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MCHI-CREDAI UNITS

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President, Raigad
Vikas Bhamre

President, Navi Mumbai
Arvind Goel

Ref. No. MCHI/PRES/14-15/014

July 21, 2014

To,
Hon'ble Shri Prakash Javadekar
Minister of State (Independent Charge)
of Environment & Forest,
Paryavaran Bhavan,
Government of India,
New Delhi.



Respected Sir,

The Maharashtra Chamber of Housing Industry ["MCHI"], is a representative body of leading developers engaged in housing and real estate Development in the city of Mumbai. One of the functions of the Petitioner is to liase between members and local authorities, Central and State Governments. The members of MCHI are accountable for supplying / providing 80 to 90% of houses/ flats in Mumbai and in its vicinity.

Herein below are some issues affecting the Association and the Developers at large.

Re. 1.: Issuance of OM/Circulars/Notification by MOEF Department.

Background

It is observed, and we are bringing it to your kind notice, with great constrain, that the orders of the Government in the Ministry of Environment & Forest, guidelines from the State Committee issued via notifications, known as Environment Impact Assessment (EIA) Notification, 2006 onwards, are giving conflicting/contradicting directions. Sometimes the notification prescribes the period of 105 days from the receipt of the application to decide the application. If not decided, it is considered to be Deemed Environmental Clearance.

Similarly, OMs were issued on various occasions i.e. 29th June 2013, 31st October 2013, even the Government of Maharashtra declared for residential projects with construction of 20000 sq. mtrs, where Environmental Clearance is not required.

Whereas the orders by National Green Tribunal of Pune Bench, order mentions that the starting of construction work upto 20000 sq. mtrs., without obtaining, prior environmental clearance is in violation of the EIA Notification.

In view of such situation some people have approached the Hon'ble High Court, and High Court was very clear in passing the judgment on 18th December 2013, wherein it rejected the contentions of the authorities relating to OM dtd. 31st October 2013 and directed the authorities to allow development up to 20000 sq. mtrs. without insisting on obtaining a prior environmental clearance.

Circular dated 30th January, 2014 issued by Government of Maharashtra, through the Principal Secretary, Environment Department, it is mandatory for all project proponents to first get the building plans sanctioned and only upon a clarification being issued by the local authorities that the plans are in conformity with the local planning rules and provisions, shall the project proponent submit an application for Environmental Clearance.

Effect of the aforesaid Office Memorandum/Circular/Notifications.

The Office Memorandum as the project proponents cannot proceed with construction work upto 20,000 sq. mtrs., even if the project is a redevelopment project involving rehabilitation of tenants in SRA/Dilapidated/Cessed Buildings, without obtaining prior environmental clearance.

There should be no distinction sought to be made between redevelopment projects, SRA, Rental Housing Projects and other projects without any rational justification.

As per the provisions of the EIA Notification, a project proponent is required to attach a copy of the Conceptual Plan along with the application seeking environmental clearance. The Conceptual Plan so submitted contains various details about the project such as Internal Roads, Developable Area, etc., based on which the State Level Environmental Impact Assessment Authority can assess the increase in population and impact on the environment due to such increase in the population and the development of the project.

Re. 2.: Maharashtra Pollution Control Board with regard to the insistence on obtaining its prior consent under the provisions of Section 21 and 25 of the Air and the Water Act, respectively.

Background

The Hon'ble Division Bench of the Delhi High Court in a group of Writ Petitions filed before it, dealt with and held that the applicability of Section 25 of the Water Act, and Section 21 of Air Act, directed for prior consent would be needed where a building is proposed to be constructed wherefrom trade would be carried on and since from a commercial shopping mall and Industrial Complex trade is carried on, prior consent under the Act would be required.

The Hon'ble Bench, however, clarified that with respect to residential complex, neither to establish nor to operate, any permission is required. Hence, as per the conditions wherein prior consent of pollution Control Authorities, u/s. 25 of Water Act & u/s. 21 of Air Act, may not be made applicable to the Housing Projects.

A representation made to the Maharashtra State Pollution Control Board, by MCHI to apply the ruling of the Hon'ble Delhi High Court to the State of Maharashtra has yet not got any response from the State Board.

It has the effect of creating one more avenue/window of obtaining approvals in the already lengthy and time consuming process of approvals. In fact the process is killing the purpose!

Consequences on non-application of the judgment of the Hon'ble Delhi High Court

Both, the Water and the Air Act being central legislation and applicable uniformly in all states, the interpretation given by the Hon'ble Delhi High Court ought to be applied and/ or extended by the State Pollution Control Board in the state of Maharashtra.

The Maharashtra State Pollution Board be directed not to insist on obtaining its prior permission under Section 25 and 21 of the Water and Air Act respectively, with respect to construction projects involving residential housing complexes.

Re.3.: CRZ buffers for Mumbai, (enc: letter dt.24th June, 2014, addressed to Dr. S.S. Ramakrishnan, Director, Institute of Remote Sensing, Chennai)

Some of the hardships faced by the developers to be incorporated in the New Coastal Zone Management Plan.

CRZ buffer should be reduced upto 100 mtrs as against the existing 500 mtrs, particularly for city like Mumbai where all old development are within 500 mtrs and there is no wider space available to take up future essential developments. The reduced buffer is already accepted by the State of Kerala.

As Nallahs are 'Man made Drainage channels', the CRZ buffer for such Nallahs do not serve the purpose.

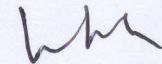
CRZ Notification would not stand on keeping the buffer as it does not serve any value addition and the development gets seriously hampered.

To reconsider these buffers.

Thanking You,

Yours Sincerely,

For MCHI-CREDAI



Vimal Shah
President

Encl: Letter dt.24th June, 2014

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Vikas Bhamre

President, Navi Mumbai
Arvind Goel

Ref. No. MCHI/PRES/14-15/005

June 24, 2014

To,
Dr. S. S. Ramkrishnan
Director,
Institute of Remote Sensing
Anna University,
Chennai - 600 025
Tamilnadu

Sub.: CRZ buffers for Mumbai

Dear Sir,

We take it as our privilege to introduce our organisation to you.

Maharashtra Chamber of Housing Industry (MCHI), formed in 1982, is the most prominent and the only recognized body of Real Estate Developers in Mumbai and Mumbai Metropolitan Region. MCHI brings together members dealing in Real Estate Development on one common platform to address various issues facing the Industry. MCHI has a strong Membership of over 1000+ leading Developers in Mumbai and has expanded across MMR, having its own units in Thane, Kalyan -Dombivli, Mira - Virar City, Raigad and Navi Mumbai.

We understand that the IRS is preparing the new CZMP for Mumbai. We wish to apprise you of the hardships that we face so that you can find solutions for them and incorporate those in the new CZMP.

1. Mumbai is a comparatively small parcel of land admeasuring 450 sq.kms. and it is surrounded by sea on all sides - with a CRZ buffer of 500 mtrs the developable area of the city is reduced further. We feel the CRZ buffer of 500 mtrs should be reduced to 100 meters as has been done elsewhere in the country like Kerala State. While reducing such CRZ from 500 mtrs to 100 mtrs for Sea front directions may be given to the State Government to initiate implementation of Construction of Sea-Wall as a long term mitigation measure against sea effects on adjoining lands. Such sea wall programme can be executed in the next few years so as to achieve development along coast with all safety nets in place.
2. Nallahs- Nallahs in Mumbai drain out waste and storm water into the sea. Some of these nallahs are already trained and many others are

MCHI-CREDAI (ISO 9001:2008)

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Tel.: 4212 1421, Fax : 4212 1411 / 407 • Email: secretariat@mchi.net
Website : www.mchi.net

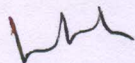
under construction. The walls of these nallahs are made of masonry or RCC and they are higher than the surrounding land. In case of a rise in Sea water these nallahs (water in the nallahs) will overflow much later than the submergence of the surrounding land. So keeping CRZ buffers for such nallahs is redundant and does not serve any purpose. Most nallahs already have accessways for maintenance which are about 7 mtrs to 10 mtrs wide.

The preamble of CRZ Notification indicates that the buffers are prescribed for development controls, considering population that may get affected due to tide/wave actions. For the same purpose, 'open sea-front' buffer is 500 mtrs and for 'creek/tidally influenced water body which is not on open sea front the buffer prescribed is 100 mtrs and less. With the same analogy: as the nallahs are 'Man made drainage channels', there is no likelihood of flooding when these nallahs are trained and cleaned periodically. Hence keeping buffer would not stand on the scientific merits/ basis of CRZ notification as the same will be redundant and will not serve any value addition. Hence these/ such buffers should be reconsidered.

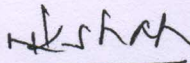
In view of the fact of the under preparation of the New Coastal Zone Management plan, we have put in some points/issues, which are being faced by the developers here. We will be thankful, if while preparing this new set up of maps, the above suggestions are incorporated, so that the difficulties faced by us are considered and reduced to a great extent.

Thanking you,

Yours Sincerely,
For MCHI-CREDAI



Vimal Shah
President



Nainesh Shah
Hon. Secretary