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Ref. No. MCHI/GEN/15-16/009

November 21, 2015

To  
**Hon'ble Shri Praskah Javadekar**  
State Minister (Independent Charge)  
Ministry of Environment, Forests & Climate Change  
Govt of India  
New Delhi

**Sub: Key Issues related with the MoEF**

Respected Sir,

Greetings from MCHI-CREDAI

We express our sincere thanks for sparing your valuable time and giving us opportunity to present various issues facing by Real Estate Industry.

Hon'ble Prime Minister has a dream of Affordable Housing for all by 2022. To bring his dream in the reality, we have to adopt the rational and speedy process for the approvals of Real Estate proposals. Specifically we have to speed up in the environmental approvals which alone take up to 18 to 24 months after submission of the proposal in the MoEF.

Real Estate sector directly & indirectly supports more than 250 industries. Speedy Approvals to the proposals will generate the huge employment and boost the country's GDP & Economy. Following are the issues which are major hurdles in the development of Real Estate Industry

**1. Environmental Conditions to be incorporated in the IOD / Building Permits issued by planning authority**

At present after obtaining the approval from the planning authority the proposal are considered in the SEAC or SEIAA committee meetings for grant of environmental clearances. The committee members in the presentation meeting give suggestions in the planning of the buildings which are approved by the planning authority confirming with the DC regulation in force. To incorporate such changes in the building planning is very difficult or sometimes not possible due to the sight constraints of the plots in the Mumbai.

Therefore, if environmental parameters or guidelines are include in the DCR of respective planning authority then it will be easy for planning authority to implement the same while approving the plans of the projects and clearances and appraisals from SEAC & SEIAA may not be required.

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## **2. Environmental Clearances by SEAC & SEIAA**

As per the present norms the clearances are given after the plans are approved by the planning authority and if there are any changes of any sort i.e. minor or major the proposal is resubmitted for the amended environmental clearances. This will leads to delay in the completion of the projects.

To overcome these clearances should be given on concept plan of the project and the Built Up Area (BUA) of the same submitted by the project proponent.

Appraisal should be done on full potential of the project without insisting IOD or Building Permit

For small variation up to +/- 10% in the BUA and modification in the plans within Built Up Area (BUA) approved by MoEF, Amendment in the Environment Clearance shall not be insisted.

## **3. Consent to Establish and Consent to Operate**

Building Construction in any project in Real Estate Industry is temporary activity. (i.e Once buildings are constructed and handed over to the purchaser for occupation then activity ends) To obtain the consent to Establish and Consent to operate from the MPCB is time consuming and tedious process. After completion of the project and handed over to the common purchaser which not possible for common person to deal with the conditions mentioned in the Consent to Establish and Consent to Operate permissions. Therefore, Consent to Establish and Consent to Operate shall not be insisted for Real Estate proposals

## **4. Buffer Zone of Sanjay Gandhi National Park (SGNP)**

Buffer zone from the boundary of the SGNP is not finalized by the MoEF till today.

Government of Maharashtra submitted the above proposal to the MoEF in February 2013 & November 2015

Since August 2014 almost all projects in Mumbai and Thane within 10 kms of buffer zone from SGNP are not started even through the proposal are cleared by MoEF. Also ongoing works are not processed further.

Hon'ble Minister is requested to kindly give the directives to the ministry to decide the issue on war footing basis.

## 5. CRZ

All the Development / Re-development of cessed & non-cessed buildings / Slum Rehabilitation Schemes in the limits of MCGM except mangroves shall be allowed to be developed as per the DCR prevailing as on the approval date of the concerned proposal.

For this purpose Office Memorandum for cancellation of corrigendum dated 29<sup>th</sup> March 2011 with related to amended CRZ notification which was issued on dated 6<sup>th</sup> January 2011 shall be published.

Further, at present in Bay Areas the projects are considered case to case basis therefore notification for declaration of Mahim Bay & Back Bay shall be published, so that the issue of Bay shall be generalized.

More than 200 plus projects existed in Navi Mumbai in the period of 2006 to 2011 were granted approval and commencement certificate without insisting for NOC from CRZ point of view. Even during construction of these projects nothing has been insisted from planning authority for obtaining clearances from CRZ point of view. Now after compilation of these projects the occupation certificates are withheld by the planning authority for the want of NOC from CRZ point of view.

As per a present norms MCZMA are not granting any post facto approvals to the projects in CRZ and therefore, MCZMA has denied for the hearing of these cases. Due to this 12000 plus flat owners are in difficulties for getting there flats/homes due to the apathy of government agencies.

Hon'ble Minister is requested to look into the matter and kindly direct the ministry to examine for post approvals and issue clearances for these projects.

## 6. SRA

As per the amended notification dtd 6<sup>th</sup> Jan 2011 from MoEF for CRZ areas, the redevelopment schemes of SRA are to be undertaken with 51% stake of State Government. Due to this the Slum Rehabilitation schemes are not undertaken by any developers. Therefore, provision of 51% partnership of state government in SRA schemes shall not be insisted upon, so that number of SRA schemes in CRZ will come forward for redevelopment and dream of slum free Mumbai city will come in reality.

## 7. Violation

In case of violation as per the order of National Green Tribunal (NGT) the penalty of 5% to 10% of total project costs is charged. This heavy penalty is impracticable for a developer.

We request to consider to charge the penalty from 50 lakhs to 2 crores maximum as per the size of the project

## 8. Mangroves

As per the present policy no construction is allowed within mangroves and within buffer of 50 meters around the mangroves area.

If such land belongs to the private ownership, then the said land shall be allowed to surrender to the planning authority in lieu of TDR compensation.

Therefore, Sir, MCHI-CREDAI would like to kindly request you to consider all our above points which are major obstructions in the development of Real Estate Industry in MMR jurisdiction.

Looking forward for your positive cooperation please

With regards,  
For MCHI-CREDAI



**Deepak Goradia**  
Vice President

22<sup>nd</sup> November 2015

**A representation on the recent direction dated 20<sup>th</sup> July, 2015 in the proceedings for the Application no. 34/2015 given by National Green Tribunal to stop development in 100 mtrsbufferzone surrounding Sanjay Gandhi National Park (SGNP).**

- \* National Green Tribunal (NGT), during a hearing, passed a unilateral direction not to allow development upto 100 mtrs from the boundary of the SGNP.
- \* The Law to prescribe the said buffer-zone is not yet passed, and it may lead to a long legal battle between various stake holders, the ULB and the Government.
- \* As the Local Forest Office, the State Government and the Central Forest body have a different view on provision of the buffer-zone already, it is necessary that such restriction has to be made applicable after application of all affected minds and co-ordination with all stake-holders.
- \* SGNP, the ULB, the MCGM and TMC have all been in existence since the advent of DP plans. These DP plans have been published in 1973, 1991, and 1999 so far. The provision of the said buffer-zone has never been mentioned by the authorities before now. The point is not that the same cannot

be mentioned here on but that old permissions cannot be held up while the suggestions-objections are going on.

- \* Non-resolution on immediate basis may lead to the usual exercise of agitation and legal battle, or as recently faced by Ministry of Defense (MOD). This issue is same as implementation of 18/05/2011 circular of issued by MOD to stop development upto 500 mtrs from the boundary of various defense establishments. For any sort of NOC or permission in that regards, even in constructions that had begun well before the circular date, one had to approach the Defense Authorities.

As the circular was issued without making a law and following the due legal procedures, eventually after a period of 42 months, the same was revised logically by the defense authority itself as being implementable only on future projects. However, a number of projects were on hold till date, which resulted huge financial losses as well as other hardships for those buyers/residents, and uncertainty among the stakeholders.

- \* The provision of this buffer-zone criteria at this stage will affect various projects which are
  - (1) under construction with valid permissions from ULB.
  - (2) have obtained clearance from MOEF long back and carried out construction accordingly.

(3) have given public notice before development of the property and got the sanctions from the various authorities and created third party rights with banks and actual buyers.

Conclusion:

MCHI-CREDAI members are not against any law that has a positive impact on the Environment. Our only request is that it is important that a due process of law has to take place before insisting on any such interim provisions on projects already well into their life-cycle.

We therefore request that

1. The decision for Buffer-zone may be finalized within a time-bound period of 60 days.
2. The provisions will have to be made applicable prospectively and not retrospectively.
3. The projects which are under construction or which have even got MOEF clearance should not be stopped at this stage.

An immediate action by the Hon'ble Minister will help avoid legal suits and protect the interests of various stake holders such as existing residents, actual buyers, developers, land owners and will also ease the pressure on the officers issuing permissions at ULB and various local authorities. These steps would also help implement the objective of ease of doing business in a true sense.