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Vijay Lakhani

Ref. No.: MCHI/PRES/19-20/316

Date : 21st April 2020

To.
Hon'ble Shri Hardeep Singh Puri
Minister of State (Independent Charge)
Ministry of Housing & Urban Affairs
Nirman Bhavan, Maulana Azad Road,
New Delhi 110011.

Subject : Suggestions for revival of the real estate industry

Ref : Natural Calamity due to N-COVID-19 and Present Lockdown in the Country.

Respected sir,

As you would be aware that the Real Estate Industry is in tremendous stress due to the economic downturn, NBFC liquidity crisis, subdued demand conditions which has forced the Industry through the roughest patch. In such challenging times for our Industry, the Country has been forced in to an unprecedented Lockdown to fight the pandemic of Corona virus. We understand that the lock down is in place to slow the progression of the disease, NOT to eradicate it by 3rd May, 2020. We understand that till vaccine is found or protocol to cure infected person is established, the COVID-19 will not allow us to be back to normal. Social distancing etc will be norm for atleast one year. We strongly believe **IT IS TIME TO FOCUS ON EMPLOYMENT AND TO ENSURE PROTECTION OF JOBS**. Earlier priority the country has been to achieve fiscal discipline, but with this pandemic, the focus has to be on survival and protecting employment and jobs.

It is important that any organization continues its operation for next two years and no job is lost. As on date, if any company is wound up or liquidated, then loss of jobs cannot be compensated by other company or organization or by other sector of economy. Hence all viable business has to be supported and given a chance to revive and protect jobs of all persons connected with it. Also it is not time to allow business to be wound up or liquidated, to ensure recovery of money invested, but need of the hour is to ensure that business are supported and jobs are secured and then money invested are recovered.

Real Estate Sector is employing the largest number of employees, both in organized and unorganized sector and it is important that these jobs not only remain protected, but at the earliest, it starts creating further employment. **Hence Real Estate Sector needs to be looked at from the point of protecting jobs of crores of employees and also which can create further jobs in the shortest time, to support economic revival.**

The provisions of RERA never anticipated a situation where the entire country will be under lock down. To protect the interest of all stakeholders of the Real Estate Sector, there is need to create a special COVID-19 provision in RERA, with a sunset clause, to save most of the RERA registered project from getting stalled or embroiled in long term litigations. Our suggestions are all **to facilitate the growth and promotion of a healthy, transparent, efficient and competitive real estate sector during and post this COVID 19 pandemic.**

Sir, we would request issue ordinance introducing special provision in RERA to cater for COVID 19 issues with a sunset clause on 31st March 2021, incorporating following suggestions :

1. (i). By adding sub clause under Section 6 of RERA, it should be provided that the COVID-19 and all measures of lockdown by the Central and State Govt are a "Special Force Majeure" event. And for all projects registered with RERA, and which had date of completion post 15th March 2020, should be suo moto be altered with one time extension by period of Nine Months. (which period shall not be considered as extension under the Proviso of Section 6 which provides for extension of validity of registration "in reasonable circumstances" for an aggregate period of one year subject to the discretion of the State RERA Authorities)

(ii) The amendment should also propose that for the reason of COVID-19, in all the projects registered with RERA, if the date of possession provided in the agreement for sale, is any time after 15th March 2020, then the date of possession shall stand extended by period of nine months.

Resoning : If this is not done, then every project will have to apply for extension under section 6 of RERA, with the same reason of COVID 19 and lock down, and all authorities of RERA, on such application will have to conduct hearing and then decide on merits. This will involve multiple hearings in thousands of registered projects. When we are all aware, that this lock down is going to push the completion of each of the project by minimum of nine months, and is reasonable cause for grant of extension, we request that, in the interest of Real Estate Sector and customers also, and to avoid unnecessary thousands of proceedings, extend suo moto, date of completion of all registered project by nine months. Also if the date of possession as mentioned in the agreement of sale, was any time after 15th March 2020, then that date shall stand extended by nine months. This is also essential otherwise, the RERA Authority will be flooded with lacs of application claiming interest and compensation and also cancellation of the booking, due to delay in the possession of the Apartment, (which is happening due to COVID-19) and Authority being aware of dealy upto nine months only happening due to COVID-19, and will have to reject such application, if delay is only for nine months. But such rejection will have to be made after conducting hearings, and then appeals also will have to be heard.

Alternatively,

if Government of India issues directions to every authority of RERA, that every developer who apply for extension under Section 6, as COVID-19 as force majeure, then extension granted due to COVID-19 should not be considered as one time extension available to the developer under Force Majeure clause but should be considered as one time alteration to project completion date allowed in view of COVID-19.

2. We request to issue direction that upto 31st March 2021, interest payable to financial institutions, scheduled banks, non banking financial corporations or money lenders on construction funding or money borrowed for construction ("Lenders") **should not be added to total cost of construction**. That is interest payable to Lenders should not be allowed to be withdrawn from 70% Escrow Account.

The interest payable to Lenders has been allowed as project cost and is allowed to be drawn from 70% Escrow Account maintained under RERA, We believe that in next one year, till world and country reels under after effects of COVID-19, every rupee deposited in 70% escrow account should be utilized in the approval and construction of the project. Hence we propose that this directions be issued under RERA with a sunset clause ending on 31st March, 2021

3. For the same reason mentioned above, we request that a directions be issued under RERA that upto 31st March 2021,

"Any order to refund customers on cancellation of booking of apartment should be made payable

- (i) on or before end of six months from the date of completion of the project
- or
- (ii) out of the sale proceeds of the resale of the cancelled Apartment whichever is earlier."

We request the aforesaid directions should be implemented only upto 31st March, 2021, that is with a sunset clause, ending on 31st March 2021. This period will be sufficient either to economy to recover, and even if the economy does not recover, for every developer to re align his projects to new economic order. Thanking you,

Yours Sincerely,

For CREDAI-MCHI

Nayan A. Shah

President

Bandish Ajmera

Hon. Secretary