

**Report No. 49873-IN**

**The Inspection Panel** 

**Report and Recommendation on  
Request for Inspection**

**INDIA: Mumbai Urban  
Transport Project  
(Loan No. 4665-IN; Credit No.  
3662-IN)**

**August 7, 2009**

## The Inspection Panel

### Report and Recommendation on Request for Inspection

#### INDIA: Mumbai Urban Transport Project (Loan No. 4665-IN; Credit No. 3662-IN)

##### A. BACKGROUND

1. On May 29, 2009<sup>1</sup>, the Inspection Panel received a Request for Inspection, related to the India: Mumbai Urban Transport Project (hereinafter “the Project”). The Request was jointly submitted by Messrs Ambrish Mehta, Deepak Mehta, and Hinesh Mehta, three brothers who are owners of Plot. No. 102, Triveni Bhavan, C.T.S. No. 13/12 to 13/21 & 13 (b) situated in the Gandhi Nagar Plan within the Revenue Village of Tirandaz, Taluka Kurla, Adi Shankarcharya Marg, I.I.T Main Gate, Powai, Mumbai - 400 076 (hereinafter “the Property”) in the city of Mumbai, India. They submitted the Request on their own behalf and claim to be adversely affected by the Project, and especially by its resettlement program.
2. The Panel registered the Request on June 9, 2009 and thereby notified the Executive Directors and Bank Management of the receipt of the Request. Management submitted its response on July 13, 2009 (the “Management Response”). As provided in paragraph 19 of the 1993 Resolution establishing the Inspection Panel (the “1993 Resolution”),<sup>2</sup> the purpose of this report is to determine the eligibility of the Request and make a recommendation to the Executive Directors as to whether the matters alleged in the Request should be investigated.
3. This is the fifth request for inspection received on the Project. The Project was investigated by the Inspection Panel in 2004 when four successive requests were submitted to the Panel on behalf of several hundred residents and shopkeepers from the project area. The Panel carried out an investigation and issued its Investigation Report on December 21, 2005. Upon approving Management’s remedial Action Plan on March 28, 2006 the Board also asked Management to submit a Progress Report no later than six months after the Board meeting and requested the Panel to report on progress on the implementation of the Action Plan. Since then, Management has regularly updated the Board on the implementation of the Action Plan and, according to the Third Progress Report, is likely to submit at least one final progress report before the Project closes.<sup>3</sup>

##### B. THE PROJECT

4. The Project is a US\$ 1.1 billion urban transport project which was approved on June 18, 2002. Of this total amount, US\$463 million is financed by an IBRD Loan and US\$92 million by an IDA credit whereas the remaining US\$568 million is financed by the Government of India.

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<sup>1</sup> A copy of the Request for Inspection with original signatures was submitted on June 9, 2009.

<sup>2</sup> International Development Association (IDA) Resolution 93-6, dated September 22, 1993 (“the 1993 Resolution”).

<sup>3</sup> Third Progress Report on Implementation of Action Plan, India Mumbai Urban Transport Project, March 13, 2009, p. 4.

5. The Project objective is to facilitate urban economic growth and improve quality of life through the development of an efficient and sustainable urban transport system and effective institutions that can meet the needs of residents and users in the Mumbai Metropolitan Region.<sup>4</sup>
6. The Project was restructured in September 2008 which resulted in an extension of its closing date to December 2009 and the removal of certain activities where progress was “excessively slow”.<sup>5</sup> After restructuring, the 3 main components of the Project are as follows<sup>6</sup>:
  - i. **Component 1 – Rail Transport**, which includes improving the performance of the suburban rail network by providing infrastructure and technical assistance.
  - ii. **Component 2 – Road-based Transport**, which includes traffic control and management schemes, procurement of buses, and road widening of the Santa Cruz-Chembur Link Road (SCLR) and the Jogeshwari-Vikhroli Link Road (JVLR).
  - iii. **Component 3 – Resettlement and Rehabilitation**, which mainly comprises housing construction and provision of R&R services for project-affected persons.
7. The Project is implemented by several entities and coordinated by the Mumbai Metropolitan Regional Development Authority (MMRDA).

### C. THE REQUEST

8. The Request for Inspection is summarized below. A complete copy of the Request and its corresponding attachments are attached to this Report as Annex I.
9. The Requesters are three brothers who live with their families in an area of Mumbai known as Powai. They state that their Property, which comprises rental shops and residences, is to be acquired due to the widening of the Jogeshwari-Vikhroli Link Road (JVLR) Phase II which is an East-West Linkage under Component 2.
10. They state in the Request for Inspection that the MMRDA “*came to demolish [their] structure*” in 2006; to prevent the possibility of any such future demolition and to obtain “*justice*”, the Requesters state they approached the High Court and obtained a Stay Order. The Requesters claim they have “*suffered in the MUTP JVLR Phase II*” and “*have done lots of struggle in these 2 yrs*” and been “*torched (sic) physically, mentally, and financially*” because they have been told to demolish their Property prior to claiming or receiving compensation. They write that “*putting the demoli[tion] condition before giving the compensatory benefits*” is “*contrary to R and R Policy*”.
11. They further state that on April 8, 2009 they “*received a phone call from MMRDA for negotiation*”. They say they agreed to negotiate and that discussions with MMRDA over a course of three days led to a negotiated settlement which the MMRDA asked them to document and

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<sup>4</sup> Project Appraisal Document (PAD) on a proposed loan in the amount of US\$ 463.0 million and a credit in the amount of SDR62.5million (US\$79.0 million equivalent) to India for the Mumbai Urban Transport Project, May 21, 2002, 3.

<sup>5</sup> Third Progress Report on Implementation of Action Plan, India Mumbai Urban Transport Project, March 13, 2009, p.5.

<sup>6</sup> India: Mumbai Urban Transport Project – Project Restructuring Project Paper R2008-0202, IDA/R2008-0270.

submit. The Requesters state that they documented the terms of the settlement and their acceptance of it and submitted it to the MMRDA.

12. According to the Requesters, the MMRDA wrote in a subsequent letter that the settlement submitted by the Requesters was “*conditional*” as it was not “*signed by any authority*”. MMRDA thus requested them to “*dismantle the structure*” and come forward to claim benefits within seven days of the receipt of the letter or else “[*their*] request of any nature in this regard will not be entertained” by the MMRDA.
13. The Requesters state that they have contacted and kept World Bank staff in the India Resident Mission supervising the Project updated on developments about their property. They claim, however, that their last three communications with the Bank were not answered.
14. They also state that they are ready for negotiation and will accept the negotiated settlement reached in their April 2009 meetings with MMRDA, as recorded by them in their correspondence with MMRDA, provided they are given allotment papers and possession of the compensatory residential and commercial properties offered to them. They also signal their willingness to withdraw their High Court case.
15. Finally, the Requesters ask that the Inspection Panel recommend an investigation of these matters “*on an urgent basis*”.
16. In the Notice of Registration, the Panel noted that the above claims may constitute non-compliance by the Bank with various provisions of the following Operational Policies and Procedures:

OD 4.30          Involuntary Resettlement  
OP/BP 13.05      Project Supervision

#### **D.      MANAGEMENT RESPONSE**

17. Management’s Response to the Request for Inspection dated July 10, 2009 was submitted to the Inspection Panel on July 13, 2009.<sup>7</sup> A brief summary of the Management Response follows, a complete copy of which is attached to this Report as Annex II.
18. Management believes that overall the Project is progressing well and is achieving its development objectives. It adds however that the Project continues to be a highly challenging undertaking and implementation remains slow as reflected by low disbursement levels. Over 90 percent of PAPs have been resettled and rehabilitation services are in effect.<sup>8</sup>
19. Management acknowledges that the Requesters Property, which they had rented out to tenants who were in turn resettled by MMRDA in 2007, was affected by civil works connected to JVLR-II. Management notes, however, that since the Requesters became “*legal title holders*” of the Property on January 25, 2006, earlier compensation-related discussions with MMRDA were not

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<sup>7</sup> Request for Inspection of the India: Mumbai Urban Transport Project (Loan No. 4665-IN; Credit No. 3662-IN) – Management Response, July 10, 2009.

<sup>8</sup> Management Response, pp.3-4.

successful. Management writes that “*MMRDA initially considered that the Requesters either did not trust the resettlement process or sought to gain more benefits, which led to disagreement on how to resolve the compensation issue*”.<sup>9</sup>

20. The Requesters submitted property ownership documents to MMRDA on October 18, 2006 but reaching an agreement on appropriate compensation remained difficult since, according to Management, the Requesters were unwilling to accept Transferable Development Rights (TDR) which was usually what MMRDA offered to absentee land owners under the MUTP’s R&R Policy. On April 2, 2007, the Requesters sought an injunction against disturbance to their Property by filing a suit in the City Civil Court but this suit was rejected on grounds that the Requesters had already been offered compensation by MMRDA in 2004. The Requesters then obtained a Stay Order from the High Court.<sup>10</sup>
21. Management adds that Bank staff has followed up on the case since April 2007 when the Panel first forwarded a letter from the Requesters to Management. Management states that Requesters have been responded to via emails, face to face meetings, and phone calls.
22. On the question of whether a negotiated settlement was reached between the Requesters and MMRDA during discussions held between April 9-10, 2009 as per the Requester’s claim, Management states it cannot verify the existence of such a settlement as the discussions were not documented. Management does however refer to Bank-facilitated negotiations between Requesters and MMRDA held on March 26, 2009 which remained inconclusive.<sup>11</sup>
23. Management has informed the Panel that, despite the “*mutual lack of trust*” and the fact that the matter was before the Courts, “*the matter has been amicably resolved with the MMRDA offering Requesters four shops at Powai Plaza and four residences at Majas Site, based on mutual consent.*” This agreement was reached when MMRDA offered to issue allotment papers on the condition that the Requesters demolish their Property before receiving keys to their new shops and residences. The Requesters demolished their Property on June 28, 2009 and received keys from MMRDA on June 30, 2009.<sup>12</sup>
24. Management expresses its satisfaction at the resolution of this matter and also believes that the Bank has made every effort to apply its policies and procedures.

## **E. OBSERVATIONS**

25. The Panel has received notification on June 27, 2009<sup>13</sup> from the Requesters in which they confirm the arrangement described in Paragraph 23 regarding the allotment to them by MMRDA of four shops and four residential properties, the demolition of their Property, and the subsequent withdrawal of their case in the City Civil Court.
26. In their electronic communication sent to the Panel, the Requesters express satisfaction with this arrangement and thank both the Inspection Panel and the World Bank Management for their

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<sup>9</sup> Management Response, p.6.

<sup>10</sup> Management Response, pp. 5-7.

<sup>11</sup> Management Response, p. 7.

<sup>12</sup> Management Response, p. 8-9.

<sup>13</sup> Email communication sent to Deputy Executive Secretary of Inspection Panel by Requesters, June 27, 2009.

*“cooperation and initiative”* in helping them *“settle the matter”*. The Panel wants to record the positive contributions of all parties to this process which led to an early resolution of the Requesters’ concerns.

## **F. CONCLUSION**

- 27.** Given the communication received from the Requesters which indicates that a satisfactory resolution of the matters of concern to them has been achieved, and in view of Management’s positive response to the Requesters’ concerns, **the Panel recommends that it discontinue further processing of this Request.**
28. If the Board of Executive Directors concurs with the foregoing, the Inspection Panel will advise the Requesters and Management accordingly.