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Ref. No. MCHI/PRES/18-19/084

December 17, 2018

To

Shri Manu Kumar Srivastava (I.A.S.)

Additional Chief Secretary (Revenue)

Registration and Stamp

Revenue & Forest Department

Government of Maharashtra

Mantralaya, Mumbai

8/12/18
प्रति,
प्रधान सचिव (विकास)
महाराष्ट्र शासन,
मंत्रालय, मुंबई

Sub: Draft of rules which the Government of Maharashtra proposes to make in exercise of the powers conferred by sections 29 and 328 of the Maharashtra Land Revenue Code, 1966 (Mah.XLL of 1966) for Conversion of Class II lands into Class I

Ref: Jamin 2018/C.R.90/J-1 dated 17th November 2018.

Respected Sir,

With reference to the above, we submit the following suggestions,

- 1) Kindly clarify that conversion to Occupancy Class-I is without any conditions attached to Class-II land and after conversion the land assumes tenure as freehold.
- 2) Various rates of Conversion Premiums suggested in TABLE of DRAFT RULES is too high and exorbitant and is not tenable as per legal opinions/observations made by various Courts including Supreme Court of India [*Inder Prasad vs. Union of India*; 1994 SCC (5) 239] & High Court of various States [*Delhi High Court: LA.APP. 98/2007*] including Bombay in respect of remainder commercial and beneficial interest of the Lessor / Owner. In case Ready Reckoner rates are not acceptable to occupant choice to be given to take market value of land.
- 3) It is to be borne in mind that suggested conversion formula is relating to market value at current rate which factor itself serves as a necessary stimulant for Owner / Lessor of leasehold lands to earn its just and fair remainder share (valuation) of lease hold land and therefore percentage share of the Govt. out of current market valuation has to be very reasonable for truly attracting the lessees who have otherwise no compulsion at all to respond.
- 4) The draft rules do not consider the cases where in applicant has made application for grant of the Government lands on payment of 100 % of the market value and such applicant comes for conversion of such Class-II lands into Class I lands.

As per the draft rules published, such applicant is required to pay the 100% of the market value of the land + as per draft GR, 50% of market value for conversion into Class I land i.e. 150% of the market value of the land . This is an exorbitant price considering that the ASR are revised every year.

We suggest that

- In such cases where the application for grant of Government in being considered by the Government / Collector office, then the grant of Government land in Class I tenure shall be granted by recovering additional premium of 5% of the ASR over & above the market price of land.
- 5) While calculating the premium for the conversion of the lands, the original price paid to the Government towards the grant of the land, cost of improvement made by the owners and unearned income paid to the Government by the occupants of said lands shall have to be deducted from the ASR value of the land .i.e.
- Premium for Conversion of land = rate of premium in % (Value of the land as per ASR/Market Value - {original price paid to Government + Cost of improvement made by the Occupants + Unearned income paid to the Government})
- 6) The para wise suggestions / objections are as under

DRAFT RULES

Serial number	Provision number	Provision	Suggestions in BOLD & italics	Remarks
1	1. Short title and application (2)	(2) These Rules shall apply to lands granted for agricultural or residential or commercial purpose on Occupancy Class-II or	(2) These Rules shall apply to lands granted for agricultural or residential or commercial purpose <i>or to Industrial purpose which can be used for Residential/ commercial purposes as provisions of the D.C. regulations of the Municipal</i>	There are policies of the Government in Urban Development Department wherein the Class II lands granted / acquired lands can be used for the Residential / Commercial uses .

		leasehold rights.	Councils/ Corporations, on Occupancy Class-II or leasehold rights.	Suggestions is as per the Government policy and will also reduce the approval time & procedure
2	3.	(3) Upon such verification, if it is noticed that there is violation of any of the terms or conditions of grant of such land which has not been regularized by the Authority competent to do so, then the Collector may reject the application, by an Order, after recording the reasons therefor.	(3) Upon such verification, if it is noticed that there is violation of any of the terms or conditions of grant of such land which has not been regularized by the Authority competent to do so, then the Collector may consider the said application subject to the conditions that violations shall be regularized by the competent authority within stipulated time . reject the application, by an Order, after recording the reasons therefor.	Suitable provisions shall be have to be made for regularization of the <u>Violations</u> Volitions , else most of the applications will be rejected on these grounds. The Government may not achieve the intended the purpose .
		(4) Upon such verification, if it is noticed that there is no violation of any of the	(4) Upon such verification, if it is noticed that there is no violation of any of the terms or conditions of grant of such land, or such	

		<p>terms or conditions of grant of such land, or such violation, if any, has been regularized by the authority competent to do so, then the Collector shall by an Order, convert the Occupancy Class-II land or leasehold land into Occupancy Class-I land on payment of conversion premium as specified in the Table below: —</p>	<p>violation, if any, has been regularized by the authority competent to do so <i>OR on conditions that such violations shall be dealt by the competent authority within the stipulated time</i> ,then the Collector shall by an Order, convert the Occupancy Class-II land or leasehold land into Occupancy Class-I land on payment of conversion premium as specified in the Table below</p>	
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TABLE
(The suggestions are in BOLD & Italics)

Sr. No	A) Conversion premium payable for conversion of Occupancy Class-II or leasehold lands granted for agricultural purposes only to <u>occupancy Class - I without any conditions attached to the Govt. land (similar to freehold land): - :-</u>			
	Area in which the land is situated and user of the land	Premium to be charged upto three years commencing from the date of publication of these rules in official Gazette	Premium to be charged up to three FIVE years commencing from the date of publication of these rules in official Gazette	The time period of three years is too short for processing the applications in the Revenue Department shall have to be made at least 5 years
1	Land granted for agricultural purposes situated outside the limits of any Nagar Panchayat or Municipal Council or Corporation or Special planning Authority, -			+ While calculating the premium for the conversion of the lands, the original price paid to the Government towards the grant of the land, cost <u>improvement cost of improvement</u> made by the owners and unearned <u>earned</u> income paid to the Government by the occupants of said lands shall have to deducted from the ASR value of the land i.e
	(i) allocated to agricultural or no development zone as per the Regional plan ;	Fifty Twenty Five per cent of value of such land calculated as per potential non-agricultural rate of such land specified in the current Annual Statement of Rates by	Thirty Sixty Seventy five per cent of value of such land calculated as per potential non-agricultural rate of	

	deducting the original price paid to Government + Cost of improvement made by the Occupants + Unearned income paid to the Government.	such land specified in the current Annual Statement of Rates by deducting the original price paid to Government + Cost of improvement made by the Occupants + Unearned income paid to the Government	Premium for Conversion of land = rate of premium in % (Value of the land as per ASR - { original price paid to Government + Cost of improvement made by the Occupants + Unearned income -paid to the Government })
(ii) allocated to any non-agricultural zone as per the Regional plan.	Fifty <u>Twenty Five</u> per cent of value of such land calculated as per potential non-agricultural rate of such land specified in current Annual statement of Rates by deducting the original price paid to Government + Cost of improvement made by the Occupants + Unearned income paid to the Government	Thirty Sixty <u>Seventy five</u> per cent of value of such land calculated as per potential non-agricultural rate of such land specified in current Annual Statement of Rates by deducting the original price paid to Government + Cost of improvement made by the Occupants + Unearned income paid to the Government	

2	Land granted for agricultural purposes, situated within the limits of any Nagar Panchayat or Municipal Council or Municipal Corporation or Special Planning Authority and allocated to any non-agricultural zone as per Development plan, or where non-agricultural use of such land is not permissible as per the Development plan.	Twenty Five <u>Fifty</u> per cent of value of such land calculated as per rate of such land specified in the current Annual Statement of Rates by deducting the original price paid to Government + Cost of improvement made by the Occupants + Unearned income paid to the Government	Thirty Sixty <u>Seventy five</u> per cent of value of such land calculated as per rate of such land specified in the current Annual Statement of Rates by deducting the original price paid to Government + Cost of improvement made by the Occupants + Unearned income paid to the Government	For parity the % of premium shall be charged at 60% for all cases after 5 years
(B) Conversion premium payable for conversion of Occupancy Class-II or leasehold lands granted for residential or commercial purposes only <u>without any conditions attached to land (like freehold land):—</u>				
1	Land held on Occupancy Class-II.	Fifty per cent <u>Twenty per cent</u> of value of such land calculated as per rate of such land specified in the current Annual Statement of Rates by deducting the original price paid to Government +	Sixty Thirty <u>Sixty</u> per cent of value of such land calculated as per rate of such land specified in the current Annual Statement of	1. For Cooperative Housing societies, the rate of premium shall be made 10% i.e. at par with the redevelopment premium being recovered as per

		<i>Cost of improvement made by the Occupants + Unearned income paid to the Government.</i>	<i>Rates by deducting the original price paid to Government + Cost of improvement made by the Occupants + Unearned income paid to the Government</i>	the Maharashtra Government Cabinet decision for Revenue Department dtd. 30 th January 2018.
2	Land leased out for a period upto ninety-nine years.	Twenty Five per cent Fifty per cent of value of such land calculated as per rate of such land specified in the current Annual Statement of Rates <i>by deducting the original price paid to Government + Cost of improvement made by the Occupants + Unearned income paid to the Government.</i>	Thirty Five Sixty Seventy five per cent of value of such land calculated as per rate of such land specified in the current Annual Statement of Rates <i>by deducting the original price paid to Government + Cost of improvement made by the Occupants + Unearned income paid to the Government.</i>	
3	Land leased out for a period of more than ninety-nine years and currently	Thirty Seven and half Twenty Thirty Seven and Half per cent of value of such land calculated as per rate of such land	Sixty Seventy five Thirty per cent of value of such land calculated as per rate of	

	held for the same lease period.	specified in the current Annual Statement of Rates <i>by deducting the original price paid to Government + Cost of improvement made by the Occupants + Unearned income paid to the Government</i>	such land specified in the current Annual Statement of Rates <i>by deducting the original price paid to Government + Cost of improvement made by the Occupants + Unearned income paid to the Government</i>	
4	Land granted on leasehold rights to a Co-operative Housing Society and currently held by the Co-operative Housing Society.	Ten Twenty five Fifteen per cent of value of such land calculated as per rate of such land specified in the current Annual Statement of Rates <i>by deducting the original price paid to Government + Cost of improvement made by the Occupants + Unearned income paid to the Government</i>	Twenty five Sixty per cent of value of such land calculated as per rate of such land specified in the current Annual Statement of Rates <i>by deducting the original price paid to Government + Cost of improvement made by the Occupants + Unearned income paid to the Government.</i>	
5	Land granted on occupancy	Twenty Five Ten Twenty Five per	Sixty Twenty Sixty percent	

	Class - II to a Co-operative housing society and currently held by the Co-operative housing society.	cent of value of such land calculated as per rate of such land specified in the current Annual Statement of Rates.	of value of such land calculated as per rate of such land specified in the current Annual Statement of Rates.	
Additional Category :				
6	<i>Land granted on Occupancy Class-II to a private person with express permission for ultimate transfer to a Co-operative housing society.</i>	<u>No premium</u>	<u>No premium</u>	<u>The Class II lands are granted / leased for constructions Housing complexes. These housing complexes / buildings are required to be transferred to the Federations / Societies as per the relevant Acts / directions / policies of the Government</u>
7	<u>Application of grant of Class II land is under consideration of the Government/ Collector, and the applicants apply for conversion of Class I tenure</u>	<u>Five percent value of such land calculated as per rate of such land specified in the current Annual Statement of Rates</u>	<u>-----</u>	

- i. Hope you will find our suggestions fair and reasonable in interest of all stakeholders and implement the same for very rich harvest in Govt. Revenues.
- ii. I request you for personal or group hearing to present our case as may be convenient and suitable to you.

Thanking you,

Yours sincerely,
For CREDAI-MCHI



Nayan A. Shah
President



Bandish Ajmera
Hon. Secretary



Sanjiv S. Chaudhary MRICS
CREDAI-MCHI Secretariat