

S. S. Hussain I.A.S. (Ex)
Chief Executive Officer

Ref. No. MCHI/CEO/13-14/284

February 20, 2014

To,
The Deputy Director of Town Planning
Government of Maharashtra
ENSA Hutments, E-Block,
Azad Maidan,
Mahapalika Marg,
Mumbai - 400 001

OSU
20-2-2014
महाराष्ट्र नगर रचना, मुंबई
महानगर विकास

Dear Sir,

In pursuance to MCHI's above referred suggestions/ objection and without prejudice to the contention mentioned thereof, the written submissions in support of the same are hereunder:-

The primary objective of "MAHARASHTRA STATE HOUSING POLICY" inter alias reads as under:

"Taking cognizance of the specific problems of metropolitan areas like Mumbai, the objective of the housing policy would be to ensure time bound redevelopment of slums and reconstruction of old and dilapidated buildings on precinct/cluster approach for urban renewal".

In the housing policy for Urban Renewal Schemes, it is committed that Government will play proactive role in Incentivising redevelopment of old and dilapidated buildings through cluster approach.

Since the prevailing regulations under regulation 33(5)/ 33(7)/ 33(9) has failed to give the requisite impetus to achieve the above objective, the regulation 33(9) has been substituted for the reconstruction of old and dilapidated buildings on precinct/cluster approach under urban renewal scheme and the gist of the draft regulation are as under:-

1. To grant FSI of 4.00 or rehab plus permitted incentive FSI under appendix-III-A which is ever is more.
2. The minimum area of URS for Island City has remained 4000 Sq. Mtrs.
3. The jurisdiction is extended for suburb also with a minimum area of URS of 10000 Sq. Mtrs.
4. Additional entitlement for the rehabilitation of residential tenants to incentivize the scheme in relation to the size of URS area.
5. Incentive FSI based on Ready Reckoner Land Rate.
6. MHADA share based on Ready Reckoner Land Rate.

8. Constitution of Empowered committee to transfer the land belonging to Authority.
9. Acquisition of 30% lands once the promoter has purchased 70% land within URS.
10. For taking up a URS, the pre-requisite/riders laid down in the regulation are as under:-
 1. The URS should have a access with a width of 18.00 Mtrs.
 2. 70% consent of each plot occupant.
 3. HPC approval with prior sanction of Govt.
 4. N.O.C. from Authority
 5. Slum areas do not constitute more than 50% of the area of Urban Renewal Cluster.
 6. Minimum age of the existing structure should be 30 years.

Thus the MCHI's suggestion and objections are in consistence with the state housing policy as well as national housing policy 2007 so that the large re-development of dilapidated building can be taken up without any bottle neck as seen from the past experience while implementing the existing regulations.

In this back drop, the MCHI's written argument suggestion to the substituted draft regulation are as under:-

1. The minimum width of access to URS should be wished away as the responsibility of providing access/road of adequate access is the job of Town Planning Authority and in this case is UDD/MCGM, who plan prescribe proposed D.P. road of 18.00 Mtrs. In the sanctioned the DP Plan where ever there is no existing access, and widen the existing access. The development otherwise permissible under DCR in terms of access and other fire safety norms should be made disentitled for cluster redevelopment only for want of access of 18.00 Mtrs. As such the pre-requisite of minimum width of access should be deleted and it should be left to the wisdom of HPC to accept or reject the proposed URS after analyzing the scheme in totality.
2. The minimum area of URS in suburb also should be of 4000 Sq.Mtrs. instead of 10000 sq. mtrs. since there such large land areas are hardly available in suburb and land pooling of such large will take decades and there scheme will never take off. As such the minimum plot area of URS for regulation 33(9) should be same for Island City as well as for suburb.
3. The FSI benefit of any new tenancy created after these modification brought out should not be extended as to avoid inflating the nos. of tenancies for getting benefit under the scheme. The cutoff date for the Island City under regulation 33(7) can be maintained but in suburb there is no cutoff date and hence any tenancy created after 13/6/96 to 30/12/13 should not be held disentitled for the computation of rehab FSI. Such tenancies will by and far

very less in any building of 30 years of age and hence it will have no great consequences if such benefit is extended to the occupant of tenancy created after 1996. Furthermore, under rent control act, each occupant regardless of when the tenancy is created needs to be rehabilitated in the new building. The cutoff date of 13/6/96 for suburb redevelopment means, this regulation being applied retrospectively for 17 years which is no way fair and just. As such the cutoff date should be prospective and not retrospective.

4. Under the draft regulation the list of occupants and the area occupied in buildings other than those who belong to MCGM and other than slum needs to be certified by Mumbai Building Repair & Reconstruction Board. There is no rationale behind this provision at all. The Mumbai Building Repair & Reconstruction Board is certifying the cessed buildings in the Island City and under M.H.A.&D. Act, it has the jurisdiction of Island City and concerned only about the cessed buildings. Even in Island City, for buildings other than cessed buildings, MCGM is certifying the occupant list. The present practice being adopted by Mumbai Building Repair & Reconstruction Board is very cumbersome and time consuming as such it would be in no way helpful to expedite the process of implementing large redevelopment involving several hundred buildings in a URS. The solution for this is to accept the list certified by the owner/ owner's architect along the documents in support of the same. Under capital based taxation, the MCGM has already done the exercise of identifying the beneficiary and the area occupied by each occupant. For more transparency, the list can be displayed in the building, also published in the local news paper as well as uploaded in the net and if there are claims the same shall be addressed by a sub-committee under HPC. Unless the procedures are simplified it would be impossible to fathom such large planned development to become a reality. Therefore it would be prudent to take away the additional burden of Board to certify and accept the one certified by the owner.
5. Unless there is a statutory provision to summarily evict the non-cooperating occupant, no development can take place. There are similar provision under regulation 33(5), 33(7) and 33(9) and hence it is imperative to have such provision under this regulation.
6. The land pooling by any method under this regulation should be time bound otherwise it would defeat the very purpose of the regulation as any prolonged delay in the land pooling will put the financial burden on the promoter and will result in making the project unviable. As there are many method available for land pooling and the promoter should be given the choice to choose the right method that is suitable so that the scheme can be implemented smoothly.

7. The pre-requisite of 70 percent of the eligible tenants/occupiers of authorised buildings on each plot would make the scheme as autopian one. For example if there are twenty building in each plot with an average of 30 occupant each totaling 600 occupant and if seven occupant do not consent for the scheme there by the criteria 70 percent of the occupiers of one building is not met, then the entire project has to suffer despite of support of remaining 593 occupant to the scheme. There are judgments to the effect once the plots are amalgamated the entire development will be taken as one for the computation of 70% and in this case once the URS is formulated and accepted, then entire cluster under the URS should be treated as one and if 420 occupants out 600 consent there project should be thorough even if there are building where the entire building occupants are not willing to participate in the scheme.
8. There is no rational to extend the additional entitlement to only residential occupants more so when the likelihood of other users in a normal URS will be less than 5%. This provision is discriminatory and unjust. Any benefit to the occupant of the scheme should be uniform which is legal and just.
9. The benefit of 25% of built up area or the zonal FSI of entire or partly unnumbered plot should be made available for all the stake holders who contribute to their property to the URS which includes the Govt./undertaking/ local bodies. Since the incentive is only sufficient enough to meet the project cost, the cost of land pooling should be met within the FSI given to the person who contributes the property to make the scheme financially viable.
10. The incentive FSI should vary where ever the LR /RC ratio changes and slab of two is too much and it should be one instead. In most of the cases, it is expected the ratio shall vary from 2.00 to 4.00 which attracts the same incentive FSI. To illustrate how such large deference in ratio reflect in terms of profit of the scheme. A comparative statement is annexed herewith. Even in simple term, it is no way justified to keep the same incentive FSI where the land rate is twice the construction cost and also where the land rate is four times the construction cost. As such changing the incentive FSI for the change of slab from two to three and three to four thereon.
11. As in the case of FSI towards land pooling, similar provisions for the construction of common amenity and corpus will make the scheme all the more attractive and sustainable.
12. The pre-requisite of prior sanction of Govt. for the High Power Committee (HPC)'s approval will serve no purpose but would be time consuming and delay in realising the objection of the project. When HPC is satisfied that the scheme fulfils all the criteria's laid down in the regulation, why Govt.

approval should be insisted. From the past experience, it is seen Govt. has taken as many as three to four years in approving the proposal submitted by HPC resulting in only two scheme has commenced under the cluster policy since the regulation was brought out on 3/9/09. The HPC has so far cleared about 12 to 15 schemes and most of them are awaiting Govt. approval. When MCHI representative met the Study Group, this was explained and the study group has accepted our suggestion and accordingly the approval of Govt. in each scheme was deleted in the draft regulation submitted by the Group. As such this pre-requisite should be deleted forthwith.

13. In the foregoing paragraphs, the MCHI has tried to high light major issues involved in realising a Urban Renewal scheme in addition to specify suggestion already submitted to your office.

As a body which represents the developers who has the uphill task of procuring the land from the owner/ local Authority and consents from occupants and getting approvals from the numerous Authorities to ensure the project takes off and complete the same, the developer perception and the say should be given paramount importance while deciding the policy and hence it is expedite and hoped the Govt. will take MCHI suggestion in right spirit and incorporate the same in the final regulation.

Yours



(S. S. Hussain)

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