

From Here and Beyond



The Coronavirus (Covid-19) outbreak has led to panic and vulnerability impacting all business with no exception to the real estate sector. The haphazard dissemination of information amidst this has resulted in developers of real estate projects losing sight of the immediate actions to be taken to address the situation tactfully. If anything, this crisis has taught us, it is this - simple measures go a long way in curtailing a problem from becoming a catastrophe. In view of the same, here are few simple measures that the developers should undertake on an immediate basis prior to focusing their attention on building a bigger and better tomorrow.

- 1) **Organizational Introspection:** Prior to venturing out, address internal issues in relation to the employees of the company and the policies for working from home. Care should be taken to ensure that the business is carried on as usual during the period of lockdown. The company may revisit the employment agreements, staff handbook and other related policies to ensure comprehensive guidelines on work from home including use of confidential information and equipment belonging to the company, are laid down if not already in place.
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- 2) **Prepare for tomorrow:** To mitigate the damages and address future ambiguities, appropriate representations by group of stakeholders may be made at the earliest, to the relevant Government authorities seeking clarifications in relation to:
 - (a) **Reasonable extensions:** For completion of the projects and relaxation in imposition of penalty for delay in handover of completed units. In this regard, CREDAI West Bengal has already made requests seeking relief under a special provision of the West Bengal Housing Industry Regulatory Act, 2017;
 - (b) **Moratorium on payments:** Seek exemption on payment of statutory dues, as applicable and moratorium on repayment of loans. Several other guilds including the Multiplex Association of India and NAREDCO-UP have already made requests in this regard;
 - (c) **Focus on immediate expenses:** Utilization of the funds in the project account in order to meet the immediate expenses and employee salaries. Seek relaxations in maintaining the 70% criteria. Alternatively, banks holding such project accounts may consider issuing overdrafts for meeting such immediate expenses; and
 - (d) **Extension for registration:** Seek extension for registration of instruments such as agreement for sale and seek relaxation for acceptance of the acknowledgement of

payment of stamp duty/ challan as the date of obtaining the stamp paper until physical copies of such stamp papers can be procured.

- 3) **No one likes to be left in lurch:** Keep your customers abreast with the situation and progress of the project. The existing customers should be given real time updates ensuring seamless dissemination of information.
- 4) **Make a difference:** The Ministry of Corporate Affairs vide its circular dated 23rd March 2020 has clarified that CSR funds spent for COVID-19 is an eligible CSR activity. You may use the funds for activities *inter alia* relating to promotion of health care, including preventive health care and sanitation, and disaster management.
- 5) **Litigations and the period of limitation:** You need not worry about running out of time for initiating any court proceedings against your defaulters as the Hon'ble Supreme Court of India, vide an order dated 23rd March 2020, has directed that the period of limitation for filing proceedings before any courts/tribunals shall stand extended w.e.f. 15th March 2020 till further orders.
- 6) **If you can't do it offline, then do it online:** You may want to consider shifting your entire base to your online platform in relation to:
 - (a) Marketing and advertising for your existing projects: Concentrating on building online campaigns and marketing tools targeting wider customer base will not only help today but also in the long run in facilitating prospective sales. What more, the lockdown is forcing people of all generations and all backgrounds to use more technology than ever;
 - (b) Payment systems: Encourage use of online payment systems for smooth transactions and timely receipt of payments from customers. In this regard, the Finance Minister has recently announced several relief measures including reduced bank charges for digital trade transactions across all trade finance consumers; and
 - (c) Digital signing of documents: Given the current scenario, consider affixing digital/ electronic signature on the allotment letters/booking forms etc. for finalizing the ongoing sale or a new booking until the agreement is entered into with the customers.
- 7) **Revisit third party contracts:** Revisit terms pertaining to force majeure in all third-party commercial contracts to analyze the risk and remedies to be undertaken. In the event any contract does not make provision for such terms then such contracts may be altered mutually to include the same.
- 8) **Insurance Cover:** It would be advisable for the developers to revisit their insurance cover and reach out to their insurers to ascertain if their existing insurance policies cover situations arising out of the current scenario.
- 9) **Compliance with directions of Government:** Keeping in compliance with various directives issued by the authorities, developers to ensure that there are no workers on the construction site till the restrictions are lifted. Developers may also come up with necessary guidelines for operation on site in line with the directives of the Government.

