

I/182191/2022

Government of West Bengal

Housing Department

Law & Statutory Cell

New Secretariat Buildings

1, Kiran Shankar Roy Road

Kolkata 700001

HO-23099(14)/3/2021-APARTT CELL Date:- 19/03/2022

The President of the **Active Acre Apartment Owners' Association**, (Association) an Association formed and registered under the West Bengal Apartment Ownership Act, 1972 sent an email to this Authority requesting him to clarify his doubt regarding opening of Bank Account of the Association and the persons who will be the signatories for the Bank Account of the Association.

The President of the Association's first query is whether only the President and the Treasurer of the Association can be the signatories of the Bank Account of the Association as stated in the **West Bengal Apartment Ownership Bye-laws, 1974** (said Bye-laws) or any other person also be authorized to operate the same. In this regard he stated that in their Board of Managers (BOM) Meeting they passed resolution that the Secretary of the Association shall also be one of the signatories of the Bank Account of the Association in addition to the President and the Treasurer of the Association. His second query is whether it is compulsory to open a Bank Account in a Nationalized Bank as provided in the said Bye-laws or can they

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open an account in any Private Bank along with the Nationalized Bank.

The legal provisions dealing with these questions are provided in **bye-law 17 of the said Bye-laws**. Clause (3) of the bye-law 17 provides:-

*“(3) An account shall be opened in the **State Bank of India** or in any Nationalised Bank, in the name of the aforesaid fund and all the money of the said fund shall be deposited in the said bank to the credit of the aforesaid fund and **such account be operated by the President and the Treasurer jointly**, and payments above rupees five thousand shall be made by cheques:*

Provided that the Treasurer may, for defraying petty expenses, retain such amount of cash in his hands as the Association from time to time decides.” [Emphasis supplied]

Thus, the law provides that only the President and the Treasurer jointly shall operate the Bank Account of the Association. Addition of any other person for operating the Bank Account by way of passing a BOM resolution is in effect amending the said Bye-laws by a BOM of an Association which is against the law. **The West Bengal Apartment Ownership Act, 1972** has **empowered** only the **Competent Authority** appointed under the said Act **to frame Bye-laws** under section 13 of the said Act. **No Association has been empowered to frame its own Bye-laws.** The Bye-laws framed by the Competent Authority is **applicable to all Associations formed and registered** under the said Act.

Bank account of the Association can only be opened in the State Bank of India or in any Nationalized Bank. Opening a Bank account of the Association in a Private Bank is not permitted under the provisions of law.

The attention of the President is drawn to the provision of **bye-law 32** of the said Bye-laws. The said bye-law states that

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all the provisions of the said Bye-laws are mandatory and breach of any of these bye-laws by any apartment owner is an offence punishable under the West Bengal Apartment Ownership Act, 1972. Bye-law 32 reads:-

"These bye-laws are mandatory and breach of any of these bye-laws by any apartment owner is an offence punishable under sub-section (1) of section 16A."

(Sd/-Debasis Ghosh)

Competent Authority
under the West Bengal Apartment Ownership Act, 1972

Copy forwarded for information and necessary actions to :-

Mr. Vishal Grover

President
Active Acre Apartment Owners' Association



(Debasis Ghosh)

Competent Authority
under the West Bengal Apartment Ownership Act, 1972