

Government of West Bengal

Housing Department
Law & Statutory Cell
New Secretariat Buildings
1, Kiran Shankar Roy road
Kolkata 700001

No: HO-23012(11)/7/2022-APARTT CELL-Dept. of HO Dated 01.07.2022

Order

This Authority received an email on **13.06.2022** from the **President of Sherwood Estate Apartment Owners Association (the Association)**, Registration No 27A of 2017 **Smt Chandrani Choudhuri**, in which she stated, *inter alia*, that recently six Managers of the **Board of Managers of the Association** (the Board) started accusing the President related to a building repair project. A special Board meeting was called on **3rd June, 2022** to question the President by those Managers regarding the building project. During the meeting three other Managers including the President suggested that the Grievance Redressal Committee should be formed as soon as possible in compliance to the **bye-law 16** of the **West Bengal Apartment Ownership Bye Laws, 2022 (the Bye-laws)** to investigate that issue. But other Board Managers who were accusing, ignored that part and neither captured that proposal in the Minutes of Meeting (MOM). One of the Managers who was accusing the President announced that he would bring '**No Confidence Motion**' against the President in the next Board meeting to be held on **5th June, 2022**.

During the **5th June, 2022** meeting the said Manager asked the other Managers present in the meeting to say Yes/No to remove the President. 9 Managers agreed to that proposal and that was captured in the MOM. Based on that, a special Board meeting was called on **12th June, 2022** to remove the President. The President informed the other Managers about the process mentioned in the By-laws to remove a President and requested them to proceed accordingly. But no requisition with signature of 1/3rd Managers of the total Managers of the Board, that is at least 8 Managers, was obtained and formal requisition was submitted to the President.

On **12th June, 2022** out of **total 24 Managers** of the Board **only 9** were present among which **8 Managers voted in favour of the proposal to remove the President**

from her post. Also, during the same meeting next President was elected from amongst those 9 Managers without any prior intimation to the Board. Thus, gross violation of the Bye-laws was done and forcefully the President was purportedly removed.

In the backdrop of the above narrated facts, she prayed before this Authority for intervention and taking corrective measures.

Meanwhile the purported President submitted a **purported Form 3** to the office of this Authority on **15th June, 2022** stating the names of Office-bearers and the Managers of the Association along with a copy of the **Minutes of Meeting of the Board** dated **12th June, 2022** signed by one **Mainak Chakraverti**. A copy of the same is enclosed herewith.

On perusal of the MOM of the Board dated 12th June, 2022 it reveals that out of total 24 Managers of the Board only 9 Managers were present there. That is total **37.5% Managers** were present in the said Meeting of the Board. In that Meeting the Managers present 8 Managers voted in favour of removing the President and 1 Manager remained neutral. Thus, the Managers present in the Board Meeting purportedly removed the President from her post and elected one of them as President.

Now let us read the legal provision in this regard. **Bye-law 13 clause (2)** of the said Bye-laws provides the law regarding **the Removal of office-bearers**. It reads: -

“Removal of office-bearers (a) The President, Secretary, Treasurer or any other elected office-bearer of a Board may be removed from such office by vote of not less than two-third of the Managers of the said Board in the meeting that shall be specially convened for the purpose by the President of the said Board on the requisition of at least one-third of the Managers of such Board:

Provided that the President or any other officer whose removal has been proposed shall be given an opportunity of being heard at the meeting specially convened for the purpose.

Provided further that in case of a meeting where the removal of the President will be discussed, the Secretary or any other office-bearer may convene the meeting for such purpose.”

[Emphasis supplied]

Thus, on reading of the legal provisions regarding removal of an office-bearer **three conditions** need to be fulfilled. They are: -

- i) A requisition of at least one-third of the Managers of such Board is required for convening a **Requisition Meeting** for the purpose of removal of an office-bearer;
- ii) A Requisition Meeting shall **specially be convened** for the purpose by the President and in case of a meeting where the removal of the President will be discussed, the Secretary or any other office-bearer may convene the meeting;
- iii) The resolution for removal of the President needs to be **passed by vote of not less than two-third of the Managers of the said Board.**

In the instant case there are **total 24 Managers** in the Board. There is nothing on record to show that at least one-third of the Managers of such Board, that is at least 8 Managers, of the Association submitted requisition to the President or to any other office-bearer for the purpose of specially convening a meeting for removal of the President. Moreover, it is on record that only 8 Managers in a Meeting of the Board voted in favour of a proposal for removing the President. As per law the resolution of removal of the President of this Association needs to be passed **by at least 16 Managers.**

In view of the facts and legal positions narrated herein above the resolution passed in the Meeting of the Board of Managers date 12th June, 2022 regarding removal of the President is illegal and has no sanction of law. Thus, the Managers or the Board failed to perform its functions under the West Bengal Apartment Ownership Bye Laws, 2022.

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 16B of the West Bengal Apartment Ownership Act, 1972 the Managers of the Association are hereby directed to discharge their powers and functions in accordance with the provisions of the West Bengal Apartment Ownership Act, 1972, West Bengal Apartment Ownership Bye Laws, 2022 and West Bengal Apartment Ownership Rules, 1974.

For the purpose of removal of doubts, it is hereby declared **Smt Chandrani Choudhuri** has been the President of the Association even during the period from 12th June, 2022 till date and will remain so unless she is lawfully removed from the post of

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President of the Association or she resigns from such post or her tenure as President of the association comes to an end.

A copy of this order be circulated to all Members of the Association by the President through electronic mode for their information immediately.

Sd/- Debasis Ghosh
Competent Authority
under the West Bengal Apartment Ownership Act, 1972

Copy forwarded for information to :-

Smt Chandrani Choudhuri, President, Sherwood Estate Apartment Owners Association



(Debasis Ghosh)
Competent Authority
under the West Bengal Apartment Ownership Act, 1972

SHERWOOD ESTATE APARTMENT OWNERS ASSOCIATION (SWAOA)

Regn. No. 27A of 2017 under West Bengal Apartment Ownership Act, 1972; Email: sherwoodaoa@gmail.com

FORM 3

[See Bye-laws 5(5)]

To
The Competent Authority,
 Under the West Bengal Apartment Ownership Act, 1972.
 New Secretary at Building, 1st Floor, A-Block
 1, K S Roy Road, Kolkata-700001



Sir,

In the meeting of the Board of Managers of SHERWOOD ESTATE APARTMENT OWNER'S ASSOCIATION held today, I and **Mr. Ankan Ghosal** has duly elected **President and Asst. Secretary** of the said board and the **Association of the Apartment Owners** namely **Sherwood Estate** having **Registration No. 27A of 2017**. I do hereby forward to you the name of all the other Office-Bearers and Managers of the Board along with their portfolios as follows:-

Sl. #	Name	Designation
1	Mr. Abhijit Sur Roy Chowdhury	President
2	Mr. Mainak Chakraverti	Secretary
3	Mr. Abhishek Chakraborty	Treasurer
4	Dr. Priyanka Singh	Vice President
5	Mr. Ramesh Kumar Jhunjunwala	Vice President
6	Mr. Ankan Ghosal	Asst. Secretary
7	Mr. Dibakar Dutta	Asst. Secretary
8	Mr. Anirban De	Asst. Treasurer
9	Mr. Jayanta Mukherjee	Asst. Treasurer
10	Dr. Akhter Jawade	Manager
11	Mr. Ritesh Arora	Manager
12	Mr. Gouraba Rath	Manager
13	Mr. Sangeet Bakshi	Manager
14	Mr. Abhishek Thakore	Manager
15	Mr. Parikshit Sur	Manager
16	Mr. Parag Mukhopadhyay	Manager
17	Mr. Sinchan Bihani	Manager
18	Mr. Subhajit Mukherjee	Manager
19	Ms. Chandrani Choudhuri	Manager
20	Mr. Subrata Samai	Manager
21	Mr. Probal Chatterjee	Manager
22	Mrs. Arati Sarkar	Manager
23	Mr. Suman Moitra	Manager
24	Mr. Gurnandan Choudhuri	Manager

Date: 12/06/2022

Yours faithfully,

Mr. Abhijit Sur Roy Chowdhury (President)
 Phone: 89810 01875
 Email: abhijit.src@gmail.com

Enclosure : A copy of report of the officer/committee conducting the election and copy of change hand over and taken over report of the Board of Managers.

SHERWOOD ESTATE APARTMENT OWNER'S ASSOCIATION (SWAOA)

Regn. No. 27A of 2017; Email: sherwoodaoa@gmail.com

Date: 12-June-2022

**Newly elected office bearers of the Board of Managers**

Dear Members,

At a meeting of the Board of Managers of the Sherwood Estate Apartment Owners Association held today, on June 12, 2022, the Board of Managers of SWAOA unanimously elected the following office bearers.

The present list of office bearers are:

Name	Position
Mr. Abhijit Sur Roy Chowdhury	President
Mr. Mainak Chakraverti	Secretary
Mr. Abhishek Chakraborty	Treasurer
Mr. Ramesh Kumar Jhunjunwala	Vice President
Dr. Priyanka Singh	Vice President
Mr. Ankan Ghoshal	Asst. Secretary
Mr. Dibakar Dutta	Asst. Secretary
Mr. Anirban De	Asst. Treasurer
Mr. Jayanta Mukherjee	Asst. Treasurer

We look forward to work together with you, making Sherwood Estate a better place to live. Your co-operation, guidance and support are solicited to make our endeavor a success.

With warm regards,

Mr. Mainak Chakraverti
Secretary, Sherwood Estate AOA

SHERWOOD ESTATE APARTMENT OWNERS ASSOCIATION (SWAOA)

Regn. No. 27A of 2017; Email: sherwoodaoa@gmail.com


MINUTES OF THE MEETING OF THE BOARD MEETING OF SHERWOOD ESTATE APARTMENT OWNERS' ASSOCIATION HELD ON, SUNDAY, 12th June 2022 12PM. AT T-BLOCK MEETING ROOM
Managers present: 9

Mainak Chakraverti	Subrata Samai	Ankan Ghoshal	Suman Moitra
Parikshit Sur	Abhishek Chakraborty	Gouraba Rath	Abhijit Sur Roy Chowdhury
Sinchan Bihani			

Chairman of the meeting

Mainak Chakraverti, Secretary chaired the meeting.

Quorum

The Chairman confirmed the presence of the quorum and conducted the proceedings of the meeting.

Leave of absence / absentees: 15

Dr. Jawade Akhter	Gurunandan Choudhury	Abhishek Thakore	Ramesh Jhunjunwala
Prabal Chatterjee	Ritesh Arora	Sangeet Bakshi	Subhajit Mukherjee
Parag Mukhopadhyay	Anirban De	Arati Sarkar	Chandrani Choudhury
Dr. Priyanka Singh	Dibakar Dutta	Jayanta Mukherjee	

Proposed Agenda Items:

Removal of Current President and Election / Selection of New President

Summary of the discussion:

The board waited for the President for 25 minutes (till 12.25 PM) for her to present her side but since she did not join the meeting hence the board went ahead.

Except Subrata S (chose to be remained neutral) – rest 8 managers (Mainak C, Abhishek C, Abhijit SRC, Ankan G, Parikshit S, Suman M, Sinchan B, Gouraba R) voted in favor of removing the Existing President.

Post removal of President, Abhishek C asked if any one of present manager wishes to stand for the President. None stood voluntarily and then Abhishek C proposed the name of Abhijit SRC as New President which being seconded by Gouraba R. All the managers present unanimously selected Abhijit SRC as President including Subrata S.

Abhijit resigned from the post of Asst Secretary during the meeting, post selection of new President.

SHERWOOD ESTATE APARTMENT OWNERS ASSOCIATION (SWAOA)

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Abhijit proposed Ankan G's name as Asst Secretary & been seconded by Abhishek C. All present managers unanimously selected Ankan G as Asst Secretary along with exiting Asst S as Dibakar D.

Vote of thanks

There being no other topic to be discussed today, the meeting was concluded with the vote of thanks.

Ranab Chakravarti

Secretary

SHERWOOD ESTATE APARTMENT OWNERS ASSOCIATION (SWAOA)

Regn. No. 27A of 2017; Email: sherwoodaoa@gmail.com



MINUTES OF THE MEETING OF THE BOARD MEETING OF SHERWOOD ESTATE APARTMENT OWNERS' ASSOCIATION HELD ON, SUNDAY, 5th June 2022 AT 11.00 A.M. AT T-BLOCK MEETING ROOM

Managers present: 11

Mainak Chakraverti
Parikshit Sur
Abhijit SRC

Subrata Samai
Dibakar Dutta
Jayanta Mukherjee

Ankan Ghoshal
Gouraba Rath
Subhajit Mukherjee

Ramesh Kr Jhunjhunwala
Summon Moitra

Chairman of the meeting

Mainak Chakraverti, Secretary chaired the meeting.

Quorum

The Chairman confirmed the presence of the quorum and conducted the proceedings of the meeting.

Leave of absence / absentees: 13

Dr. Jawade Akhter
Prabal Chatterjee
Parag Mukhopadhyay
Dr. Priyanka Singh

Gurunandan Choudhury
Ritesh Arora
Sinchan Bihani

Abhishek Thakore
Sangeet Bakshi
Arati Sarkar

Notified Absentees:

**Abhishek Chakraborty,
Chandrani Choudhury**

Proposed Agenda Items:

1. Voting for removal of President
2. AGM date and notice
3. Budget review and feedback BoM meeting schedule
4. Budget and cost sheet circulation to association members
5. Way forward with pending emergency repairs
6. Statutory compliance requirements discussions
7. SOP for expense approvals
8. NIS rate and work order finalisation (this is important to finalise the budget)
9. NPS pending rate as per signed contract (this is also important before the budget allocation)

SHERWOOD ESTATE APARTMENT OWNERS ASSOCIATION (SWAOA)

Regn. No. 27A of 2017; Email: sherwoodaoa@gmail.com



Summary of the discussion:

1. Voting for removal of President and Selection of new President

SBM to be convened on 12/06/2022, 12 to 12.30 PM. Mainak to send out the formal mail to the board in this regard.

Response from Managers present in the meeting is below:

Ramesh Jhunjhunwala – Ok for removal of President but he needs the new President to be selected on the same day

Subrata Samai – For this purpose a “Specially Convened meeting” should be called and new president should be elected

Subhajit Mukherjee – neutral

Jayanta Mukherjee - Ok for removal of President + selection of new President

Suman Moitra - Ok for removal of President + selection of new President

Parikshit Sur – Ok for removal of President + selection of new President

Dibakar Dutta - Ok for removal of President + selection of new President

Mainak Chakraverti - Ok for removal of President + selection of new President

Ankan Ghoshal – Ok for removal of President + selection of new President

Abhijit SRC – Ok for removal of President + selection of new President

Gouraba Rath - Ok for removal of President + selection of new President

Total 9 members asked for removal of President + selection of new President and one member suggested for a specially convened meeting for the same and one member remained neutral.

AGM Date and notice

Board agreed to convene the AGM FY 2022-23 on 26/06/2022. The notice in this regard to the association members, the same to be displayed in notice board & digital display by 11/06/2022.

Budget FY 22-23 review and feedback by BOM

Draft budget to be discussed on 09/06/2022 at 8:30 PM. The budget to be circulated prior to the date of discussion.

New steps or stairs for swimming pools

This point was not discussed and to be taken up in next meeting.

Way forward with pending emergency repairs:

Work already done (till 3rd June 2022), payment pending

Payment to be done for the work completed till 3rd June. The block wise break up is below

L-1648.27 sq ft INR 69000

E – 3219.51 sq ft INR 135000

SHERWOOD ESTATE APARTMENT OWNERS ASSOCIATION (SWAOA)
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Q - Club - 385 sq ft INR 15000

Q - 2878.2 sq ft INR 121000

This is approved in the board meeting.

Work planned for the month of June (3rd to 30th June)

Tarak to provide in the next 2 days

Remaining pending work

Board agreed to re estimates, revisit the SOW block wise, & further proceedings to be led by Gouraba Rath along with Parikshit Sur, Dibakar Dutta, Anirban De as decided in the previous BOM meeting. Gouraba Rath to get back to the board with an immediate meeting date to decide the next COA. Estimation of work needs to be gauged from the last date of the payment. The same has to be submitted to the board by FM within 09/06/2022. Post submission of the document, board needs to approve the same. Simultaneously FM & FE will provide the estimate block wise pertaining to EBR for a period of 1 month repairing. Based on the estimate, board needs to decide on the next course of action.

Statutory compliance requirements discussion: TBD during next BOM

SOP for expense approval: TBD during next meeting since Treasurer was not present

Weaverbird WO finalization, handover completion and clearing Colliers deposit

WO finalization & handover sign off note to be provided by Weaverbird latest by 08/06/2022 or else board will look for other vendor for facility management and will intimate Weaverbird.

Manas Pal - Intimation about final decision

Termination letter to be issued by 06/06/2022 (based on malpractices & financial irregularities) to Manas Pal, after proper handover of all EBR to FM along with signoff note. Board decided that salary will be released post receipt of the documents from Manas Pal and will proceed further in compliance with the employee contract term.

Agenda for upcoming BOM:

Statutory compliance requirements discussion

SOP for expense approval

New steps or stairs for swimming pools

Vote of thanks

There being no other topic to be discussed today, the meeting was concluded with the vote of thanks.

Ranish Chakravarti

Secretary

SHERWOOD ESTATE APARTMENT OWNERS ASSOCIATION (SWAOA)
Regn. No. 27A of 2017; Email: sherwoodaoa@gmail.com



MINUTES OF THE MEETING OF THE SPECIAL BOARD MEETING OF SHERWOOD ESTATE APARTMENT OWNERS' ASSOCIATION HELD ON, FRIDAY, 3rd June 2022 AT 9.00 P.M. AT T-BLOCK MEETING ROOM

Managers present: 11

Mainak Chakraverti
Parikshit Sur
Abhijit SRC

Subrata Samai
Jayanta Mukherjee
Chandrami Choudhury

Ankan Ghoshal
Sangeet Bakshi
Anirban De

Ramesh Kr Jhunjhunwala
Subhajit Mukherjee

**Facility Management
present: 03**

Malay Chakraborty
Surajit Kumar Raha
Supriyo Majumder

Chairman of the meeting

Mainak Chakraverti, Secretary chaired the meeting.

Quorum

The Chairman confirmed the presence of the quorum and conducted the proceedings of the meeting.

Leave of absence / absentees:

Dr. Jawade Akhter	Gurunandan Choudhury	Abhishek Thakore
Prabal Chatterjee	Ritesh Arora	Arati Sarkar
Parag Mukhopadhyay	SinchaBihani	
Dr. Priyanka Singh	Dibakar Dutta	

Notified Absentees:
Abhishek Chakraborty,
Gouraba Rath

Proposed Agenda Items:

1. 30th June.2021 – approval mail from PC to board (Rs. 2.87L) for EBR fund.

Summary of the discussion:

SHERWOOD ESTATE APARTMENT OWNERS ASSOCIATION (SWAOA)
Regn. No. 27A of 2017; Email: sherwoodaoa@gmail.com



30th June 2021 – approval mail from Prabal Chatterjee to board (Rs. 2.87L) for EBR fund

There is no intimation to the board on scope & cost increase of the EBR by CHANDRANI CHOUDHURY

CHANDRANI CHOUDHURY accepted that she has done a process breach but as per her – it's not illegal. CHANDRANI CHOUDHURY approved the expenditure unanimously without board approval, going way beyond her board approved approval limit of Rs. 10k for miscellaneous expenses.

Pictures are evident enough to state that work done in E block was not an EBR rather more of a CBR

CHANDRANI CHOUDHURY claims that all chairholders to be aware of the bill passing. CHANDRANI CHOUDHURY also agrees that Ex Treasurer SB was outstation while the payments were done to Jakir Hussain & Jass Communication against emergency cheques which being signed & kept with FE (Finance Executive).

CHANDRANI CHOUDHURY also said that Ex Secretary Parag Mukhopadhyay checked all the bills though there is no email confirmation from PM on the stated fact.

The board managers declared that the payment against handwritten chits is unacceptable in a board meeting held on 24-Apr-22 (captured in 24th April MoM). Then also a payment was again approved the very next day, without intimating the board, on a bill which had the date overwritten!

FM statement: Bill was submitted in afternoon and the check was signed in the evening.

It was done based on severe pressure from President & entire board heard the statement of FM.

Response from president: Vendor said they will go for Eid holiday, so she signed it, and later she intended to discuss with the board on the breach / deviation.

Sangeet Bakshi mentioned that he has not seen the bills and has kept some signed cheques with FM office for emergency purpose before going outstation. 2 cheques out of those signed cheque was used for payment to Jakir Hussain against : B – block EBR {scope of work 626 sq ft on actual of 1746.448 sq ft (Rs 73350/- dtd. 27/4/2022) + 3151.644 sq ft (Rs 132369/- dtd. 10/4/2022)}

Jaynta Mukherjee raised that being Asst. T (Abhishek C & himself) were not approached for any consent/discussion before passing the bills.

Ramesh Jhunjhunwala asked why the bills from expelled Civil Supervisor were accepted by FM & FE. Question on process violation raised. Why FM & Accountant did not raise the flag – in response to that, FM stated that they were under severe pressure from President to release all EBR Bills. FM stated that he has told CHANDRANI CHOUDHURY verbally that sufficient time is required to check EBR Bill, but President ignored & asked him & FE to make the cheques ASAP.

Anirban De asked the FM to show the bills related to EBR from previous SWAOA (which was not collected as a part of this meet) and asked to share the reason for any deviation in Bill pattern from then onwards there was no response from FM or FE the board also did not approve any such changes.

SHERWOOD ESTATE APARTMENT OWNERS ASSOCIATION (SWAOA)
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To wrap up the discussion – CHANDRANI CHOUDHURY said that it is the fault of other 2 chair holders and FM that bills were passed based on chits. She acknowledged that she failed to notify the board regarding the scope and cost escalation.

Lastly, she said that she was compelled to clear the last payment (after the board told her that paying on the basis of chits was unacceptable) since the vendor was calling her continuously for clearing payment on account of Eid Holidays.

Considering enormous financial irregularity done by President with severe process violation in the entire EBR Process - Abhijit called for a no motion confidence voting against the President in next upcoming BOM Meeting which was agreed by the board managers present.

Vote of thanks

There being no other topic to be discussed today, the meeting was concluded with the vote of thanks.

Sanjay Chakravarti

Secretary