

PRESIDENT
Vimal Shah

IMMEDIATE PAST PRESIDENT
Paras Gundecha

PRESIDENT-ELECT
Dharmesh Jain

VICE PRESIDENTS
Mayur Shah
Nayan Shah
Deepak Goradia
Boman R. Irani

HON. SECRETARY
Nainesh Shah

HON. TREASURER
Sukhraj Nahar

CEO
S. Shahzad Hussain
I.A.S. (Retd.)

HON. JOINT SECRETARIES
Harish Patel
Ashok Mohanani
Sandeep Runwal
Bandish Ajmera

JOINT TREASURERS
Lakshman Bhagtani
Mukesh Patel

CO-ORDINATORS
Rasesh Kanakia
Jagdish Ahuja
Pujit Aggarwal
Parag Munot

COMMITTEE MEMBERS
Jayesh Shah
Nayan Bheda
Sanjay Chhabria
Rajendra Chaturvedi
Shailesh Sanghvi
Tejas Vyas
Jitendra Jain

INVITEE MEMBERS
Sandeep Raheja
Munish Doshi
Domnic Romell

PAST PRESIDENTS
Sunil Mantri
Pravin Doshi
Mohan Deshmukh
Mofatraj Munot
Niranjan Hiranandani
Rajni S. Ajmera
G. L. Raheja
Lalit Gandhi
Babubhai Majethia

MCHI-CREDAI UNITS

President, Thane
Suraj Parmar

President, Kalyan-Dombivli
Johar Zojwalla

President, Mira Virar City
Ashit Shah

President, Raigad
Vikas Bhamre

President, Navi Mumbai
Arvind Goel

Ref. No. MCHI/GEN/15-16/001

July 22, 2015

To,

Hon'ble Shri Anil Dave

Member of Parliament &

Chairman of Parliament Select Committee of Rajya Sabha on
Real Estate (Regulation & Development) Bill 2013

R. No. 538, Parliament House, Annex Committee Section,
Government Assurance
New Delhi - 110 001

Sub: Suggestions on Real Estate (Regulation & Development) Bill 2013

Respected Sir,

We thank you very much for giving us an opportunity to be heard on the Real Estate (Regulation & Development) Bill 2013. With reference to our meeting held on 26th July 2015 at Taj Lands End Hotel, Bandra, Mumbai, MCHI-CREDAI have following points which we feel that it should be briefly incorporated in forthcoming Bill 2013.

70% or less - Construction cost as defined by PWD may be kept escrow

It is impossible for any developer/Promoter to have exact time period for completion of a project and hence suggested to have a 'likely' time period to be mentioned. The municipal services are the responsibility of the competent authority and hence the time schedule cannot be defined/ensured prescribed by the Developer/Promoter. Also keeping in mind that there could be situations which are beyond the control of the developer/promoter the words 'force majeure' is added.

Since the intent of this legislations is protecting the interest of the allottee and hence the project should not be stalled/ delayed but rather be completed fully along with its development. The developer/promoter must be allowed to include all necessary expenses of the project on this separate account.

As per provision in the Maharashtra Housing (Regulation & Development) Act, 2012, the Promoter shall retain certain percentage of the total constructed flats in a given project, maximum up to 10% of constructed flats in each building, as "Retained Flats". The Promoter is not entitled to sell such Retained Flats, till the receipt of Occupation Certificate and Building Completion Certificate of that Building. Also Promoter is required to execute the Conveyance within four months of formation of the society or company, and in the case of condominium, a Deed of Declaration is required to be executed within four months of handing over the possession. The Competent Authority is empowered to certify that it is a fit case for enforcing unilateral execution of Conveyance Deed, and to issue a certificate to the Sub-Registrar, who shall register the Conveyance Deed.

MCHI-CREDAI (ISO 9001:2008)

Maker Bhavan II, 4th Floor, 18, Sir Vithaldas Thackersey Marg, New Marine Lines, Mumbai - 400 020.

Tel.: 4212 1421, Fax : 4212 1411 / 407 • Email: secretariat@mchi.net

Website : www.mchi.net

Only Green Field projects launched after this act to be covered

The Bill proposes to cover all 'existing projects', where the Commencement Certificate has not been received. It is not clear, at all how the projects which are already on-going can be made to comply with the registration and other requirements without leading to delay, cost overrun and customer harassment. Further, the requirement to bring projects which are ongoing within the coverage of the bill is also arbitrary. Thirdly, the issues of including the existing as well as under development projects as taken by the regulator would create a huge back log. Hence we strongly feel it is only the 'Green Field' projects (i.e projects launched and registered after notification of the RER&D Bill), that may be appropriately covered under the proposed bill. To consider the stages of the proposing projects would be detrimental.

Those projects that have Commencement Certificate, IOD, or Layout Plan Approval permission to build from competent authority should be excluded from Registration. Since projects that are already have such permission have the right to sell under the already applicable laws within the states and have executed necessary agreements between the allottee and them likewise under those provisions. If this legislation would also apply to them then there would be a lot of confusion and conflict or non-clarity of applicable laws to whom and how by which a lot of litigation might arise.

Approval/ Permission for Essential Services - Water, Electric & Drainage by bring approving & service providers also under the act

Competent Authority should be the part of RERA. Approval & permissions for essential services in buildings giving by concerned competent authority which helps the developer to get the occupation certificate to clear selling part of the flats. For example if competent authority gives late approval/permission for supply Water, Electricity & Drainage etc then developer always points out by consumer for late possession of flat.

Process to be simple

Section 3 of RERA require all real estate projects to be registered compulsorily with the RERA. Further, Section 4 stipulates an application to be made in this regard and Section 5 provides for acceptance or rejection of the application. If registration for a project is compulsory under the scheme of the Act, then the registration should necessarily follow from the completion of the registration from on line. The only reason registration can be denied is lack of complete details. If even after submitting complete details, discretion is allowed, then the only outcome would be rent-seeking and corruption. Hence, it is suggested that registration should necessarily follow in an online mode from completing the application form.

Provision u/s 78 to be followed

Government of Maharashtra has already passed the Maharashtra Housing Act in November, 2014, proviso the Section 78 of the RERA Act, says that, it shall not have any overriding effect, section 78 is reproduced herein, " *Provided that where a State has enacted a law for regulation of the real estate sector and such State law is not inconsistent with this Act, then, the State Government, to that extent, may not apply the provisions of this Act in the State.*"

Since each state is permitted to lay down their own rules/regulations in the parameters of this legislation, the state should be permitted to decide this too. Hence the word Central Government is deleted.

Revocation - Principle of Natural Justice

With reference to the Clause 7 the provisions says that the competent authority may revoke the registration granted u/s 5 under willful default, unfair practices and violation of terms & condition of approval give by authority.

Our suggestion is "Willful default" has not been clarified under the definition. Moreover there has to be, in order to have fair justice the developer should be heard because revocation of registration without hearing and giving opportunity or proving willful default will be unfair & harsh. So it needs to be worded, Hence Revocation can't be arbitrary.

Only residential - Not commercial offices, Industrial

Our request will be this RERA provisions/ Act should be limited to housing projects only and not for commercial industrial projects. We feel that since the industrial and commercial projects, the people have many other mechanism and setup financial forums & logistical help which house buyers may not have. Hence in order to give full justice to the fair treatment to the allottee/house purchaser the RERA provisions should be limited to housing projects only. FDI Should be permitted in Real estate Industry so cash flow should be ensured. Since banks don't allow loans for this purpose hence the developers have to be depending on other sources of money to take up the project so FDI should be encouraged.

Therefore, MCHI-CREDAI would like to request the select committee of Rajya Sabha to kindly consider our suggestions and suggest that a special committee to be formed to look into the details of various elements affecting the cost of construction due to implementation of RERA.

Thanking you,

Yours faithfully
For MCHI-CREDAI



Mayur Shah
President-Elect

CC to:

Shri Rajiv Ranjan Mishra (I.A.S.)
Joint secretary,
Ministry of Housing & Urban Poverty Alleviation,
Govt of India
New Delhi