurisprudence recognises that dishonest intention may be inferred from conduct, particularly where financial modelling exhibits consistent directional bias. It is not necessary, at this stage, to prove receipt of unlawful gratification; the structuring of economic advantage itself may form the basis of investigation.

30. The convergence of the following elements constitutes prima facie indicators warranting scrutiny under penal principles: suppression of permissible member entitlement, introduction of non-regulatory saleable area buffer, misclassification of incentive FSI as cost, unsupported deduction for road widening, abnormal profit ratios disproportionate to industry norms, and consultancy remuneration grossly disproportionate to project scale. When multiple financial deviations converge in a single direction favouring developer surplus law treats the pattern as indicative of concerted design rather than isolated error. Such pattern may give rise to allegations of conspiracy, wherein two or more persons agree to pursue a course of conduct resulting in wrongful gain to one and wrongful loss to another.

31. Fiduciary office bearers are further subject to the principle that trust property cannot be dealt with in a manner detrimental to beneficiaries. Breach of trust occurs not only where property is

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misappropriated but also where it is administered contrary to the interest of beneficiaries. In redevelopment context, development potential constitutes an economic asset of the society. Feasibility structuring that suppresses this asset's value for members while enhancing third-party benefit may be examined as constructive breach of trust.

32. The professional role of the PMC consultant also attracts independent scrutiny. Professionals providing advisory services in redevelopment owe duties not only to the appointing body but also to ultimate beneficiaries whose property rights are affected by their calculations. Directional financial modelling combined with technical inconsistencies may invite inquiry into professional misconduct and liability under principles of negligence and misrepresentation.

33. You are hereby placed on notice to preserve all documents, electronic records, correspondence, working sheets, drafts, and communications relating to feasibility preparation, tender evaluation, consultant appointment, and builder interactions. Destruction, alteration, or suppression of records after receipt of this notice may invite adverse inference in civil proceedings and attract penal consequences under evidentiary principles.

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34. This notice also serves as formal intimation that any further step toward builder finalisation, agreement execution, or financial commitment without addressing the issues raised herein shall be construed as deliberate continuation of a disputed process despite knowledge of objections. Such continuation may aggravate liability and strengthen grounds for interim judicial restraint.

35. The law favours preventive intervention over remedial litigation where irreversible property consequences are imminent. The issues raised herein pertain to structural financial parameters, not minor procedural irregularities. Courts have repeatedly emphasised that redevelopment processes involving multiple families demand the highest degree of transparency and fiduciary care. Any deviation undermining member confidence and economic fairness invites judicial oversight.

36. Accordingly, you are finally called upon to comply with the earlier demands within (7) seven days, failing which my client shall initiate appropriate civil, cooperative, and criminal proceedings before competent forums, including but not limited to injunction suits, cooperative court proceedings, and complaints before investigating

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authorities. This notice shall form part of the legal record demonstrating prior warning, opportunity for rectification, and good-faith attempt to resolve matters without litigation.

This notice is issued without prejudice to all rights and remedies available to my client in law and equity.

Asu.

Advocate on behalf of Client

Adv. Abhishek Upadhye

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Instructed by our Client

Shri Nilesh Urunkar