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August 24, 2020

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Mayur Shah

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Nainesh Shah
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**CREDAI-MCHI UNITS
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Deepak Mehta

PRESIDENT, MIRA VIRAR CITY
Ashit Shah

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PRESIDENT, NAVI MUMBAI UNIT
Vijay Lakhani

To,
Dr. Jitendra Awhad ji
Hon'ble Minister for Housing
Government of Maharashtra

Sub: Urgent Amendment to Maharashtra Rent Control Act 1999

Respected Sir,

It has been observed since the introduction of the Maharashtra Rent Control Act, 1999 and Regulation 33(7) of the Development Control Regulations, 1991 that the re-development of tenanted properties, whether cess or non-cess has not been undertaken by Landlords or tenants in view of the various impediments. In view of the cap on the rents the Landlord can recover, the Landlords do not repair and maintain such buildings. The buildings get dilapidated and hence pose a danger to the safety of the life of the tenants. Further, the nature of title to the tenanted premises continues to be as protected or statutory tenants under the Maharashtra Rent Control Act, 1999 which is not monetizable by the tenants. On re-development, the tenants would become owners of the premises. The residential tenants would also get more area. Hence, it is of urgent needs for the benefit and welfare of the tenants that the State provides incentive to such re-development. The committee has observed that one such critical impediment is the provision in the Maharashtra Rent Control Act, 1999 which requires the Landlord to approach the Civil Court for eviction of tenants for the purposes of re-development and take the requirement to consents of tenants. Now under the new DCPR 2034, comprehensive provisions for re-development of tenanted premises has been provided for under Regulation 33(7) and Regulation 33(9). It is therefore proposed that the following amendments to the Maharashtra Rent Control Act, 1999, DCPR 2034 and the MHADA Act, 1976 would provide sufficient incentive for the Landlords to re-develop the properties and sufficient safeguards to the tenants to get rehoused in the new buildings.

1. Maharashtra Rent Control Act, 1999

A. To delete Section 16(i) :

(i) that the premises are reasonably and bona fide required by the Landlord for the immediate purpose of demolishing them and such demolition is to be made for the purpose of erecting new building on the premises sought to be demolished; or

B. To delete (i) from Section 16(6) :

(6) No decree for eviction shall be passed on the ground specified in clause (i) or (j) of sub-section (1), unless the court is satisfied-

(a) that the necessary funds for the purpose of the erection of new building or for erecting or raising of a new floor or floors on the terrace are available with the landlord,

(b) that the plans and estimates for the new building or new floor or floors have been properly prepared;

(c) that the new building or new floor or floors to be erected by the landlord shall, subject to the provisions of any rules, bye-laws or regulations made by municipal authority contain residential tenements not less than the number of existing tenements which are sought to be demolished;

(d) that the landlord has given an undertaking.-

(i) that the plans and estimates for the new building or new floor or floors to be erected by the landlord include premises for each tenant with carpet area equivalent to the area of the premises in his occupation in the building sought to be demolished subject to a variation of five per cent in area;

(ii) that the premises specified in sub-clause (i) will be offered to the concerned tenant or tenants in the re-erected building or, as the case may be, on the new floor or floors;

(iii) that where the carpet area of premises in the new building or on the new floor or floors is more than the carpet area specified in sub-clause (i) the Landlord shall, without

prejudice to the liability of the Landlord under sub-clause (i), obtain the consent 'in writing' of the tenant or tenants concerned to accept the premises with larger area; and on the tenant or tenants declining to give such consent the Landlord shall be entitled to put the additional floor area to any permissible use;

(iv) that the work of demolishing the premises shall be commenced by the Landlord not later than one month, and shall be completed not later than three months, from the date he recovers possession of the entire premises; and

(v) that the work of erection of the new building or new floor or floors shall be completed by the Landlord not later than fifteen months from the said date:

Provided that, where the court is satisfied that the work of demolishing the premises could not be commenced or completed, or the work of erection of the new building or, as the case may be, the new floor or floors could not be completed, within time, for reasons beyond the control of the Landlord, the court may, by order, for reasons to be recorded, extend the period by such further periods, not exceeding three months at a time as may, from time to time, be specified by it, so however that the extended period shall not exceed twelve months in the aggregate.

C. To introduce new Section 16A :

(1) Notwithstanding anything contained in this Act or any other Act, Rules or Regulation but subject to the provisions of section 25, a Landlord shall be entitled to recover possession of any premises if the premises are reasonably and bona fide required by the Landlord for the immediate purpose of demolishing them and such demolition is to be made for the purpose of erecting new building on the premises sought to be demolished as provided under DCPR 2034 33(7) and 33(9)

Provided the Landlord shall be required to establish to the planning authority :

(a) that the plans and estimates for the new building or new floor or floors have been properly prepared and that the same have been approved by the Planning Authority;

(b) that the new building or new floor or floors to be erected by the Landlord shall, subject to the provisions of any rules, bye-laws or regulations made by planning authority contain residential tenements not less than the number of existing tenements which are sought to be demolished;

(c) that the Landlord has given an undertaking.-

(i) that the plans and estimates for the new building or new floor or floors to be erected by the Landlord include premises for each tenant with carpet area not less than equivalent to the area of the premises in its occupation in the building sought to be demolished or as per the applicable DCPR provision, subject to a variation of five per cent in area;

(ii) that the premises specified in sub-clause (i) will be offered to the concerned tenant or tenants in the re-erected building or, as the case may be, on the new floor or floors;

(iii) the Landlord shall deposit with MHADA, 36 months rent at the rate of 2% (annual rent) of the prevailing Residential RR Rate on the date the Landlord recovers possession of the entire premises, with 10% escalation every 12 months in respect of each tenant as per its existing area and shall undertake to deposit further rent for such period till such time the Landlord delivers possession of the new premises to the tenants;

(iv) the tenancy rights of the tenant in the existing premises (even if demolished) shall continue to subsist till such time the tenant is handed over the Rehabilitation Premises. The nature of title of the Rehabilitation Premises shall be on ownership basis. The Landlord shall execute and deposit with MHADA the Agreements for Permanent Alternate Accommodation, as per the format prepared by MHADA, in respect of each tenant and shall undertake to pay stamp duty and register the same as and when each tenants comes forward to execute and register the same. MHADA shall issue notice to each tenant to execute and register the same prior to delivery of possession of the existing premises by the tenant to the Landlord. In the event any tenant obstructs such re-development and does not vacate its premises, then MHADA shall be entitled to take out proceedings under Section 95-A of Maharashtra Housing and Area Development Act, 1976.

(v) All the provisions of Regulation 33(7) or 33(9) of DCPR 2034, as applicable, shall be applicable for such re-development save and except that the landlord shall not be required to obtain written consent from the tenant's subject to the above.

2. The Maharashtra Housing and Area Development Act, 1976

A. In Section 95-A to delete :

“after obtaining the written consent of not less than 70per cent of the total occupiers of that building” appearing in :

“95-A. (1) Where the owner of a building or the of the proposed co-operative housing society of the occupiers of the said building, submits a proposal to the Board for reconstruction of the building, **after obtaining the written consent of not less than 70 per cent of the total occupiers of that building** and a No Objection Certificate for such reconstruction of the buildings is issued by the Board, to the owner or to the proposed co-operative housing society of the occupiers, as the case maybe, then it shall be binding on all the occupiers to vacant the premises.”

The above changes will expedite redevelopment and protect loss of life.

Thanking you,

**Yours Sincerely,
For CREDAI-MCHI**



Nayan Shah
President



Bandish Ajmera
Hon. Secretary