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Shailesh Sanghvi

Ref. No. MCHI/TO/13-14/016

January 21, 2014

To,
The Joint Director of Town Planning,
Konkan Division,
Govt of Maharashtra
Konkan Bhavan,
Navi Mumbai

Sub: Suggestions Objections for the notice regarding Affordable housing scheme No.TPS-1212/79/C.R.60/12/UD-12

Ref: Our Letter dated 27th December 2013 and the acknowledgment of the same from your good office on 27-12-13.

Respected Sir,

With reference to the subject and our letter submitted on 27th December 2013 for Suggestions Objections for the notice regarding Affordable housing scheme we would like to add the following as an addendum.

Clause No-1-

Clarification/Addition: The MMRDA- final Regional plan draft is almost on a verge of final sanction. Considering, the present need of housing for the MMR, the affordable Housing scheme shall be applicable for the entire MMR and should be a part of the R.P.

Clause No 6-

Clarification/Addition: We request additional clarification for - off site infrastructure charges, as what kind of infrastructure will be provided by the authority and accordingly developer can plan the project budget.

Clause No 7

Clarification/Addition: Please find the table below for the stage wise release of FSI

Sr. No.	Stages of development	Release of FSI on Gross Plot Area		
		Land FSI	Free Sale Component	MMRDA component
		1.00	2.00	1.00
1	On sanction of Location clearance for CC	1.00	NIL	NIL
2	On issue of CC		'2A' sqmt CC of free sale component	'A' sqmt CC of rental housing component
3	On issue of Occupation Certificate		'2B' sqmt Occupation certificate of free sale component	'B' sqmt occupation certificate of rental housing component

MCHI-CREDAI (ISO 9001:2008)

Maker Bhavan II, 4th Floor, 18, V. Thackersey Marg, New Marine Lines, Mumbai - 400 020.

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22-9-98
सहसंचालक, नगरपालिका

Clause No 10

Clarification/Addition: A Copy of SCHEDULE (APPENDIX-A) is attached herewith.

Clause No 11-

Clarification/Addition: Please find the sub clauses 'a' to 'i' as mentioned below.

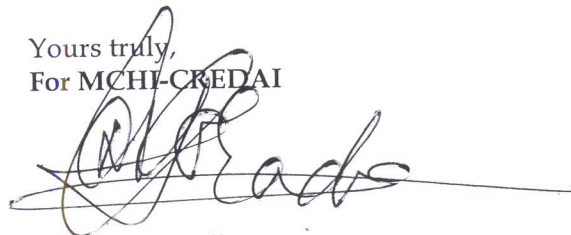
- a. As per the Clause 11 of the Schedule of the said Notification, there is bar against approval of new projects under the Rental Housing Scheme. It is clear from a bare perusal of the said Clause 11 that the same only contemplates a bar in the approval of new scheme. However, in the instant case, the for development on the said Land is approved by all concerned authorities including the TMC, the MMRDA and the MOEF and thus the said Notification cannot come in the way of grant of CC to our clients as per the already granted Development Permission. The instant development is not a new scheme still required to be approved.
- b. There is no bar under Clause 11 in respect of the projects already permitted to be undertaken.
- c. Such a bar on approval of new projects under the Rental Housing Scheme applies after the cut-off date viz. 30th November, 2013 and Clause 11 does not contemplated a non-issuance of further permissions for schemes already sanctioned prior to 30th November, 2013. There is no prohibition in Clause 11 from issuance of further permissions in cases where the Development Permission is already granted. In any event such a restrictive condition cannot take effect retrospectively and has to be prospective in application.
- d. With reference to the proviso to Clause 11, the same is only in the form of an clarificatory exclusion and is not exhaustive exclusion. In any event exclusion itself cannot be read negatively and be sought to apply a bar. Whilst Clause 11 refers to a bar against sanctioning new scheme, the proviso, which in essence is sought to be incorporated in the form of a permissive non-exhaustive exception; in effect actually further qualifies the cut off criteria.
- e. Usually when proposed amendments to a development plan or development control regulations are published for objections and suggestions, the cutoff date for the applicability thereof is usually approval plans and/or grant of development permission.
- f. For example even the introduction of amendment made to the Development Control Regulations of Greater Mumbai 1991, by introduction of Regulation 35 (4) (pertaining to the introduction of concept of compensatory fungible FSI), the application of the new provision is made compulsory only in cases where the 10D/10A (being development permission) has not been granted by the Municipal Corporation.

- g. The proviso to the said Clause 11 cannot be read in repugnancy to language of the Clause 11 itself. In the event if the same is so read, then the entire purpose of the language of Clause 11 is rendered nugatory and meaningless. The proviso is only incorporated as and by way of a permissive non-exhaustive and clarificatory proviso to avoid any scope of controversy and as and by way of abundant caution and the restriction is merely incorporated in Clause 11 and which restriction is a restriction on sanctioning of a new "project" and not grant of a CC.
- h. The Proviso cannot be read as casting a restriction.
- i. Moreover, the amendment of the Development Permission cannot be done without hearing the parties as per Section 51 of the MRTP Act.

We request you to kindly accord us an opportunity for personal hearing in the matter.

Thanking You,

Yours truly,
For MCHI-CREDAI



Deepak Goradia
Vice President

Encl: i) SCHEDULE- APPENDIX-A -Rental housing scheme by MMRDA
ii) Copy of our letter dated 27-12-2013