

**MANAGEMENT RESPONSE TO  
REQUEST FOR INSPECTION PANEL REVIEW OF THE  
INDIA: MUMBAI URBAN TRANSPORT PROJECT (Loan No. 4665-IN; Credit  
No. 3662-IN)**

Management has reviewed the Request for Inspection of the India: Mumbai Urban Transport Project (Loan No. 4665-IN| Credit No. 3662-IN), received by the Inspection Panel on May 29, 2009 and registered on June 9, 2009 (RQ09/06). Management has prepared the following response.

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## ABBREVIATIONS AND ACRONYMS

BEST	Bombay Electricity and Suburban Transport Corporation
BP	Bank Procedures
FSI	Floor Space Index
GoI	Government of India
GoM	Government of Maharashtra
IBRD	International Bank for Reconstruction and Development
IDA	International Development Association
INR	Indian Rupee
JVLR	Jogeshwari-Vikhroli Link Road
LA Act	Land Acquisition Act
MCGM	Municipal Corporation of Greater Mumbai
MMRDA	Mumbai Metropolitan Regional Development Authority
M RTP Act	Maharashtra Regional and Town Planning Act
MSRDC	Maharashtra State Roads Development Corporation
MUTP	Mumbai Urban Transport Project
NGO	Nongovernmental Organization
OD	Operational Directive
OP	Operational Policy
PAP	Project-affected Person
R&R	Resettlement and Rehabilitation
RTI	Right to Information Act
SCLR	Santa Cruz-Chembur Link Road
SRS	Slum Rehabilitation Society
TDR	Transfer Development Rights
USD	United States Dollar

### **Currency Equivalent (as of December 28, 2007)**

US\$ 1 = INR 39

SDR 1 = US\$ 1.57



## **I. INTRODUCTION**

1. On June 9, 2009, the Inspection Panel registered a Request for Inspection, IPN Request RQ09/06 (hereafter referred to as “the Request”), concerning the India: Mumbai Urban Transport Project (hereafter referred to as “MUTP” or “the Project”), financed by Loan No. 4665-IN from the International Bank for Reconstruction and Development (IBRD) and Credit No. 3662-IN from the International Development Association (IDA), together referred to hereafter as “the Bank.”
2. In 2004, four Requests for Inspection had been submitted to the Panel on behalf of several hundred residents and shopkeepers, resulting in an investigation by the Panel. Most of these Requesters are non-land owners located along SCLR. In December 2005 the Panel issued a report outlining the findings of its investigation. An Action Plan was included in the Management Report and Recommendation that was discussed by the Board of Executive Directors on March 28, 2006, along with the Inspection Panel’s “Progress Review<sup>1</sup>” (submitted to the Board in June 2007, INSP/SecM2007-0005). Since then the Board has been regularly updated by Management on the progress of implementation of the Action Plan through Progress Reports, the last one having been submitted to the Board on April 23, 2009 (SecM2009-0213).
3. It should be noted that, while Management was preparing this report, the matter raised by the Requesters has been resolved by the implementing agency (see paragraph 27). In addition, in Management’s view, the Bank has followed the guidelines, policies and procedures applicable to the matters raised by the Request.
4. **Structure of the Text.** The document contains the following sections: (i) introduction; (ii) the Request; (iii) Project background (objectives, components and update); (iv) a discussion of the specific claims made by the Requesters; (v) key issues raised in the Request; and (vi) Management’s response to the Request. Annexes include a brief note on Land Acquisition Procedures in Annex 1; Management’s e-mail exchanges with the Requesters in Annex 2; a list of missions in Annex 3 and relevant maps in Annexes 4 and 5.

## **II. THE REQUEST**

5. The Request for Inspection was jointly submitted by Messrs. Ambrish Mehta, Deepak Mehta and Hinesh Mehta (hereafter referred to as the “Requesters”), three brothers who are owners of Plot No. 102, Triveni Bhavan, C.T.S. No. 13/12 to 13/21 and 13 (b) situated in the Gandhi Nagar Plan within the Revenue Village of Tirandaz, Taluka

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<sup>1</sup> This was in response to the first Management Progress Report on the Action Plan of March 7, 2007.

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Kurla, Adi Shamkarcharya Marg, 11. T. Main Gate, Powai, Mumbai, 400 076, (hereinafter “the property”) in the city of Mumbai, India<sup>2</sup>. They submitted the request on their own behalf and claim to be adversely affected by the Project.

6. Attached to the Request are:

- (i) Requesters’ letter to the Mumbai Metropolitan Regional Development Authority (MMRDA) of May 11, 2009
- (ii) MMRDA’s letter to the Requesters of May 12, 2009;
- (iii) Requesters’ letter to MMRDA of May 14, 2009; and
- (iv) Requesters’ letter to the Panel of May 29, 2009.

No further materials were received by Management in support of the Request.

7. The Request contains claims that the Panel has indicated may constitute violations by the Bank of various provisions of its policies and procedures, including the following:

- OD 4.30, Involuntary Resettlement;<sup>3</sup> and
- OP/BP 13.05, Project Supervision.

### III. PROJECT BACKGROUND

8. **The Project.** MUTP, designed to improve road and rail transport infrastructure, was approved by the Bank’s Board of Executive Directors on June 18, 2002 (Loan No. 4665-IN; Credit No. 3662-IN).<sup>4</sup> Project restructuring, with an extension of the closing date until December 2009, was approved by the Board on September 30, 2008.<sup>5</sup> The total

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<sup>2</sup> Please refer to the area No.8 in the drawing shown in Annex 5

<sup>3</sup> OP and BP 4.12 together replaced OD 4.30, *Involuntary Resettlement* for all projects for which a Project Concept Review takes place on or after January 1, 2002, and do not apply for MUTP the Project Concept of which was reviewed on March 23, 1999.

<sup>4</sup> It should be noted that during the preparation phase, the R&R aspects were for some time considered to be implemented as a separate, but complementary project, the Mumbai Urban Rehabilitation Project.

<sup>5</sup> See India – Mumbai Urban Transport Project – Project Restructuring Project Paper R2008-0202, IDA/R2008-0270. In view of slow progress in most activities with disbursement recorded at 49 percent after 6 years of implementation, the project was restructured in September 2008 and certain activities in the road- and rail-based transport components were removed from the Project. This was discussed in the last Progress Report submitted to the Panel. The Project restructuring, which included an extension of the closing date, was aimed at increasing the focus on key activities that can be successfully completed, enabling the achievement of the Project development objective within the extended time period of the project. MMRDA is committed to completing remaining resettlement and rehabilitation (R&R) activities for the

Project cost is now USD 1.1 billion, of which USD 463.0 million is financed by an IBRD Loan, SDR 62.5 million (USD 92.0 million equivalent) by an IDA Credit, and additional financing of USD 568 million from the Government of India (GoI). The Project is being implemented by several entities and coordinated by MMRDA.<sup>6</sup>

9. **Project Objectives and Components.** The Project Development Objective is to facilitate urban economic growth and improve quality of life by fostering the development of an efficient and sustainable urban transport system including effective institutions to meet the needs of users in the Mumbai Metropolitan Region. After restructuring, the Project components are as follows:

- **Component 1 -- Rail Transport**, the main activities of which are: (i) improvement of capacity and performance of the suburban rail network of the Central and Western Railways through provision of infrastructure (track additions, signaling systems power, etc.), and new rolling stock (101 9-car electric motor units); and (ii) technical assistance.
- **Component 2 -- Road-based Transport**, the main activities of which are: (i) selected area traffic control and traffic management infrastructure schemes implemented by Municipal Corporation of Greater Mumbai (MCGM); (ii) buses (644) procured by the Bombay Electricity and Suburban Transport Corporation (BEST); and (iii) road widening to facilitate two East-West linkages, the Jogeshwari-Vikhroli Link Road (JVLR) and the Santa Cruz-Chembur Link Road (SCLR), implemented by MMRDA and the Maharashtra State Roads Development Corporation (MSRDC).
- **Component 3 -- Resettlement and Rehabilitation (R&R)**, comprising mainly: construction of housing, and provision of services for R&R of Project-affected persons (PAPs), implemented by MMRDA and financed with an IDA credit.

10. **Update on Project.** The Project continues to be a highly challenging undertaking in urban development with infrastructure investments in densely populated areas and a complex socio-cultural environment. The Project has so far progressed well towards achieving its development objectives. Substantial improvement in transport service has been noted, in particular with a significant increase of quantity and quality of the suburban rail services.

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schemes dropped from the Project, such as Road over Bridges, according to a procedure which it published on its website ([www.mmrdamumbai.org](http://www.mmrdamumbai.org)) and in newspapers.

<sup>6</sup> The Mumbai Railways Corporation (MRVC); the Municipal Corporation of Greater Mumbai (MCGM); Bombay Electricity and Suburban Transport Corporation (BEST); Maharashtra State Roads Development Corporation (MSRDC); Traffic Police of Mumbai; and MMRDA on behalf of the Government of Maharashtra (GoM) and the Borrower, the GoI. As well as being the coordinating agency, MMRDA is responsible for implementing the R&R component on behalf of all the implementing agencies.

11. Over 90 percent of PAPs have been resettled and their post-resettlement rehabilitation is in progress. Implementation progress remained overall slow reflected in low disbursement levels (49 percent cumulatively as of January 2009), although the pace of implementation has improved over recent months. The status of implementation progress will be assessed during the upcoming supervision mission in July 2009.

12. In the period preceding the last Progress Report, the implementation capacity of MMRDA had improved. In particular, key management positions were created for post-resettlement activities, and project schedules were prepared and regularly updated. In the more recent period since March 2009, MMRDA has focused its attention on relocating community and religious structures from along JVLR and SCLR and on relocating land owners. MMRDA has negotiated the relocation of three mosques, two temples, and one welfare center from SCLR, and one Sikh shrine from JVLR. All these structures were located on encroached public land and were not legally authorized. MMRDA cleared encroached land in the near vicinity by relocating slum households and also paid construction costs for these structures to the local custodians/trusts so that they can rebuild the community structures in the cleared land. Along JVLR, after long negotiations with MMRDA, one more group of land-owner shopkeepers (Sharan building) voluntarily demolished their structures and received alternative shops at the Powai Plaza. MMRDA recommended development permission for one individual who lost a substantial part of his plot to JVLR work, which will enable him to expand vertically on the remaining plot using Transfer Development Rights (TDR) that were received as compensation.

13. MMRDA has continued to carry forward the post-resettlement activities, notable among these being the registration of the cooperative housing societies and accelerating the transfer of the community maintenance funds and building management and maintenance funds to the housing societies. Since March 2009, five more societies have been fully registered and the registration process has been initiated for another eight societies. A total of 11 additional societies have received community maintenance funds bringing the total to 136 societies. Joint Building maintenance funds have been deposited in the joint accounts of 131 societies in total. The detailed picture of progress in R&R activities will be assessed during the upcoming supervision in July 2009.

#### IV. REQUESTERS' CLAIMS

14. The following claims have been raised by the Requesters:

- (i) That MMRDA, the implementing agency, "*came to demolish their structure*" as a result of which the Requesters obtained a High Court Stay Order;
- (ii) That the Requesters have "*suffered in the MUTP JVLR-Phase II*" and "*have done lots of struggle in the last two years;*"



- (iii) That they have been “*torched (sic) physically, mentally, and financially*” because they have been told to demolish their property prior to claiming or receiving compensation. They have written that “*putting the demolition condition before giving the compensation benefits*” is “*contrary to R&R Policy;*” and
- (iv) That MMRDA having agreed on a “*negotiated settlement*” with the Requesters and asked them to submit their proposal in writing, returned their proposal of May 11, 2009 saying that “*it was conditional*” and that “*their request of any nature in this regard will not be entertained*” by MMRDA;
- (v) That the Requesters have kept World Bank staff in the India Resident Mission updated on developments about their property through e-mail communications and phone conversations; and
- (vi) That the Requesters are ready for negotiations and will accept the negotiated settlement reached in their April 2009 meetings with MMRDA, as recorded in their correspondence with MMRDA, provided that they are given allotment papers and possession if compensatory residential and commercial properties are offered to them. They also signaled willingness to withdraw their High Court case; and
- (vii) That the Requesters have asked the Panel for an investigation into the matters “*on an urgent basis*” and that the Requesters wish to see their problem resolved in negotiations with MMRDA with possible assistance from the World Bank.

15. The Notice of Registration of the Request also noted that Management had recorded in its Third Progress Report on Implementation of the Action Plan that MMRDA had “*moved away from a prescriptive approach towards an adaptive and problem solving approach*” that seeks to “*explore various negotiated settlement solutions*”, in the light of which the Panel “*notes that chances of an expedient resolution of the case brought forward by the Requesters appear promising.*”

16. This section reviews the issues raised by these claims and details how MMRDA Bank staff addressed them, with the assistance of Bank staff.

17. **Background.** The Requesters’ property was affected by the civil works on JVLR-II. MMRDA sought to acquire their property, a plot of 775 sq. yards, which had been sub-leased by the grandfather of the Requesters, Oddavji Mehta. He had constructed shops and residences, with building permission from the Municipality (MCGM) on some 658 sq. meters of land in 1957 and rented these out. Later, MCGM acquired about 172 sq. meters of this plot for road work. The remaining part of the plot remained with the Requesters, which they inherited from their father as “*leased property.*” They became “*legal title holders*” only on January 25, 2006 after entering into a deed conveyance with Mr.

Chandan Sharma who until then had owned the land (the Requesters owned only the structures, which were occupied by tenants for decades). About 430 sq. meters of this plot were required for the JVLR-II, for which MMRDA initiated the land acquisition process under Section 32 of the MMRDA Act, 1974.

18. The Requesters live in residential flats in the multi-storey Brindavan Housing Society, situated near the Indian Institute of Technology (IIT) main gate along JVLR at Powai, about a kilometer away from their affected property. They manage their business as one family. As the Requesters have informed Bank staff, their main source of income is from businesses, including a Vodaphone Gallery at Powai, a ration shop, and some other businesses. The property affected by JVLR-II included 11 shops and 11 residential tenements built on 430 sq. meters of land. The Requesters received a very low rent (about INR 2000 or USD 42 per month at the average of USD 2 per tenant per month) from these shops and residences. In reality, even this amount often was not paid by the tenants for the last several years.<sup>7</sup> The tenants were legally protected and thus could not be dislodged by the Requesters (especially since the Requesters were not land owners till 2006) until the Requesters provided them with permanent alternative residences/shops.<sup>8</sup>

19. The Requesters claimed to have “*suffered in the MUTP JVLR-Phase II.*” Management acknowledges that the Requesters were trying to resolve the ownership of their property so that they could properly claim compensation. Until this was done, they considered themselves to be suffering from the civil works being undertaken in JVLR-II. MMRDA initially considered that the Requesters either did not trust the resettlement process or sought to gain more benefits, which led to a disagreement on how to resolve the compensation issues.

20. Records available at MMRDA and verified by Management show that on September 30, 2004, MMRDA wrote to the Special Land Acquisition Officer with copy sent to the Requesters to verify the latter’s eligibility for compensation. The Requesters apparently did not appear with claims for compensation as they did not have full title. They eventually submitted their ownership documents to MMRDA on October 18, 2006, two and half years after the original request by MMRDA to do so. MMRDA told Bank staff that there were several unsuccessful discussions with the Requesters to accept TDR as compensation. After the Powai Plaza was developed to rehabilitate JVLR-II shopkeepers, the Requesters asked for shops there. MMRDA replied that, per the MUTP R&R Policy, as absentee land and structure owners, the Requesters were entitled only to compensation; alternative houses/shops were meant for tenants that had lost businesses or resi-

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<sup>7</sup> The Requesters cited this as a ground to argue against why their tenants should not be resettled with permanent alternative shops in their letter of December 15, 2007 to the Bank.

<sup>8</sup> The conventional way in which owners manage to reclaim their ownership of such properties in Mumbai is through its redevelopment, with the consent of the tenants, where both tenants and owners get flats/shops in the redeveloped building. Prospective private builders may offer to vertically redevelop old properties using transfer of development rights or floor space index (FSI) in their possession if they are confident of making a profit even after providing free flats to both owners and tenants.

dences. In similar situations, MMRDA generally discusses with the absentee land owners and offers them TDR as compensation without initiating the formal land acquisition process to avoid procedural delays. The Requesters questioned MMRDA's proposal to carry out a baseline survey of the commercial and residential tenants (as project affected people) in 2004 and MMRDA's negotiations to resettle their commercial tenants in October 2006 prior to paying them compensation.<sup>9</sup>

21. MMRDA finally relocated the tenants in February-March 2007, and the Requesters filed a suit in the City Civil Court seeking injunction against any likely disturbance to their property on April 2, 2007. The court rejected their application on April 4, 2007 on the grounds that MMRDA had offered them compensation in 2004. The Requesters claimed that MMRDA "*came to demolish their structure*" and, therefore, the Requesters obtained a High Court Stay Order. In the last weeks of April 2007 and subsequently over the next two years, Bank staff visited JVLR and saw that the structures owned by the Requesters had remained untouched.

22. The Requesters claim that they had "*made a lot of struggle in the last two years.*" Management recognizes that the Requesters have made substantial efforts to resolve their compensation issues, including litigation. However, Management also acknowledges that the Requesters and MMRDA did not agree on the process of compensation. Once the Requesters filed their court case, MMRDA decided to follow Court orders and ceased all discussions with the Requesters until Management requested MMRDA to explore settlement out of court in order to commence the required civil works during January-April 2009.<sup>10</sup>

23. The Requesters claim that MMRDA having agreed on a "*negotiated settlement*" and having asked them to submit their proposal in writing, returned their proposal of May 11, 2009 saying that "*it was conditional*" and that "*their request of any nature in this regard [would] not be entertained*" by MMRDA. They further claim that they have been adversely affected because they were told to demolish their property prior to claiming or receiving compensation. They have written that "*putting the demolition condition before giving the compensation benefits*" is "*contrary to R&R Policy.*"

24. Bank staff attempted to facilitate negotiations between the Requesters and MMRDA on March 26, 2009. This negotiation ended without any conclusive agreement, and MMRDA stated it would consider the Requesters' proposal for four shops and four residences as compensatory benefits<sup>11</sup>. Management understands that the Requesters had

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<sup>9</sup> MMRDA presumably decided to resettle the commercial squatters and tenants from along JVLR-II first as the title holders remained non-cooperative. MMRDA went beyond MUTP R&R Policy to offer equivalent alternative built up area as an R&R benefit to the resident shop and land owners in January 2007.

<sup>10</sup> MMRDA was advised to seek out of court negotiated settlements with JVLR land owners in the Aide Memoire of January-February, 2009.

<sup>11</sup> The Requesters mention a "*negotiated settlement*" achieved in the course of discussions held during April 9-10, 2009 which was not documented, and therefore could not be verified by Management.

sought prior allotment of shops and residences in order to ensure that their claims of compensation were met before demolishing their structures. Management equally appreciates MMRDA's concern that it could not offer alternative shops/residences unless it was certain that the Requesters would demolish the structures, which MMRDA could not touch, given the sub-judice nature of the case. Such mutual lack of trust stalled the negotiations<sup>12</sup>. As the resettlement options discussed during negotiations with the Requesters were independent of the MUTP R&R Policy, Management could not consider a failure of such negotiation as procedurally non-compliant, though success in such cases is appreciated as best practice.

25. As for the tenants, MMRDA has resettled all eleven commercial and eleven residential tenants at the Powai Plaza and Garodia Nagar respectively, except one residential tenant who initially refused relocation but finally accepted one tenement offered at the Majas site.

26. The Requesters claim that they "*have kept World Bank staff in the India Resident Mission updated on developments about their property through e-mail communications and phone conversations.*" Management agrees, and wishes to add that staff proactively followed up on the case since April 2007, when the Panel first forwarded the letter from the Requester to Management. Bank staff has responded to the Requesters through e-mails, face to face meetings and phone conversations, explaining to them their legal entitlements.

27. In light of the Management Progress Report of March 2009 which recorded that MMRDA has "*moved away from a prescriptive approach towards an adaptive and problem solving approach*" and sought to "*explore various negotiated settlement solutions,*" the Inspection Panel Notice of Registration noted "*that chances of an expedient resolution of the case brought forward by the Requesters appear promising.*" The Panel further noted that "*the Requesters believed an amicable resolution of the case was possible with assistance from the World Bank.*" Management is pleased to inform the Panel that the matter has been amicably resolved with MMRDA offering the Requesters four shops at Powai Plaza and four residences at Majas Site, based on mutual consent (which the Requesters have already communicated to the Panel, with a copy to Management). MMRDA offered allotment papers on the condition that the Requesters demolish their structures before receiving the keys of these shops and residences. The Requesters

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MMRDA explained to Management that, as the matter was *sub-judice* and MMRDA could not disturb the "*status quo*" of the property, MMRDA considered that the "*demand for allotment of specific shops prior to the Requesters withdrawing the court case or clearing their property*" was "*conditional*" and thus not acceptable to MMRDA. This is because the Requesters, having received an allotment of alternative shops/residences, could still refuse to withdraw the case or demolish their property; MMRDA would thus have to wait until court litigation was over.

<sup>12</sup> MMRDA very recently got a large privately owned building of some twelve title holder shop keepers cleared along JVLR-II through negotiations with the shopkeepers, who agreed to demolish their shops as a precondition and received the allotment papers the next day, June 17, 2009.

cleared and demolished their structures on Sunday, June 28, 2009 and the MMRDA officials promptly handed over the keys in advance of the set deadline of June 30, 2009.

28. **Conclusion.** Management is very satisfied that the matter was resolved through negotiations, and wishes to assure the Panel that MMRDA has genuinely enhanced its ability to handle complex urban resettlement issues in Mumbai. Its recent success in resolving issue involving the relocation of highly sensitive minority religious structures, including one Sikh shrine from JVLR, and three mosques and two South Indian temples from SCLR, verifies this fact. Even in non-Bank funded projects, MMRDA has successfully resolved cases involving land owners along the JP Road for the Metro Project. In these cases, section 32 of the MMRDA Act was applied, but compensation was paid through negotiations.

29. In this context, Management would like to bring to the consideration of the Panel the following issue relevant to the present case. While it was a good outcome that the present case could be resolved with assistance from the World Bank as desired by the Requesters and recorded by the Panel, this outcome required mediation by the Bank to encourage both parties to resolve the case out of court. Such an approach is not without risk, as the complainants and the implementing agency may not appreciate or trust the Bank's role in mediation/facilitation, particularly if the case is before a Court. Management will continue to work as necessary with the implementing agency to resolve any resettlement and rehabilitation issues that arise, consistent with the Bank's policies.

## **V. KEY ISSUES RAISED BY THE REQUEST**

30. The Request focuses on two categories of policies and procedures, i.e., OD 4.30, Involuntary Resettlement and OP/BP 13.05, Project Supervision. The paragraphs below address these issues in detail.

31. **Project Supervision.** Since being informed of the complaint by Mr. Deepak Mehta, through communication forwarded by the Inspection Panel on April 19, 2007, Management has followed up actively on the case, responding to communications, engaging with the implementing agency, and meeting the Mehta brothers on several occasions (see Annex 3). In particular, in some of their letters to Management, the Requesters had questioned the application by MMRDA of the MMRDA Act. This Act provided for payment of compensation as equal to 100 months' income from the property acquired, calculated on the basis of the last five years' records. The Requesters expressed concern that the compensation would be very small, as they hardly received any income from their property. Once the Requesters raised this issue, Bank staff promptly advised MMRDA, in a letter dated April 16, 2009,<sup>13</sup> to ensure that the compensation to be pro-

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<sup>13</sup> Management wrote to MMRDA that, "Mr. Mehta has been raising issues regarding compensation offered under the section 32 of the MMRDA Act as less than that offered under the LA Act and the MRTTP

vided to the Requesters was in line with the MUTP R&R Policy. Bank staff also advised MMRDA, in January 2009, to explore settlement out of court in order to speed up the implementation of the Project.

32. More generally Management has been closely monitoring the R&R process implemented by MMRDA, which is trying to resolve highly challenging resettlement issues in the unique political and economic setting of Mumbai's complex urban landscape. Management has also remained in touch with PAPs in order to promote the adoption of an inclusive approach by MMRDA, while at the same time ensuring that resettlement and compensation comply with Bank policies. Bank staff have made thirty four visits to Mumbai since March 2006 and maintained intense supervision of the Project (see Annex 4). Bank staff assigned to MUTP maintain a database of all letters and complaints received from PAPs and other interested persons; it contains some 815 letters. Management has provided sufficient budgetary support for supervision; USD 1.5 million has been spent from July 2005 to date, i.e. more than three times the supervision spent for other infrastructure projects in India. Management is of the view that the Project has received adequate supervision.

33. **Resettlement Policy.** Per the MUTP R&R Policy, MMRDA was to pay compensation to the Requesters according to entitlements for non-resident land and structure owners, and to resettle the residential and commercial tenants in alternative permanent buildings. As of today, MMRDA has resettled all eleven commercial and eleven residential tenants of the Requesters. MMRDA has provided the Requesters with four shops at Powai Plaza and four residences, as requested by them through negotiations, (noting that the legal suit filed by the Requesters seeking an injunction against MMRDA regarding the land acquisition process is pending in the City Civil Court).

34. MMRDA began interactions with the Mehta family on this land acquisition in 2004. In 2008, in the absence of a negotiated solution, MMRDA initiated the land acquisition process under the MMRDA Act, 1974. As long as the case was not solved MMRDA did not touch the Requesters' property. The Requesters themselves demolished the structure after receiving allotment papers from MMRDA on June 28, 2009, in accordance with their negotiated agreement. The negotiated outcome complies with OD 4.30/OD 4.30. Management has closely monitored the process, which was sub-judice until the present and has taken necessary steps to ensure that the implementing agency's action complied with the Involuntary Resettlement Policy, OD 4.30. Management is of the view that MMRDA has not taken any steps that violated this policy.

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Act.... we suggest that the compensation payable to any MUTP PAP for acquiring his/her property should not be less than that payable under the LA Act, irrespective of the procedure adopted. We will request you to kindly look into the legal aspects of the case more diligently in order to amicably resolve this at an early date.”

## **VI. MANAGEMENT RESPONSE**

35. Management has worked closely with the Requesters and the Borrower to resolve the issues raised in the Request. The Requesters have advised the Panel of their satisfaction with the resolution. Management believes that the Bank has made every effort to apply its policies and procedures and to pursue concretely its mission statement in the context of the Project. In Management's view, the Bank has followed the guidelines, policies and procedures applicable to the matters raised by the Request. As a result, Management believes that the Requesters' rights or interests have not been, nor will they be, directly and adversely affected by a failure of the Bank to implement its policies and procedures.

## ANNEX 1

### LAND ACQUISITION PROCEDURES IN MUMBAI

- 1 **Land Acquisition Act, 1894:** This is the main Act for land acquisition which was nationally legislated by the colonial government. The preliminary survey is done under section 3 and notice is published under section 4; the land is declared as required for a public purpose under section 6; land is marked out, measured and planned under section 8; notice for acquisition to the individual owners is served under section 9; award is declared under section 11; and land is taken possession of under section 16. Section 17, known as urgency clause, permits advance possession on payment of 80 percent compensation. The Act has a total of 55 sections and on an average takes anywhere between two to three or more years to acquire a piece of land. The Act provides for compensation for land, structure, payment for damages during survey, payments for easement; solatium; and interest on compensation in case of delay. Most LA cases end in court and take years to clear.
- 2 **Maharashtra Regional Town Planning (MRTP) Act, 1966:** Chapter VII of the MRTP Act, 1966 (Sections 125-129) deals with land acquisition. The uniqueness of this Act enables the Town/Regional Planning Authorities to acquire land once such land is reserved in the development/township plans for some public purpose even before the specific activity is undertaken. The normal procedure of LA Act, 1894 is followed for determining market cost of land and awarding the compensation, except when the emergency section of 129 (i) is applied in which case possession of the land can be taken within 15 days of notification with payment for damaged crops; an advance of 2/3 compensation, or payment of 4 percent as annual interest on compensation from the date of possession till payment. The MUTP R&R Implementation Manual paragraph 14.19 refers to the MRTP, clarifying that the basic LA Act procedure for award of compensation will be followed even when the MRTP Act is applied.
- 3 **Bombay Municipality Act, 1888:** Section 299 of the BMC (now MCGM) Act permits taking possession of open set back areas within seven days from the date of serving notice on the land owner for public purposes such as roads. Generally, the land owner signs the occupation certificate and hands over the land and uses this certificate to claim compensation from the MCGM, generally in the form of Transfer Development Rights (TDR) or Floor Space Index (FSI). To be able to claim such compensation the onus of responsibility for depositing all ownership related documents with MCGM is on the land owners.
- 4 **Mumbai Metropolitan Region Development Authority Act, 1974:** Chapter VIII of the MMRDA Act (Sections 32 to 43) deals with Land Acquisition. Section 32 provides that the state government can acquire any land required for enabling the MMRDA to fulfill its purpose and undertake activities by publishing a notification in the official gazette prior to which the objection from the land owners as to why it should not be acquired shall be sought. Section 32 (3) provides that land shall abso-



lutely vest in the state free from encumbrances and section 33 (2) allows the state to use force to take possession in the event of lack of compliance by the land owner. Section 35 (2) provides for payment of compensation in agreement with the land owners and where this fails (35-3) payment of 100 times the average monthly income from such property over the last 5 consecutive years as compensation as determined by a competent authority appointed for this purpose. The land owners are entitled to interest from the date of land possession till the date of payment of compensation. The state government is to appoint competent authority as well as tribunal to hear disputes in case of several interested parties seeking compensation.

## ANNEX 2

## MANAGEMENT'S E-MAIL EXCHANGES WITH THE REQUESTERS

Note: The TR# in the first column refers to the serial number of the communication in the grievances and external database maintained by Bank Staff for this project.

TR #	From	Dated	Received	To the Attention of	Subject	Action taken	Replied by	Date
	Deepak Mehta	04-02-07	04-19-07	Forwarded to TTL for follow up by Inspection Panel	Information about R&R benefits for Mehta	Bank staff (S. Mishra and IUB Reddy) meet and explain entitlement to Mehta; MMRDA yet to initiate acquisition said Mehta; structure safe;	No Reply sent as Bank staff met and explained	
	Deepak Mehta	12-15-07	12-15-07		Questioning resettlement of tenants; asking for better compensation	Replied by email	H. Nove-Josserand (HNJ)	12-19-07
764	Deepak Mehta	03-22-08	03-22-08	Email to A. Herken, cc to E. Abbott, H. Nove-Josserand, P. Lallas, MMRDA and .R. Sharma	JVLR Phase II	Replied by email	HNJ	04/02/2008 and 04/14/08
767	Deepak Mehta	04-06-08	04-06-08	Email to A. Herken & H. Nove-Josserand cc to E. Abbott, P. Lallas, R. Sharma, MMRDA	JVLR Phase II, Triveni Bhavan. IIT Main Gate, Powai, Mumbai	Responded	A. Herken	04-07-08
799	Deepak Mehta	12-19-08	12-19-08	Email to H. Nove-Josserand with CC to E. Abbott, P. Lallas and R. Sharma	Land Acquisition Proceeding of land for MUTP J.V.L.R. Phase II for plot no. 102, Triveni Bhavan C.T.S. No. 13/12 to 13/15, 13/17 to 13/21 and 13(b) Ad-measuring about 775 sq. yards at A.S. Marg, Powai, Mumbai , 400 076	Email sent out by Hubert to Deepak Mehta to the email ID m.ambrish@yahoo.com	HNJ	12-30-08
799	Deepak Mehta	12-27-08	12-27-08	Email to H. Nove-Josserand, E. Abbott and R. Sharma	- idem-	-idem-	HNJ	12-30-08
799	Ambrish Mehta	02-10-09	02-10-09	Email to H. Nove-Josserand	- idem -	Replied	HNJ	02-20-09
799	Ambrish Mehta	02-18-09	02-18-09	Email to H. Nove-Josserand cc to Inspection Panel, P. Lallas, A. Herken	- idem-	Replied	HNJ	02-20-09
799	Ambrish Mehta	02-25-09	02-25-09	Email to Hubert cc to R. Sharma	- idem-			
799	Ambrish Mehta	03-14-09	03-14-09	Reminder email to H. Nove-Josserand	- idem-			
799	Deepak Mehta	04-01-09	04-01-09	Email to S. Mishra cc to Ritu Sharma, P. Lallas, S. Selwan	Triveni Bhavan, A.S. Marg, JVRL Phase II C.T.S. No 13/12 to 13/15 13/16 to 13/21 and 13(b)	Email forwarded to MMRDA and Benjamin for n.a. Also replied to PAP by S. Mishra on 2 April 2009 that his concerns are being shared with MMRDA	HNJ	04/16 and 04/17/09

Mumbai Urban Transport Project (MUTP)

TR #	From	Dated	Received	To the Attention of	Subject	Action taken	Replied by	Date
799	Ambrish Mehta	04-14-09	04-14-09	Email to H. Nove-Josserand cc to R. Sharma, P. Lallas, S. Selwan	Triveni Bhavan, A.S. Marg JVRL Phase II C.T.S. No 13/12 to 13/15, 13/ 16 to13/21and 13(b)	File		
799	Ambrish Mehta	05-12-09	05-12-09	Email to S. Mishra cc to H. Nove-Josserand, R. Sharma, IUB Reddy	Regarding proceedings for acquiring of part of the land for MUTP JVLR Phase II for Plot no. 102, Triveni Bhavan situated in Powai	File		
799	Ambrish Mehta	05-12-09	05-12-09	Email to S. Mishra cc to H. Nove-Josserand, R. Sharma, IUB Reddy	Forwarding letter from MMRDA dated 12 May 2009 regarding acquisition of part of land of Plot no. 102, Triveni Bhavan, C.T.S. No. 13/12 to 13/21 and 13(b) in Powai, Village Tirandaz, Taluka Kurla	File		
799	Ambrish Mehta	05-13-09	05-13-09	Email to S. Mishra cc to H. Nove-Josserand, R. Sharma, IUB Reddy	Follow up mail (Matter most urgent)		S. Mishra forwarded the email to MMRDA for action	05-13-09
799	Ambrish Mehta	05-15-09	05-15-09	Email to S. Mishra cc to H. Nove-Josserand, R. Sharma, IUB Reddy	Forwarding their response to MMRDA's letter dated 12 May 2009	File		
799	Ambrish Mehta	05-19-09	05-19-09	Email to S. Mishra cc to H. Nove-Josserand, R. Sharma, IUB Reddy	Triveni Bhavan, A.S. Marg JVRL Phase II C.T.S. No 13/12 to 13/15 13/16 to13/21 and 13 B			
799	Ambrish Mehta	05-22-09	05-22-09	Email to Social Protection cc to Ritu	- idem -			
799	Ambrish Mehta	05-29-09	05-29-09	Email to Inspection Panel cc to A. Herken, D. Barlas, P. Lallas, Hubert, L. Schunk, S. Selwan	Suggested Format for a Request for Inspection			

## ANNEX 3

## WORLD BANK SUPERVISION MISSIONS, MARCH 2006 – JANUARY 2009

**March 9 – 14, 2006**

Hubert Nove-Josserand	Task Team Leader
Manmohan Singh Bajaj	Senior Procurement Specialist
Priya Goel	Financial Management Specialist
Els Hinderdael	Manager, Procurement
Manoj Jain	Senior Financial Management Specialist
Rajat Narula	Senior Finance Officer
I.U.B. Reddy	Senior Social Development Specialist
Robert J. Saum	Manager, Financial Management
Warren Waters	Lead Social Development Specialist

**April 12 – 21, 2006**

Hubert Nove-Josserand	Task Team Leader
Sameer Akbar	Senior Environment Specialist
Mr. Apte	Architect
Frederick Brusberg	Regional Safeguards Advisor
Richard Clifford	Lead Urban Specialist
Satya Mishra	Social Development Consultant
Fayez Omar	Senior Country Program Manager
I.U.B. Reddy	Senior Social Specialist

**May 2 – 5, 2006**

Hubert Nove-Josserand	Task Team Leader
Arnab Bandyopadhyay	Transport Specialist
Sujit Das	Transport Specialist
Setty Pendakur	Traffic Management Specialist

**June 5 – 6, 2006**

Hubert Nove-Josserand	Task Team Leader
Frederic Brusberg	Safeguards Advisor
Michael Carter	Country Director
Satya Mishra	Social Development Consultant
I.U.B. Reddy	Senior Social Specialist

**June 28, 2006**

Hubert Nove-Josserand	Task Team Leader
Satya Mishra	Social Development Consultant

**July 25 – 28, 2006**

Hubert Nove-Josserand	Task Team Leader
Sameer Akbar	Environmental Specialist
Arnab Bandyopadhyay	Transport Specialist
Sujit Das	Transport Specialist
Satya Mishra	Social Development Consultant
I.U.B. Reddy	Senior Social Specialist
Sonia Sandhu	Environmental Specialist
Sankaran Vaideeswaran	Environmental Specialist

**August 14, 2006**

Fayez Omar	Acting Country Director
Satya Mishra	Social Development Consultant
I.U.B. Reddy	Senior Social Specialist

**August 17 – 25, 2006**

Hubert Nove-Josserand	Task Team Leader
Manmohan Singh Bajaj	Senior Procurement Specialist
Arnab Bandyopadhyay	Transport Specialist
Sonia Sandhu	Environmental Specialist
Sujit Das	Transport Specialist
Ke Fang	Transport Specialist
Priya Goel	Financial Management Specialist
Satya Mishra	Social Development Consultant
Setty Pendakur	Traffic Management Specialist
Jitendra Sondhi	Rail Transport Specialist
Sona Thakur	Public Relations Specialist
Sankaran Vaideeswaran	Environmental Specialist

**September 25 – 26, 2006**

Satya Mishra	Social Development Consultant
I.U.B. Reddy	Senior Social Specialist

**November 22 – 24 and 26 – 29, 2006**

Hubert Nove-Josserand	Task Team Leader
Frederick Brusberg	Regional Safeguards Advisor
I.U.B. Reddy	Senior Social Specialist
Satya Mishra	Social Development Consultant
Shyamal Sarkar	Senior Water and Sanitation Specialist

**January 16 – 25, 2007**

Hubert Nove-Josserand	Task Team Leader
Frederick Brusberg	Regional Safeguards Advisor
Richard Clifford	Lead Urban Specialist
Sujit Das	Transport Specialist
Priya Goel	Financial Specialist
Stephen Lintner	Senior Technical Advisor for Safeguards
Satya Mishra	Social Development Consultant
Sudip Mozumdar	External Relations
I.U.B. Reddy	Senior Social Specialist
Sonia Sandhu	Senior Environmental Specialist
Shyamal Sarkar	Senior Water and Sanitation Specialist
Jitendra Sondhi	Railway Specialist (consultant)
K. Srinivasan	Financial Analyst
Sankaran Vaideeswaran	Environment Consultant

**February 2, 2007**

Hubert Nove-Josserand	Task Team Leader
Rajesh Rohatgi	Civil Engineer
Jitendra Sondhi	Railway Specialist (consultant)

**March 7, 2007**

Hubert Nove-Josserand	Task Team Leader
Guang Zhe Chen	Sector Manager, Transport

Satya Mishra	Social Development Consultant
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**April 16 – 19, 2007**

Sujit Das	Senor Transport Specialist
Satya Mishra	Social Development Consultant

**April 25 – 27, 2007**

Satya Mishra	Social Development Consultant
I.U.B. Reddy	Senor Social Development Specialist

**June 6 – 7, 2007**

Hubert Nove-Josserand	Task Team Leader
Satya Mishra	Social Development Consultant

**July 6 – 20, 2007**

Hubert Nove-Josserand	Task Team Leader
Sameer Akbar	Environmental Specialist
Manmohan Bajaj	Procurement Specialist
Frederick Brusberg	Regional Safeguards Advisor
Richard Clifford	Lead Urban Specialist
Sujit Das	Transport Specialist
Priya Goel	Financial Specialist
Satya Mishra	Social Development Consultant
Sudip Mozumdar	External Relations
I.U.B. Reddy	Senior Social Specialist
Sonia Sandhu	Senior Environmental Specialist
Shyamal Sarkar	Senior Water and Sanitation Specialist
Jitendra Sondhi	Railway Specialist (consultant)
K. Srinivasan	Financial Analyst
Roy Sumner	ATC Specialist
Sankaran Vaideeswaran	Environment Consultant
Pradeep Valsangkar	ICT Specialist

**August 20 – 22, 2007**

Hubert Nove-Josserand	Task Team Leader
Isabel M. Guerrero	Country Director
Mandakini Kaul	Economist
Satya Mishra	Social Development Consultant
R.S. Pathak	Water Resource Specialist
Sona Thakur	External Affairs Consultant

**September 26 – 28, 2007**

Hubert Nove-Josserand	Task Team Leader
Sujit Das	Senior Transport Specialist
Satya Mishra	Social Development Consultant

**November 20 – 21, 2007**

Hubert Nove-Josserand	Task Team Leader
Satya Mishra	Social Development Consultant

**December 16 – 18, 2007**

Hubert Nove-Josserand	Task Team Leader
Satya Mishra	Social Development Consultant

**January 07 – 17, 2008 – January 23 – February 4, 2008**

Hubert Nove-Josserand	Task Team Leader
Atul Agarwal	Transport Specialist
Sameer Akbar	Environmental Specialist
Manmohan Bajaj	Procurement Specialist
Arnab Bandyopadhyay	Transport Specialist
Frederick Brusberg	Regional Safeguards Advisor
Guang Zhe Chen	Transport Sector Manager
Frederic Giovannetti	Social Safeguards Specialist (consultant)
Priya Goel	Financial Specialist
Punit Kapur	Financial Specialist
Satya Mishra	Social Development Consultant
Sudip Mozumdar	External Relations
I.U.B. Reddy	Senior Social Specialist
Shyamal Sarkar	Senior Water and Sanitation Specialist
Jitendra Sondhi	Railway Specialist (consultant)
K. Srinivasan	Financial Analyst
Roy Sumner	ATC Specialist
Sankaran Vaideeswaran	Environment Consultant
Pradeep Valsangkar	ICT Specialist

**April 6 – 10, 2008**

Hubert Nove-Josserand	Task Team Leader
Atul Agarwal	Transport Specialist
Vasile Olievschi	Rail Transport Specialist
Jitendra Sondhi	Rail Transport Specialist

**May 14 – 15, 2008**

Hubert Nove-Josserand	Task Team Leader
Atul Agarwal	Transport Specialist

**May 22 – 23, 2008**

Hubert Nove-Josserand	Task Team Leader
Satya Mishra	Social Development Consultant

**Goa, July 11 – 12, 2008**

Hubert Nove-Josserand	Task Team Leader
Frederic Brusberg	Safeguards Regional Adviser
Frederic Giovannetti	Social Safeguards Specialist, (consultant)
Gaurav Joshi	Environmental Safeguards Specialist
Satya Mishra	Social Development Consultant
I.U.B. Reddy	Senior Social Specialist

**July 23 – August 5, 2008**

Hubert Nove-Josserand	Task Team Leader
Atul Agarwal	Transport Specialist
Manmohan Bajaj	Procurement Specialist
Ramola Bhuyan	Financial Specialist
Frederick Brusberg	Regional Safeguards Advisor
Sujit Das	Transport Specialist
Priya Goel	Financial Specialist
Gaurav Joshi	Environmental Specialist
Satya Mishra	Social Development Consultant
Sudip Mozumdar	External Relations

I.U.B. Reddy	Senior Social Specialist
Shyamal Sarkar	Senior Water and Sanitation Specialist
Jitendra Sondhi	Railway Specialist (consultant)
K. Srinivasan	Financial Analyst
Sankaran Vaideeswaran	Environment Consultant
Pradeep Valsangkar	ICT Specialist

**September 15 – 16, 2008**

Sujit Das	Transport Specialist
Satya Mishra	Social Development Consultant

**November 23 – November 26, 2008**

Hubert Nove-Josserand	Task Team Leader
Atul Agarwal	Transport Specialist
Ramola Bhuyan	Financial Management Consultant
Rakhi Basu	Transport Specialist
Gaurav Joshi	Environmental Specialist
Satya Mishra	Social Development Consultant

**January 28 – February 6, 2009**

Hubert Nove-Josserand	Task Team Leader
Atul Agarwal	Transport Specialist
Manmohan Bajaj	Procurement Specialist
Frederick Brusberg	Regional Safeguards Advisor
Sujit Das	Transport Specialist
Rakhi Basu	Transport Specialist
Priya Goel	Financial Specialist
Gaurav Joshi	Environmental Specialist
Satya Mishra	Social Development Specialist
Sudip Mozumdar	External Relations
I.U.B. Reddy	Senior Social Specialist
Jitendra Sondhi	Railway Specialist (consultant)
Sankaran Vaideeswaran	Environment Consultant
Ramola Bhuyan	Financial Management Consultant
Pradeep Valsangkar	ICT Consultant

**March 26 – March 30, 2009**

Satya Mishra	Social Development Consultant
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**May 6, 2009**

Satya Mishra	Social Development Consultant
Atul Agarwal	Transport Specialist, Back up TTL

**May 20-May 26, 2009**

Hubert Nove-Josserand	Task Team Leader
Satya Mishra	Social Development Consultant

**June 17-28, 2009**

Satya Mishra	Social Development Consultant
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ANNEX 4

LOCATION PLAN OF JVLR - II



**ANNEX 5**

**MAP SHOWING REQUESTERS' PROPERTY IN THE ALIGNMENT DRAWING**

JOGESHWARI-VIKROLI LINK ROAD (SECTION-II)  
STATUS OF IMPEDIMENTS

