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Sejal Goradia

To,

Shri Ajoy Mehta (I.A.S. Retd)
Chairman, Maharashtra Real Estate Regulatory Authority,
Housefin Bhavan,
Bandra Kurla Complex, Bandra (E), Mumbai.

Sub: Suggestion on Consultation paper on the framework for grading Real Estate Projects

Respected Sir,

Greetings from CREDAI- MCHI I

This is in reference to your Consultation Paper issued on 16th June 2023 under reference No. MahaRERA/ CC/ 937/ 2023 on Grading of Real Estate Projects in Maharashtra.

Since the inception of RERA 2016 and MahaRERA 2017, we take great pride in the fact that customer complaints have come down from 23% ongoing projects to 3.5% newly launched projects and we are grateful to MahaRERA for bringing discipline into hitherto this unregulated sector. We believe that apart from all the other reasons, the main factors contributing to early possession are that 70% of funds must be allocated for construction and that no projects can be launched or registered without proper approvals.

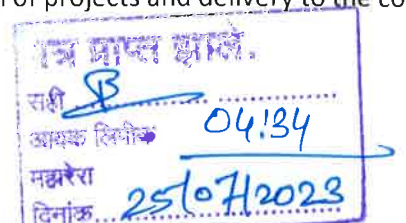
As per Sec 32 (f) Act, MahaRERA has proposed the grading of projects and promoters. You have also proposed that the grading is to be based on the following risks associated with Real Estate projects below:

- Financial Risk
- Legal Risk
- Technical Risk
- Timely Completion of Risk

Sir, it is our earnest request that grading of projects should be undertaken with extreme care. With the online disclosure of project details and progress, grading of projects may cause a spur of Consultants and middlemen who may subvert the entire process and the noble intention of MahaRERA unless it is fully automated without manual intervention.

MahaRERA has already protected homebuyer's interests by the following measures:

- All information on Real Estate Projects including approvals, Apartment details (Carpet Area, Booked / Unsold, etc.) Project Professional. Progress, Litigations, etc. online public view.
- 70% of the amounts realized from the Allottees are deposited in a separate account to cover the cost of construction and the land cost only.
- Building Plan Approvals (Commencement Certificate) to be in place before registration & Marketing / Selling any project.
- Increased assertion on the timely completion of projects and delivery to the consumer failing which interest payments shall start.



Maharashtra Chamber of Housing Industry

Maker Bhavan II, 4th Floor, 18, V. Thackersey Marg, New Marine Lines, Mumbai - 400 020.
Tel: 42121421, Fax: 4212 1411/407 Email: secretariat@mchi.net Website: www.mchi.net

CREDAI-MCHI CHAPTERS : THANE | KALYAN-DOMBIVLI | MIRA BHAYANDAR | RAIGAD | NAVI MUMBAI |
BHIWANDI | PALGHAR BOISAR | SHAHAPUR-MURBAD | URAN-DRONAGIRI |
VASAI VIRAR | ALIBAG | KARJAT-KHALAPUR-KHOPOLI | YOUTH NMR

- Consent of 2/3rd of Allottees for any addition or alteration.
- Model Agreement & Allotment Letter: Max 10% of the booking amount can be taken before entering into a Sale Agreement. Introduced Non – Negotiable Terms in Agreement.
- Fast Track Dedicated Adjudicating Mechanism for Complaints under the Act.

The customer has enough information once he gets updates on the developer's compliances from time to time. Developers are also required to submit disclosures on legal cases or restrictions on the project land or the project. The financial parameters are also fully disclosed by way of the quarterly and annual updates in the way of FORM 3 and FORM 5.

Sir, merely having cases against the developers or the project (which may be of spurious nature against the developers or the projects) or any complaints pending with MahaRERA as a basis for grading will be extremely unfair as this in no way impacts the progress on site. Also, delays from competent authorities and financial institutions disbursement have not so far been accounted for in RERA and temporary delay of a project on account of these two will also impact the grading.

Some heads like booking percentage and extension applications (situations like COVID/ delay in clearance from competent authorities) should not be a parameter for grading. In fact, other factors like added certification of different standards for projects could also be a parameter for grading. We are happy that automatic system grading will take place through MahaCRITI, but it must be strictly ensured no human intervention is happening for the same and only in exceptional cases, Chairman's prior approval with Developers consent such interventions be allowed.

Sir, it is our earnest request that having a positive grading may not necessarily ensure that the project will be delivered on time, and having a less-than-positive grading may hamper the future Sales of the project which in turn will further delay the process.

Sir, evolved countries like Singapore, Dubai, and Australia, have a robust legal system for resolution and do not have exclusion of authorities and financial intuitions from the ambit of the Regulatory Authority. Thus accountability can be fully fixed and hence the grading system can be very fair and effective. There too the grading is done on specific aspects which are peripheral to the main aspect which is customer satisfaction and possession. We also feel that the consultation paper has not explained how the grading system will work and needs more clarity on how it will be presented and what parameters will be fully considered for such grading along with whether such will be a comparative method of grading of projects.

While we are completely in principle in support of a grading system given as Phase-1 with some changes as suggested (Annexure I). We strongly urge you to try out Phase I rating till the time major reforms are not undertaken in the RERA Act making it more comprehensive by the inclusion of authorities and financial institutions under the ambit of RERA.

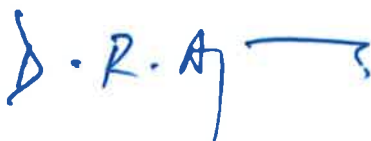
Any grading system should not attract accusations of partisanship and therefore unless the system is fully automated and without any human intervention, and major changes in the RERA act are not done. We strongly request you not to implement phase II or grading of the developer as a grading system at all.

We may be given an opportunity to discuss the above, at your convenient day, date, and time.

Yours sincerely,
For **CREDAI-MCHI**



Dominic Romell
President



Dhaval Ajmera
Hon. Secretary

Encl : As Mentioned Above

Consultation paper on the framework for grading Real Estate Projects:

Name of the person /Entity Proposing comments:	CREDAI- MCHI
Contact details:	Mr. Pritam Chivukula- 9819900555 Mr Keval Valambhia - 9870985061
Category: Whether Promoter/ Real Estate Agent/ Allottee/ Government Authority/ Academic Institutions/ Legal Firms/ Public etc.	Real Estate Developers Association in Mumbai Metropolitan Region.

Sr. No.	Para. No of Consultation paper	Extract from the consultation paper	Comments/ Suggestions	Rationale
1.	2	International Examples	Singapore criteria are for quality and green criteria, Dubai is on engineering efficiency and Design parameters. Australia is restricted to offices for age, NLA, location, lifts, BMS, etc.	1. In some of the provided examples from other countries, it is primarily a voluntary grading of buildings/ projects and is restricted to specific parameters alone and not for pitting one project against the other but excellence in limited criteria based on design and specifications. 2. The international real estate market is totally different from the Indian market. We cannot have an apple-to-apple comparison as size/ bandwidth, approval, regulating Govt. bodies, benchmarking parameters everything is different from our country. Hence we may state that international examples have no direct relevance to the Indian construction industry context.
2.	2/ 2.1	International Examples/ Singapore	Example of Singapore-relevant not	Singapore's bandwidth cannot be compared with the Indian vast territory.

3.	2/ 2.2	International Examples/ Dubai	Example of Dubai- not relevant	In Dubai, the star rating is awarded to the project after completion which explains the differentials in pricing between buildings in the same area.
4.	2/ 2.3	International Examples/ Australia	Example of Australia- relevant not	In Australia, the Property Council of Australia (PCA) provides grading criteria or parameters that typically influence a buyer's perception i.e. it's again subjective depending on where and on what you are analysing.
5.	3/ 3.1	National Context/ SEBI Registered Credit Rating Agencies	We don't have any authorized regulated agency for grading in the real estate industry	<p>1. SEBI authorizes and regulates all credit ratings for companies. Exactly the reverse situation in our industry we don't have any authorized regulated agency for grading and if we have to then it will be a costly affair resulting in added expenses to the project. Small developers will have a financial burden. In the case of IPO, very few real estate companies are listed for IPO. If MahaRERA is intending to undertake the grading themselves, it may be counterproductive to the general interest of smaller developers and may favor the larger corporate developers.</p> <p>2. Real estate cannot be equated with the stock market. The entire concept of rating in such a situation is for clear disclosures to the existing and future shareholders i.e. owners of the company. It has nothing to do with a specific project/scheme the company undertakes which is rated. The draft seems to mix multiple purposes of different distinct and isolated grading/rating systems and try and integrate them together to apply for a project in real estate under</p>

				<p>RERA which will create huge challenges for all stakeholders.</p> <p>3. It must be noted that any form of grading system will have a direct relation to consumer influence, sales, and pricing. This will equally influence other stakeholders including financial institutions, competent bodies, landowners, and suppliers. This will eventually create restrictive and unhealthy markets.</p>
6.	3/ 3.2	National Context/ RBI accredited Credit Rating Agencies	Risks in Real Estate Industry are unpredictable in nature	RBI has a list of accredited credit rating agencies for risk weighting whereas the construction industry is very unpredictable in nature. Also, the risks in the construction industry are very unpredictable.
7.	3/ 3.3	National Context/ Star Rating of Hotels	Rating is not possible for the real estate industry	In the case of the hospitality, hotel industry is rated based on the various facilities and services provided to their guest as an end product.
8.	3/ 3.4	National Context/ Ratings in Real Estate Sector	The real estate industry is different from other industries.	The nature and structure of the construction industry are totally different from financial institutes, the hotel industry, or Green technology hence it would not be appropriate or relevant to consider rating Real Estate Projects based on different industry platforms and parameters.
9.	4	Need for grading of Real Estate Projects	Difficult to grade the Real Estate Industry like other industries.	There is no apple-to-apple comparison with other industry components. No standardization in the buyer's decision-making process. No mechanism or basis to certify information by MahaRERA.
10.	5/ 5.1	Phases of grading	Suggesting limiting the grading process only to Stage-1	1) Based on stage 1 of each of their projects, the developer grading may be subjected to MahaRERA compliance grading

			<p>as the purpose for compliance will be strictly adhered to and would therefore create a system of incentive for the developer to remain transparent and compliant as per MahaRERA Act/ Rules, etc. However, for certain broad categories laid out as a project snapshot, we suggest that under Technical, booking percentage, Proposed Project Completion Date should not be a basis of grading the project as they do not reflect the delivery or the quality of the project and also leaves the buyers decisions completely reliant on these grading and hence they must be removed. Also, the snapshot of Financial does not give clarity on what penalties means for the purpose for grading and thus needs further detailing. The snapshot Legal, the complaints should not be a basis for grading but rather the outcome of such complaints should only be considered. This system grading would create multiple issues Eg. Any Grading based on other considerations such as specifications, locations, etc. will vary on the consumers targeted and the market forces that align to it.</p> <p>2) Our understanding is that MahaRERA is not a body to create market or nudge/ influence markets to certain projects based on location/ specifications etc. being a factor for a grading system. These are aspects that are left best to consumer wisdom/ choices and in turn market forces. The intent of RERA is to regulate the industry and not</p>
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				become an influencer/ creator of markets or pricing of projects, which is beyond its basic scope.
11.	5/ 5.1/ Phase 1	Proposal, Phases of grading/ Information Disclosure Phase	Delay in technical submission should not have an impact on grading	<ol style="list-style-type: none"> 1. There is a concern that delays in technical submissions should not have an impact on grading that affects the sale of the project. The performance of work at the site and delivery should not have any nexus to grading based on technical delays of compliance. This impacts small and medium developers that operate in various cities, towns, tehsils, talukas, and villages whole scale and type of project will get impacted severely. 2. Frequent submissions of documents will bring in more consultants for smaller developers and add costs to larger developers in administration.
12.	5/ 5.1/ Phase 2	Project grading phase	Parameters to be considered while grading the project	<ol style="list-style-type: none"> 1. Many times projects get stalled due to many reasons which so far MahaRERA has not been able to regulate which includes Competent authorities as well as financial institutions. If they are also regulated strictly, then the grading will be even more effective. We also lack in grading performances of all other stakeholders of the industry including local bodies, other government agencies, MahaRERA, etc. who play an important role in a project moving forward. 2. Projects that have low grading due to no fault of the developer have a direct impact on other projects which the same developer is successfully doing (from a clear correlation to

				<p>grading and customer perception). This will create victimization towards such developers and the failure of good projects.</p> <p>3. Some heads like booking percentage and extension applications (situations like COVID/ delay in clearances from competent authorities) should not be a parameter for grading. In fact, other factors like added certification of different standards for projects should also be a parameter for grading.</p>
13.	5.2.1	Eligibility Criteria	All projects registered post-January 2023 are eligible for grading.	<p>The grading system is not yet implemented and may be implemented in due course. Post the implementation of the grading system a 6-month window is to be offered to developers post which the rating should be implemented. This 6-month window will give the developers enough opportunity to set up systems for meeting the requirements of the grading environment and only then the developer should be eligible. Also if the grading is initially made optional and only after the benefits are widely accepted.</p>
14.	5.2.3	Tools for grading	No human intervention in the process of grading	<p>Glad that automatic system grading will take place through MahaCRITI but it must be strictly ensured no human intervention is happening for the same and only in exceptional cases, i.e. with Chairman's prior written approval and with developers' consent such interventions should be allowed.</p>

15.	5 And 5.2.4/ ii)	Proposal and Parameters for grading, technical snapshot	Difficulty in getting approvals and issues faced while obtaining certificates from the professionals i.e. engineers, architects, and CA's	<ol style="list-style-type: none"> 1. An approval process is very uncertain and the authorities and financial institutions are currently not under the purview of RERA and affect the progress of the project. If the rating is meant to make the process predictable for the customer, then it will not be possible to implement fairly without the above change in the act. 2. The difficulty is also because there is a lack of robust software interlinking other government agencies. 3. Unless clear parameters are defined in the head of 'technical' parameters, no one would know what to check and usually is most liable to the discretion of the checking authority/ system. 4. As we have seen for the registration of projects also 'technical' desk is where there is opaqueness in process and hence more time taking and delayed system. 5. Moreover, the entire system may have to be implemented by state Govt. machinery as mandated by the act which currently has short of staff, software glitches, lacks robust interlinking of other government agencies' systems, and is unanswerable to their performances. 6. In Uttar Pradesh, this task was earlier undertaken but it had to be stopped for reasons some of which are explained herein. 7. Political pressure and other reasons may also affect the manner in which the grading of a project indirectly.
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				<p>8. The technical scrutiny should be restricted only to compliance with the QPR.</p> <p>9. Hence Stage 2 should not be considered to be taken up for suggestion and objectives unless there is clarity to all its details and aspects of the manner, criteria, and process of grading.</p>
16.	5, 5.1, And 5.2.4/ iii)	Proposal, Phases of grading and Parameters for grading, financial snapshot	Financial challenges	<p>1. Real estate is a very capital-intensive business</p> <p>2. There are many uncertainties in the real estate business.</p> <p>3. The entire process is dependent on various external factors beyond the control of the promoter including financial institutions.</p> <p>4. In many cases land is bought out and in some cases, there is JV, where land is bought out of huge capital investment. There is less margin and low capital outflow in JV cases.</p> <p>5. Securing debt from financial institutions to cover a project means playing buyer against the banker, as bankers are interested in securing their returns and capital, and delay due to unforeseen circumstances makes interest costs high, similarly, developers depend on sales to complete the project is vulnerable to market risks. Under the present system of real estate lending, banks control the disbursement to the projects and hence can stop the project at will.</p> <p>6. Hence it is difficult to rate on the basis of financial stability.</p>
17.	5.2.4/ iv)	Parameters for grading,	Legal challenges	<p>1. These are manifold rights from land titles to local body approval challenges followed</p>

		<p>Legal snapshot</p>	<p>by complaints against developers from allottees. It is most likely to be misused by competitors and brokers alike. The legal disclosures are made while applying for registration. Most of these litigations and encumbrances do not impact the project progress. But if legal compliance is equated to the number of complaints then it will adversely impact the rating and RERA may not have the bandwidth to qualify projects based on the legal consideration. It should also be seen that at times the applicable laws become so fluid that they too have direct impacts on the project Eg. Open space being disallowed on the podium by the NGT when the local DC Regulations permit the same.</p> <p>2. Further, the MahaRERA team is overwhelmed by the work already handled by them and they seem to be facing their own challenges in speeding up the process, right from registration to complaint hearing and disposals. We are very concerned that these factors will also play a role in creating unfair and incorrect ratings of projects for no fault of the developer and in turn impact sales/ pricing of the project.</p> <p>3. The aspect of complaints against the project also needs to be looked at from an outcome perspective and not from mere complaints as it may not be a genuine reason for the grading of the project to be affected and in turn, affect</p>
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				<p>sales. Complaints in RERA cannot be a basis for grading as unless each complaint is analyzed there cannot be a fair assessment.</p> <p>4. The developers are already disclosing their encumbrances and cases, most of them infructuous, at the time of registration of the project. Rating of these parameters will be impossible and if the rating is then reduced to numbers instead of the merits of the encumbrance, then it will be extremely unjust to the developer.</p>
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