

REAL ESTATE REGULATORY AUTHORITY (RERA), BIHAR
4TH & 6TH FLOOR, BIHAR STATE BUILDING CONSTRUCTION CORPORATION CAMPUS
HOSPITAL ROAD, SHASTRI NAGAR, PATNA-800023

BIHAR REAL ESTATE REGULATORY AUTHORITY (BRERA)
CONCILIATION AND DISPUTE RESOLUTION CELL.

Introduction:

Instead of initiating formal legal proceedings Conciliation Forum/Cell acts as softer tools to bring home buyers/allottees and developers/promoters to the negotiating table. MAHARERA, UPRERA, KRERA (Karnataka) and KRERA (Kerala) are among the few States that have launched such Forums. In comparison to traditional RERA complaint, these Forums/Cells aim to provide solutions to the home buyers in a shorter time-frame. In a typical complaint petition it takes 4-5 hearings to reach a decision, whereas in such Forums/Cells, it take just one or two meetings. This facilitates a swift and amicable settlement of grievances of the parties.

[Handwritten signature]

Whereas the Chairperson of the Authority is vested with the powers of general superintendence and directions in the conduct of affairs of the Authority under Section 25 of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred as the "RERA Act, 2016").

As per Section 32 (g) of the RERA Act, 2016, Bihar Real Estate Regulatory Authority must take measures to facilitate amicable conciliation of disputes between the promoters and the allottees through Dispute Settlement Forum/Cell set up by the consumer or promoter associations.

With this objective, it was proposed to establish **Bihar RERA Conciliation and Dispute Resolution Cell (BCDRC)** that shall facilitate resolution of disputes amicably before adjudication of disputes in the Authority or the Adjudicating Officer, thereby saving cost and time of litigation to parties.

Under this mechanism, the Conciliation Cell shall facilitate the amicable settlement of disputes between the allottees and the promoters



through a mechanism of free deliberation facilitated by the representative of Buyer Association, Promoter/Builder Association and RERA Conciliation Consultant. If the conciliation is not successful, the complaint will pass through the adjudicating process. According to RERA Act, 2016, grievances filed with the Authority or Adjudicating Officer must be adjudicated within 60 (sixty) days, but the complaint may be settled more quickly via. Conciliation Cell than Adjudication. Hence, it cuts down the expense and time of litigation.

I. Objectives of the BRERA Conciliation and Dispute Resolution Cell (BCDRC):

1. To constitute/establish Panel of Eminent Conciliators representing different Stakeholder Groups.
2. To follow Conciliation Rules emanating from best practise adopted by various similar Forums.
3. To promote and popularize the amicable and effective settlement of disputes arising with reference to Real Estate (Regulation and Development) Act, 2016.



4. To popularize conciliation as an effective dispute resolution mechanism with meagre cost, but speedy settlement of disputes.
5. To co-ordinate/assist ADR proceedings by establishing facilities and providing administrative facilities.
6. Finally, providing the best platform for Alternate Dispute Resolutions (ADR).

II. Composition of Core Committee:

The Core Committee has been established to guide and monitor the functioning of the Cell. The Core Committee will be headed by the Senior Legal Consultant of BRERA. BRERA will provide administrative as well as financial and logistics support to the Cell. BRERA Conciliation Cell shall be primarily governed by Senior Legal Consultant of BRERA.

III. Rules and Responsibilities of Core Committee:

The Senior Legal Consultant will be the Chairperson and shall have the powers of general superintendence, in addition to presiding over the meetings of the Committee and exercise and discharge



such administrative powers and functions of the BCDRC, as may be needed from time to time.

IV. 1. Role of Conciliators:

- (i) The Conciliators are supposed to be impartial and conduct the conciliation proceedings in an impartial manner.
- (ii) They are guided by the principles of natural justice, objectivity and fairness in a given situation of nature of the dispute.
- (iii) The Conciliators are not bound by the rules of procedure and evidence.
- (iv) The Conciliators do not give any award or order.
- (v) The Conciliators try to bring legally acceptable agreement as to the dispute between the parties by mutual consent.
- (vi) The agreement so arrived at, shall be signed by the parties and authenticated by the Conciliators.

2. Location of the Conciliation Cell/Forum:

There would be one bench at Patna for conciliation of disputes between the allottees and promoters consisting of 3 (three)



members while more benches can be set up in Patna or other towns of state. The Conciliation Forum/Cell will operate on all/any working day(s).

3. Procedure for Conciliation:

- (1) Any party willing to initiate conciliation may file an application before BRERA/it's Bench or Adjudicating Officer/ Conciliation Cell as the case may be for Conciliation in Form 1-C, either online by email, registered/speed post or by hand delivery sending invitation to other party to conciliate.
- (2) Upon receipt of application for conciliation, BRERA/it's Bench or Adjudicating Officer shall send the record to the Conciliation Cell, which in turn will inform other party by way of Notice in Form 2-C either through official email Id of BRERA Conciliation Cell or through speed post or registered post or hand delivery in RERA office.
- (3) The other party on receipt of above information will convey his/her consent within 7 (seven) days in Form 3-C, either



through email or through speed post or registered post or hand delivery in RERA office.

- (4) On non-receipt of any information within 7 (seven) days, it will be deemed that the other party is not willing to amicably settle the dispute and the conciliation proceeding will be treated as a failed and a failure report in Form 4-C will be drawn by the BRERA Conciliation Cell and sent to the Authority/it's Bench or Adjudicating Officer, as the case may be.
- (5) The Conciliation Cell will notify the date, time and venue of Conciliation on the Official Website of RERA Bihar.
- (6) If parties are willing to reschedule a date, application is to be made in Form 5-C within 2 (two) days from the date of notifying the date and time of conciliation, through online by email or telephonic means. The conciliation proceeding may be rescheduled for 10 (ten) days but not more than that.
- (7) Failure to attend the conciliation proceeding on rescheduled date shall result in treating the proceeding as a failed conciliation. Form 4-C shall be drawn by the BRERA



Conciliation Cell, which shall then be sent to the Authority/it's Bench or Adjudicating Officer, as the case may be, for proceeding in the case for adjudication on merit.

- (8) Both the parties are required to be present on fixed date and time either in person or through their authorized representative on the assigned venue of Conciliation or through virtual mode.
- (9) Conciliators will facilitate resolution of dispute between the parties in an amicable manner.
- (10) If the parties are successful in reaching the terms of settlement, then BRERA Conciliation Cell will draw 'Consent Agreement' in Form 6-C, which will be signed by both the parties and acknowledged by the Conciliators.
- (11) The Consent Agreement/Term of Agreement shall be binding on both the parties.
- (12) Conciliators will refer the Consent Agreement to Real Estate Regulatory Authority or any of it's Bench or Adjudicating Officer as the case may be within 7 (seven) days.



- (13) The Real Estate Regulatory Authority or any of its bench or Adjudicating Officer, before whom original complaint is pending, will pass its final order based on the consent agreement reached between the parties.

Provided where the application for conciliation is received in Conciliation Cell before filing of original complaint and terms of settlement/agreement is reached between the parties, then in that case Conciliators, after drawing the consent agreement, will refer the consent agreement to the Authority or Adjudicating Officer as the case may be, for passing of final Order in terms of the agreement reached between the parties in the concerned case.

- (14) In case where the parties approach the Conciliation Cell before filing of original complaint and fails to reach an amicable settlement, the conciliation process will stand terminated and the parties will be at liberty to pursue their dispute before BRERA or any other Court/Forum.

However, where the parties approach the Conciliation Cell after filing of original complaint and they fail to reach an



amicable settlement, then the conciliation process will stand terminated and the Conciliators will revert back the matter to Authority or any of it's Bench or Adjudicating Officer, as the case may be, with the remarks that '**Conciliation Unsuccessful**'.

- (15) Settlement Failure report shall be drawn in Form 7-C.
- (16) The Online application for applying in the Conciliation Cell will commence as per notification issued by the Authority.
- (17) Where fresh cases are filed for conciliation a fee of Rs.500/- would be charged to the applicant upon receipt of consent in Form 3C, while in existing cases which would be transferred by respective bench for conciliation there would be no fees.

4. Conciliation Proceedings:

Either party to the dispute can commence the conciliation process. When one party invites the other party for resolution of their dispute through conciliation, the conciliation proceedings are said to have been initiated. When the other party accepts the invitation, the conciliation proceedings commence. If the other



party rejects the invitation, there are no conciliation proceedings for the resolution of that dispute.

5. Composition of Conciliation Cell:

One Conciliator each from Buyer Association, Promoter/Builder Association and one Conciliator Consultant from BRERA shall be appointed to resolve the disputes between parties.

6. Settlement of Disputes:

1. Conciliators, after conciliation proceedings are over, are not expected to act as Arbitrator.
2. The conciliation proceedings are of confidential nature.
3. The parties shall not rely on or introduce as evidence in judicial proceedings:-
 - (a) the views expressed or suggestions made for a possible settlement during the conciliation proceedings;
 - (b) admissions made by any party during the course of the conciliation proceedings;



- (c) proposals made by the Conciliators for the consideration of the parties;
- (d) the fact that any party had indicated its willingness to accept a proposal for settlement made by the Conciliator; and that the Conciliators shall not be produced or presented as a witness in any such judicial proceedings.

7. Procedure for referring complaints of BRERA Conciliation and Dispute Resolution Cell by BRERA or Adjudicating Officer BRERA:

The following guidelines are issued for the parties in existing complaints, who are desirous of undertaking conciliation process so as to ensure participative decision making, preservation of ongoing relationships, and mutually agreed solution:-

- (1) While a complaint is being heard by the Authority/any of its Bench or the Adjudicating Officer of BRERA and the said Authority/its Bench or Adjudicating Officer is satisfied that there is a possibility of settlement by way of conciliation, then with the consent of both the



parties involved, it may refer the complaint petition to the Conciliation Cell.

- (2) While referring the complaint, the said Authority/it's Bench or Adjudicating Officer shall provide a limitation period within which the Conciliation Cell shall submit it's report.
- (3) The Conciliation Cell shall make sincere efforts to complete the conciliation proceedings within the deadline/limitation period fixed in the matter and submit it's report to the said Authority/it's Bench or Adjudicating Officer, as the case may be.
- (4) The said Authority/it's Bench or Adjudicating Officer shall take report of the Conciliation Cell on record and decide the case.

8. Non-attendance of parties for conciliation proceedings even after providing consent:

If a conciliation application, wherein both parties have provided consent, but any of the parties does not appear for conciliation



hearing, the Conciliation Cell may refer the conciliation petition with their observations, to BRERA/it's Bench or Adjudicating Officer, as the case may be. The Authority/ it's Bench or Adjudicating Officer on receiving such a case, shall take a decision and the said decision may include treating the said matter as a complaint.

9. Unsuccessful Conciliation:

If both parties remain present during hearing, but in the event of unsuccessful conciliation, due to lack of agreement on terms and conditions of settlement, then the Conciliation Cell may decide to refer such a case to the Authority/it's Bench or the Adjudicating Officer, as the case may be, for proceeding the case on merit.

10. Successful Conciliation, but not executed or not complied:

In case of successful conciliation, wherein both the parties have resolved their disputes amicably, but the compliance/execution of settlement or terms of agreement is delayed beyond the time



mentioned in the settlement agreement, then in that case the other party will be at liberty to pursue its dispute before BRERA/its Bench or the Adjudicating Officer, as the case may be, for execution as per Section 40 of the RERA Act, 2016 and Rules and Regulations made thereunder.


V. Conciliation Clause:

The BRERA or the Adjudicating Officer recommends to all the parties desirous of making reference to conciliation by this BCDRC, shall provide the following conciliation clause in their existing and future contracts, if law applicable does not prohibit such reference.

“Any dispute or difference whatsoever arising between the parties relating to or arising out of contract, may be settled through BRERA Conciliation and Dispute Resolution Cell (**BCDRC**). If the dispute is not settled by conciliation within 20 (twenty) days of the initiation of conciliation or such further period, as the parties shall agree in writing, the same shall be referred to BRERA or the Adjudicating Officer, as the case may be, for adjudication.”




This bears approval of the Competent Authority of Real Estate Regulatory Authority (RERA), Bihar.


03/11/2021
Secretary,
Real Estate Regulatory Authority
(RERA), Bihar, Patna

Memo No. RERA/Conciliation/50/2021/432 Patna, dated 03-11-2021

Copy to:

1. Chairman Cell, RERA, Bihar, Patna.
2. Member-1, Cell, RERA, Bihar, Patna.
3. Member-2 Cell, RERA, Bihar, Patna.
4. Senior Legal Consultant, RERA, Bihar.
5. All Officers of RERA, Bihar.


03/11/2021
Secretary,
Real Estate Regulatory Authority
(RERA), Bihar, Patna

Form 1-C

Conciliation Application Form

Before the BRERA Conciliation Cell/ Real Estate Regulatory Authority/ AO, Bihar, Patna.

Conciliation Application No...../202_

A. DETAILS OF APPLICANT:

1. Name of applicant :
2. Address of the applicant:
3. Contact details with email id:

B. DETAILS OF THE OPPOSITE PARTY:

1. Name of the Opposite Party:
2. Address of the Opposite Party:
3. Contact details and email id:

C. NATURE OF DISPUTE (refund/possession/interest/compensation):

D. QUANTUM OF CLAIM:

E. BRIEF SYNOPSIS OF DISPUTE (not more than 1000 words):

F. ADDITIONAL POINTS OF RELEVANCE:

G. ENCLOSURES:

Date:

.....
Name and Signature of Applicant

FORM 2-C

Notice to Opposite Party

Before the Conciliation Cell, Real Estate Regulatory Authority, Bihar Patna

Conciliation Application No...../202_

1. Whereas an application has been submitted by Mr...../M/s XYZ Builder (Applicant) against (Opposite party) before the Conciliation Cell, RERA, Bihar Patna requesting for amicable settlement of dispute in terms of Section 32(g) of the Real Estate (Regulation and Development) Act, 2016.

A sample copy of the conciliation form is attached herewith.

2. The Opposite Party is hereby directed to give his/her consent in Form 3C as given on website either through electronic means or by registered/speed post or hand delivery within 7 days from the date of receipt of this notice so that the matter can be initiated for amicable settlement of dispute between the parties.

3. Failure to give consent within the prescribed time period would be treated as a refusal to participate in the conciliation proceeding and the conciliation will be treated as a failed and the parties will be at liberty to approach the Authority/Bench/Adjudicating Officer with their grievance in the manner provided under the Act.

Date:

.....
Signature of the Authorised Representative
(Conciliation Cell)

FORM 3-C

Consent Form

Before the Conciliation Cell, Real Estate Regulatory Authority, Bihar, Patna

Conciliation Application No...../2021

1. Whereas a notice was received by Mr...../M/s XYZ builder to give consent to the conciliation proceeding for amicable settlement of disputes.
2. I/We hereby give my consent to/refuse to participate in the conciliation proceedings to amicably settle the dispute.
3. I/we, upon giving consent, shall be present before the Conciliation Cell on the date and time fixed.

Date:

.....

Signature of the Opposite Party

Form 4-C

Conciliation- Failure Report

Before the Conciliation Cell, Real Estate Regulatory Authority, Bihar Patna

Conciliation Application No...../202_

1. Name of Applicant/s:

2. Name of Opposite Party:

3. Date of filing of Form 1-C:

4. Reason:

Date:

.....

Signature of Conciliation Consultant

(RERA, Bihar)

Form 5-C

RESCHEDULING DATE & TIME OF CONCILIATION

Before the Conciliation Cell, Real Estate Regulatory Authority, Bihar, Patna

Conciliation Application No..../202_

1. I/We, hereby submit this form with a request to reschedule the date and time of the conciliation proceeding from to
2. I /We state that I/We shall attend the conciliation proceeding on the rescheduled date and time.
3. I/We am/are aware of the fact that any failure on my/our part in attending the conciliation proceeding would result in treating the conciliation proceeding as failed.

Date:

.....
Signature of Applicant/Opposite Party

Form 6-C

Consent Agreement

Before the Conciliation Cell, Real Estate Regulatory Authority, Bihar, Patna

Conciliation Application No...../202_

1. Name of the Conciliators:
2. Name of the applicant/s:
3. Name of the Opposite Party:
4. Date of filing of Form 1-C:
5. Date of Notice to Opposite Party:
6. Venue of Conciliation:
7. Date and Time of Conciliation:
8. Number of Sittings:
9. Terms of Settlement:

1. **Name & Signature of Applicant:.....**

2. **Name & Signature of Opposite Party:.....**

Date:

.....

Signature of Conciliator

Form 7-C

Settlement Failure Report

Before the Conciliation Cell, Real Estate Regulatory Authority, Bihar, Patna

Conciliation Application No...../202_

1. Name of the Conciliators:
2. Name of the applicant/s:
3. Name of the Opposite Party:
4. Date of filing of Form 1-C:
5. Date of notice to Opposite Party:
6. Venue of Conciliation:
7. Date and Time of Conciliation:
8. Number of Sittings:
9. Reason for failure:

1. Name & Signature of Applicant:.....

2. Name & Signature of Opposite Party:.....

Date:

.....

Signature of Conciliator