

Office of the Housing Industry Regulatory Authority, West Bengal
Calcutta Greens Commercial Complex (1st Floor)
1050/2, Survey Park, Kolkata – 700 075

Memo No. – 708 (2)/HIRA/L-2/2020

Dated: 01/06/2020

To

1. The Secretary, Housing Department, Govt. of West Bengal,
2. The Secretary, West Bengal Housing Industry Appellate Tribunal

Sir,

Enclosed please find herewith Order of the Designated Authority, West Bengal Housing Industry Regulatory Authority vide No. 707 HIRA dated 29/05/2020 regarding Mitigation measures to Housing Industry Sector under The West Bengal Housing Industry Regulation Act, 2017 and rules made thereunder, in connection with COVID-19 pandemic situation in the State of West Bengal, which is self explanatory.

This is for your kind information and taking necessary action


Secretary

Housing Industry Regulatory Authority,
West Bengal

Memo No. – 708 (2)/1(4)/HIRA/L-2/2020

Dated: 01/06/2020

Copy forwarded for information and taking necessary action to:

1. Finance Officer, West Bengal Housing Industry Regulatory Authority,
2. Special Law Officer, West Bengal Housing Industry Regulatory Authority,
3. Section Officer, West Bengal Housing Industry Regulatory Authority
4. Head of SeMT, WTL with a request to incorporate the provision of "automatic extension for nine months" for the approved projects as ordered in sub-para (1) in page 3 of the above Order in the portal of WBHIRA and provide this office the list of such NPRs along with Registration Certificate no. for the said projects.


Secretary

Housing Industry Regulatory Authority,
West Bengal

WEST BENGAL HOUSING INDUSTRY REGULATORY AUTHORITY

Calcutta Greens Commercial Complex (1st Floor)

1050/2, Survey Park, Kolkata – 700 075

[Website <https://hira.wb.gov.in> for details]

Memo No. – 707 - HIRA

Dated: 29/05/2020

ORDER

Whereas, World Health Organization (WHO) on 11th March 2020 declared Novel Corona Virus (COVID-19) as a pandemic and called for the countries to take immediate actions to save human lives;

And whereas, Government of India in the Ministry of Home Affairs vide no. 40-3/2020-DM-IA dated 24.03.2020 read with subsequent orders, issued from time to time, imposed lockdown in the country to combat and contain the spread of COVID-19;

And whereas, the Government of West Bengal imposed 'Complete Safety Restrictions' w.e.f. 17.00 hours of 23.03.2020 vide Chief Secretary's Order no. H&FW/120/20 dated 22.03.2020 and H&FW/131/20 dated 24.03.2020, which was subsequently extended from time to time;

And whereas, the situation of lockdown and crisis due to COVID-19 has adversely affected the regular development of Real Estate Projects in the State on account of this natural calamity;

And whereas, President of Confederation of Real Estate Developers' Associations of India, West Bengal as well as a good number of different Promoters of projects registered with WBHIRA, individuals and organisations made representations to this Authority that Promoters and construction agencies are hindered and failed or may not be able to complete the project within the stipulated period of date of completion as per timeline of registered projects due to the lock down and situation arising out of COVID-19 pandemic and prayed for extension of the validity of registration;

And whereas, as per section 6 of the West Bengal Housing Industry Regulation Act, 2017 (hereinafter referred to as the 'said Act'), the registration granted by this Authority under section 5 of the said Act may be extended by this Authority, on an application made by the promoter due to *force majeure*, on payment of requisite fees;

And whereas, the expression '*force majeure*' as explained in Section 6 of the West Bengal Housing Industry Regulation Act, 2017, for the purpose of this section, shall mean a case of war, flood, drought, fire, cyclone, earthquake or any other calamity caused by nature affecting the regular development of real estate project or any other circumstances as may be prescribed;

And whereas, it is a fact that construction works are either completely stopped or cannot be done properly due to the lockdown period in compliance with the order of the Government in this regard to combat and contain the spread of COVID-19, therefore COVID 19 comes under *force majeure* for the purpose of section 6 of the West Bengal Housing Industry Regulation Act, 2017 due to calamity caused by nature or otherwise affecting the regular development of real estate projects;

Now therefore, after careful consideration of different aspects and taking cognizance of the situations arising out of COVID-19 pandemic and challenges being faced and resultant difficulties that may be faced by both the promoters and allottees due to the outbreak of the COVID-19 pandemic and in exercise of powers conferred upon this Authority under section 37 read with section 34 (f) and section 6 of the West Bengal Housing Industry Regulation Act, 2017, this Authority is of the considered view that there exists '*force majeure*' due to natural calamity caused by the pandemic condition of COVID-19, for the purpose of Section 6 of the West Bengal Housing Industry Regulation Act, 2017, affecting the regular developments of real estate projects in the State of West Bengal.

The nature of the calamity due to this pandemic situation is such that it has a similar effect on all projects and hence a common decision is taken to mitigate the present situation rather than a case-to-case decision on individual applications.


Designated Authority
Housing Industry Regulatory Authority
West Bengal

The '*force majeure*' effect of the COVID-19, in terms of Section 6, shall be limited to the following-

1. The projects already registered under the West Bengal Housing Industry Regulatory Authority as on date of issue of this Order, where date of completion of project, revised date of completion or extended date of completion, as the case may be, expires on or after the date of imposition of 'Complete Safety Restrictions' by the Government of West Bengal vide Order no. H&FW/120/20 dated 22.03.2020, the **Validity of Registration of such projects is hereby automatically extended for a period of 9 (nine) months** from the present due date of completion with all consequential benefits as per law.
2. **No fees shall be charged for this automatic extension of project registration for 9 (nine) months.** Secretary of the West Bengal Housing Industry Regulatory Authority, as authorised by the Authority, shall accordingly issue revised **Registration Certificate of Project** with extended validity period of registration for such projects in due course of time.
3. This automatic extension granted due to *force majeure* on account of natural calamity may be treated additionally with any extension earlier granted to any project on other reasonable circumstances as permissible under first proviso of section 6 of the Act, not exceeding one year.
4. For any further extension up to three months beyond the aforesaid 9 (nine) months as stated in Sub-Para (1) above, for any registered project, concerned promoter shall have to apply in accordance with provisions of section 6 and this Authority may, at its discretion, waive the fee for such extension due to '*force majeure*', considering the merit of such application.
5. The other timelines as prescribed will have to be complied in consonance with the extension granted by the Authority.
6. Promoter has to complete project within extended timeline as allowed and complete execution of deed of conveyance / registration of documents in favour of buyers within the timeline as per provisions of the Act.
7. Further, the time limit for statutory compliances, in accordance with the West Bengal Housing Industry Regulation Act, 2017 and rules made thereunder, regarding quarterly updating of status report as laid down in section 11 and submission of report of audited accounts as per sub-clause (D) of clause (1) of sub-section (2) of section 4 of the said

Act, is hereby extended by six months from the due date. However, Promoter shall follow all other provisions of sub-clause (D) of clause (1) of sub-section (2) of section 4 of the said Act regarding withdrawal of funds for development of project. As per this provision of the Act the amounts from the separate account shall be withdrawn by the promoter after it is certified by an engineer, an architect and a chartered accountant in practice that the withdrawal is in proportion to the percentage of completion of the project:

8. On extension of project completion time due to *force majeure* as stated in sub-para (1) above, provisions of '*force majeure*' shall be deemed to be invoked and rights and liabilities of parties to agreement for sale or sub lease agreement or any other agreement with the allottee shall be determined accordingly.
9. Promoters are advised to suitably reschedule payments and instalments from buyers linked to construction progress of the project.
10. The facility of e-Deed registration of sale agreement and deed of conveyance as extended by Inspector General of Registration (IGR) West Bengal may be availed as an alternative remedy.

This order is issued in consultation with Housing Department vide their No. 195/HO-11/7/2020-Estt. Cell dt. 29.05.2020 and with the concurrence of Finance Department vide UO No. Group F/2020-2021/0001 dated 29th May 2020.

29.05.2020

DESIGNATED AUTHORITY
WEST BENGAL HOUSING INDUSTRY REGULATORY AUTHORITY

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