GENERAL PREOPERTY INVESTMENT GUIDELINES

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GENERAL GUIDELINES

Q1. What exactly is Carpet Area, Built up area, saleable area, and what is the difference between them?

Carpet Area is the area of the flat which does not include the area of the walls.
Built up Area includes the area of the walls
Saleable Area includes the built up area along with the area under common spaces such as the lobby, lifts, stairs, etc, proportionately divided into each unit.

Now this is a crucial point to be covered before deciding to buy the flat. Often only the saleable area is mentioned so that the flat area seems larger than it actually is. It is prudent to know the exact carpet area to get the true size of your flat.

Q2. **Which Law governs the sale of units by a promoter to the purchaser thereof?**

All transactions are governed by the provisions of the Maharashtra Ownership Flats (Regulation of the Promotion of Construction, Sale, Management and Transfer) Act, 1963. Neither the promoter nor the purchaser can contract out of the said Act.

DOCUMENTATION

Q1. What are the important documents to be checked before buying a home/property?

Once you have zeroed in on the home/property of your choice it is necessary to check up on some important documents closely before proceeding further. Carry out a thorough search and check out the layout plan, the building plan, Title deed, etc. It is advisable to get professional legal help to help you verify the documents.

Q2. What is a Title Deed?

A title deed is an investigation into the title of the land, over a period of 30 years, to ascertain whether the property is unencumbered and has a clear and marketable title.
Always insist on checking the original title deed instead of just a photocopy.
Confirm that the seller is indeed the owner of the property.
Ideally you should get the title deed verified from legal experts to be on the safer side.

Q3. What documents are necessary while buying an under construction home?

While buying an under construction home an allotment letter, agreement to sell and development agreement are the vital documents.

The allotment letter contains details regarding the agreed price, payment and construction schedule, house plans, delivery date and builder's liability in case of late completion or problems after possession. It is issued to the buyer upon particular payment of the property value to the developer.
The development agreement is inked between the builder and the landowner and contains details regarding the terms and conditions on which the landowner has permitted development of his property.

Q4. What is the difference between Agreement to Sell and Sale Deed ?

Agreement to sell is a legal document which is executed between the developer and the buyer, after the buyer has paid 20% of the agreement value of the apartment. This document will have the terms and conditions of the seller and the buyer after the purchase of the property. This is a basic document on which the bank or any financial institution will lend money to the customer. But this is not considered as the final document when it comes to the title of the property. Sale deed is the final and very important document which authenticates that the title of the property is conveyed to the buyer.

Q5. What is e-stamping/franking/notarizing ?

Any legal document which is not executed on a stamp paper has to be registered with the Government by paying the necessary judicial charges. This is called e-stamping/franking. Though printed on the stamp paper, some documents need to be authenticated by a legal person or an advocate who is called a notary and the process is called notarizing. Documents such Power of Attorney, Affidavit, etc. need to be notarized.

PAYMENTS

Q1. What is Stamp Duty ?

Stamp duty is usually a percentage of the transaction value levied by the state government, on every registered sale. The agreement to sell clearly states the stamp duty, which is usually paid by the buyer, and he gets his name registered in the land revenue records.

Q2. Who should pay Stamp Duty - the buyer or the seller?

The buyer, as the liability of paying stamp duty is that of the buyer, unless there is an agreement to the contrary. Section 30, of Bombay Stamp Act, 1958 states the liability for payment of stamp duty.

Q3. What is the meant by 'Open Market Value' and 'Government Market Value' of immoveable property?

The 'Open Market Value' of any immoveable property would be the price it would fetch if put for sale in the open market. Such market value depends on various factors such as demand and supply forces operating in the market, location of the property concerned, the quality of the construction and the amenities provided therein, accessibility etc. The Stamp Authorities under the Bombay Stamp Act, 1958 have prepared a 'ready reckoner' of property values in and around the city of Pune. This 'ready reckoner' gives the 'Government Market Values' of land / residential flats / commercial premises in various locations in or around the City of Pune. However, such 'ready reckoner' is merely indicative and updated in January each year.

Q4. Is Stamp Duty payable on the government market value of the property or on consideration/agreement value as stated in the agreement? What is the Rate ?

The Stamp Duty is payable on the agreement value of the property or the government market value whichever is higher. Stamp duty is payable at the rate mentioned in the Bombay Stamp Act, 1958 and as amended from time to time. At the moment it is payable @ 6% within Pune Municipal Corporation (PMC) limits and 5% outside PMC limits

Q5. On what legal documents is a stamp duty levied?

Significant legal documents required in property transactions such as Agreement to Sell, Conveyance Deed, Exchange of property, Gift Deed, Partition Deed, Power of Attorney, settlement and Deed and Transfer of lease attract Stamp Duty calculated as per the market value of the property.

Q6. How much is the Registration Fees on sale of immovable property?

The registration fee in case of sale of immovable property is 1% of the market value or Rs 30,000, whichever is lower. There could be some nominal additional charges for scanning of documents where the office of the Sub Registrar has been computerized.

Q7. What are the documents prerequisites for a sale property registration in Maharashtra?

The following are the prerequisites for registration of a document for sale in Maharashtra:-

- Duly completed, stamped and signed instrument printed on single side only.
- Receipts for payment of Stamp Duty and Registration Fees.
- Property Register Card
- Commencement Certificate issued by the Municipal Corporation for premises in a building under construction and Occupation Certificate for a completed building.
- Property Tax Bill in case of depreciation in market value for old buildings

Q8. Do I have to go personally for the registration?

It is advisable to go personally but in case it is not possible, a power of attorney can be issued to some other person. This Power of Attorney should mention all the relevant clauses and preferably be registered before the Sub Registrar.

Q9. Will someone escort us for the registration?

Yes, the POA holder of the developer is present and the member escorts our customers for registration.

Q10. When and where should a document be registered?

Every document which is required to be registered under the Registration Act, except a Will, should be presented at the office of the Sub Registrar of Assurances for the registration within the prescribed time of four months from the date of its execution. A document is registered with a sub-registrar appointed by the State Government, under the Indian Registration Act, 1908.

Q11. Can a Power of Attorney be issued to someone else to register the document?

Yes, the same is required to be registered in the office of the Sub Registrar in the city you are staying in.

Q12. Can a Power of attorney be issued to someone else to register the document in case of being out of country?

Yes, the Power of Attorney Draft can be signed and attested by the Indian Consulate/ Indian Embassy/or local notary. Once the Power of Attorney is received in India, the same has to be submitted to the Collector of Stamps for adjudication. After the same is adjudicated the POA holder can submit the same at the time of registration of the document.

Q13. What constitutes completion of the sale?

The transfer of a flat is concluded when you have an sale deed/ agreement for sale coupled with actual possession. Generally, in all cases the entire amount is paid simultaneously with the handing over of physical possession and signing of the transfer documents.

Q14. What are the additional amounts payable ?

Apart from the actual purchase price of the property, below are the additional amounts payable

- Stamp Duty and Registration Charges
- Legal Charges
- MSEB/MSEDCL deposits and charges
- Infratsructure Development Charges
- Applicable Taxes
- Maintenance Charges
- Charges for any additional items of work or provision of any additional / superior amenities in the property

Q15. From what date is the maintenance amount due?

The Maintenance amounts are due from the date the apartment is ready for possession

Q16. From what date is the Property tax due?

Property taxes area due from the date the unit is occupied or the date of completion certificate whichever is earlier.

Q17. When there are apartments of different sizes in a complex, how is the maintenance charge calculated?

the actual area owned by the individual is the basis for calculation of maintenance charge.

Q18. What is the purpose of collecting amounts towards Sinking Fund / Corpus Fund in Co-operative Housing Society? What should be the contribution from members towards Sinking Fund? When can the amount collected for Sinking Fund be spent by the society?

The purpose of collecting Sinking Fund is to accumulate and keep sufficient funds with the society so that the property of the Society can be modified/upgraded/reconstructed in future. The contribution to Sinking Fund / Corpus Fund is a statutory obligation. Sinking Fund / Corpus Fund has to be contributed as decided by the General Body of the Society.

LOANS AND TAXATION

Q1. What is the process of applying for a Home Loan ?

1) Formal loan application

The primary step is to fill out a loan application form for the financial institution/bank that you have chosen to get the loan from. The application form requires basic information regarding personal, residential, income, professional, educational details. It also includes details about the house, estimated costs as well as your means of financing the property.

In addition, the banks will require adequate proof in the form of valid documents such as income proof, address proof, identity proof, bank statements, education qualifications, property details etc. to support your loan request. The banks ask for such detailed documentation to basically ascertain your suitability financially and your ability to repay the loan amount.

2**) Processing fees**

All banks that offer home loan facilities charge processing fees which are generally non-refundable. The fees may vary from bank to bank but it is normally 0.25%-0.5% of the loan amount applied for. The fees are used by banks to start and maintain the home loan process including completing the various formalities during the entire period.

3**) Evaluation & verification of the applicant**

Upon successful application for a home loan and submitting the processing fees, your application is evaluated by the bank. During an evaluation the bank will request a personal meeting with the applicant to ascertain his financial health and repayment capacity.

On through evaluation, the loan application moves to the verification stage where the bank cross checks all the facts provided by you in the application including a field investigation process by the bank loan executives for re-checking the facts to confirm their validity.

4) **Repayment verification**

The most important part of any home loan process, the verification of the applicant's repayment capacity is checked thoroughly. The final outcome of your getting a home loan rests on this stage. If the bank finds that you might be unable to repay the loan they may reject your application altogether. On the other hand, if the bank, based on their evaluation, finds that your financial health is sound enough, it may sanction the loan. However,, the loan may be a conditional sanction or an unconditional sanction based on the bank's evaluation of your financial strength. If the sanction is conditional, you'll have to fulfill the conditions imposed before the loan is disbursed.

5) **Offer letter for home loan from the Bank**

Your loan processing is on its way. The bank issues an offer letter which contains all the pertinent details about your home loan including loan amount sanctioned, interest rates applicable, type of interest - floating or fixed, loan period, repayment mode, as well as all the terms and conditions associated with a home loan.

If the terms stated by the bank and all the other details are acceptable to you, you send in an acceptance copy to the bank, which is maintained in their records. If the bank charges any Administrative fee, it will have to be submitted at this stage.

6) **Property verification**

Think you are home free? Not quite... after thoroughly evaluating you, the bank will verify the property. The reason is that a home loan is a secured loan where the property is used as collateral. The bank will keep all the original documents related to the property, title, NOC etc. with them until the loan is repaid. The banks then conduct a legal check of the property to ensure that it has a clear title. Banks don't lend in cases of disputed properties and unclear title deeds.

In addition banks also conduct a technical evaluation of the property by sending in qualified valuators who assess the property on various parameters.

7) **Home loan disbursement**

After going through the lengthy period of application, evaluation and verification your loan request is at last in the final stage. On completion of bank formalities, the registration process begins. The legal documents are prepared on stamp papers approved by the bank. The applicant signs the agreement and submits post datedcheques for the agreed term. Once the agreement is complete the home laon is disbursed as per the agreed mode of disbursal (lump sum or in stages).

Q2. What are the documents required at the time of applying for a loan?

The standard list of documents required of all loan applicants is as follows:

- Photographs
- Proof of age
- Identity papers
- Proof of residence

For salaried individuals:

- Latest salary slip
- Last 2 years form 16 or equivalent
- Bank statements reflecting salary credits for the previous six months

For self-employed individuals:

- Certified copies of balance sheet
- Profit and loss statement
- Tax challans / tax returns for the previous 3 years

For partnership/private limited companies:

- The Articles of Association
- Partnership deed and details about the firm

Q3. How much can an individual borrow ?

Loans are generally disbursed between 70%-85% of the cost of the property. The balance money is to be funded by the flat purchaser from his own contribution. The percentage of loan would vary from bank to bank.

Q4. What are the repayment period options ?

Repayment period options range generally from 5 to 20 years. Some of the banks may give loans up to 25 years also.

Q5. How does Axis assist a buyer in Loan Processing ?

All projects at Axis are preapproved for the grant of home loans by leading housing finance companies and banks. Our sales team liaises with the all leading Housing Finance Institutions for project approvals and coordinate with them as developers to provide all necessary documents.

Q6. Are there any income tax benefits for property purchase?

If you are getting your house purchase financed via a bank or a financial institution then as per Section 88 of the income tax you can claim benefit for the principle repayment, interest on loan is deductible u/s 24 from income from House Property. But these benefits are available only for residential properties and not for commercial properties.

Q7. Should I pay tax if I sell off any residential or commercial property?

Yes, you are liable to pay Capital gains tax on profit arising from sale of a house property.

Q8. Can I claim tax exemption on capital gain?

In fact you can. The Income Tax act has made provision u/s 54 & 54A--G of the act whereby you can claim exemption from tax on capital gains.

Disclaimer:

These are the broad guidelines meant for ready reference with respect to purchase of immovable property in Pune and in each case prospective buyer or seller of property in India must consult his/her own legal/finance/tax advisor and obtain suitable advise for their specific transaction. Axis Group assumes no responsibility or legal liability for transactions entered into by placing reliance on these FAQs. These guidelines are as applicable as on 15th Mar 2015 and are subject to amendment by the regulatory authority. Axis Lifespaces LLP assumes no responsibility for updating these FAQs.

AXIS LIFESPACES LLP:

507, 5TH FLOOR, NUCLEUS MALL, 1 CHURCH ROAD, CAMP, PUNE – 411001

T: 020-40054444 / 40064444 E: info@axisworld.in w: www.axisworld.in