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IMMEDIATE PAST PRESIDENT
Mayur Shah

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Deepak Goradia

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Harish Patel
Nainesh Shah
Domnic Romell

ADDL. VICE PRESIDENT
Sukhraj Nahar

HON. SECRETARY
Bandish Ajmera

TREASURER
Mukesh Patel

SPECIAL PROJECTS
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Sandeep Raheja
Jayesh Shah
Sanjay Chhabria
Rasesh Kanakia

HON. JOINT SECRETARIES
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Sandeep Runwal
Shailesh G. Puranik
Dhaval Ajmera
Pratik Patel

JOINT TREASURERS
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Munish Doshi

CO-ORDINATORS
Tejas Vyas
Shailesh Sanghvi
Pritam Chivukula

COMMITTEE MEMBERS
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Jitendra Jain
Deepak Gundecha

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Raajesh Prajapati
Sachin Mirani
Nikunj Sanghavi
Rajeev Jain
Shyamal Mody
Digant Parekh
Rushank Shah
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Sunny Bijlani
Sahil Parikh
Naman Shah
Suhail Khandwani
Ricardo Romell
Harshul Savla

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Dharmesh Jain
Vyomesh Shah
Paras Gundecha
Pravin Doshi
Mohan Deshmukh
Mofatraj Munot
Rajnikant Ajmera
Late G. L. Raheja
Late Lalit Gandhi
Late Babubhai Majethia

CREDAI-MCHI UNITS
PRESIDENT, THANE
Ajay Ashar

PRESIDENT, KALYAN-DOMBIVLI
Deepak Mehta

PRESIDENT, MIRA VIRAR CITY
Ashit Shah

PRESIDENT, RAIGAD
Kiran Bagad

PRESIDENT, NAVI MUMBAI
Prakash Baviskar

Ref. No. MCHI/PRES/19-20/158

March 13, 2020

To,

(1) Shri Praveen Pardeshi (I.A.S.)
Municipal Commissioner
Municipal Corporation of Greater Mumbai
Mumbai - 400 001

(2) Shri P. Velrasu (I.A.S.)
Additional Municipal Commissioner
Municipal Corporation of Greater Mumbai
Mahapalika Marg, 2nd Flr.,
Annex Bldg., Mumbai - 400001

(3) Shri Ramesh Pawar
Dy. Municipal Commissioner (Assessment tax)
Municipal Corporation of Greater Mumbai
Mumbai - 400 001

Sub:- Coercive steps adopted by Assessment & Collection Department for recovery of property taxes from builders/developers.

Grant of installments for clearing the outstanding Taxes till final disposal of SLP No. 17009 of 2019 by the Hon'ble Supreme Court.

Respected Sir,

We, the undersigned are registered body of the Builders/Developers in Mumbai city. As you are aware, the entire economy of our country is going through a massive slump and there is recession everywhere. It has been a double whammy for the builders / developers since on one hand it has been hit by the bankers levying exorbitant interest and on other hand there is huge inventory pending since there is lack of buyers.

The levy of the LUC has been exorbitant and beyond affordability of any developer, and that is the reason, why across the entire city, more than 90% of the developers are not able to pay this levy. Besides the levy itself being exorbitant, the problem has compounded by lack of sale and availability of the funds. This kind of most unreasonable levy at the level unheard in the entire country, needs to be rationalized, and should be brought down to reasonable level.

The builders/developers are more particularly aggrieved by the taxes imposed by the Assessment & Collection department (A&C Department) for open land/land under construction. The levy was exorbitant, right from 1.04.2010, and to top it, the percentage of taxes has also being exorbitantly revised from 01/04/2015 more particularly for Land under construction as per the Capital Value rules. Also, from 01/04/2010 onwards, Rule 20 of Capital Value rule has become the biggest impediment for the builders since MCGM takes into consideration the element of F.S.I./ T.D.R. into consideration for assessing the plot of land, whereby the developers are assessed in the multiples of F.S.I. to be consumed at the stage of Land under

Construction. This Rule is not only against the cardinal principles of Rating which states that assessment should be '*Rebus sic-stantibus*' (i.e. as is where is basis) but also defies logic since Plot of land is assessed in the multiples of FSI/TDR which is nothing but the potential of land being assessed instead of the actual land. This rule 20 of Capital Value rules for the year 2010 & 2015 was inter alia agitated by the Petitioners/Developers in W.P. No. 2592 of 2013 and Ors. wherein, the Division Bench of the Bombay High Court vide judgment dated 24/04/2019 was pleased to struck down rules 20, 21 & 22 of Capital Value rules for the years 2010 & 2015.

The aforesaid judgment was challenged by MCGM in the Apex court by filing SLP No.17009 of 2019 and vide Order dated 29/07/2019, the Hon'ble Supreme Court was pleased to stay the judgment dated 24/04/2019 of the Bombay High Court by continuing the interim order dated 24/02/2014 (of the Bombay High Court) regarding payment of 50% taxes till final disposal of SLP.

The levy is so unreasonable, that in most of the cases, the LUC itself works out more than the construction cost of the building which are being constructed. The levy is also atleast five times more than the tax, which would be levied once the building is completed. That is, the tax on land with fully occupied and ready building is less than just land, or land on which construction of building is being carried on.

In view of the above, we request you to frame rules for the period starting from 01/04/2020 to 31/03/2025 incorporating following:

1. Capital value should be proposed to be calculated on the land area without considering the FSI/TDR which can be utilized on it.
2. Capital value of land on which rehabilitation buildings are being constructed under regulations 33(5) to 33(10) of DCPR 2034, should be assessed as NIL. In the alternate, if legally, some value has to be assigned for land on which rehabilitation buildings are being constructed, then capital value of the land on which rehabilitation buildings are proposed, should be Rs 1000 for 4000 sm of land area.
3. Capital value of land on which sale component is being constructed under regulation 33(9) and 33 (10), should be valued at 25% of the Land rate of the ready reckoner, since premium payable to land owning authority as per DCPR 2034 for lease of the land under regulations 33(10), is 25% of the Ready reckoner rate on the land area proposed to be developed under that regulation.
4. Rate at which the tax is to be levied for land under construction has to be not more than the rate which is being levied on the land with building.
5. Without prejudice to our contention that capital value of the land can only be calculated as per the land area without considering the FSI/TDR being constructed on it, and if the MCGM wants to frame the rules where in capital value of the land shall be levied on the basis of the FSI/TDR etc. being constructed on it, we propose that for capital value of the land which has buildings being built upon, shall be calculated as per the table given below:

No. of Floors of the Building being built upon	No. of Years assumed for completion	50% period during which only land area will be charged	50% period during which FSI being constructed will be charged
7	2	1	1
14	3	1.5	1.5
21	4	2	2
30	5	2.5	2.5
30 and above	7	3.5	3.5

The LUC should be levied on the plot area for 50% of the period as mentioned in column 2 of the table above and for the balance 50% of the period the area on which the capital value which to be calculated shall be the full FSI are sanctioned for the building under construction. The logic behind this is the LUC if it has to be levied on the basis of FSI then can be levied only on the FSI which is built (though not completed) by dividing the period of completion the tax recovered will be nearly the same which would have been levied considering the incremental FSI being constructed.

6. The date on which property can be levied with LUC shall be the date on which CC is issued.
7. Also since MCGM does not supply water for construction purpose, it is not legal to levy water tax and sewerage tax under LUC. Since it is MCGM which is refusing to give water connection for construction purpose, it cannot collect water tax and sewerage tax.

We once again reiterate that the percentage of the tax applicable on LUC should always be same or lesser then what is being charged for the completed building of the land.

We request you to give us an appointment for discussion.

Thanking you,

Yours Sincerely,
For CREDAI-MCHI



Nayan A. Shah
President



Bandish Ajmera
Hon. Secretary