

Re-development Committee (RdC) meeting on 3 June, 2025 over Zoom call

Attendance: Mahesh Vyas (Chairman), Neepa Nair, Sanjay Kher, Sunil Singh and Sunil Tyagi. KN Padmanabhan (Pammu) attended as a permanent invitee. All participants attended over a Zoom call arranged by the Society.

1. Leave of absence was granted to Rajesh Krishna and Ajit Rai.
2. Minutes of the meeting held on 28 May were approved.
3. The meeting was called to discuss the opinion received from Markand Gandhi & Co. on 2 June 2025 regarding the Case for Opinion sought by the Managing Committee on 27 May 2025. The opinion of Markand Gandhi & Co was shared by Pammu, with all RdC members on 2 June 2025.
4. The RdC's view on the opinion from Markand Gandhi & Co. is attached in Appendix A.
5. Given the RdC's view on the opinion from Markand Gandhi & Co. and the urgency to move forward on the re-development plan, the RdC advice to the Managing Committee is articulated in Appendix B.
6. The RdC requested Pammu to carry the message of the RdC as articulated in Appendix A and Appendix B to the Managing Committee. He could also post these on the MC WhatsApp group for speed of delivery of the RdC's recommendation in the light of the urgency of the matter.

Appendix A

The most pertinent question posed by the Society in its communication to the law firm, Markand Gandhi & Co, titled “Case for Opinion”, is as under :

Query No 3 : Whether such action by the society (i.e. inviting fresh bids whilst not cancelling the pervious tender) can be challenged by the 4 bidders who had submitted their bids earlier or any other developers who had purchased the tender earlier but did not bid OR any member of the society?

Markand Gandhi & Co, in its letter dated 2nd June, 2025 in response to our Query No 3 states, by giving reference to his e mail dated 13.3.2025, *“that redevelopment tender documents is an offer inviting the bidders to offer/give the Society their best bids for re-development process. These offers/bids do not bind the society and/or any of its members in any manner to the bidder/s. It is always at the sole discretion of the Society and its members to either accept any of the bid received or to reject/set aside all or any of them after scrutinizing them as per the needs/expectations of the Society and the members through the redevelopment process”*.

This reference to his e mail dated 13.3.2025, was in response to the society’s letter dated 11.3.2025 which read as under:

“Sir,

1. We are going in for RFP which will be sent out to all the 25 tender purchasers. The time frame for submission will be two weeks.
2. The closing date & opening date of the bids shall be intimated to bidders as done earlier.
3. We are contemplating if we can open it(sell the tenders) to some other potential bidders who had shown interest in the past but did not purchase the bids. Need your views on this subject.

In our meeting with you on 28th Jan 2025 **you had suggested we cancel the bids** which had come in & go in for RFP”.

So, his reply of 13.3.2025 was with reference to the questions asked by the society on 11.3.2025 wherein it was clear that we were seeking advice basis the fact that we will cancel the bids.

Today, and in this instant case, we are asking him if our actions i.e. inviting fresh bids whilst NOT cancelling the previous tender would be challenged by the 4 bidders in a court of law. Therefore an advice based on an advice given on 13.3.2025 is not useful because the conditions are different. On 11.3.2025 we had spoken of cancelling the bids. Today we are saying that the previous tender is still alive. His reply to the query should have been pointed and addressing the questions raised by the society, which are:

- a. Whether such action of the society can be challenged by the 4 bidders
- b. Whether such action of the society can be challenged by any other developer who had taken the tender earlier but did not bid and
- c. Whether such action of the society can be challenged by any member of the society

He has not directly answered any of the questions decisively.

He makes a point that the Society is within its right to accept or reject the bids. But, that is not the question posed by us. Our question is whether we are at risk in inviting fresh bids whilst NOT cancelling the opened bids.

Appendix B

Regarding the floating of a revised tender there are four issues that need to be resolved. In the paras below, we discuss each of these, take a clear stance on each and justify the stance through arguments.

1. The revised tender should be available for bidding to only the 25 entities that had purchased the tender document initially.
The alternate action would be to make the tender open to all for bidding. The RdC has already articulated its views on this in this meeting on 31 May, 2025. The arguments are repeated here for convenience:
 - a. The purchase of 25 tender documents was not disappointing. The disappointment was with the very few bids in response and in particular the very few valid bids. So, what is needed to be raised is the number of bids from the purchasers of the tenders and not the number of purchasers of the tenders.
 - b. It can be argued that there is no harm in increasing the number of purchasers of the tender documents. But, doing so could raise the potential legal risks and it will certainly increase the time to finalise a developer.
 - c. Time is of essence and we should choose a path that delivers faster results without compromising on legal or other risks.
 - d. Most top developers had purchased the tender document. There can be no end to attracting even more. And the 25 who had purchased the documents include reputed names who are adequate to get a good bid in the second round.
 - e. Opening the invitation to bid to entities beyond the 25 would involve a much longer time period than in limiting the bids to only those who had already purchased the tender documents.
2. The revised tender should not invite bids under Regulation 33(7B) and 33(9) of the DCPR 2034. The reasons for this stance are:
 - a. Such a tender, inviting bids under 33(7B) and 33(9) was floated earlier. Tender documents of the same were purchased and bids were made by developers. The bids submitted by developers under these Regulations were opened and they have not been cancelled.
 - b. It can be assumed that the information in the bids that were open is by now public knowledge. In this regard it may be noted that a comparative statement of the bids prepared by the PMC was circulated on the Patrakar Circulars WhatsApp group.
 - c. Inviting new bids under the same Regulations when the earlier bids are open and their details are public is patently unfair to those who have already bid.
 - d. This unfair practice can potentially land the Society in legal battles.
 - e. The idea of floating a revised tender was done to expand the scope of the Regulations under which developers can bid. In particular, the interest was in exploring the possibilities under Regulation 33(20B). There was no case for inviting more bids under 33(7B) or 33(9) again.
 - f. Nothing regarding the Society or the external business environment has changed in the less than five months since the end of January 2025 which was the last date of submission of bids under the earlier Tender and today to merit the entertaining of a new bid under 33(7B) and 33(9). If there is no compelling reason to entertain these then doing so in the face of an open bid exposes the Society to legal challenges.
3. The revised tender should be allowed only under Regulation 33(11), 33(20B) or combination of any Regulations.

- a. The motivation for re-inviting bids was to expand the scope of Regulations under which we get bids. This is what we should stick to rather than change the goalpost.
 - b. Regulation 33(20B) was announced in October 2024 and its details were not entirely known then. By then our Tender document was ready and it was too late to include 33(20B) then. 33(20B) was still under some uncertainty on details and therefore it could not be included.
 - c. Since then, it is understood that many developers have expressed interest in bidding under 33(20B). We also understand that our neighbouring Society, Artek, has used a combination of Regulation 33(7B) and 33(20B). This is a good reason for us to invite bids on this new Regulation.
 - d. Restricting the revised tender to Regulations or combinations that were not offered in the earlier invitation circumvents the possibility of a legal challenge.
4. Do not cancel the bids received from the earlier tender but hold them in abeyance (i.e. do not take any decision on them) till the new bids from the revised tender are received and opened.
 - a. It is useful to keep the available bids if it is possible to do so safely. It serves no purpose to cancel them unless it is necessary while re-inviting bids under a revised tender.
 - b. At least one of the bids received from the earlier tender comes close to our expectation and it would be prudent to not lose an opportunity to negotiate this to fruition if the need arises.
 - c. The General Body was not in favour of cancelling the bids.
 - d. Not cancelling the open bids is possibly safe if and only if we do not include Regulation 33(7B) and 33(9) in the revised tender. This is what we proposed above – that the revised tender should not include Regulation 33(7B) and 33(9).
 - e. Not cancelling the open bids is possibly safe if we limit its scope to new Regulations or combinations that were not available under the earlier bidding. Therefore, we propose above that the revised tender should be limited to Regulations 33(11), 33(20B) and combinations of any Regulations. These options were not available in the earlier tender.
5. It must be noted that not cancelling the earlier bids while inviting bids under Regulation 33(7B) and 33(9) opens us to potential legal challenges. We therefore strongly suggest that such a path should not be pursued.