CREDAI - MCHI

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To,
(1) Hon'ble Shri Narendra Modi
Prime Minister
Government of India
152, South Block,
Raisina Hill,
New Delhi-110011

(2) Hon'ble Shri Arun Jaitley
Minister for Finance
Government of India
North Block
New Delhi - 110 001

(3) Hon'ble Shri Hardeep Singh Puri
Minister of State for Housing and Urban Affairs
Nirman Bhawan,
C - Wing, Dr. Maulana Azad Road
New Delhi - 110011

(4) Shri Shaktikanta Das
The Governor
Reserve Bank of India
Mumbai

Sub: Real(i)ty bites the Real Estate Industry in MMR; urgent need o f a revival plan

Respected Sir,

We the Developer's fraternity in Mumbai Metropolitan Region (MMR) are deeply pained to inform you of the sad demise of one of our brethren, Shri Sanjay Aggarwal, a respected developer and a very good human being. He was forced to take the extreme step of suicide as bearing the pain arising out of certain systemic failures had become untenable and overbearing. Sir, we collectively mourn today the life of a nation builder, who possibly could have contributed much more but for the government machinery and systems! We today come together to again press for our pain areas, as we feel that no pain could be larger than the pain of losing one amongst ourselves, for no fault of his. And we do hope that this loss would not go in vain.

Without getting into the details & merits of the case, as the law would take its own course, the whole matter was of one individual who was continually making frivolous complaints, basis which the plan approvals were getting stuck / delayed for over 3 years, with another customer demanding a particular layout which could not be provided as the regulations had changed over time. In hindsight, had the local Police paid heed to the multiple complaints put forth by Late Shri Aggarwal, and had they granted NC, a precious life may not have been lost!

A. **Justice to the Departed Soul**

This incidence has brought us back to often raised but never addressed issues; those that time remaining, if are not addressed, even taking stock of the damage may become immaterial! All CREDAI-MCHI could pray is that the situation is already grave and has become unbearable, calling for immediate dialogue to arrest any further decay (system), damage (business) and loss (life). While hoping that the current untenable situation doesn't bring further remorse to the industry, the following issues are of concern :

1. Can a building plan approving authority, MCGM in this case, entertain a complaint from a general customer and put on hold the plans signed by an authorized architect and the owner-developer of a project? Even if yes, shouldn't it be in a time bound manner, especially in the post RERA Era?
2. Shouldn't RERA get teeth under Sec 32 (b) and (c) and bring all government authorities involved in the building plan approval process, under its ambit and hold them equally responsible as the developer for project delays? The Real Estate Industry has been reiterating at every forum a long-pending demand to bring government bodies especially the project-approving civic authorities under the purview of Real Estate (Regulation & Development) Act, 2016 by which approving authorities' actions can be put under check.
3. Should Ease of Doing Business remain only in books and circulars and its implementation on the ground level never happen? Shouldn't ease of doing business be carried out across offices and departments? Shouldn't every developer or architect seeking building plan approval be treated as a client and that granting approval within a time bound manner becomes a hygiene and the only driving principle of a customer centric service delivery?
4. Would it be an extreme demand to expect our political leadership to take center stage and commit on behalf of the government that all building plan approvals shall be granted approval on top priority and within a stipulated time bound period?

B. **Section 32, RERA ACT, 2016**

For ready reference, we reproduce below the relevant RERA Act section below :

The Authority shall in order to facilitate the growth and promotion of a healthy, transparent, efficient and competitive real estate sector make recommendations to the appropriate Government of the competent authority, as the case may be, on :

a) protection of interest of the allottees, promoter and real estate agent;
b) creation of a single window system for ensuring time bound project approvals and clearances for timely completion of the project;
c) creation of a transparent and robust grievance redressal mechanism against acts of omission and commission of competent authorities and their officials;
d) measures to encourage investment in the real estate sector including measures to increase financial assistance to affordable housing segment;
e) measures to encourage construction of environmentally sustainable and affordable housing, promoting standardisation and use of appropriate construction materials, fixtures, fittings and construction techniques;
f) measures to encourage grading of projects on various parameters of development including grading of promoters;

g) measures to facilitate amicable conciliation of disputes between the promoters and the allottees through dispute settlement forums set up by the consumer or promoter associations;
h) measures to facilitate digitization of land records and system towards conclusive property titles with title guarantee;
i) to render advice to the appropriate Government in matters relating to the development of real estate sector;
j) any other issue that the Authority may think necessary for the promotion of the real estate sector.

It is CREDAI-MCHI's informed opinion that once the section is implemented in word and in spirit, most of the ground level malaise shall be laid to rest.

CENTRAL GOVERNMENT

A. The Financial Crisis Surrounding Real Estate

As a humble submission to make, the industry today is going through a rough patch and some of the impediments, both revenue and non-revenue in nature are only making going tougher by the day. The spectre of premiums coupled with the ever-increasing Ready Reckoner Rates have resulted in a compounding effect leaving no further elasticity for developers to absorb prices with increased taxes. If such forced increases in costs, taxes & premiums by the State Government are not seriously looked into, it would only be detrimental to the industry's health and has the potential to result in catastrophic results with nothing available as affordable housing for millions of households. The various industry reports on huge inventory pile up are the harbinger of more difficult times to come. The ultimate loser is the aspiring house hunter.

The recent events in the financial markets, which started with ILFS defaulting on its Commercial Paper borrowing leading to Mutual Funds and Banks becoming cautious towards funding of NBFC's has only deepened the gloom that surrounds the sector. Over the last 12-18 months, due to the stress in the banking sector, banks had curtailed their exposure to the real estate and housing sector, whereby the only source of capital available to our industry was from NBFC's or Private Equity firms. This premise gets further strengthened by KPMG's report stating that till date USD 4 billion of FDI has been invested in the real estate sector this year and FDI investment is expected to increase to USD 1 trillion by 2030. It's also important to note that Indian banks can only fund a maximum of 5% of their balance sheet size to the real sector which also includes home loans. This is another key reason that the real estate and housing sector has no option but to rely on funding from NBFC's and Private Equity.

As Real Estate Sector Crisis Hits the Zenith, Consumer Sentiments Hit the Nadir

Sir, it is important to mention that just at the time, post 6~8 quarters, when the real estate sector was just about showing initial signs of recovery, that it was hit by the NBFC crisis. This crisis has further pushed the sector into the doldrums from where, if some major corrective actions are not taken without any further delay, timely completion of under-construction projects and roll out of new ones would come to a standstill. Should the cascading effect of credit flow into the real estate sector is not resumed immediately, it is only a matter of time that while on one side many developers across the country will have to shut shop, the lakhs of daily wage earners that depend on this sector for livelihood, will not have an alternative. As customers confidence gets further dented, and their increased apprehension on the delivery credibility of even established names forcing them to keep away, for once, developers despite having physical assets backing them would be out of business for lack of liquidity / cash flows. The gravity of this crisis is much gloomier than it appears and this is really our "***MAYDAY***" calling!

CREDAI-MCHI's Prayer

Sir, we write to you today as we, as an industry, need your undivided support to bring us out of this vicious cycle or the current crisis may culminate in the shutting down of the industry. The industry today is in dire need of a comprehensive package to bail it out of this crisis, and we look forward unto you to kindly provide us with a path in order to achieve the following:

1) Until the liquidity situation eases, allowing a one-time restructuring of all developer loans as was allowed in 2008 during the Lehman Crisis including those that may have got classified as NPAs over the past one year;
2) To relook at the NPA recognition norm for NBFCs/HFCs and to make the same liberal by pushing recognition from 90 Days Past Due (DPD) to 180 DPD;
3) To allow PSU banks to take over and restructure even those developer loans that may have had a land component as part of the existing loan structure;
4) Immediate liquidity in the industry, either to the NBFC's or direction to banks to support real estate and housing funding by increasing their exposure norms, whereby the banks can re-start funding developers and home loans;
5) Allowing banks to fund land acquisitions; and
6) Urging Banks/ NBFC's to reduce the overnight increase in cost of borrowing effected by them.
7) Subsume Stamp Duty & Registration charges into GST to justify the objectives of "One Nation-One Tax"
8) Bring all Real Estate to an 8% GST slab with Input Tax Credit being made available

B. CIVIL AVIATION : It is our earnest plea to expedite and finalize the draft notification dated 12 April 2018 with regard to Height Restrictions for Safeguarding of Aircraft Operation Rules, 2015. Also while development and upgradation of airports, consultation with real estate developers and local planning authorities needs to be compulsorily taken into consideration at the time of development of the master plan itself, be it a Greenfield airport or planning of major airport expansion or the installation of new communication, navigation and surveillance facilities at the existing airports.

Sir, there were issues also with regard to change in interpretation of OLS Guidelines effected from April 2018 onwards; hence we request you for Implementation of interpretation of OLS Guidelines as suggested by CREDAI and concurred by DGCA. Last, but not the least, average time taken for conducting an aeronautical study is 6-9 months leading to delay in planning & approval of projects from other relevant authorities. Our submission is to reduce the time to 3 months through digitization and automation.

STATE GOVERNMENT

A. **Re-calibrate the land rates to upto 25% of Residential Sale Rates :** Land rates are the most impacting component in a project's costing. Gone are the days when land rates in MMR were pegged at 70% of the project cost; they at best today are range bound from 20%~25% of sales. However, for some very strange reasons, despite there being no land transactions to support the basis, IGR has been fixing land rates arbitrarily at 50% and above of the residential ready premises sale rates across MMR.

Various analysis and reports have clearly brought out the fact that the current day premiums and charges payable to the government (all linked to land ASR) are around 20%~25% of the residential sale value. Another 30%~40% of the sale price goes towards the construction cost. **Accounting for other administrative, marketing and finance costs which is another 15%~25%, the land rates cannot under any scenario, be more than 20%~25% of residential sale rates.** It is thus, CREDAI-MCHI's strong plea to re-calibrate the land rates to upto 25% of Residential Sale Rates across MMR.

B. **STAMP DUTY** : While the impact of some of the events over the past few months or any policy reform are usually transient in nature, the government's decision to levy a 1% surcharge on stamp duty for immovable property in Mumbai would be permanent and directly impacts the consumer sentiments.

As per the provisions of the Mumbai Municipal Corporation Act (second amendment) bill, this move may be aimed at creating sufficient corpus for infrastructure projects for an already rich MCGM, the common man would suffer this unnecessary and unwarranted burden with the cost of home ownership going up. As it is, the current levy of 5% Stamp Duty itself is a big dampener and impacts the affordability to a very large extent. Besides, MCGM imposes a surcharge on Development of 4% of land ASR (ready reckoner) on BUA as part of the building plan approval charges. To top it, there is a GST of 12% payable by the end buyer. How much of a burden of tax should be on the consumer? In light of the above, this additional levy of 1% should be immediately and unconditionally rolled back.

Some of the other major issues related to Stamp Duty that CREDAI-MCHI has been representing with the concerned authorities over the past are summarised as below:

1. **Rs.100/- Stamp Duty to be charged on Conveyance or Agreement for Development in respect of land declared as Slum or Slum Rehabilitation under Maharashtra Slum Act**
Stamp Duty on Conveyance or Agreement for Development or Joint Venture agreement or any agreement, arrangement or contract in respect of any land declared as Slum or Slum Rehabilitation under Maharashtra Slum Act which qualifies for slum rehabilitation scheme under DCR 33 (10) or Section 3 of Slum Rehabilitation Act should be Rs.100/- only.

2. **Stamp Duty charged by Stamp Office in respect of projects of redevelopment undertaken on land belonging to MCGM/MHADA, etc.**
In view of the above, it is humbly submitted that all development agreements for redevelopment of MCGM and MHADA properties under DCR 33(5), 33(7) and 33(9) be

treated for levy of stamp duty as a contract under clause (i) (b) of Article 5(h) of the Schedule to the Maharashtra Stamp Act and stamp duty of Rs.100 be levied for such agreements.

3. **Those investors who are buying under construction property before OC, should be allowed to set-off the Stamp Duty paid on their purchase agreement with the stamp duty payable on the sale agreement upto a period of one year from the date of OC.**

4. **Changes To Be Made And Items To Be Incorporated In The Bombay Stamp Act, 1958**
The Government of Maharashtra has passed many acts and schemes to reduce the problems of housing and slums. But these schemes have remained largely on paper, because entrepreneurs, who would have otherwise willingly adopted these schemes, face too many problems in implementation. Of the 1800 applications received under SRA, only 250 have been completed.

The suggestions outlined below, will go a long way in incentivizing real estate developers, and entrepreneurs to take up the challenge of affordable housing and slum rehabilitation. This will not only change the very looks of Mumbai and MM region, but also bring in substantial revenue to the Government, and generate employment and goodwill for the Government of Maharashtra.

Sir, the points to be considered to include:

a. 1% Stamp Duty in respect of Agreement for Development or Joint Venture Agreement, or any agreement, in respect of development of immovable property.

b. Max Fee of Rs. 100/- on any Conversion of Partnership to a Limited Company under Chapter IX of the Companies Act, 1956.

c. Amalgamation, Merger, Demerger or Reconstruction of Companies, or court consent terms maximum Stamp Duty payable shall be Rs. 10,00,000/-.

d. Rs. 100/- Stamp duty on Conveyance or Agreement for Development in respect of land declared as Slum or Slum Rehabilitation under Maharashtra Slum Act.

C. **ULC** : Since the ULCRA had not met its intended objectives, the Government of India had decided to repeal the Act with the passing of the Urban Land (Ceiling and Regulation) Repeal Act, 1999. However, this is yet to be repealed in the state of Maharashtra in spite of it agreeing to the Repeal Act. We request you to kindly intervene for its removal both in letter & spirit, as the repeal of the original act is already accepted *ab initio*.

D. **RERA** : Mumbai is plagued with a unique problem where thousands of occupied buildings are without Occupation Certificate (OC). We request you that on conditional basis, to grant OC to the buildings which have been occupied and possession has been given to purchasers. Such building should be kept out from the purview of RERA Registration.

Given the current crisis that the industry going through, almost every project proponent is finding it hard to deal with the financial liabilities arising out of the severe liquidity crunch. This in effect is likely to impact the delivery schedules of all under construction properties registered MahaRERA. It is our earnest request that MahaRERA should automatically provide a one-year extension to all such registered projects.

As part of its MahaRERA complaint redressal process, MahaRERA has been issuing orders to developers to issue refund to a complainant at 10.5% interest. While the orders are in customers interest but may further push the developer deeper into a financial crisis. What needs to be considered, in order to pass a more balanced order, is that of the total number of buyers, what proportion have demanded a refund. With a cash flow issue, the project delivery is likely to suffer, thereby jeopardizing the interest of the remaining buyers. As such, MahaRERA Authority is sincerely requested to be extra cautious while issuing refund orders with interest in ongoing projects.

URBAN LOCAL BODY

A. **Fast track Approvals:** It is a matter of great pride that Maharashtra ranking for *"Ease of Doing Business"* has climbed several notches. It is because of several initiatives undertaken under your leadership. Sir, we would like to congratulate your Government for rolling out DCPR 2034, which shall take the development of Mumbai to the next level. Your Government has truly started the process of *Urban Renewal.*

   However, the true benefits of EoDB are yet to reflect their efficacy on the ground and a lot is yet desired. Still there is lack of on-time approvals. On line permissions system is not effectively working. We request you to look into the same.

B. **PREMIUMS & DEVELOPMENT CHARGES** : With all premiums and charges linked to Land ASR, land ASR only has a domino effect on the landed cost of the residential unit in the hands of the end buyer. It is this one single factor that has created unaffordability in the markets, making it highly difficult and beyond financial reach of the common man to seek housing within MMR limits. We wish to highlight this pain area and earnestly request your kind intervention to cap all FSI related premiums to 25% of land ASR and other premiums like staircase, open space deficiency etc. to be capped at 15% of land ASR. This amendment would go a long way in bringing relief to the thousands of families seeking a home in MMR.

C. **LUC** : The Corporations decision to change the valuation basis for assessment of LUC taxes from ratable system to capital value system has overnight increased the burden on the developers by 200%~300%. Moreover, to base the demand on FSI and not on plot area looks irrational as in doing so, the corporation is raising a charge on an asset that is not yet existing. It is our request that LUC should be charged at a maximum of 50% of the assessment of the ready property.

D. **MCGM** : One of the key facilitation carried out by MCGM was decision to grant the facility of instalments in payment of fees/ premium/ charges/deposits, to those who have requested to pay such amounts in three (height upto 70 mtrs.) and four yearly (height above 70 mtrs.) instalments. Given the current state of the Real Estate Industry owing to the NBFC crisis and the severe liquidity crunch, MCGM should look at the possibility of providing another years extension at a lower rate of interest. This would at least help ease some of the cash flow burden of the developer.

Sir, as in the past, we need your support at this break-point, as the industry finds itself caught in a tough cycle. With some of our brethren stating to take the extreme steps in absence of a glimmer of hope amidst all the gloom, the ripple effects should not be allowed to bring an entire Real Estate and Housing sector to a standstill. ***This may well be our only chance!***

We sincerely request your immediate appointment to give our industry leaders a chance to present the pain and the case in person to you. We earnestly hope you would consider our request and thanking you in anticipation of a favorable response.

Yours sincerely,
For CREDAI-MCHI

Nayan A. Shah	**Bandish Ajmera**	**Sanjiv S. Chaudhary MRICS**
President	Hon. Secretary	COO, CREDAI-MCHI

CC to :

1. **Shri Nripendra Misra,** Principal Secretary to Prime Minister, PMO, South Block, Raisina Hills, New Delhi - 110 001
2. **Shri Durga Shanker Mishra (I.A.S.),** Secretary, Ministry of Housing and Urban Affairs Nirman Bhawan, C - Wing, Dr. Maulana Azad Road, New Delhi - 110011
3. **Shri A. B. P. Pandey (I.A.S.),** Secretary, Department of Revenue, Government of India, North Block, New Delhi - 110 001