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April 22, 2020

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To,
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Minister of Commerce & Industry
Government of India
Udyog Bhawan, New Delhi, 110011

Hon'ble Shri Hardeep Singh Puri
Minister of State (Independent Charge)
Ministry of Housing & Urban Affairs
Nirman Bhavan, Maulana Azad Road,
New Delhi 110011.

Sub: Suggestions for protection of Employment in Real Estate Sector and to Revive Real Estate Sector post COVID-19

Respected Sir/s,

Firstly, we would like to thank you for confirming your availability for Video Conference call on 23 April 2020 at 4:00 pm with MMR Real Estate Industry people to hear out our suggestion for the Revival.

It is important that all viable Real Estate projects has to be supported and given a chance to revive. Also, it is not the time to allow businesses to be wound up or liquidated, to ensure recovery of money invested.

Real Estate Sector is employing the largest number of employees, both in organized and unorganized sector and it is important that these jobs not only remain protected, but at the earliest, it starts creating further employment. **Hence, the Real Estate Sector needs to be looked at from the point of protecting jobs of crores of employees and also which can create further jobs in the shortest time, to support economic revival.**

I. We hereby request you to represent our suggestion on Ministry of Housing to carry out our following suggestions to mitigate the impact of pandemic COVID-19 on India's real estate industry.

Sir, we would request issue ordinance introducing new special provision in RERA (Sec 91A) to cater for COVID 19 issues with a sunset clause on 31st March 2021, incorporating following suggestions :

1. (i). By adding sub clause under Section 6 of RERA, it should be provided that the COVID-19 and all measures of lockdown by the Central and State Govt are a "Special Force Majeure" event. And for all projects registered with RERA, and which had date of completion post 15th March 2020, should be suo moto be altered with one time extension by period of Nine Months. (which period shall not be considered as extension under the Proviso of Section 6 which provides for extension of validity of registration "in reasonable circumstances" for an aggregate period of one year subject to the discretion of the State RERA Authorities).

(ii). The amendment should also propose that for the reason of COVID-19, in all the projects registered with RERA, if the date of possession provided in the agreement for sale, is any time after 15th March 2020, then the date of possession shall stand extended by period of nine months.

Reasoning : If this is not done, then every project will have to apply for extension under section 6 of RERA, with the same reason of COVID 19 and lock down, and all authorities of RERA, on such application will have to conduct hearing and then decide on merits. This will involve multiple hearings in thousands of registered projects. When we are all aware, that this lock down is going to push the completion of each of the project by minimum of nine months, and is reasonable cause for grant of extension, we request that, in the interest of Real Estate Sector and customers also, and to avoid unnecessary thousands of proceedings, extend suo moto, date of completion of all registered project by nine months. Also if the date of possession as mentioned in the agreement of sale, was any time after 15th March 2020, then that date shall stand extended by nine months. This is also essential otherwise, the RERA Authority will be flooded with lacs of application claiming interest and compensation and also cancellation of the booking, due to delay in the possession of the Apartment, (which is happening due to COVID-19) and Authority being aware of delay upto nine months only happening due to COVID-19, and will have to reject such application, if delay is only for nine months. But such rejection will have to be made after conducting hearings, and then appeals also will have to be heard

Alternatively,

if Government of India issues directions to every authority of RERA, that every developer who apply for extension under Section 6, as COVID-19 as force majeure, then extension granted due to COVID-19 should not be considered as one time extension available to the developer under Force Majeure clause but should be considered as one time alteration to project completion date allowed in view of COVID-19.

2. We request to issue direction that upto 31st March 2021, interest payable to financial institutions, scheduled banks, non banking financial corporations or money lenders on construction funding or money borrowed for construction ("Lenders") **should not be added to total cost of construction**. That is interest payable to Lenders should not be allowed to be withdrawn from 70% Escrow Account.

The interest payable to Lenders has been allowed as project cost and is allowed to be drawn from 70% Escrow Account maintained under RERA, We believe that in next one year, till world and country reels under after effects of COVID-19, every rupee deposited in 70% escrow account should be utilized in the approval and construction of the project. Hence we propose that this directions be issued under RERA with a sunset clause ending on 31st March, 2021.

3. For the same reason mentioned above, we request that a directions be issued under RERA that upto 31st March 2021,
"Any order to refund customers on cancellation of booking of apartment should be made payable

- (i) on or before end of six months from the date of completion of the project .Or
- (ii) out of the sale proceeds of the resale of the cancelled Apartment whichever is earlier."

We request the aforesaid directions should be implemented only upto 31st March, 2021, that is with a sunset clause, ending on 31st March 2021. This period will be sufficient either to economy to recover, and even if the economy does not recover, for every developer to re align his projects to new economic order.

- II. **We hereby request you to represent our suggestion on Ministry of Civil Aviation to mitigate the impact of pandemic COVID-19 on India's real estate industry to grant us below mentioned reliefs as under :-**

1. Amendment to GSR751(E) : Final Notification

Draft notification for Amendment to the building height rules has been published on 12-Apr-2018. Once notified, the revised rules would enhance the validity period of NOCs from 8 years to 12 years and relax the prevailing restrictions due to ADS-B equipment resulting in additional height in some cases. These amendments have been proposed 3 years back and agreed by the members of the NOC Review Working Group 2017. Several meetings have been held with the MoCA in this regard, Suggestion/Objection process has been concluded and final notification is still awaited.

2. Removal of Guidelines for Maximum Allowable Penetration of Obstacle Limitation Surfaces (OLS)

The Guidelines for Maximum Allowable Penetration of Obstacle Limitation Surfaces (OLS) were introduced in March 2015 to allow grant of building heights in gradual and uniform manner which also led to substantial reduction in sanctioned height in a large number of cases. In February 2018, AAI implemented a different interpretation of OLS Guidelines which is a further conservative approach and considers the shortest distance from the end of the Transitional Surface for calculating maximum permissible height. The Government of Maharashtra has written on many occasions in the past (letter from Chief Minister attached herewith for reference) to adopt liberal parameters for Mumbai due to the peculiar geography of the city. It is suggested that the additional restrictions imposed by OLS Guidelines should be done away with and the findings of site specific aeronautical study (without OLS restrictions) ought to be followed as the same is more scientific, precise and adhering to ICAO norms.

3. Review of Shielding Criteria norms

Presently, shielding criteria is not allowed in projects situated within 2.5 kms from Runway and not carried out as per global standards. During various meetings held in this regard, it has been assured that global reference studies will be carried out by AAI including assessment of the actual elevation levels of the permanent objects due to which shielding criteria has been allowed. However, no update has been received in this regard.

4. Permanent Nature Displaced Threshold

At present, permissible height in approach surface is calculated based on runway extremity or displaced threshold whichever is most restrictive. It has been suggested that in cases where the Threshold has been displaced due to Obstacles of Permanent Nature (which are in existence for considerable time and not likely to be removed) and Instrument Approach Landing Procedure is permanently established at the aerodrome with the Displaced Threshold reference as being permanent in nature, the Displaced Threshold shall be considered as a reference point for NOC calculation.

5. Required Navigation Performance - Approach Runway

Implementation of RNP-AR procedure (i.e. training guidelines) has not been carried out by even a single airline for implementation of the suggested procedure although its restriction on building heights has been made applicable. Moreover, the current OCA limits does not take the height of existing objects into consideration. Hence, our suggestion

and request is to remove RNP AR limitations at Runway 32 of CSIA from NOCAS height restriction perspective.

6. Conduct of Aeronautical Study without insisting demolition

In spite of clear directions from Delhi High Court in numerous judgements allowing Conduct of Aeronautical Study without insisting demolition, no aeronautical study has been conducted till date. The matter has been referred to Supreme Court which has again referred back the matter to High Court of Bombay, outcome of which is pending since past 2 years. MoCA to give clarity on whether aeronautical studies can be conducted for such projects or whether it is necessary to demolish part of the buildings to bring it within the current NOC height restrictions for such aeronautical studies to be carried out subsequently leading to wastage of resources?

7. Formation of Regional Appellate Committee for conduct of Aeronautical Study

On an average, the time taken for conduct of aeronautical study is approx. 8 to 9 months. In order to reduce the time taken for grant of additional height and assist Project Developers to get better understanding of the eventual project design at an early stage, it is suggested to form regional level Appellate Committees. The regional level Appellate Committee could seek help from the local airport operators in conduct of quicker site visits and report preparation. The validation process and approval could be conducted by the Committee. Only policy matters can be taken by the apex Appellate Committee headed by Joint Secretary (MoCA).

III. We hereby request Hon'ble. Minister of Commerce and Industry & Hon'ble. Minister of housing to represent our suggestion to be take up with Ministry of Finance to mitigate the impact of pandemic COVID-19 on India's real estate industry.

We are requesting following Non Fiscal and Fiscal Support to the Real Estate Sector, to enable us to play effective role in the government's initiative to protect employment, increase the employment and also to reach five trillion dollar economy.

A. Non Fiscal Support :

Following measures, will ensure that Employment in Real Estate Sector can survive this pandemic shock to economy, without stressing government resources at this juncture. These are concessions which can spur demand and will ensure protecting employment in the sector. Not only that, it will also act as catalyst for kick start of the economy.

- 1. One time Restructuring of the loans to Real Estate sector should be allowed. The restructuring should be allowed for standard, SM1, SM2 and NPA loans. The conditions on which such Restructuring should be allowed, is that project has to be viable, and Developer should undertake that it will continue with same number of employees for next one year, which were on its payroll as on 1st March 2020.**
- 2. Any purchase of the property upto 31st March 2022, the purchase cost and interest thereon, should be allowed as a deduction under Income tax Act, over a period of seven years, provided the property acquired is self occupied or if it is not self occupied, then it is given on rent or leave and licence, for a period of not less than six months in each of the financial year. This will revive the**

demand, and unlock the entire capital and loans stuck in large built up of inventory in the Real Estate Sector, and boost economy growth.



3. To suspend linking of Ready Recknor rate, under Income Tax Act, for sale or purchase of Apartment in a project registered under RERA, for any transaction done upto 31st December 2021.
4. RBI to adopt the same definition for Affordable Housing as has been defined under Income tax Act.
5. Banks to fund the total cost of acquisition of Real Estate, including stamp duty, GST and other taxes and charges.
6. To suspend operation of IBC for one year, against companies in business of Real Estate Project where Promoter files an undertaking that he will maintain the same number of employees as on 1st March 2020, for one year and pay entire remuneration.

B. FISCAL SUPPORT :

1. At option of Developer, to restore, input tax credit for Residential Housing Project , with GST @8%.

At the current GST rate structure, the increased tax burden on the Developer and resultantly the cost pass-on to the Consumer is very high. It is pertinent to highlight that if the above measures relating to GST are not implemented, it would lead to a high dip in the expected GST collections from the real estate sector in FY 2020-21. **Affordable house definition for metro cities where size of unit is upto 60 sq mt , the prices cap of Rs 45 lakhs should be removed for metro cities.**

2. To provide housing finance @ 6% pa interest for all houses purchased on or before 31st March 2021.
3. To Encourage creation of Rental Housing as an Industry, all companies, which is in business of providing rental housing shall be provided with long term financing at the rate of 6% pa. To exempt rental income from taxes for next 10 years as it encourages Investors to buy units.
4. Increase sanctioned limits of term loans upto 25% with a provision of 3 years repayment period for the incremental finance availed.

The lock down has resulted in cascading impact wherein not only the Developer, but all other related stakeholders face the probability of Banks Loans going under default due to prolonged closure. Thus, the overall working capital cycle has been adversely impacted and hence, in order to sustain the business and the employment of the individuals as stated above during these unprecedented and testing times, the Financial Institutions and Banks shall be permitted to sanction working capital requirement of the businesses should be increased by 25%.

5. To direct Banks and Financial Institutions, to ensure that 70% of the money deposited in escrow account under RERA, is utilized only for the



6. project expenses, till completion of the project, and only 30% of the collection can be utilized for payment of interest or instalments. Banks should restructure the existing facility to incorporate above.
7. To allow banks to have flexibility like available to Private Equity funds and NBFCs i.e.
- a. Convert some loan to equity or stock.
 - b. To charge lower interest initially and higher interest once project receives OC with ensuring that the banks achieves its IRR agreed at the time of sanction.

8. To make additional allocation of funds for enhancement of fund corpus for Government sponsored SWAMIH Fund (managed by SBICAPS) and widen its coverage by including units having value more than Rs. 2 crores for projects in Metro Cities.

The scope of SWAMIH Fund shall be enhanced to cover all residential and commercial projects so that all customers can be benefitted by getting delivery of their homes and offices. Alternatively, a separate fund can be set up for targeting projects not covered by its scope. In Metro cities like Mumbai, lot of stuck projects have ticket sizes of more than Rs. 2 Cr. Further, the current IRR expectation of 15% per annum is too high in this crisis situation and the same should be reduced to 9% per annum. In addition, there needs to be additional Flexibility in terms of structuring investments to enable funding to partnership firms / proprietorship which at present is not available due to NCD structure.

9. To grant tax rebates to commercial asset owners i.e. offices, malls, multiplex, hotels, etc (similar to Singapore).

10. To allow sale of units using Subvention schemes where Pre-EMI Interest on home loan is borne by Developer.

All loans sanctioned and disbursed between 01 June 2020 and 31 March 2021 should be allowed to be granted by banks/HFCs under subvention scheme.

We request that NON FISCAL measures should be implemented immediately since it does not put any pressure on government resources.

Our suggestions for FISCAL SUPPORT may be implemented as per the resources available with government. However, if the suggestions of ours are studied, they are not immediate resource deployment, but are only adjustment of future generation of resources, and they also can be implemented immediately. Rather if all the suggestions are implemented, then it will revive the animal spirit of the Indian Economy and will generate much higher revenue for the government.

We also request under the ease of doing business initiative of the Government of India we request if extension to various permissions, approvals and NOC given by departments of State & central Governments by at least by 1 year without a penalty / fee waiver for such extension and norms adopted for granting such NOC and clearance to be eased. Some of such NOC are listed below.

- a. Environment Clearance from MoEF
- b. Various Approval/NOC given by central govt such as Civil Aviation, Railways Archaeological Survey of India & Defence departments
- c. Various State government NOCs / Approvals.

Even with COVID-19, we are hopeful that with the support of the Government, we will be one of the major sector to contribute towards building Five trillion Dollar Economy for India.

Thanking you,

Yours Sincerely,
For CREDAI-MCHI

Nayan A. Shah
President

Bandish Ajmera
Hon. Secretary