

# RECENT DEVELOPMENTS IN REAL ESTATE LAW

# Supreme Court judgment on provision of minimum recreational space and open space

REGULATION	IMPACT	DETAILS OF IMPACT FOR THE REAL ESTATE SECTOR
SC Judgment dated 17 December 2013	Negative	<ul style="list-style-type: none"> <li>Judgment and the Directives to apply to:               <ol style="list-style-type: none"> <li>those developments where building plans not approved; or</li> <li>where CC not been issued on 17 December 2013 (the date of SC judgment)</li> </ol> </li> <li>Recreational space under DCR only on the ground level and not on podium or upper levels</li> </ul>
Order / Directives dated 10 February 2014 by the Urban Development Department came to be issued		

# Full Bench Judgment: Conditions Of Exemption Orders Survive Despite Repeal Of ULC Act

REGULATION	IMPACT	DETAILS OF IMPACT FOR THE REAL ESTATE SECTOR
BHC Judgment (Full Bench) dated 3 September 2014  Conditions of Exemption Orders survive despite repeal of ULC Act	Negative	<ul style="list-style-type: none"><li>• Land owners to comply with the conditions of the exemption orders</li><li>• Else, State Govt. to take action which may include withdrawal of the exemption</li><li>• Presently pending in SC. No coercive steps to be taken in the meanwhile</li></ul>

## MHADA Allotments under DCR

REGULATION	IMPACT	DETAILS OF IMPACT FOR THE REAL ESTATE SECTOR
<p>Validity of Clause "4" of Appendix III of the DC Regulations for Greater Mumbai, 1991 challenged</p> <p>Bom HC Interim Order dated 26 August 2014 (Pending)</p>	<p>Positive /Negative</p>	<ul style="list-style-type: none"> <li>• Regulation imposes restriction on developer</li> <li>• Tenements to be allotted to occupants within same municipal ward</li> <li>• Undertaking to comply with impugned provisions to be submitted to MHADA without prejudice to rights and contentions</li> </ul>

## Courts Redefine “Mahim Is A Bay”

REGULATION	IMPACT	DETAILS OF IMPACT FOR THE REAL ESTATE SECTOR
Bom HC Order dated 7 October 2014	Positive?	<ul style="list-style-type: none"> <li>• Opens up constructions in area classified as “bays”</li> </ul>
SLP dismissed on 19 November 2014		<ul style="list-style-type: none"> <li>• Large parts of the coasts of Maharashtra, Goa and north Karnataka are bays</li> <li>• Eastern coastline of India is along a bay</li> <li>• Effect on planning / construction in cities</li> </ul>

## Extension Of Cut Off Date For Regularization Of Slums

REGULATION	IMPACT	DETAILS OF IMPACT FOR THE REAL ESTATE SECTOR
2014 Amendment to the Slum Act - Cutoff date for regularization of slums extended from 1 January 1995 to 1 January 2000  GR dated 22 July 2014	Positive	<ul style="list-style-type: none"><li>• Opens up opportunities for SRA projects</li><li>• Hutment dwellers occupying the hutment prior to 1 January 2000 would be required to furnish documents as stated in the GR</li></ul>

# Environmental Clearance 20,000 Sq.Mtrs.

REGULATION	IMPACT	DETAILS OF IMPACT FOR THE REAL ESTATE SECTOR
<ul style="list-style-type: none"><li>• EIA Notification 2006</li><li>• Circular dated 17 January 2014 - Concession only to rehab portion to construct below 20,000 sq. mtrs.</li><li>• Circular dated 30 January 2014 - IOD/IOA to be issued first before submission for Environmental Clearance</li></ul>	Negative	<ul style="list-style-type: none"><li>• Delays projects</li><li>• Environmental Concerns to be addressed at planning stage</li></ul>

# Environmental Clearance Protected Area (PAs)

REGULATION	IMPACT	DETAILS OF IMPACT FOR THE REAL ESTATE SECTOR
<ul style="list-style-type: none"><li>• EIA Notification 2006</li><li>• SC - Writ Petition No. 460 of 2004 (Pending)</li><li>• Circular dated 27 February 2007 and Office Memorandum dated 2 December 2009</li><li>• Office Memorandum dated 20 August 2014, 4 September 2014 and 26 September 2014</li></ul>	Negative	<ul style="list-style-type: none"><li>• Delays projects</li><li>• Projects within 10 km of PAs (i.e. National Parks and Wild Life Sanctuaries) shall be accorded clearance subject to prior clearance from Standing Committee of National Board for Wild-Life.</li><li>• Applies to Eco-Sensitive Zones</li></ul>



## **NOC for Construction on lands adjacent to Defence Establishments**

<b>REGULATION</b>	<b>IMPACT</b>	<b>DETAILS OF IMPACT FOR THE REAL ESTATE SECTOR</b>
<ul style="list-style-type: none"><li>Guidelines for issue of NOC dated 18 May 2011 for construction within : (a) 100 mtrs. (b) 500 mtrs for multistoried building of more than 4 storeys) radius of defence establishment.</li></ul>	Negative	<ul style="list-style-type: none"><li>Delays projects</li><li>Projects in suburbs of Mumbai namely Malad, Kandivali and Borivali would be affected</li></ul>

# Simplification Of Procedure For N.A Permission

REGULATION	IMPACT	DETAILS OF IMPACT FOR THE REAL ESTATE SECTOR
<p>Notification dated 22 August 2014 amended MLRC Code 1966</p> <p>Introduction of Data Bank</p> <p>No prior permission of the Collector for conversion of use of any land for Occupants – Class I for any purpose</p> <p>Occupants – Class II or land leased by the Government- Collector to grant NOC subject to <i>Nazarana</i> and the Government dues</p>	Positive	<ul style="list-style-type: none"> <li>• Eliminates lengthy procedures</li> <li>• Speedy disposal of applications</li> <li>• Opens up plots for development</li> <li>• Implementation of Data Bank will curb change of use of lands for another purpose without permission</li> </ul>

# FDI Policy Relaxed For Construction Development Sector

REGULATION	IMPACT	DETAILS OF IMPACT FOR THE REAL ESTATE SECTOR
Press Note no.10 (2014 Series) relaxed norms for the sector	Positive	<ul style="list-style-type: none"><li>• No minimum land requirement</li><li>• Minimum FDI is USD 5 million</li><li>• Minimum floor area is 20,000 sq. mtrs.</li><li>• In flow of funds at the time of commencement of the project</li><li>• Exit on completion of the project or after development of trunk infrastructure</li><li>• If 30% of the total project cost is committed for low cost affordable housing - exempt from the minimum FDI and minimum area requirements</li><li>• 100% FDI permitted in completed projects for operation and management of townships, malls/ shopping complexes and business centers</li></ul>

## 20% for EWS/LIG

REGULATION	IMPACT	DETAILS OF IMPACT FOR THE REAL ESTATE SECTOR
<p>Notification dated 8 November 2013</p> <p>Residential /housing project on a 4,000 sq. mtrs. plot must reserve 20% of the net plot area for affordable housing for EWS/LIG</p>	Negative	<ul style="list-style-type: none"> <li>• Delay by MHADA in taking decision</li> <li>• Prospective application. Applicability is uncertain as on date</li> <li>• Proposed changes for exemption of applicability to redevelopment projects</li> <li>• Not applicable where CC was issued on or before 8 November 2013</li> <li>• Developer to amend project lay-outs where CC not issued</li> <li>• Burden on developer to compulsorily provide affordable housing to EWS/LIG</li> <li>• Effect of Implementation of Scheme</li> </ul>

## Registration (Amendment) Bill 2013

REGULATION	IMPACT	DETAILS OF IMPACT FOR THE REAL ESTATE SECTOR
<p>Registration (Amendment) Bill 2013</p> <p>Maharashtra Government has already carried out certain amendments</p>	<p>Positive /Negative</p>	<ul style="list-style-type: none"> <li>• No transfer of immovable property on basis of unregistered POA</li> <li>• Lease for any term to be registered</li> <li>• Mortgage by deposit of title deeds is also to be registered.</li> <li>• Power of Registrar to refuse registration of certain types of documents</li> </ul>

## E-mutation of land records

REGULATION	IMPACT	DETAILS OF IMPACT FOR THE REAL ESTATE SECTOR
Proposed online facility for citizens to enter their names in the Record of Rights	Positive	<ul style="list-style-type: none"><li>• Computerized land record management</li><li>• Prompt updating of land records</li><li>• Instant availability of the land records</li></ul>

