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**PRESIDENT, NAVI MUMBAI**  
Prakash Baviskar

Ref. No. MCHI/PRES/18-19/121



January 15, 2018

To,  
Shri R. B. Zope

Chief Engineer (Development Plan)  
Municipal Corporation of Greater Mumbai  
Mumbai - 400 001

**Sub :** Certain issues under EODB that require immediate attention and Redressal

Respected Sir,

CREDAI-MCHI extends its heartiest Congratulations to you and your entire team that has relentlessly and tirelessly worked towards the substantial improvement in the countries World Bank EoDB ranking.

It is by far the greatest feat that in World Bank's "Ease of Doing Business" ranking, India has jumped 23 places to the 77<sup>th</sup> position. From an overall ranking of 142 in 2014 to the current ranking of 77 could not have been possible but for the incessant efforts put in by you and your team. This significant improvement in the countries rankings only vindicate the ongoing efforts and reforms brought in by the Government under your leadership to boost discipline and transparency in the real estate sector.

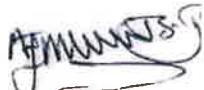
While CREDAI-MCHI sincerely acknowledges the on-going efforts of your government and to sustain this momentum and to put forth a Road Map to drive our country into the top 50 ranks in EoDB, there are certain ground level issues that require immediate attention and redressal, namely:

1. Civil Aviation: Issues concerning building height permissions issued by AAI
2. MoEF Conceptual Plan Issue
3. Issue of NOC for the projects in the vicinity of Defence Establishment in the city of Mumbai.
4. Streamlining the Railway NOC/ Clearance's with respect to building approval in city of Mumbai.
5. Local ULB Issues
6. RERA

Sir, we hereby humbly request you to give us an appointment to meet you to discuss the way forward on the above highlighted issues.

Yours sincerely,  
For CREDAI-MCHI

  
Nayan A. Shah  
President

  
Bandish Ajmera  
Hon. Secretary

  
Sanjiv S. Chaudhary MRICS  
COO, CREDAI-MCHI

**1. Civil Aviation: Issues concerning building height permissions issued by AAI**

**A. Amendment to the Ministry of Civil Aviation (Height Restrictions for Safeguarding of Aircraft Operation) Rules, 2015**

Reference	Current Status	Suggestion Proposed	Justification
Draft notification dated 12-Apr-2018	Draft notification issued, Suggestion/Objection done on 11-May-2018, awaiting final notification	Issuance of final notification as soon as possible	Issue pending since more than 2 years, working group formed in October 2017 and report was finalized in May 2017

**B. Interpretation of OLS Guidelines**

Reference	Current Status	Suggestion Proposed	Justification
Guidelines on Maximum Allowable Penetration of OLS in Aeronautical Study Reports dated 26-Mar-2015	Change in interpretation of OLS Guidelines effected from April 2018 onwards, matter referred to DGCA who have concurred with CREDAI's interpretation	Implementation of interpretation of OLS Guidelines as suggested by CREDAI and concurred by DGCA	Change in guidelines leading to impact on FSI consumption and profitability of projects

**C. Timeframe for conduct of aeronautical study**

Reference	Current Status	Suggestion Proposed	Justification
MoM of aeronautical study / appeal meetings	Average time taken is 6-9 months, leading to delay in planning & approvals from other relevant authorities	We propose reduction in time to 3 months for conduct of aeronautical study through digitization and automation	Full concept plan is required to be submitted at once

#### **D. Stakeholders Involvement**

Reference	Current Status	Suggestion Proposed	Justification
Clause 14(3) of GSR751(E)	While development and upgradation of airports, consultation with real estate developers and local planning authorities is not being carried out at the time of development of master plan of a Greenfield airport or planning of major airport expansion or the installation of new communication, navigation and surveillance facilities at the existing airports.	<p>Necessary consultation with all the concerned stakeholders including aerodrome local community bodies / Local Planning Authority / Construction group professional association, etc shall be carried out by the Airport Developer, Airport Operator or by the Air Navigation Service provider, as the case may be, at the time of development of master plan of a Greenfield airport or planning of major airport expansion or the installation of new communication, navigation and surveillance facilities at the existing airports.</p>	<p>During meetings of NOC Review Working Group 2017, it was agreed to link these consultation meetings with other meeting of stakeholders at airports.</p> <p>Further, this is required in compliance to ICAO DOC 9167 PART 6, 2.2.3: wherein the intent is to ensure that measures taken provide maximum economic benefits to neighboring communities and least possible interference with the rights of property owners in addition to greatest possible degree of safety and efficiency for aircraft operations.</p>

## **2. MoEF Conceptual Plan Issue**

CREDAI- MCHI has been requesting that the environmental clearance should be granted on the basis of maximum possible potential (conceptual plan) which a developer is likely to get on a plot. As per the act conceptual plan with full potential should be considered as per para 3(b)(i) in the office memorandum requirement.

- i. For building/construction projects (item 8 of the Schedule), in the prescribed Form-I given in Appendix I, along with Supplementary Form 1A as given in Appendix II, as prescribed in EIA Notification, 2006 and a copy of the detailed conceptual plain;*

This would avoid repetition of submission of proposals for environmental clearance. The appraisal of project can be done based also on the project disclosures at MahaRERA and based on concessions approval by MCGM.

Hence, CREDAI-MCHI would like to request you to take the cognizance of the MoEF & CC Notification issued on 22 Aug 2013 & the OM issued on 20<sup>th</sup> Aug 2018 to issue the necessary directions with clarifications to the SEAC & Government of Maharashtra to accept the project as per the earlier practice with full potential before insisting for the IOD (Intimation of Disapproval).

As this process has been implemented across other states, hence our humble request that the same be implemented in the State of Maharashtra as well.

### **3. Issue of NOC for the projects in the vicinity of Defence Establishment in the city of Mumbai.**

The Defence Ministry then issued a guideline vide Circular no.11026/2/2011/D (Lands) dated 21<sup>st</sup> October '2016. The objective of instruction right from circular dated May 2011 to October 2016 was to strike a balance between the security concern of the forces and the right of the common man to undertake the necessary construction activities on their land.

The Authorities at KanjurMarg, Malad, Kandivali (Mumbai Suburban) have started releasing the proposals which were kept on hold, and also issued NOCs for new developments in few cases based on the clarifications/guidelines dated 21<sup>st</sup> October 2016.

However, in case of Ghatkopar (Mumbai Suburban), the Defence Establishment (Naval Department to be specific) has not taken a similar view. They refuse to give their NOC/clearance to all the pending proposals as well as the new proposals. The reason cited by the Authorities is based on the fact that the annexure of the circular/guidelines dated 21<sup>st</sup> October '2016 does not include or involve them (Naval Department). Hence, they are not agreeable to giving the clearances.

It is important to note that all the correspondences made from 2011 till the above date were always addressed to all the three wings of defence i.e. surface, air and water. The annexures to guideline dated 21<sup>st</sup> October '2016 do not contain any mention of Naval Department. This seems like an oversight as it leads to the variation for the parameters/guideline for Naval establishments v/s Army/Military or Air Force establishments.

In the absence of revised guideline/s, the western Naval Command has rejected their NOC to many proposals. Due to this almost 300 housing projects are affected which all are near Navy's establishments within 500 meters' distance from the boundary of Naval establishment. There are hardly vacant lands available in the city of Mumbai from the boundary of Navy's establishment. So, most proposals are for rehabilitation of existing residents/users of those premises. Many of these buildings & chawls are in a dilapidated condition. Therefore, redevelopment is the only solution for people in such projects. The Municipal Corporation & the State Government are very much supportive by framing rules to help create large volumes of Housing stocks. The delay in issuing revised guidelines for Naval authority affects not only the dream of our Hon'ble PM Shri. Narendra Modi "Housing for All by 2022" but also basic rehab to people already existing there.

The Ministry of Urban development has taken very effective steps under ease of doing business (EODB) policy to improve construction permits. A joint meeting was also called by the Ministry on 8/2/2017 to discuss and resolve the issues related to construction permissions. Repeating here that all the correspondences made from 2011 till the above date were always addressed to all the 3 wings of Defence i.e. Surface, Air and Water.

From the above it is very clear that there is a huge variation even in the basic guideline for Army establishments (10 mtr.) & for Navy establishments (500 mtr.). Even the

Authorities have started granting NOCs within 500 mtrs to specific cases and rejecting others, so it is difficult to understand the parameters for granting in some cases and rejecting in other similar ones. Also, seeing the correspondences it seems like the top tier of the officers have clarity on granting the

Sir, the resident's/society members, developers and the people at large have waited enough for unlocking their projects. There is no intention from anyone on compromising the safety and security of the people of India, or, the need for privacy of Defence Establishment Authority. In fact, none of them have breached any rule. But as the final amendment to the Act has not yet taken place and interim circulars/guidelines are confusing the matters, the rights of citizens are greatly affected. It is also clear that the quantum of such buildings/projects are not even 10% of the total number of buildings/projects already existing around the periphery of the various Defence Establishment. If there is a threat it could well be from any of the existing buildings too, not just new ones coming up.

**4. Streamlining the Railway NOC/ Clearance's with respect to building approval in city of Mumbai.**

CREDAI-MCHI vide it's letter dt. 22.2.2018 had submitted the representation regarding streamlining the Railway clearances/ NOC's with respect to the Building approval procedures under Ease of Doing Business. In continuation to that representation, we are submitting this further submission for your kind consideration.

Sir, you are well aware that graphical shape of Mumbai City is elongated and it is sandwiched between Arabian Sea from both side. The land cost in the Mumbai city is very high also the plot sizes are very stringent. The development which was undertaken along the railway lines is now more than 150 years old, and that dilapidated buildings require redevelopment. Government cannot spend such big finance for the redevelopment of these dilapidated buildings. Hence, as per the Maharashtra state government's policies and provisions in the Development Control Regulation of Mumbai these dilapidated building are to be developed by the private project proponents by availing additional FSI. Due to this provision of the additional FSI the height of the proposed buildings bound to be more than present height.

In this regards Railway board, Ministry of Railways Vide their circular / office memorandum issued under no. 2015/LML-1/19/2 Dtd. 25.06.2015 addressed to General Manager/ principal chief engineer of all zonal railways inform the procedure to issue NOC for construction / redevelopment of government and private buildings on the land adjoining the railway boundary. The main points in the circular are as follows.

- A. The basic intention behind the stipulation of the para no. 827 of Indian railway work manual is to safe guard the railways interest in the property adjoining the railway lines from future development point of view.
- B. The exact space between railway land boundary and nearest edge of the building is approximately 30 mtrs. however, it is governed by local conditions.
- C. In the cities and towns where the land is valuable it is not expected of the land owner of the plot to leave a large vacant open space between the building and railway boundary and it is deemed that railways interest will be adequately safeguard.
- D. Railway NOC is required for construction of buildings with in 30 mtrs. from the railway boundary; however, disposal of waste such as sewage and silage water and disposal from septic tank shall be away from railway land.
- E. In case of construction of high rise buildings with basements, railway should examine the drawings and construction methodology and ensure that under no circumstances safety of the railway track is adversely affected during and after construction.

In view of above points in the office memorandum we would like to submit :

- a. At present as per new structural code all the buildings which are being designed by the registered structural consultants are liable to take the seismic forces. Hence, in the situation of earth quake the new buildings are **safe from earth quake point of view**. Therefore, even during earth quake the new buildings will not fall on the railway tracks. In view of this the **distance of 30 mtrs should be reduced to 15 mtrs** for obtaining the NOC from the railways. **Also the height restriction of 2H** (where H is horizontal distance from Railway Track Boundary and proposed building) **should be increased to 6H** considering today's advance construction technology and structural designs.
- b. Mumbai city is a well-developed city, having top class infrastructures like underground sewerage systems and storm water drain systems. Therefore, in such condition, whenever the plans are approved by Municipal Corporation of Greater Mumbai, it is mandatory to all the developers to connect the sewer and storm water of each plot to municipal sewer and storm water system. In view of this the sewage and silage water never comes on the railway lines or on railway land boundary. Hence, railway land in Mumbai is always safe from sewage water point of view.

In view of this we request yourself to look in to matter and initiate the new policy depending upon above representation please.

## **5. Local ULB Issues**

A. 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.

In the case of Late Shri Sanjay Agarwal, what we were able to find out was that there was a society member who was complaining against Late Shri Agarwal and making him run from pillar to post to seek the building plans approvals which led to further complications in the resale flats. This matter highlights the fact that there needs to be clearly defined process that for such consumer's complaints, unless there is a Court stay order, the approval process should continue its normal course and that only in certain rarest of rare circumstances, such complaints could be referred to planning authority's internal legal department, MCGM legal Department in the above case.

The core issue here is that if a proposal is duly authorized by a Registered Architect and the Project Proponent and if the Building proposal is well under the provision of the then relevant DCR, basis some consumer complaints should the Project Proponent be made to run from pillar to post for seeking approvals? In fact, in such cases where post RERA all project related information is disclosed and available in Public Domain, a further indemnity can be taken from the project proponent holding him responsible for any irregularities.

B. Effect of the revenue records in terms of set time for demarcation: For eg. If development under accommodation reservation is being undertaken, it takes a long time today for this effect to reflect on the PR Records, City Survey plan; whereas such effect in the revenue records should be carried out in a pre-prescribed time bound manner.

C. Very recently, a Circular has been issued to make all roads width to a minimum of 9.15 mtrs. They should have a set procedure for its timely implementation, now that the Policy circular has been approved by the MCGM.

D. Hoarding: A Project Proponent should not be called upon to pay anything extra for the hoardings.

In today's context, displaying the Hoarding / Site Dressage / Neon Sign / Signage etc. at the proposed construction site / Layout has gained more relevance and importance, as it is now an integral part of compliance of RERA Act. It is always found that when the Owner / Developer has fixed the Hoardings / Site Dressage / Neon Sign / sign ages etc. at the proposed construction building / Lay Out, the Local Appropriate Authorities & Local Politicians are troubling the Owner / Developers.

In the said permissions, Developer / Owner shall be allowed to without any charges or payment to advertise current project details, elevation, size of flats, amenities which he is likely to provide to his customer, approvals received from various Authorities, work start and completion date of the project, name and address of the various consultants and any other details about the proposed construction site, except advertise any other projects or products or other development site. As RERA requires full disclosures from the developer, it is the need of the project, to have a display of all pertinent information with respect to the ongoing development on the site.

Kindly allow owner/ Developer, to solely decide the Size, Shape, location and Numbers of display of Hoardings / Site Dressage / Neon Sign / signages etc. as per their requirements, at their own responsibility, without disturbing adjoining property.

- E. **Accommodation Reservation and all other approvals:** In case of Accommodation Reservation and all other approvals, MCGM should support the Project Proponents before the MoEF authority that the plans have been approved by them. At every stage MoEF insists that the Project Proponent should get an NOC from the assessment department. Why should this be insisted upon when Assessment is a separate obligation of the Land Owner? Why should the building proposal or development become a tool for collecting the Assessment? In case of any default, there any which ways provisions for interest and penalty.
- F. **Facility of Instalments :** 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.

## **6. RERA**

A. RERA should 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.

EODB should be carried out across all offices and departments. Every developer or architect seeking building plan approval should not 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.

### **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.

- B. 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.
- C. 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 customer's 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.