

West Bengal Real Estate Regulatory Authority  
Calcutta Greens Commercial Complex (1st Floor)  
1050/2, Survey Park, Kolkata- 700 075

Complaint No.WBRERA/COM001248

Avenida Association of Apartment Owners.....Complainant.

Vs

Tata Housing Development Company Limited.....Respondents.

Sl. Number and date of order	Order and signature of Authority	Note of action taken on order
05 06.04.2026	<p>The Complainant, Avenida Association of Apartment Owners was physically represented by Sri Arup Ratan Maiti and Swarup Mukherjee, the Learned Advocates, Lokenath Chatterjee and Shahmeraz Alam at the time of hearing of the instant complaint. They have signed the attendance sheet which should be kept in record.</p> <p>Respondent, Tata Housing Development Company Limited is represented by the Learned Advocates, Sarvopiya Mukherjee and Shruti Swaika, who appeared physically at the time of hearing. They are directed to file their hazira and vakalatnama immediately.</p> <p>The Learned Counsel for the Complainant made his submission today from where the Ld' Counsel for the respondent made submission on 16/01/2026 as recorded in Order no 4 served upon the parties. The Learned Advocate for the Complainant addressing the complaint and the relief sought by his client Avenida Association of Apartment Owners as Complainant referred to complainant Affidavit dated 24/04/2025 and submitted that vide submission made in Sl.No. 5( page 2) The plot area AVENIDA is 5260.94 square meters or 13 acres or 5.261 hectares. The earlier statement provided in the Master Plan where FACILITY AREA is measuring 7595. 89 square meters and this is inclusive of AMENITY SPINE measuring 1077.56 square meters totaling to 7704.55 square meters. Thus the facility area measuring 7704.55 as per the approved sanction plan as received from the NKDA, the plan sanctioning authority by the Respondent developer cannot be taken away by the respondent as his Saleable portion for sale to the 3<sup>rd</sup> Party.</p> <p>The Ld' Counsel for the respondent in their submission before the Authority referred to the APARTMENT BUYER'S AGREEMENT enclosed in their affidavit in opposition dated 14<sup>th</sup> July 2025( Annexure-A) and also referred to clauses V , W and to Annexure J, Part-B and the details agreed upon by the parties including the Complainant as one of the homebuyer. The Ld' Counsel for the respondent explained to the legend appearing to few Amenities as explained in page 51 of 59 of the said Agreement. The Ld' Counsel for the respondent also drew the attention to the <b>Section 14 of the RE(R&amp;D) Act 2016</b> and further submitted that his</p>	

client have abided with **Section 11,12,,15,17 of the RE(R&D) Act 2016 and the other provisions of the RE(R&D) Act 2016.**

The Learned Counsel for the Complainant responded to the submission of the respondent to the legend marking stating that the Association of the Allottees as formed under the West Bengal Apartment Ownership Act,1972 and not the Promoter is responsible as stated therein the said Agreement. Further the Learned Advocate for complainant referred to the Sanctioned Plan of the instant Project as approved by the NKDA, the plan sanctioning authority wherein he submitted *that the approved drawing clearly bears calculation showing the Amenity spine area of 1077.56 sq. meter (considering of 14 convenience outlets + laundry and Creche) as a part of the common facility area based on which F.A.R. (floor area ration) has been approved by WBRERA Authorities. Accordingly this Amenity spine area is already a part of the "common Area" and has already been sold as the common undivided area to the Owners of the Apartments.*"

The Learned Advocate for the Respondent mentioned Section 14 of the Real Estate ( Regulation and Development) Act, 2016 and mentioned that *"(1) The proposed project shall be developed and completed by the promoter in accordance with the sanction plans, layout plans and specifications as approved by the **competent authorities**. (2) Notwithstanding anything contained in any law, contract or agreement after sanctioned plans, layout plans and specifications and the nature of fixture, fittings, amenities and common areas, of the apartment, plot or building, as the case may be, as approved by **the competent authority**, are disclosed or furnished to the person who agrees to take one or more of the said apartment, plot or building, as the case may be, ....."* In this regard he mentioned the local Authority meaning the Competent Authority and/or plan Sanctioning Authority, i.e. N.K.D.A. for Development purpose. The learned Advocate for the Respondent further submitted that in the instant project there are many other commercial entities, shops and as per the argument of the complainant these should also come under the category 'Common area' or for that matter in any commercial building whether if such entities, shops in the Project comes under the definition of **2(n)** of the said Act.

Today the matter is partly heard due to shortage of time. Both the parties are hereby directed to submit notes of argument to the complaint and the relief sought by the complainant in the instant complaint referring to submission and the enclosures submitted by either parties through their Affidavits within **10 (ten) days** of receipt of the Order.

The Authority is also hereby pleased to extend the Ad-Interim Order passed vide Order No. 02 dated 14.07.2025 directing the Respondent not to create 3<sup>rd</sup> party interest upon the property as of the Complaint filed by the Complainant before the Authority till the disposal of the instant

Complaint.

Fix on **25/04/2026** for next hearing and orders.



(JAYANTA KR. BASU)

Chairperson

West Bengal Real Estate Regulatory Authority



(TAPAS MUKHOPADHYAY)

Member

West Bengal Real Estate Regulatory Authority