

Ref. No. MCHI/SEC/12-13/031

July 26, 2012

To,  
**All Members of MCHI-CREDAI & MCHI-CREDAI Units**

Dear Member,

**Sub: Revocation of "Irrevocable Consent" not permissible.**

**Ref: High Court O.O.C.J.  
W.P. No. 1976 of 2010  
M/s. Bevenu Infra Projects Pvt. Ltd. ... Petitioners  
V/s.  
The High Power Committee and Ors. ... Respondents**

**WITH  
W.P. No. 2073 of 2010  
Bhikaji Vishnu Mahadeshwar and Ors. ... Petitioners  
V/s.  
The State of Maharashtra and Ors. ... Respondents**

**WITH  
Mahesh Baliram Sawant and Ors. ... Petitioners  
V/s.  
The State of Maharashtra & Ors. ... Respondents**  
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In the above matters the issue related to the revocation of the consent given by the tenants for the redevelopment of the property to the owner. The Executive Engineer prepared report after verifying the documentary evidences and certified that out of 188 occupants, 185 occupants had furnished irrevocable consents. Thus, 98.40% of the occupants had consented to the redevelopment of the property by the First Petitioner.

On 7<sup>th</sup> July 2008, Resident Executive Engineer and Chief Officer recommended the grants of NOC to the First Petitioner. On 27<sup>th</sup> August, 2008 it appears that the intervention of the local MLA was sought by some of the occupants of the property. On 16<sup>th</sup> October 2008 at a Board meeting of the MHADA, it was recorded that since over 75% of the occupants had furnished their consent to the redevelopment, the proposal shall be approved. This was subject to the Rider that if upon verification of the complaints, the complaints were found genuine, the proposal would be disapproved. The Executive Engineer recorded that on examination of the record, that the occupants had voluntarily executed agreements and had furnished their irrevocable consents. On 3<sup>rd</sup> January 2009 the Executive Engineer of the Repair Board once again certified that the verification in

respect of the irrevocable consents given in favour of the developer had been done by personally meetings with the tenants/residents.

Petitioner filed earlier Petition whereby order dated 10<sup>th</sup> February 2009, the Division Bench directed MHADA to deal with request of the Petitioner for the issuance of NOC in accordance with the law and policy within three months after hearing the affected parties.

On 22<sup>nd</sup> April 2009, the Chief Officer of the Repair Board ordered that **redevelopment under DCR 33(7) cannot be considered on the basis that the Petitioners do not have the irrevocable consents of the 70% of the tenants. The order was based on the affidavits of 132 occupiers for the cancellation of the irrevocable consents furnished to the developer in 2006.**

The matter went further before the High Power Committee. The High Power Committee observed as follows :

*"In view of the facts and circumstances stated above, the Committee is of the view that the decision of the Chief Officer MBRRB in not granting NOC to the appellant to redevelop the suit premises is not correct legal as per the provision of law and the observations of the Hon'ble Courts mentioned hereinabove which are binding on the Chief Officer while taking decision for redevelopment of the property under DCR 33(7)."*

The High Power committee set aside the order of the Chief Officer and directed to consider MBRR Board to consider the documents submitted by the occupants for the grant of NOC for redevelopment under 33(7). Aggrieved by this order, the Petitioner filed a Writ challenging the order of High Power Committee. There were two cross petitions filed by the occupants. The Hon'ble High Court has quashed decision of High Power Committee and directed Chief Officer of the Repair Board to process the proposal submitted by the Petitioners for the grant of NOC in 33(7) in accordance with law.

From this decision of the division bench it is clear that if the tenants have given irrevocable consent the same cannot be revoked.

Thanking you,

Yours Sincerely,  
**For MCHI-CREDAI**

**Sd/-**  
**Boman Irani**  
Hon. Secretary

Encl: Order