

DRAFT RECORDS OF DISCUSSION OF THE THIRD REGIONAL WORKSHOP (NORTHERN REGION) OF REAL ESTATE (REGULATION AND DEVELOPMENT) ACT- 'RERA- A NEW ERA OF TRANSPARENCY AND ACCOUNTABILITY IN REAL ESTATE- 2 YEARS OF IMPLEMENTATION AND WAY AHEAD' HELD ON 15TH NOVEMBER, 2018 IN VIGYAN BHAWAN, DELHI.

1. The Third Regional Workshop on 'Real Estate (Regulation and Development) Act 2016 (RERA) - A New Era of Transparency and Accountability in Real Estate- 2 years of implementation and Way Ahead' was organized in Delhi on 15th November, 2018 for northern region. **7 States/UTs of northern region (Uttar Pradesh, Uttrakhand, Haryana, Punjab, Himachal Pradesh, Chandigarh and Delhi)** participated in the workshop. The objective of the workshop was to provide platform for discussion and learn best practices and suggest way forward towards better implementation of the Act across States/UTs. The workshop was attended by Principal Secretaries/ Secretaries of Housing/ Urban Development, Chairpersons/Members, Senior Officers of RERA Authorities, Appellate Tribunals, representatives of Home Buyers Associations, Developers Association, Financial Institutions, Real Estate Agents and other stakeholders.

2. Inaugural Session:

2.1 Dr. G Narendra Kumar, Principal Secretary, Department of Land & Building, GNCTD welcomed Hon'ble Lt. Governor Delhi, Hon'ble Minister of Housing and Urban Affairs (MoHUA), Secretary MoHUA and all other invitees to the workshop. While delivering the welcome address, he mentioned that the regional workshop is a platform for exchange of best and emerging practices for implementation of the transformative legislation.

2.2 Shri Anil Baijal, Hon'ble Lt. Governor of NCT of Delhi welcomed all the participants and gave a brief historical background of drafting the landmark legislation. He outlined the important provisions of RERA such as - advertisement of project only after registration, registration after all clearances, model contract document, creation of escrow account for particular project, timeline for completion of project, consent of 2/3rd of the allottees in case of any modification in layout etc. He opined that effective implementation of RERA will ensure a regulated environment and development of the real estate sector. It would generate confidence and restore the sentiments of the financial institutions. He recommended that permitting REITs will not only diversify but also bring efficiency, fair play and transparency, which will ultimately impact GDP and employment in the sector. Hon'ble LG concluded his remarks by informing that Delhi has notified the permanent Real Estate Regulatory Authority yesterday (i.e. 14th November, 2018) only.

2.3 Inaugural Address by Shri Hardeep S. Puri, Hon'ble Minister of State (I/C), Ministry of Housing and Urban Affairs, Government of India:

Hon'ble Minister observed that regional workshop was the 3rd among the series held in the last 2 months- one at Pune for **Western** region and at Chennai for **Southern** region; and last one for **Eastern** region will be organized on 15th December 2018 at Ranchi. He endorsed the fact that RERA has taken a long time to see the light of the day essentially because some people with vested interest had opposed RERA in planned way. He informed that as per the judgment of Hon'ble Mumbai High Court on the directions of Hon'ble Supreme Court, concluded that all the provisions as constitutional, valid and legal. The real estate sector which accounts 15-18% of GDP and also second largest employer had waited for its regulator till 70 years after independence. He opined that RERA will help in bringing transparency and development of the sector and emphasised that developers still have flexibility within the existing arrangement. The current issues plaguing the sector would not have occurred, had RERA been implemented earlier. He further congratulated the State of Uttar Pradesh for establishment of permanent Appellate Tribunal and Delhi for permanent Regulatory Authority, recently.

Hon'ble Minister observed that India has climbed 23 points in the **World Bank's** "Ease of Doing Business Index" to **77th place from 142nd place**, becoming the top ranked country in South Asia for the first time. The biggest jump was in **construction permit of 129 number**, where India climbed from **181st** ranks to **52nd** place. World Bank has recognised India as one of the top 10 improvers for the second year in a row.

Hon'ble Minister opined that RERA has been enacted to protect the interests of home buyers. 6 North Eastern States and the state of West Bengal have so far not notified the Rules under RERA. A separate deliberation with all the north eastern states have been organized by MoHUA, wherein all the clarifications have given and hopefully RERA will be implemented in all the states. West Bengal also have been requested to notify and repeal its local law.

Hon'ble Minister opined that the States should notify the Rules in the spirit of RERA. Some of the States have tweaked the provision of the Act while notifying their State Rules. In northern region- total **3,873** projects registered by northern states, which is approximately **11%** of total **33,750** projects got registered pan India. If we exclude Uttar Pradesh, the percentage of 'projects registration' of rest of northern states will come down to **4.03%**. He further gave details of the number of projects and agent registration of each state.

Hon'ble Minister opined that as home buyers are now the part of Committee of Creditors under Insolvency and Bankruptcy Code, therefore they need to be organized and also be cautious with some mischievous dummy home buyers, who may derail the projects by misleading few home buyers.

Hon'ble Minister informed that MoHUA will not hesitate in naming the states, who have not implemented RERA fully. He observed that there are few suggestions to empower Regulatory Authority which will be considered by MoHUA accordingly. He further emphasized that the awareness programs has to be organized more often as mandated by RERA under Section 33.

Concluding his remark on RERA, Hon'ble Minister observed following:

- ✓ RERA has been enacted to protect the interests of home buyers, financial institutions and developers.
- ✓ Registration of projects and agents in some of the states is not satisfactory and same needs to be speeded up.
- ✓ The home buyers have been empowered by giving them representation in the Committee of Creditors, however there is need for home buyers to organize themselves.
- ✓ Full benefits of RERA will be realized only when state implement the provisions of RERA in letter and spirit without tweaking. Few of the provisions are not in consonance with the central Act, especially the provisions of ongoing projects which is a major concern as it takes out majority of the project out of the purview of RERA.
- ✓ None of the northern states have appointed adjudicating officer which is required as per the provision of RERA. All the states need to ensure that adjudicating officer are appointed.
- ✓ RERA is a preventive law, which has both remedial and as well as penal provisions to regulate the real estate sector.

3. Session-1: Protection of Home Buyers' Interest & Agents Responsibilities:

Attendees:

- i. *Lt. General (Retd.) S.K. Bahri, Chairman, Federation of Apartment Owners Association (FAOA), Gurugram.*
- ii. *Col. Tejandra Pal Tyagi, V.P, Forum for People's Collective Efforts (FPCE)*
- iii. *Shri Dharam Singh, Representative of Home buyers, Mohali, Punjab*
- iv. *Shri Annu Khan, President, NEFOMA*
- v. *Shri Abhishek Kumar, President, NEFOWA*
- vi. *Shri Santosh Kumar, Representative of Real Estate Agents, Delhi*
- vii. *Shri Sanjay Garg, Representative of Home buyers, Uttrakhand*
- viii. *Shri Niranjana Hiranandani, President, NAREDCO*

The Session was moderated by Dr. G. Narendra Kumar, Principal Secretary, Dept. of Land and Building, GNCTD.

- Moderator opined that RERA is a landmark legislation which will regulate the real estate sector. It is very important that the consumers are aware of their rights

and provisions of the Act. The real estate agents are an interface between the home buyers and developers, their role is vital in bringing transparency.

- He opined that the code of conduct for real estate agents provided in the Act needs to be elaborated. There is also a need to improve the interaction between the home buyers and agents.

- **Lt. General (Retd.) S.K. Bahri**, Chairman, Federation of Apartment Owners Association (FAOA), Gurugram informed that RERA has seen the light of the day after a struggle of 10 years. Malpractices in the real estate sector has made the home buyers vulnerable to harassments from the developers. He observed that notification of RERA has changed all this. He further observed that the accountability of delivering project on time is solely of the developer who took the money from home-buyers.

- **Col. Tejandra Pal Tyagi**, Vice President, Forum for People's Collective Efforts (FPCE) expressed that home buyers will cooperate with the Authorities in RERA implementation. Further, he observed that:
 - Section 84 gives power to the government to make rules, it does not include provision of making rules regarding completion certificate and therefore states government cannot tweak the related provisions.
 - Tweaking of the Central Act in state rules favoring developers should be removed, for instance the Uttar Pradesh, RERA Rules provide that ongoing projects, in which 60% units has been sold or applied for completion certificate, need not be registered under RERA. 90% of 'ongoing projects' in NCR Region falls in such category.
 - RERA Authorities must take *suo-moto* notice against such developers, who advertise RERA registered projects with conditions that amenities are subject to change.
 - The provision under Section 91 of RERA to remove difficulties must not be used to favor any stakeholder specially developers and should be used only for the interest of the growth of Real Estate Sector.
 - He demanded that there should be representation of home buyers in Central Advisory Committee (CAC). However, **Lt. General (Retd.) S.K. Bahri**, has clarified that there is proper representation of home buyers in CAC and he along with Mr. Abhay Upadhaya (PFCE) are members of CAC.
 - The States, which have not appointed Adjudicating Officers should expedite the appointment so that the rights of home buyers who are already in compromising conditions are protected.

- **Shri Dharam Singh**, Representative of Home buyers, Mohali, Punjab expressed the difficulties faced in real estate sector in Punjab.
 - The developers face challenges as government fails to deliver and provide the basic infrastructure. There has been delays of about 12-15 years in providing basic infrastructure and the final sufferer is home buyers. Hence, RERA should have powers to give directions to government agencies.

- RERA can be implemented effectively only if malpractices by developers and agents are addressed even during sale and allotment of land.
- **Shri Annu Khan**, President, NEFOMA briefed about the problems faced by the home-buyers because of delay in completion of projects of Noida and Greater Noida. He informed that RERA has been brought in Real Estate Sector to provide relief to the distressed home buyers and submitted the following during the deliberations:
 - There are few clauses in the State rules formulated under RERA which are in favor of the developers. He recommended that the State rules should be as per the Central Act without tweaking.
 - He suggested that a Nodal Officer of RERA to deal exclusively for Noida and Greater Noida should be appointed considering the distressed home buyers whose numbers are in thousands.
 - The projects in Noida and Greater Noida have been delayed for more than 12-15 years which is causing considerable hardship to the home buyers and hence the Regulatory Authorities must ensure completion and delivery of the projects. The RERA Authorities should strictly monitor that developers follow the orders/ instructions directed by the RERA Authority.
- **Shri Abhishek Kumar**, President, NEFOWA informed that the real estate projects of Noida and Greater Noida, which were booked in 2010 are not likely to be to be delivered in the next 3 years. This has led home buyers to seek justice from the Hon'ble Supreme Court of India. He observed the following:
 - Empower the Regulatory Authorities to execute their orders. The Rules framed by some of the States under RERA have been tweaked, which has led to considerable harassment of the home buyers.
 - The recommendations of such workshops and meeting should be implemented in letter and spirit to make RERA more effective especially in Noida and Greater Noida region.
 - If RERA Authorities have judicial powers, it should exercise its power against the defaulters.
- **Shri Santosh Kumar**, Representative of Real Estate Agents, Delhi observed the following:
 - RERA Authorities should initiate training and workshop for real estate agents so that they undergo a certain minimum prescribed skill training and development, so that there is a bench marked code of conduct for the agents.
 - While issuing registration to agents, there should be a minimum guidelines or qualification norms for agents, which should be prescribed. The home buyers and the developers will get the benefits of the skilled agents.

- For the purpose of 'Ease of Doing Business', the Central Government should set up a central mechanism for registration of agents, who want to function pan India.
- For transparency in secondary market as well, there should be additional information of the project and developer in the RERA web portal so that agents will be able to communicate accurate information about the projects to home buyers.
- **Shri Sanjay Garg**, Representative of Home buyers, Uttarakhand observed the following:
 - RERA Offices in the hilly state like Uttarakhand should be decentralized district wise. At present there is only one office in Dehradun. Homebuyers, particularly those in the hilly areas find it difficult to access.
 - RERA Authorities should function pro-actively and not wait for complaints about defaulting developers. RERA should have field units to report violation of RERA.
- **Shri Niranjan Hiranandani**, President, NAREDCO appreciated the central governments' proactive role in implementation of RERA and observed the following:
 - Real Estate has faced problems and RERA can be a medium to resolve these challenging issues. It is important to put all the issues on the table clearly and bluntly so that they are resolved.
 - The RERA Authorities should have powers to give directions to government agencies and authorities, who give approvals/ certificates/NOC/permissions.
 - The stressed/ stalled projects needs to be completed and delivered in time. RERA has various provisions to protect the interests of homebuyers and where there are genuine funding problems, different intervention is required from RERA Authorities, Government and the Ministry.
 - He assured that as a representative of developers association (i.e. NAREDCO), it is our duty to deliver all the stressed projects by exploring all possible solutions, further mentioning the issues of Noida as a special case and greater intervention would be required. The prime goal of the government and RERA should be the delivery of project and not just end at punishment of the defaulter.
- **Chairperson, RERA Authority, Gurugram** clarified/ observed the following:
 - The provisions of RERA will support committed developers and deal seriously with defaulters. However, some provisions may require change in the Act after further deliberations.
 - The Act provides that projects should be registered and after completion, the validity of registration expires. However, there are lots of obligation of the developer after the completion of project which needs to be monitored.

- State rules of Uttar Pradesh, provide that if the project is 60% complete or an application for completion certificate has been made then in such cases the projects do not require registration under RERA. These projects however even without registration such projects are under the ambit of RERA.
- RERA is a regulation and development Act and not merely a registration Act, hence all real estate projects registered or unregistered comes under the ambit of the Act.
- Section 3 of RERA provides for registration of the projects, it does not restrict the jurisdiction of RERA and section 2 (zn) provides the definition of real estate projects, which includes all real estate projects.
- It was clarified that Regulatory Authorities do not have complete judicial powers and it only has penal power, which need to be changed under the section of removal of difficulties to provide judicial powers to RERA as given to Consumer Forums.

During the deliberations that followed the panel discussion following issues/ observations were made to the panel:

- 40% of the payment from home buyers should mandatorily be made part of payment schedule during possession of a unit. At present 80-85% payment have to be done before possession of units.
- After two years of implementation of RERA, all the provisions in RERA are still not on the ground in all States/UTs. This is a lacuna that needs to be addressed immediately.
- Naming and shaming of developers should be encouraged by all State RERA.
- RERA Authorities must make suo moto notice to defaulter developers.
- The RERA Authorities are understaffed, the man power of RERA should be increased in the interest of all stakeholders.
- Tweaking of Central Act should be strictly monitored and rectified by the government.
- Time bound implementation of adjudication within 60 days.
- RERA should also provide protection of interest and rights of the real estate agents.

The moderator summarized the proceedings taking into account all the recommendations given by RERA authorities, home buyers and agents.

4. Session-2: Enhance Transparency to help Developers:

Attendees:

- i. *Shri Rohit Raj Modi, Secretary CREDAI National*
- ii. *Shri Pradeep Kapoor, V.P, TDI Infratech Ltd Punjab, CREDAI Punjab*
- iii. *Shri Pankaj Bajaj, MD, Eldeco Infrastructure & Properties, Uttar Pradesh*
- iv. *Shri Harsh Vardhan Bansal, Unity Group, Delhi*
- v. *Shri Harshit Malik, Director, Srivaas Infrastructure Pvt. Ltd, Uttrakhand*

- vi. *Shri Naveen Raheja, Raheja Groups*
- vii. *Shri Daljeet Singh, MD, AIPL Group, Punjab & Haryana*
- viii. *Shri Pradeep Jain, Parsvnath Developer Ltd.*
- ix. *Shri Manoj Singhal, Developer, Uttrakhand*
- x. *Shri Vijay Satbir Singh, Member RERA, Maharashtra*

*The Session was moderated by **Shri Rajive Kumar**, Chairperson, Real Estate Regulatory Authority, Uttar Pradesh.*

- Moderator welcomed all the participants and submitted the following during the deliberation:
 - A mechanism or system may be developed for star rating of developers.
 - He informed that a special bench has been set up for Noida and Greater Noida real estate projects to deal with the issues of stalled/ stressed/ delayed projects.
- **Shri Manoj Singhal**, Developer, Uttrakhand observed the following:
 - The RERA Authorities should assess the facts before taking a decision on any complaints. The defaulted developers, should be penalized and developers who are facing problems should be given support by RERA Authorities.
 - Refund should be discouraged for projects, which has potential to be completed in a short period in the interest of developer and home buyer.
 - For large projects completed in phases, occupation certificate should be issued for the phase for which amenities and infrastructure have been provided.
- **Shri Vijay Satbir Singh**, Member RERA, Maharashtra informed the status of RERA in the state and opined that RERA has given a platform for issue resolution.
 - In Maharashtra, a conciliation forum has been established for resolving issues of developer and home buyers. The process of conciliation and negotiation has been an effective tool to resolve a large number of the complaints registered.
 - RERA may be empowered to help developers to acquire completion certificates, which were delayed by local authorities.
 - The Regulatory Authority follows strict compliance to resolve the complaint in time bound (60 days) manner.
 - The main aim of any real estate project should be its completion and delivery and not the compensation/ refund.
- **Shri Daljeet Singh**, M.D., AIPL Group, Punjab & Haryana observed the following during the deliberation:

- The government may be more proactive and responsive to the issues faced by developers for effective implementation of RERA in letter and spirit.
- The government may support in arranging the basic infrastructure for completion of the project on time.
- **Shri Pradeep Kapoor**, CREDAI Punjab observed the following:
 - Section 32(g) of RERA provides for facilitating the conciliation platform between builder and buyer for dispute resolution.
 - The focus should be delivery of the project in all cases, wherein the infrastructure provision and 'single window approval' by the government agency is paramount in a time bound manner.
- **Shri Pankaj Bajaj**, Developer, Uttar Pradesh observed that-
 - RERA should aim at delivery of projects and the primary focus should be support in delivery of dwelling units if there is possibility of delivery rather than recommend for refund of many homebuyers of the project, as project may become unviable.
 - There government agencies issuing certificates and approval should also be held accountable in case of delay in the project completion without any fault at the end of builder.
- **Shri Rohit Raj Modi**, Secretary, CREDAI National observed the following:
 - The priority of CREDAI is to work closely with RERA Authorities to ensure that the developers completes and finishes the project and delivery in time.
 - Delayed projects can be identified into two categories;
 - a. **Negative cash flow projects**, where developers have diverted funds such builders have to be penalized as per law and
 - b. **Positive cash flow projects**, which needs support from the Authorities for completion, should provide the possible support.
 - Large part of project life cycle goes in seeking approvals, hence government agencies issuing approval/ certificate should be brought under the ambit of Regulatory Authorities so that both works cohesively.
 - Action group with representative of all stakeholders including government are required to meet and discuss to resolve issues related to real estate sector.
- **Shri Harshit Malik**, Developer, Uttrakhand opined that RERA has given a platform for interaction of all stakeholders and observed the following:
 - Lack of clear state polices on development in Uttrakhand has been a limitation to attract funding for development. He requested RERA Authorities to help in guiding the state government authorities to strategize urban development policies for the state.

- **Shri Manoj Singhal**, Developer, Uttarakhand observed that all the stakeholders including planning authorities, approval agencies and financial institutions should come under the ambit of RERA for successful delivery of projects.
- **Shri Harsh Vardhan Bansal**, Unity Group, Delhi observed the following:
 - Sanctioning of all projects with large size plots should also be done online in the interest of promoting 'Ease of doing business' in construction sector.
 - Sanctioning authorities should be made accountable and come under the ambit of RERA.
 - Home buyers should be aware and book projects after detailed analysis of projects and policies.
 - Real Estate Agents should also be skilled and competent with market evaluation and communicate genuinely with the home buyers.
- **Shri Naveen Raheja**, Raheja Groups opined that government agencies should come under the ambit of RERA and made accountable to provide timely approvals etc. The larger perspective is project completion in order to avoid an economic break down of real estate sector, on which 250 other sectors are also dependent.
- Representative of real estate agent from the audience suggested that an effective redressal system to be created by developer association such as NAREDCO and CREDAI to address issues of agents as well as home buyers.
- Moderator opined that RERA has number of stakeholders apart from developers and home buyers. There is a requirement of creating forums to discuss critical issues related to the sector. He opined that construction sector will remain a major provider of employment, even if technology is enhanced.

5. Session-3: Transparent and Disciplined Environment: Perspective of Financial Institutions:

Attendees:

- i. *Dr. M. Ravi Kanth, Chairman and Managing Director, Housing and Urban Development Corporation (HUDCO)*
- ii. *Shri V. Vaideswaran, General Manager, NHB*
- iii. *Shri Sanjay Joshi, General Manager, HDFC Ltd.*
- iv. *Shri A.K. Rana, Regional Manager, LIC, Housing Finance Ltd.*
- v. *Shri Rajan Suri, PNB Housing Finance Ltd.*
- vi. *Shri Umesh Arora, Ex V.P. Axis Bank*
- vii. *Shri Ajit Thakur, General Manager, SBI*
- viii. *Shri Vikas Rana, Head - North Zone, Construction and Realty Funding Group, ICICI Bank Ltd.*

*The Session was moderated by **Dr. K.K. Khandelwal**, Chairperson, Real Estate Regulatory Authority, Gurugram, Haryana.*

- Moderator of the session Dr. Khandelwal briefed about hurdle for the stakeholders faced due to lack of clarity on the applicability of the RERA on Real Estate Projects. The applicability of RERA for all the Real Estate Projects – either registered and non-registered needs to be resolved for uniformity in application across pan India. It is misunderstood that it is not applicable to non-registered projects, Section 2 (zn) of RERA, does not exclude unregistered ‘real estate projects’ from the ambit of RERA.
- Section 4 (1), provides for registration of projects. It was suggested by the moderator that registration should be done at the start of construction. This will make sure that the projects adhere to layout plans, sanction plans are monitored by the Authority during construction phase. The registration expires after the completion of project. However, there are other obligations/ liabilities of the developer after the expiry of registration i.e. handing over possession of dwelling units, common areas, land title and 5 years defect liabilities etc.
- **Shri Umesh Arora**, Ex V.P. Axis Bank emphasized that RERA has brought transparency to real estate sector and financial institutions before granting housing loans can now access RERA web portal to cross check the testimonials of the developers. He submitted the following during the deliberations:
 - RERA has also been beneficial and provided confidence to the financial institutions in retail funding to customers/ home buyers, when projects are RERA registered which assures that the project has all approvals and clearances.
 - He suggested that while extending financial services to Real Estate projects, the financial institutions scores or categorizes developers. He suggested that a categorization/ rating system for developers may be developed by the RERA Authority on their web portal which will benefit all stakeholders- home buyers, real estate agents and financial institutions etc. For the highest ranked developer, some financial benefit may be allowed.
 - He observed that a product for providing insurance of projects against delays may be developed by the RERA Authority. Such insured projects may be delivered in time with committed quality and amenities.
 - He emphasized that for projects which gets delayed, there should be some arrangement in RERA Authority, which can advise and focus on completion of such projects with the involvement of all stakeholders or even engaging co-developer. The final outcome of all real estate projects should be timely delivery of house/ flat to end user with the promised amenities.
- **Shri Rajan Suri**, PNB Housing Finance Ltd. informed that there are teething problems in RERA but since the legislation has completed only two years, it should be given some more time to gather pace.
 - The provision of depositing money in Escrow Account has brought financial transparency.

- Section 14(2) of RERA provides for any other alterations in the project, written consent of at least two-thirds of the allottees are required. He suggested that for change of specifications in the project, the consent of the financial institution should also be taken into consideration.
- He appreciated the RERA for giving financial institutions proportionate equal right to construct and complete the project in case of default under Section 7 & 8.
- **Shri Sanjay Joshi**, General Manager, HDFC Ltd. opined that the RERA is a reform for steady development of the Real Estate Sector as it address compliances rather than other reforms which are based on exemptions/ relaxations. He observed the following:
 - Financial institutions look towards compliances from developers like requisite approvals and non-diversion of funds before sanctioning loan. This is now taken care by RERA. Hence, RERA has helped financial institutions in faster decision making.
 - There is non-uniformity in RERA web portals format, as some of the web portals having insufficient data and further the data related to mortgage of project to other institution, total number of flats sold etc. should be added on web-portal. It was recommended that all State RERA website should be uniform.
 - Inclusion of financial institution under the ambit of RERA.
- **Dr. M. Ravi Kanth**, CMD, HUDCO gave the background of urbanization in India and related problems of housing and urban infrastructure, being the seventh largest country in the World, but it houses 17% of the population. He observed the following:
 - Mutual confidence between borrower and lender, here developer, buyer and financial institutions is important in Real Estate Sector which can be achieved through transparency.
 - RERA should help financial institutions to clear all NPA issues in Real Estate Sector in a self-discipline manner.
 - The situation of NPA has led to HUDCO to take decision in March 2013 to not lend to Real Estate Sector.
 - Debt Equity Ratio needs to be prescribed and Real Estate Projects should comply with Companies Act.
- **Shri V. Vaideswaran**, General Manager, NHB opined that it has been observed that Act will become more powerful as time passes, hence RERA needs to be given time for growth. He observed the following:
 - Majority of grievances received in NHB through various sources are against the promoter/ builders. Connotations like super area, carpet areas etc. are not easily understood by common man. Hence, home buyers generally do not comprehend the documents completely while signing. This has led to complaints and also non-transparency in the Real Estate Sector. RERA will bring confidence and trust for the growth of Real Estate Sector.

- Government Agencies- approving authority/ ULBs should be accountable and transparent.
 - Rating of developers/ builders has to be done by such rating institutions, who have expertise.
 - Practices, where collusion is there should be stopped to support proper implementation of RERA.
- **Shri A.K. Rana**, Regional Manager, LIC, Housing Finance Ltd. recommended the following during the deliberation:
 - Approval from various authorities and agencies involved in construction of real estate project should be given in a time frame which needs to be followed strictly.
 - A uniform format for all RERA web portal for all States/UTs with all information included should be developed.
- **Shri Ajit Thakur**, General Manager, SBI made the following observations:
 - The documents uploaded on RERA web portal must be authentic and scrutinized by the Authorities.
 - In the buyer- builder agreement, RERA Authority should ensure all the critical elements are incorporated.
 - Financial closure of a project should be given utmost concern by RERA Authorities, this will eliminate delay in projects. Definitely RERA will become powerful with time as RERA gets more manpower and skills.
- **Shri Vikas Rana**, ICICI Bank Ltd. observed the following:
 - RERA has brought transparency to retail lending to home buyers as well as developers for project construction.
 - RERA needs to be implemented in letter and spirit. The major take away in RERA is the monitoring of the end use of the fund in a stringent way. There is no institutional mechanism in place right now to monitor funds utilized for the project, this need to be started urgently.
 - 'Title Insurance' should be done to ensure litigations are avoided for timely completion of projects.
- Three elements which are the only sources to complete project are equity, debt and customer advances. In a scenario where the market is slow, developers should bring on their equity to complete projects.
- Moderator concluded the session by informing that Section 16 of RERA, provides for obligations of promoter regarding insurance of real estate project. However, till now there has been no arrangement to provide insurance for real estate project. He suggested the process of preparation of insurances of real estate project may be initiated by MoHUA. In case of ongoing projects, which are

delayed from the scheduled time of delivery, RERA Authority in Gurugram has been following a guidelines that if the project is 40% complete and likely to be completed in 2 years, the Authority does not allow a single refund as per provision of Section 18 of the Act. On the other hand, payment of interest for every month of delay has been considered penalty to the builder. This ensures the interest of other buyers, developer and final goal of completion of project are protected at large.

6. Session-4: Transforming Real Estate Sector: Win-Win for All

Attendees:

- i. *Shri Rajive Kumar, Chairperson, Real Estate Regulatory Authority, Uttar Pradesh*
- ii. *Shri Vishnu Kumar, Chairperson, Real Estate Regulatory Authority, Uttarakhand*
- iii. *Shri Navreet Singh Kang, Chairperson, Real Estate Regulatory Authority, Punjab*
- iv. *Shri K.K. Khandelwal, Chairperson, Real Estate Regulatory Authority, Gurugram, Haryana*
- v. *Shri Rajan Gupta, Chairperson, Real Estate Regulatory Authority, Panchkula, Haryana*
- vi. *Shri Antony de Sa, Chairperson, Real Estate Regulatory Authority, Madhya Pradesh*
- vii. *Shri V.S. Madan, Chairperson, Real Estate Regulatory Authority, Delhi*

*The Session was moderated by **Shri Durga Shanker Mishra**, Secretary, Ministry of Housing and Urban Affairs.*

- The Secretary briefed about the success in implementation of RERA after two years of its enactment. However, in the two years journey since the enactment of this landmark transformative legislation, various cases were filed to challenge certain provisions of the RERA across country in different High Courts. MoHUA filed Transfer Petition before Hon'ble Supreme Court of India and wherein Hon'ble Supreme Court of India directed to **Hon'ble High Court of Mumbai**, who authoritatively concluded the controversy along with other related issues. In its judgment dated 6th December, 2017, Hon'ble High Court has declared all the provisions as constitutional, valid and legal.
- MoHUA has initiates a series of 4 regional workshops- North, South, West and East to share the experiences, best practices and learnings to all the States/UTs. A workshop was also organized and the 6 north eastern states participated for implementation of RERA in their respective regions. Also, West Bengal has been requested to notify their state rules are same as RERA.
- He informed that ranking of India for Ease of doing business in construction permits has jumped 129 places from 181 to 52 and it is expected to take a bigger jump next year by March 2019, as systems are in place across India. A framework has been put in place with the Ministry of Environment and Forest, for

real estate projects upto 50,000 sq.mt. (Residential) and 1,50,000 sq.mt. (Commercial) built area, if certain conditions are complied, clearance by EIA are not required.

- He also informed that a High Level Committee was constituted under his chairmanship and this Committee has given a series of recommendation to ease in resolving issues of home buyers. The Government of Uttar Pradesh will soon come up with actions as per the recommendations. Thereafter, he requested the panelist to share their learnings, experiences and recommendations.
- **Chairperson, Real Estate Regulatory Authority, Punjab** shared his experience in Punjab.
 - Conciliation mechanism cannot be established as there is non-existence of an organized home buyers' organization in Punjab to express their problems clearly.
 - It was observed that non issuance of the completion certificates were not related to physical completion of project rather nonpayment of dues/ charges. For such situations, RERA Authorities have to put in place mechanisms to relax provisions for the developers.
 - He opined that financial institutions taking over projects apart from issues related to Insolvency and Bankruptcy Code needs to be addressed as the role of developers has to be carried out by the financial institutions.
 - He also informed that the withdrawal of money by the developer from the escrow account for real estate projects has to be proportionate to the construction. The financial institutions has to adhere to such transaction in all its branches.
- **Chairperson, Real Estate Regulatory Authority, Uttarakhand** informed about the status of implementation of RERA in the State since March 2018.
 - The RERA Authority has applied for Income tax exemption under section 10 (46).
 - Two awareness programmes has been planned for RERA implementation.
 - A web portal will be developed with the assistance of NIC with all details as referred by the financial institutions during the deliberations.
 - To protect the interest of both the parties- developers and home buyers, RERA Authority will ensure the final outcome should be completion of the project if the project has potential to be completed rather than refund to individuals. This has been supported during the deliberations by RERA Authorities, developers and also financial institutions.
 - Due to non-existence of a written agreement, it becomes difficult to decide complaints received from the home buyers.
 - Section 7 provides for two conditions i.e. lapse or revocation of registration. This provision may be extended for new projects irrelevant situations.
 - Section 3 provides that registration is not mandatory for projects below 500 sq.mt. and dwelling units below 8 numbers. However, there are challenges

faced by the RERA Authority, when planning area was extended in Uttarakhand and many small projects started construction.

- RERA Authority also faces challenges, when developers change the company names and start new projects, making it difficult to take out past record of the developer.
- **Chairperson, Real Estate Regulatory Authority, Panchkula** opined that a substantial purpose of the Act has been achieved after the setting up of Regular Authority. He observed that:
 - In stalled projects, there are multiple problems such as non-availability of liquidation, diversion of the project's fund by the developers or the developer is facing multiple money recovery proceedings under Insolvency and Bankruptcy Code (IBC) and National Company Law Tribunal (NCLT). The real challenge is to find innovative solutions in this regard.
 - State Government policies need to be aligned with RERA. The Act needs to provide institutional mechanisms in this regard for RERA Authorities to be empowered for giving directions to the state government authorities and agencies.
 - At present people are allowed to choose between an Adjudicating Officer and a consumer forum for grievance redressal. It was recommended that clarity for such redressal mechanism related to real estate project be prioritized to approach RERA Authority.
 - A forum for the Regulatory Authorities may be set up in the early days for sharing experiences, learning and bring uniformity in thoughts.
- **Chairperson, Real Estate Regulatory Authority, Gurugram** submitted the following recommendations during the deliberations:
 - Practices in local laws are creating challenges to the RERA Authorities like different land owner, license owner, collaborator and developer for same land arising in difficulties in dispute resolution. A separate chapter may be added for dispute resolution between these entities.
 - The language of Section 3, 12, 14, 18, 37, 43 etc provides for multiple interpretation. This needs to be rectified. A workshop of all the Chairpersons of RERA Authorities may be organized by MoHUA to discuss such issues.
- **Chairperson, Real Estate Regulatory Authority, Delhi** opined that RERA is in its initial stage being a new legislation. It has two objectives- regulatory and development. A curative measure for ongoing projects which may have gone wrong and preventive for new projects by creating a transparent environment.
 - There are different issues/ challenges to be resolved by RERA across states due to local conditions and laws.
 - Standardization may have different scales- state-wise region-wise or pan India. To avoid duplication of efforts and standardized technical solution for all RERAs operating in the country, MoHUA may create an open source technology platform for all the States/UTs.

- Real Estate Agents can be a messenger or bridge for the home buyer, a key to make real estate sector transparent. To make their role as a bridge for reducing the technical gap for home buyers, RERA has to ensure they have enough skills, qualifications, training and benchmarking before their registration which can reduce malpractices.
- **Chairperson, Real Estate Regulatory Authority, Uttar Pradesh** informed about the present status of RERA implementation in Uttar Pradesh. He observed the following:
 - The RERA Authority intends to utilize the provision of RERA under Section 32 in the State.
 - Platform for the RERA Authorities, for further deliberations, may be set up for exchange of knowledge and uniformity.
 - RERA is silent on many issues, also there should be one mechanism to ensure single reporting of all stakeholders including approving agencies/authorities.
 - There is a need to quickly identify where the seed capital can be arranged for last mile funds for stalled projects. If the last mile fund is available, majority of the projects will be completed.
- **Chairperson, Real Estate Regulatory Authority, Madhya Pradesh** submitted the following during the proceedings:
 - The issue of overlap between the Adjudicating Officer and RERA Authority jurisdiction needs to be addressed. The two parallel system running together will create a lot of complications and the primary objective of the RERA for the growth of Real Estate Sector and delivery of project are getting subverted towards compensations.
 - The applicability of RERA on non-registered projects are different across States/UTs in the country. Section 14 on structural defect liability should cover these projects, which were completed before RERA got implemented and do not require registration. Jurisdiction of RERA on all the real estate projects is legally sound and the Act is not merely a registration Act.
 - Section 7 (4a) and 34 of the Act mandates naming and shaming of developers/builders. It provides that name and photograph of defaulting developer should be displayed on the RERA web portal.
 - In the interest of the developer and home buyer, the power of the RERA Authority to give directions to approval/ sanction/ clearance issuing agencies is essential not just for timely completion but also reviewing issues arising after completion certificates are issued. This will require modification in sections 35, 36 and 37 of the Act.
 - A direction/ clarification or modification is required so that the provision under Section 34 (g) can be effective/meaningful. Section 53 (4) provides powers of civil courts to Appellate Tribunals, however the Act does not specify if RERA Authority has those powers.

- Under Section 79, civil court has been barred under RERA for RERA related issues. A clarification has to be issued that the provision under Section 79 includes consumer forum apart from civil courts to avoid confliction.
 - There is a need to have a workshop only on stressed assets wherein RBI and financial institutions without their cooperation only the Regulatory Authorities cannot meaningfully implement Section 8 of the Act.
 - The Act mandates that a code of best practices and ethics be established in the real estate sector. Hence, a workshop to standardize best practices in the real estate sector needs to be organised with all stakeholders.
 - A forum for discussion, exchange of experiences, learning may be established.
- Secretary opined that such regional workshop should elicit the experiences and to remove all difficulties by March 2019 by modification in the RERA. He thanked the panellist for summarizing the workshop and submitted the following:
 - He informed that after the last regional workshop in December 2018, a committee would be set up to understand the difficulties and issue clarification after consultation with Ministry of Law.
 - He also informed that RERA regional forum for the western States is to be hosted by Gujarat and encourage to organize such regional forums of other regions.
 - He opined that the amount of RERA registration in the northern region is less than 4000 and taking out Uttar Pradesh the number is insignificant compared to pan India registration of around 34,000 projects.
 - Regulatory Authority should organize series of awareness workshop/programmes for technical assistance of the provision of RERA provisions, rights, educate and participate in the development of the sector for all stakeholders including the developers, home buyers, financial institutions and agents. RERA is a legislation, which has brought discipline, transparency and accountability in the real estate sector.
 - He appreciated the suggestion given by Chairperson RERA Delhi on creation of an open source technology software. It will be a platform for learning and sharing information related to RERA.
 - He requested the participants to submit recommendation to MoHUA, which will be taken up in the committee to be constituted for removal of difficulties in RERA implementation.

The regional workshop ended with vote of thanks to all participating States and stakeholders present for actively participating in the regional workshop and making it a success.

7. Summary of the deliberations held during the workshop:

The suggestions emanating from the deliberation of the workshop, which would require further consideration from various stakeholders are summarize below:

1. **Suggestions pertaining to Real Estate Regulatory Authorities:**

- RERA Authorities must take *suo-moto* notice against such developers, who advertise RERA registered projects with conditions that amenities are subject to change.
- A Nodal Officer of RERA to deal exclusively for Noida and Greater Noida should be appointed by Regulatory Authority considering the large number of distressed home buyers.
- Regulatory Authorities should initiate training and workshop for real estate agents so that they undergo a certain minimum prescribed skill training and development, so that there is a bench marked code of conduct for the agents.
- Ground forces for the Regulatory Authorities need to be appointed to report violation of RERA provision.
- Defaulted developers, should be penalized and developers who are facing problems should be given support by RERA Authorities.
- Refund should be discouraged for projects, which has potential to be completed in a short period in the interest of developer and home buyer.
- The Regulatory Authority should resolve the complaint in time bound (60 days) manner.
- Constituting the conciliation platform between builder and buyer for dispute resolution by each state, as mandated by Section 32(g) of RERA.
- RERA Authorities to help in guiding the state government/ local bodies/authorities to strategize urban development policies for their state.
- A categorization/ rating system for developers may be developed by the RERA Authority on their web portal which will benefit all stakeholders- home buyers, real estate agents and financial institutions etc. For the highest ranked developer, some financial benefit may be allowed. Rating of developers/ builders has to be done by such rating institutions, who have expertise in this field.
- A product for providing insurance of projects against delays may be developed by the RERA Authority. Such insured projects may be delivered in time with committed quality and amenities.
- There should be some arrangement in RERA Authority, which can advise and focus on completion of stalled projects with the involvement of all stakeholders or even engaging co-developer.
- The documents uploaded on RERA web portal must be authentic and scrutinized by the Authorities.
- In the buyer- builder agreement, RERA Authority should ensure all the critical elements are incorporated.
- Financial closure of a project should be given utmost concern by RERA Authorities, this will eliminate delay in projects.
- The withdrawal of money by the developer from the escrow account for real estate projects has to be proportionate to the construction. The financial institutions has to adhere to such transaction in all its branches.
- A forum for the Regulatory Authorities may be set up in the early days for sharing experiences, learning and bring uniformity in thoughts.

- Section 14 on structural defect liability should cover those projects, which were completed before RERA got implemented and do not require registration.
- A direction/ clarification or modification is required that the provision under Section 34 (g) can be effective/meaningful implemented by RERA Authorities. Section 53 (4) provides powers of civil courts to Appellate Tribunals, however it has to specify that Regulatory Authority has those powers.
- A forum for discussion, exchange of experiences, learning for all the RERA in the country should be organised in every six months.
- The Regulatory Authority should organize series of awareness workshop/programmes for technical assistance of the provision of RERA provisions, rights, educate and participate in the development of the sector for all stakeholders including the developers, home buyers, financial institutions and agents.

2. Suggestions pertaining to State Governments:

- State governments should not tweak the related provisions regarding completion certificate, as section 84 does not give power of state government to make rules in relation to completion certificate. Tweaking of the Central Act in state rules should be avoided.
- The States, which have not appointed Adjudicating Officers should expedite the appointment so that the rights of home buyers who are already in compromising conditions are protected.
- There should be additional information of the project and developer in the RERA web portal.
- RERA Offices in the hilly state should be decentralized district wise.
- Regulatory Authorities are understaffed, the man power of RERA should be increased in the interest of all stakeholders.
- For large projects completed in phases, occupation certificate should be issued for the phases, for which amenities and infrastructure have been provided.
- Sanctioning of all projects may also be done online in the interest of promoting 'Ease of doing business' in construction sector.
- Approval from various authorities and agencies involved in construction of real estate project should be given a time frame which needs to be followed strictly.
- State Government policies need to be aligned with RERA.
- Provide enough skills, training and benchmarking of Real Estate Agents before their registration which can reduce malpractices.
- There should be one mechanism to ensure single reporting of all stakeholders including approving agencies/authorities.

3. Suggestions pertaining to Ministry of Housing and Urban Affairs along with concerned Ministries:

- The provision under Section 91 of RERA to remove difficulties must not be used to favor any stakeholder specially developers and only for the interest of the growth of Real Estate Sector.

- Regulatory Authority should be empowered to give directions to government agencies/concern stakeholders.
- While issuing registration to agents, there should be a minimum guidelines or qualification norms for agents, which need be prescribed.
- A central mechanism for registration of agents, who want to function pan India should be developed.
- The Regulatory Authorities should have powers to give directions to all stakeholders including government agencies, financial institutions, planning authorities and Sanctioning authorities, who give approvals/ certificates/NOC/permissions and also to execute its direction/ judgement. This will require modification in sections 35, 36 and 37 of the Act.
- The government agencies issuing certificates and approval should also be held accountable in case of delay in the project completion without any fault at the end of developer.
- Regulatory Authorities may be given judicial power equal to consumer forum.
- During construction, instead of 80-85% of the total amount, only the 60% payment from home buyers should be allowed by the Developer to collect before possession.
- A mechanism or system may be developed for star rating of developers.
- The government may support in arranging the basic infrastructure for completion of the project on time.
- Action group with representative of all stakeholders including government are required to meet and discuss to resolve issues related to real estate sector.
- For change of specifications in the project, the consent of the financial institution should also be taken into consideration.
- All State RERA website should be uniform.
- RERA should help financial institutions to clear all NPA issues in Real Estate Sector in a self-discipline manner.
- Debt Equity Ratio needs to be prescribed and Real Estate Projects should comply with Companies Act.
- 'Title Insurance' should be made available to ensure litigations are avoided for timely completion of projects.
- Financial institutions taking over projects apart from issues related to Insolvency and Bankruptcy Code needs to be addressed as the role of developers has to be carried out by the financial institutions.
- Section 7 provides for two conditions i.e. lapse or revocation of registration. This provision may be extended for new projects in relevant situations.
- Regulatory Authority/ Financial Institutions also faces challenges, when developers change the company names and start new projects, making it difficult to take out past record of the developer. It needs to be addressed.
- Clarity for such redressal mechanism related to real estate project be prioritized to approach RERA Authority before approaching adjudicating officer, as the issue of overlap between the Adjudicating Officer and RERA Authority jurisdiction needs to be addressed. The two parallel system running together will create a lot of complications.

- Practices in local laws creating challenges to the RERA Authorities like different land owner, license owner, collaborator and developer for same land arising in difficulties in dispute resolution. A separate chapter may be added for dispute resolution between these entities.
- The language of Section 3, 12, 14, 18, 37, 43 etc provides for multiple interpretation. This needs to be rectified.
- A workshop of all the Chairpersons of RERA Authorities may be organized by MoHUA to discuss such issues.
- An open source technology platform may be created for all the States/UTs.
- Last mile funding may be provided to the stalled projects for their early completion.
- Under Section 79, civil court has been barred under RERA for the issues related to RERA. A clarification has to be issued that the provision under Section 79 includes consumer forum apart from civil courts to avoid confliction.
- There is a need to have a workshop only on stressed assets wherein RBI and financial institutions.
- A workshop to standardize best practices in the real estate sector needs to be done with all stakeholders.
- A committee would be set up to understand the difficulties and issue clarification after consultation with Ministry of Law.

4. Suggestions pertaining to Industry Association:

- NAREDCO to explore all possible solution to deliver the stressed projects.
- CREDAI to work closely with RERA Authorities to ensure that the developers completes and finishes the project and delivery in time.
- An effective redressal system to be created by developer association such as NAREDCO and CREDAI to address issues of agents as well as home buyers.
