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Model tenancy act: Still a long way to go

As the rent authorities will collect immense amount of data over time, the database could serve as a fair tool for fair rent estimates using analytics. The model tenancy act could help the parties in estimating a band of fair rental rates.

Prashant Das Jun 09, 2021, 09.36 PM IST



Prashant Das
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From a majority in the early post-independence era (1950's), the share of rental housing in India has been consistently falling in recent years (to sub-30%). A perception that increased homeownership is a good trend belies the reality. A counterfactual

India dominated by renters promises superior welfare of the citizens.

A rental yield of less than 2% combined with a modest price appreciation of 5-8% in residential real estate barely beats -and often is beaten by- merely the mortgage interest rate. The savings by renters, when invested in other assets (e.g. mutual funds) could create more wealth for them. The flexibility to move has added benefits. In most urban areas where rental households seamlessly coexist with homeownership neighbors, the concrete-jungles barely differentiate the quality of housing between owners and renters. In fact, renters enjoy larger homes in superior localities. The ever-expanding suburbs being gobbled up by megalopolises may, sometimes, offer ephemeral exceptions.

Several homeowners defend their housing-tenure choice by a perceived sense of security and stability, despite homeownership usually being a loss-making proposition. But, is an owned home coupled with heavy mortgage payment offers any more security than a rented one, when a household is faced with employment or income shocks?

If households are at the centerstage of housing policy, promoting rental housing promises superior welfare. Therefore, the [Model Tenancy Act](#) (MTA) approved by the Union cabinet is a welcome step. The act replaces the archaic [Rent Control Act](#) (RTA) of 1948. RTA's stipulations on "fair rent" and "rent changes" were clearly outdated. Besides, the RTA's dependence on the usual court of law had been grossly ineffective. Conditional of them arising, the oft-ugly disputes between the parties (landlord, [tenant](#) and intermediaries), and an incredibly slow judicial process have been the sore points in the development of rental markets.

Other detailed provisions notwithstanding, a big innovation in the MTA is the introduction of district/UT/state level "Rent Authorities" dedicated to rent agreements (including residential as well as commercial properties). A Rent Authority serves on an executive role. A Rent Court addresses the disputes (and appeals) between the landlords, tenants, and intermediaries. The rent court and tribunals thus set up have power to regulate their own procedure independent of the Code of Civil Procedure (1908), equivalent to a

magistrate having the powers of a civil court. No more than three adjournments are allowed, and the cases/appeals must be resolved within 60 days. Any delays will warrant an explanation.

Another remarkable feature of the MTA is the requirement for RERA-like digital platform by each rental authority. All lease agreements must be uploaded on this platform within two months of signing an agreement. The authority will assign unique IDs to the involved parties, and will provide a “conclusive proof” of the facts related to the tenancy agreement. This clearly saves the parties from the hassles of dealing with excessively intermediated local government offices.

Room for Improvement

The MTA rationalizes the rental market as it exists today. However, beyond the measures that will add to the transparency and efficiency of rental markets, the MTA falls short of bringing about changes that were needed to revolutionize the rental market as targeted.

MTA could take cues from European rental laws. Western European middle classes, in particular, have made their peace with rental tenures.

Given the presence of rental CPI, it is important to create a default rental escalation rules tied to inflation, at least as a directive. Landlords often stipulate disproportionate rent escalations to “hold up” the tenants on their toes at each lease expiry cycle. Indexed rents will address the RTA-era rent increase laws that are rendered arbitrary in the contemporary context.

As the rent authorities will collect immense amount of data over time, the database could serve as a fair tool for fair rent estimates using analytics. The MTA could help the parties in estimating a band of fair rental rates.

Rental yields in many Western European markets are almost as low as India. As mortgage rates are also quite low, landlords do not mind keeping long-term tenants. Therefore, with well-behaved landlord-tenant pairs, long term leases are a mutually beneficial

proposition. Tenants enjoy long term tenancies without a fear of being asked to vacate the premises. Landlords enjoy a stable stream of cash flows without frequent hassles (and costs) of identifying new tenants.

Although desirable, such arrangements are not in the favor of landlords in India who make much heavier mortgage payments compared to rents received. They would like to retain the optionality of tenant replacement. Therefore, we need to provision for a special type of long-term rental (LTR) agreement. In an LTR agreement, a tenant will pay a premium for an assurance of longer tenancy but enjoys protection from unreasonable evictions. LTRs may pave way for residential REITs in India that will allow households -in pursuit of a sense of security- longer housing tenure. LTRs will also unlock liquidity for them for more meaningful investments from their hard-earned capital that is otherwise locked into the abyss of homeownership.

It is a misperception that the promotion of rental housing, especially with LTRs will happen at the cost of homebuilding sector. On the contrary, homebuilders can not only continue to churn new homes catering to the growing demand for housing, but a large part of their clientele may also shift to institutional buyers and HNIs. LTRs may attract more institutional investors seeking higher yields from safer assets. Lenders, too, will see increased demand for mortgages. Borrowers could further benefit from lowered interest rate and less stringent underwriting requirements.

Ending Note

As it stands today, we must perceive the MTA as the first step towards a long journey of developing rental markets in India. Legislations help, but we must also deploy adequate infrastructure for operationalize the desired outcome. We have a long way to go with the MTA, but we seem to be in the right direction.

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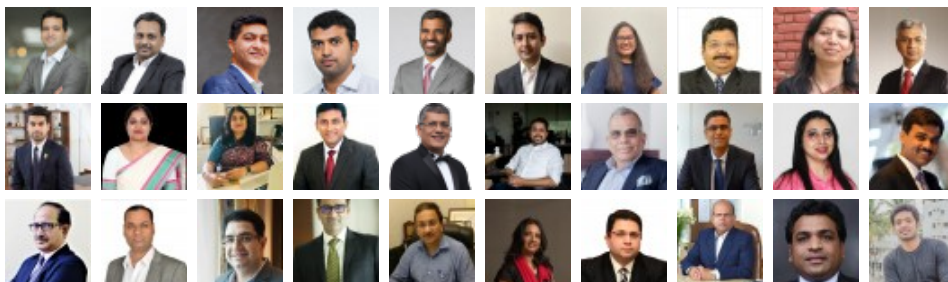
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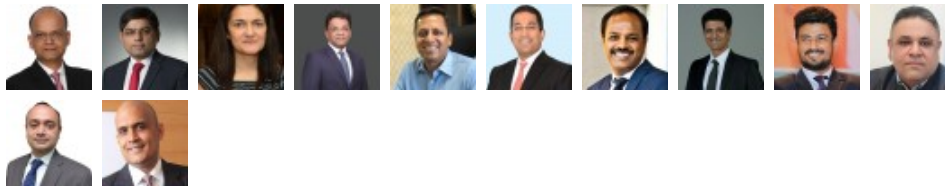
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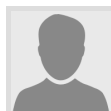
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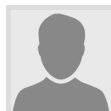
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Arvind Agrawal

Vice President, Havells India

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Sustainability in the workplace with smart lighting

Office owners also face the dual imperative of making their buildings safe for tenants while at the same time as minimizing costs. As these business decisions play out over the coming months, we also expect sustainability to be another major consideration.

Sumit Joshi Mar 30, 2021, 11.04 AM IST



Sumit Joshi

Vice Chairman and Managing Director, Signify Innovations India

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New paradigms in urban built environment: A tale of innovations & disruptions

While the overarching theme this year gone by was Covid-19... the pandemic was just a temporary pause! It is however the behavioural changes and the time for contemplation that it provided to one and all, is what is at the helm of this paradigm shift.

Jasmeet Chhabra Mar 02, 2021, 12.16 PM IST



Jasmeet Chhabra
Managing Partner, Cerestra Advisors

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Minimising electrical fire risk by choosing the right cable

There is a need to aggressively educate the ecosystem on HFFR as a better solution not just from an environmental but also an electrical safety point of view.

Arvind Agrawal Feb 16, 2021, 06.52 PM IST



Arvind Agrawal
Vice President, Havells India

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Energy efficient lighting for sustainable development

With the advent of development in the field of lighting engineering and power electronics, lighting fixtures with higher efficacies (low power, but high lumen output) have become need of hour and therefore energy trends related to lighting have undergone a huge phase shift.

Dikshu C. Kukreja Feb 16, 2021, 06.44 PM IST



Dikshu C. Kukreja
Managing Principal, C. P. Kukreja Architects

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Developers should consider Covid-19 safety audits to keep their premises safe

According to reports, in 2021, the sector may see a change in tenant preferences due to the pandemic, and larger layouts with higher safety, hygiene, and captive amenities may find their way to more occupiers.

Hemant Sethi Feb 16, 2021, 06.34 PM IST



Hemant Sethi
Country Head India, British Safety Council India

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Affordability improving measures key to support housing demand recovery

During the nine months of current financial year (FY2021), housing unit sales declined by 35% in the major metro markets compared to the corresponding period of the previous financial year.

Shubham Jain Jan 22, 2021, 10.34 AM IST



Shubham Jain
Group Head & Senior Vice President - Corporate Ratings, ICRA

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Financial impetus and regulatory reforms can help grow building materials sector

Despite the current challenges, the building materials segment is poised to witness 5% to 10% growth in 2021 owing to planned infrastructural developments. However, for this positive optimism to convert, the need of the hour will be to

assist the sector with financial impetus and regulatory reforms.

Ashwin Reddy Dec 31, 2020, 08.09 PM IST



Ashwin Reddy
Managing Director, Aparna Enterprises

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Why real estate could be a force multiplier for the Indian economy in 2021?

Magicbricks.com is owned by Magicbricks Realty Services, which is a subsidiary of Times Internet.

Sudhir Pai Dec 31, 2020, 06.47 PM IST



Sudhir Pai
CEO, Magicbricks

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Ensuring a safe and healthy office space as we return to work

All we have to do is look at the science, follow the public health data and put in place a safety-first re-opening infrastructure that is recognized and trusted.

Mahesh Ramanujam Dec 17, 2020, 07.23 PM IST



Mahesh Ramanujam
President and CEO, USGBC and GBCI

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Indian Office Markets - Resilient amid the disruption

While gross leasing activity is marginally lower by just 17.5% on a YTD basis, the overall impact will be closer to 27-32% y-o-y decline. On a net absorption basis, we expect that 2020 will be lower by around 50-55% on a y-o-y basis.

Anshul Jain Nov 25, 2020, 03.04 PM IST



Anshul Jain
MD - India & SE Asia, Cushman & Wakefield

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