

15th February, 2022

To
The Chairman
Uttar Pradesh Real Estate Regulatory Authority
Naveen Bhawan, Rajya Niyojan Sansthan
Kalakankar House, Old Hyderabad
Lucknow - 226 007.

Subject:- Representation for modification of order no.2789/Tech Cell/ Pr. Ex./2020-21 dated 6th June,2020 issued by RERA authority consequent to advisory issued by Govt. of India, MoHUA vide office memo no.O-17024/230/2018-Housing-UP-EFS-9056405 dated 13.5.2020 and to update the aforesaid order in the light of notification no. K-14011/12/2020-Amrut-IIA dated 28/5/2020 issued by GOI, MoHUA on the same subject.

Sir,

It is submitted with due respect that the facts on record are self-explanatory that the Covid-19 was declared a pandemic in the first week of March,2020 and the situation rapidly aggravated subsequently due to which on 25/3/2020 a nationwide lockdown was enforced resulting into mass scale migration of the workforce engaged in the real estate projects and also suspension of supply of building materials resulting into the suspension of work on the sites of the projects which were registered in RERA and were under execution.

The order no. 2789/Tech. cell/ Pr. Ex./2020-21 giving automatic extension of the date and validity of registration by six months was issued by RERA on 6th June,2020 (Copy enclosed for ready reference). The order speaks for itself and it is obvious that this was issued based on the advisory issued by MoHUA, GOI vide office memo dated 13/5/2020 as mentioned above.

Situation between 13/5/2020 and 25/5/2020 was further aggravated due to mass scale death and community spread of the infection and the GOI, MoHUA has to issue advisory subsequently by notification no. K-14011/12/2020-Amrut-IIA dated 28/5/2020.

The status as on record is that the RERA order dated 6/6/2020 could take into account the office memo of GOI issued on 13/5/2020 but the Ministry notification dated 28/5/2020 (copy enclosed) was not taken into account while issuing this order. Even the Ministry in its notification dated 13/5/2020 issued guidelines for extension of the project by six months automatically and by further 3 months depending on the situation as provided in Para 6 of the Office Memo but the order issued by RERA on 6/6/2020 provided for extension of six months only. As the situation was aggravated further due to mass spread of pandemic this required re-consideration and review of the order which unfortunately never happened.

In notification no.K-14011/12/2020-Amrut-IIA dated 28/5/2020 it was provided that **extension of validity of registration automatically will be 9 months** with provisions of **further period of 9 months** depending on the situation as may be required for subsequent compliance by the building proponents. Para 7 of this notification is re-produced as below:

'Ministry has examined the views of States and NOC issuing agencies and various representations from stakeholders. After detailed consideration, in order to avoid the separate application for extension of various kinds of approvals by Urban local bodies/ Urban Development Authorities/ other State/Central Govt., agencies, States/concerned agencies are advised to:

- (i) ***Consider the situation as a 'Force Majeure'.***



- (ii) *Extend the validity automatically, of various kinds of approvals by Urban local bodies (ULB's), Urban Development Authorities/ Other state agencies including commencement/ completion certificates, payment schedule of charges including developmental charges, 'No Objection Certificates' from various agencies by 9 months.*
- (iii) *Extend timelines for subsequent compliances by the building proponents, as per the precondition of the permission given, automatically, for a period of 9 months.'*

With the above details it is obvious that:

- a) The ministry's guidelines as per notification dated 28/5/2020 is for 9 months automatic and further 9 months extendable for compliance but at present in the State of Uttar Pradesh only 6 months period is permitted because the order dated 6/6/2020 of the UPRERA authority has provided only 6 months **while denying the relief that was specifically provided in the directives issued by the Ministry.**
- b) We are all aware that due to Covid-19 wave 1, 2, 3 and then Omicron infections, the period from first week of March, 2020 to present date i.e. mid February, 2022, the situation created by the pandemic Covid 19 is very serious and the labour force as well as material supply position is adversely affected. The real estate industry in Uttar Pradesh is in grave crisis as for this period of 2 years, the construction and development work was adversely affected and denial of relief to the building proponents in the state of Uttar Pradesh in terms of the notification no. K-14011/12/2020-Amrut-IIA dated 28/5/2020 is harsh and will force the industry to close down. This is against the spirit of the philosophy behind enactment of RERA itself as it was designed to strengthen the performances of the promoters too so that allottees may get better services.

Suggestion

In place of the extension of time for statutory compliance for 6 months only provided in the order no. 2789/Tech. cell/Pr.Ex./2020-21 dated 6/6/2020 issued by RERA it should be for the **period of 9 months automatically and further 9 months based on the terms which are specifically defined in the notification itself.**

Prayer

It is accordingly submitted that Para 2 of UPRERA order dated 6/6/2020 be modified further and the period for extension as provided **in terms of Para 7 of the Govt., notification dated 28/5/2020 may be allowed as enclosed and revised order may kindly be issued by UPRERA accordingly.**

The undersigned will welcome to explain the facts before RERA if so desired.

Thanking you,

Yours sincerely,

(P.N.Misra)
CMD

Encl.:-

1. GOI order dated 13th May, 2020
2. GOI order dated 28th May, 2020
3. UPRERA order dated 06th June, 2020

No. O-17024/230/2018-Housing-UD/EFS-9056405

Government of India
Ministry of Housing & Urban Affairs
(Housing Section)

Room No. 220, C Wing,
Nirman Bhawan, New Delhi – 110 011

13th May, 2020

OFFICE MEMORANDUM

Subject: Advisory for extension of registration of real estate projects due to 'Force Majeure' under the provisions of Real Estate (Regulation and Development) Act, 2016 (RERA)- regarding.

The undersigned is directed to refer to the above subject and state that in view of the situation created by the pandemic COVID-19 (Corona Virus) and consequent nation-wide lockdown w.e.f. 25th March, 2020, reverse migration of labourers to their native places and break in supply chain of construction material have adversely impacted the construction activities of real estate projects across the country. In consultation with Real Estate Regulatory Authorities of States / UTs, representatives of NAREDCO, CREDAI, FICCI, ASSOCHAM and other stakeholders, it is observed that in such circumstances, work on the real estate projects will take quite some time to restart in full gear.

2. In this regard, an urgent meeting of Central Advisory Council (CAC) was held on 29th April, 2020 over webinar under the chairmanship of Hon'ble Minister of State (I/C) Housing and Urban Affairs, wherein the impact of outbreak of COVID-19 (Corona Virus) on real estate projects was discussed with all the stakeholders including representatives of Homebuyers, Developers, Real Estate Agents, Financial Institutions, Regulatory Authorities, State Governments etc.

3. In this meeting, it was noted that in view of the outbreak of COVID-19 Regulatory Authorities of Maharashtra, Gujarat, Uttar Pradesh and Tamil Nadu have issued orders in their respective States for extension of completion dates for real estate projects registered under the provisions of RERA by 3 to 5 months.

4. Section 6 of RERA, 2016 provides for 'extension of registration of real estate project' on account of 'force majeure', which includes any calamity caused by nature affecting the regular development of the real estate projects. It is quite evident that current pandemic caused by nature is adversely affecting regular development of real estate projects. Hence, it attracts invoking the provision of 'force majeure'.

5. In order to safeguard the interest of all stakeholders including home buyers, CAC after detailed deliberations made unanimous recommendation to invoke the '*force majeure*' clause by Real Estate Regulatory Authorities to extend the registration of projects registered under RERA. It also recommended to make this simple so that it gets implemented easily.

6. Ministry has examined the said recommendation of CAC and accordingly advises all States/Union Territories and their Real Estate Regulatory Authorities that in order to avoid submission of separate application for extension of each project and orders thereon, Regulatory Authorities may, in pursuance of section 37 of RERA read with other enabling provisions, in their respective jurisdictions issue following orders/directions to the effect that 'notwithstanding anything contained to the contrary and by virtue of powers conferred under section 37 read with section 34(f) of the RERA, the registration or extension thereto under Section 5, 6, 7(3) of the RERA or Rules thereunder, all registered projects under jurisdiction of Regulatory Authority for which the completion date or revised completion date or extended completion date as per registration expires on or after 25th March, 2020':

- (i) Regulatory Authorities may issue suitable orders/ directions to extend the registration and completion date or revised completion date or extended completion date automatically by 6 months due to outbreak of COVID-19 (Corona Virus), which is a calamity caused by nature and is adversely affecting regular development of real estate projects by invoking *force majeure* clause;
- (ii) Regulatory Authorities may, on their own discretion, consider to further extend the date of completion as per registration for another period upto 3 months, if the situation in their respective State or any part thereof, for reasons to be recorded in writing, needs special consideration of invoking '*force majeure*' in view of current pandemic;
- (iii) Regulatory Authorities may issue fresh 'Project Registration Certificates' with revised timeline in each such registered real estate project at the earliest; and
- (iv) Regulatory Authorities may extend concurrently the timelines of all statutory compliances in accordance with the provisions of RERA and the rules and regulations made thereunder.

7. This issues with the approval of the competent authority.


(Sailesh Jogiani)

Under Secretary (Housing)
Tel: 2308 2252

All Chief Secretaries and
All Principal Secretaries, (Housing)
All Chairmen, Real Estate Regulatory Authorities.
All Chairmen, Real Estate Appellate Tribunal.

No. K-14011/12/2020-AMRUT-ILA
Government of India
Ministry of Housing and Urban Affairs

Nirman Bhawan, New Delhi
Dated: 28th May, 2020

Subject: Advisory for extension of validity and time limit of all approvals, NOCs and subsequent compliances given by State and Central agencies for real estate sector- regarding.

The undersigned is directed to refer to the above subject and to state that in view of the situation created by the pandemic COVID-19 (Corona Virus) and consequent countrywide lockdown with effect from 25 March, 2020, reverse migration of labourers to their native places and break in supply chain of construction material have adversely impacted the construction activities of real estate projects including residential, commercial, institutional and industrial across the country.

2. This Ministry has received representations from various stakeholders requesting for extension of validity of statutory approvals, licenses, registration and building plan approvals, and NOCs from various external and internal agencies, for a period of minimum 9 months.
3. In this regard, a Video Conference with State Governments, Municipal Corporations and NOC issuing Central agencies was held on 26 May, 2020 under the chairmanship of Secretary, Ministry of Housing and Urban Affairs, wherein the impact of outbreak of COVID-19 (Corona Virus) on real estate projects was discussed. It was noted that adverse impact on real estate projects is due to pandemic which is the calamity caused by nature and should be considered as a 'Force Majeure' situation.
4. In this meeting, it was noted that some States such as Haryana, Uttar Pradesh and Maharashtra have extended timelimits related to various approvals for building construction.
5. This Ministry has also issued advisory dated 13 May, 2020 (copy enclosed) for extension of registration of real estate projects for which completion date or revised completion date or extended completion date as per registration expires on or after 25 March, 2020 and to extend the said date automatically by 6 months by invoking 'Force Majeure' clause under the provisions of Real Estate (Regulation and Development) Act, 2016 (RERA). Also, regulatory authorities, may on their own discretion, consider to further extend the date of completion as per registration for another period upto 3 months if situation needs special consideration for whole or part of the State

.....2/-


28/5/20

of invoking 'Force Majeure' in view of current pandemic. Such extension is to be granted suo moto by revising the date of completion through new letter of registration to be issued by RERA.

6. During the cycle of building construction, various clearances, both expirable and non-expirable, are given by different agencies. List of some of the expirable clearances/ NOCs, issued by various Departments is indicated below for reference, which is only illustrative and not exhaustive. This may vary from State to State.

S.No	Approvals / NOCs	Departments/Section
1	NOC for extension of time from Lessor/ Land owning agency for construction and issue of building permit.	Land owning agency/Lessor
2	Layout plan approvals	Building plan approval section of Municipal Corporation/ Development authority/ ULB
3	Building plan approvals	Building plan approval section of Municipal Corporation/ Development authority/ ULB
4	Commencement certificate / Plinth inspection certificates	Building plan approval section of Municipal Corporation/ Development authority/ ULB
5	Excavation permission	Revenue department/ ULB
6	Storm water & drainage/ Sewerage/ SWM	Concerned sections of Municipal Corporation
7	Consent to establish/ operate for industries	State Pollution Control Board
8	Factory related permission	Inspector of Factories
9	Environment / Forest	State Environment/ State Forests Department/ MoEF&CC
10	Traffic & transportation	Traffic and transportation department of Municipal Corporation
11	NOC for fire safety	State fire department
External Agencies		
12	NMA clearance if property is in the regulated zone	National Monument Authority
13	AAI clearance if there is airport in the city	Airport Authority of India
14	Environment clearance if built up area is >20,000 sqm	SEIAA or MoEF&CC
15	Defence related NOCs	Ministry of Defence
16	Railway related NOCs	Ministry of Railways


Page 28/572

7. Ministry has examined the views of States and NOC issuing agencies and various representations from stakeholders. After detailed consideration, in order to avoid the separate application for extension of various kinds of approvals by Urban Local Bodies/ Urban Development Authorities/ other State/ Central Government agencies, States/ concerned agencies are advised to:

- (i) Consider the situation as a 'Force Majeure'
- (ii) Extend the validity **automatically**, of various kinds of approvals by Urban Local Bodies (ULBs)/ Urban Development Authorities/ other State agencies including Commencement/ completion certificates, payment schedule of charges including developmental charges, 'No Objection Certificates' from various agencies **by 9 months**.
- (iii) Extend timelines for subsequent compliances by the building proponents as per the precondition of the permission given, automatically, for a period of 9 months.

Point (ii) and (iii) may be considered for all those projects whose validity has expired on or after 25 March, 2020. States may issue necessary directives to Municipal Corporations/ Urban Development Authorities/ ULBs so that various approvals, payment of charges and compliances by building proponents may be rescheduled without any requirement of individual application from building proponent in this regard. This is in line with promoting Ease of Doing Business.

8. Respective Central Government Ministries may also issue similar directions to NOC issuing agencies under their control.


(Rajeev Kumar Das)

Under Secretary to Government of India

Tel: 23062075

1. All Chief Secretaries, States/UTs
2. All Principal Secretaries (UD), States/UTs
3. Secretary, Ministry of Culture
4. Secretary, Ministry of Civil Aviation
5. Secretary, Ministry of Road Transport and Highways
6. Chairman, Railway Board
7. Joint Secretary, Ministry of Environment Forest & Climate Change
8. Joint Secretary, Ministry of Defence
9. Secretary, Delhi Urban Art Commission
10. Member Secretary, Heritage Conservation Committee
11. Vice Chairman, DDA, New Delhi

Copy to:

1. Member Secretary, National Monuments Authority
2. Chairman, Airport Authority of India
3. Chairman, National Highways Authority of India

U.P. Real Estate Regulatory Authority
Naveen Bhawan, Rajya Niyojan Sansthan
Kalakankar House, Old Hyderabad, Lucknow - 226007

Order

No. 2789/Tech.Cell/Pr.Ex./2019-21

Date: 06, June, 2020

Subject: Regarding extension of registration of real estate projects due to '*force majeure*' under the provisions of Real Estate (Regulation and Development), Act 2016

The current spread of Coronavirus disease (COVID-19) has created a serious impact on the social and economic life not only in the State of Uttar Pradesh but for whole of the country and the world. Considering the situation created by the pandemic COVID-19 and consequent nation-wide lockdown w.e.f. 25th March 2020, reverse migration of labourers to their native places and break in supply chain of construction material adversely impacting the construction activities of real estate projects across the country, the Ministry of Housing and Urban Affairs, Government of India, in consultation with all the stakeholders, has issued an advisory through its Office Memorandum No. O- 17024/230/2018- housing- UD/EFS- 9056405 dated 13th May 2020 regarding extension of registrations of real estate projects due to '*force majeure*' under the provisions of Real Estate (Regulation and Development), Act 2016 (RERA). The Government of India has advised as follows:-

- Section 6 of RERA, 2016 provides for 'extension of registration of real estate project' on account of '*force majeure*', which includes any calamity caused by nature affecting the regular development of the real estate projects. It is quite evident that current pandemic caused by nature is adversely affecting regular development of real estate projects. Hence, it attracts invoking the provision of '*force majeure*'.
- In order to avoid submission of separate application for extension of each project and orders thereon, the Regulatory Authorities may, in pursuance of section 37 of RERA read with other enabling provisions, in their respective jurisdictions issue following orders/directions to the effect that 'notwithstanding anything contained to the contrary and by virtue of powers conferred under section 37 read with section 34(f) of the RERA, the registration or extension thereto under Section 5, 6, and 7(3) of the RERA or Rules thereunder, all registered projects under jurisdiction of Regulatory Authority for which the completion date or revised completion date or extended completion date as per registration expires on or after 25th March, 2020':

(i) Regulatory Authorities may issue suitable orders/ directions to extend the registration and completion date or revised completion date or extended completion date



automatically by 6 months due to outbreak of COV ID-19 (Corona Virus), which is a calamity caused by nature and is adversely affecting regular development of real estate projects by invoking force majeure clause;

(ii) Regulatory Authorities may, on their own discretion, consider to further extend the date of completion as per registration for another period upto 3 months, if the situation in their respective State or any part thereof, for reasons to be recorded in writing, needs special consideration of invoking 'force majeure' in view of current pandemic;

(iii) Regulatory Authorities may issue fresh 'Project Registration Certificates' with revised timeline in each such registered real estate project at the earliest; and

(iv) Regulatory Authorities may extend concurrently the timelines of all statutory compliances in accordance with the provisions of RERA and the rules and regulations made thereunder.

In the wake of COVID-19 pandemic, the Authority has received representations from various organisations representing the real estate sector in the State viz. NAREDCO and CREDAI along with individual representations wherein they have explained in detail the issues being faced by the sector as a result of COVID-19 pandemic. Office bearers representing different organisations of the real estate sector and different promoters also raised their concerns in this regard in a meeting of promoters held by the Authority through video conferencing.

Therefore, considering all the aspects, having a detailed deliberation in this regard and also having in view the aforesaid advisory issued by Government of India, the Authority using the powers conferred on it under section 37 read with section 34 (F) of the RERA issues the following directions:-

1. Extension of estimated end date and validity of registration

- (i) Notwithstanding anything contained to the contrary and by virtue of powers conferred under Section 37 read along with Section 34(f) of the RERA, the registration or extension thereto under Section 5,6,7(3) of the Real Estate (Regulation and Development) Act, 2016 or Rules 6 and 7 of the U.P. Real Estate (Regulation and Development) Rules, 2016 thereunder, all registered projects under jurisdiction of U.P. RERA for which the completion date or revised completion date or extended completion date as per registration expires on or after 25th March, 2020, the registration and completion date or revised completion date or extended completion date, as the case may be, is hereby extended by 6 months due to outbreak of COVID-19 (Corona Virus) which is a calamity caused by nature and is adversely affecting regular development of real estate projects by invoking *force majeure* clause.

Provided that the project will not require an extension if the CC/OC of the project has already been obtained.



- (ii) For the aforesaid extension, no fees will be charged from the promoters.
- (iii) The Authority will soon issue fresh 'Project Registration Certificates' with revised timeline in each such registered real estate project.

2. Extension of time for statutory Compliances

The time limit for various compliances (including any of the previous Quarterly Progress Reports and Annual Audit Reports of projects) under the Real Estate (Regulation and Development) Act, 2016, the U.P. Real Estate (Regulation and Development) Rules, 2016, or under U.P. Real Estate Regulatory Authority (General) Regulations, 2019 and the Orders of the Authority, which were due to be made by 31.03.2020, is hereby extended upto 30th June, 2020, on the ground of *force majeure*.

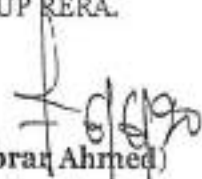
For the aforesaid extension of time-limit for submission of any of the previous QPRs and Annual Audit Reports, the late fee as prescribed in Office Memorandum No. 3206/ U.P.-RERA/Parl. Panjee/ 2019-20 Dated 10th April, 2019 is hereby waived as a onetime measure provided the promoter fills and submits all such reports by 30th June, 2020.

The directions, issued as above, shall come into force immediately.


(Abrar Ahmed)
Secretary

Copy forwarded to the following for information and necessary action at their end

1. Hon'ble Chairman, U.P. RERA.
2. All the hon'ble members, U.P. RERA
3. Principal Secretary, Housing and Urban Planning, Government of Uttar Pradesh.
4. Principal Secretary, Industrial Development, Government of Uttar Pradesh.
5. All the competent authorities, Uttar Pradesh.
6. Adjudicating officers, U.P. RERA
7. All the officers, U.P. RERA,
8. A.D. (Systems), U.P. RERA for uploading the order on the web portal of UP RERA.
9. Project Management Unit, U.P. RERA
10. All the promoters of the projects registered with U.P. RERA


(Abrar Ahmed)
Secretary