

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
SITTING AT PUNE
MEMORANDUM OF APPEAL
(UNDER SECTION 16 READ WITH SECTION 18 OF THE
NATIONAL GREEN TRIBUNAL ACT, 2010)
APPEAL NO. 21 OF 2023

BETWEEN:

Santosh Daundkar

...Appellant

Versus

The Secretary, MoEF & Ors.

...Respondents

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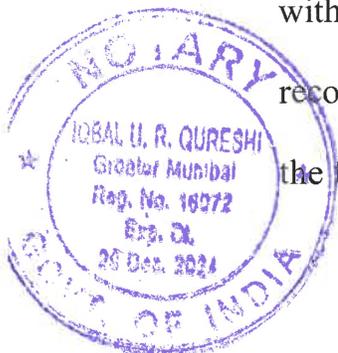
The Secretary, MoEF & Ors.

...Respondents

ADDITIONAL AFFIDAVIT OF RESPONDENT NO. 9:

I, Shri Vijay More, aged 42 years, Indian Inhabitant, the Authorised Signatory of Respondent No. 9, having my office address at 402, 54B, Sagar Avenue, Above ICICI Bank, S.V. Road, Andheri (W), Mumbai:- 400058, do solemnly state on oath and affirm as under:-

1. I am the Authorised Signatory of Respondent No. 9 having my address as mentioned above. I have gone through the above Appeal and the documents filed along with the said Appeal by the Appellant. I am familiar with the facts of the case from personal knowledge as well as from office records available with Respondent No. 9 and am competent to depose to the facts in this Additional Affidavit.



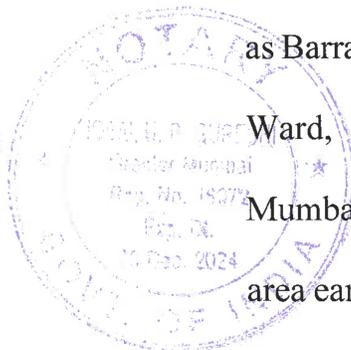
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2. I say that I am filing the present Affidavit for the limited purpose of placing on record certain additional facts, circumstances, and documents for the consideration of this Hon'ble Tribunal in compliance with the Order dated 12th July 2023 passed in the present matter. I say that the Respondent No. 9 has already filed an Affidavit in Reply dated 10th July 2023 in the present proceedings and the same be deemed to be forming part and parcel of the present Affidavit unless contrary hereto. It is clarified that the present Affidavit is filed in furtherance of and supplemental to the Affidavit already filed by Respondent No. 9.

3. It is germane to bring on record certain important facts and their supporting documents which would be critical to the adjudication of the present case and which are set out hereunder:

Approved Layout Plan on which the Environmental Clearance has been granted

4. I say that as per the approved layout plan, the total plot area is 26,329.97 sq. mtrs. for the proposed redevelopment of the Municipal Property known as Barracks No. T/57, T/58, T/59 on plot bearing S.C. No. 6 (Pt.) of F/North Ward, Sion Division, situated at Vishramwadi, Bhaudaji Rd., Sion, Mumbai ("**Project**"). Out of the total area, 10,531.98 sq. mtrs. area is the area earmarked for recreation ground ("RG") by Respondent No. 9/Project



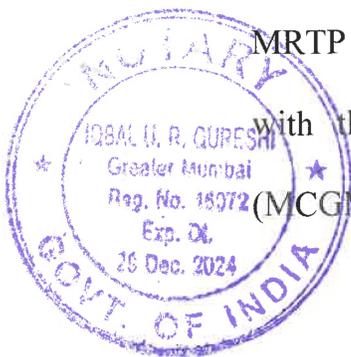
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Proponent. Therefore, the balance area of the plot i.e. 15,797.99 sq. mtrs, is entitled to be constructed by Respondent No. 9. Hereto annexed and marked as “**Exhibit-A**” is a copy of the approved layout plan.

5. I say that the contention of the Appellant that the subject land has been reserved as a garden is completely erroneous and it is in fact, reserved for “recreation ground”. Reservation for a garden and a recreation ground are two completely different reservations and the Appellant has made this assumption that it has been reserved for a garden without any documentary evidence. Hence, this contention is without any basis. Hereto annexed and marked as “**Exhibit-B**” is a copy of the Development Plan Remarks for the subject property.

Development Control Regulations, 1991 (“DCR”)

6. I say that the said Project is being constructed in accordance with the provisions of the applicable town planning laws which are the Development Control Regulations, 1991 (“DCR”) read with the Maharashtra Regional and Town Planning Act, 1966 (“MRTP Act”). It is well settled that DCR is a delegated piece of legislation issued under the MRTP Act and thus, has the force of law. Regulation 33(7) of DCR deals with the redevelopment of buildings belonging to the Corporation (MCGM) which provides that for redevelopment undertaken of the old



✓

buildings of the Corporation, FSI shall be 3.00 on the gross plot area or FSI required for rehabilitation of existing tenants plus incentive FSI specified in Appendix-III, whichever is more. Regulation 33(7) of DCR has to be read with Appendix-III of DCR, 1991, the relevant portion of which is reproduced hereinbelow for ease of reference:

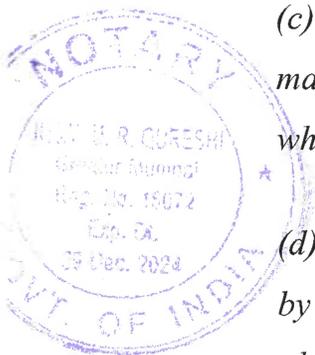
“7. Construction or reconstruction of old building falling under reservation/zones contemplated in the Development Plan shall be permitted in accordance with the provision of notification No. TPB 4392/4080A/RDP/UD-11, dated 3rd June 1992 issued under Section 31 of the MR & TP Act.

(a) Redevelopment/reconstruction in any zone shall be allowed to be taken in site without going through the process of change of zone. For the Industrial user the existing segregating distance shall be maintained from the existing industrial unit.

(b) Any plot under non-buildable reservations admeasuring only upto 500 sqmts may be cleared by shifting the existing tenants from that site.

(c) The stipulation of 33 per cent of area under non-buildable reservation may be reduced by the Government/Commissioner to the extent necessary where there are height and such other restrictions.

(d) For other buildable reservations on lands where guidelines approved by Government under Section 31 of the Maharashtra Regional and Town planning Act are not available, built-up area equal to not more than 15 per cent area of the entire plot or 25 per cent of the area under reservation in



X

that plot, whichever is less, shall be made available free of cost for the Municipal Corporation or for any other appropriate Authority.”

7. It is submitted that the Project Proponent/Respondent No. 9 shall and is entitled to the FSI in accordance with Regulation 33(7) of DCR, 1991, read with Appendix-III as regards the present development project. Hereto annexed and marked as “**Exhibit-C**” is the copy of the relevant portions of the DCR, 1991.
8. I further say and submit that Respondent No. 9 is entitled to amend or modify the layout of the said Project, as and when required, according to the business exigencies, and undertakes to obtain and seek all necessary permissions and approvals for such amendment or modification.
9. In the view of the above facts and circumstances, it is submitted and prayed that the captioned Appeal may be dismissed with costs.

Solemnly affirmed at Mumbai

This 25th day of July 2023.



[Signature]

Advocates for Respondent No. 9

[Signature]

Deponent

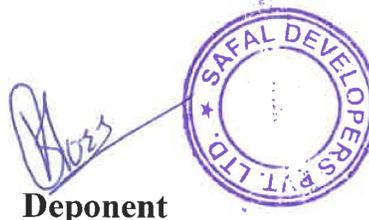
Authorised Signatory of Respondent No. 9

VERIFICATION

I, Shri Vijay More, aged 42 years, Indian Inhabitant, the Authorised Signatory of Respondent No. 9, do hereby state that I have submitted this Affidavit on solemn affirmation and oath. I have verified that the facts are true to my personal knowledge. I have not suppressed any material fact known to me and relevant to this matter.

Date:

Place:



Deponent

Authorised Signatory of Respondent No. 9

Advocates for Respondent No. 9

BEFORE ME

IQBAL U. R. QURESHI
NOTARY
Government Of India
Greater Mumbai Maharashtra

25 JUL 2023

NOTED & REGISTERED
Sr. No. 359 Page No. 21
Book No. V/24 Date 25 JUL 2023



EXHIBIT - A**MUNICIPAL CORPORATION OF GREATER MUMBAI****No. CHE/CITY/1200/FN/302**

To,
SAFAL DEVELOPERS PVT. LTD.
 54-B/ 402, Sagar Avenue,
 Junction of S.V. Road,
 Andheri (W), Mumbai-58.

Ex. Eng. Bldg Proposal (City) -II
 New Mumbai, No.355 B,
 Bhagwati, Sion, Jankar Marg,
 Opp. Hindu College,
 Salt Pond, Wadala (East)
 Mumbai - 400 037.

Sub: Proposed layout of Municipal property known as Barracks No. T/57, T/58, T/59, Sion Matunga Estate, Scheme No.6, on plot bearing C.S.No.6(pt) of Sion Division, situated at Vishramwadi, Bhaudaji Road, Sion Mumbai – 400 022 in 'F/N' Ward under DCR 33(7).

Ref: Your letter dated 28.08.2015.

Sir,

With reference to above subject, I have to inform you that layout of the above mentioned property submitted by your Architect is hereby approved subject to terms & conditions registered under no. BBE-4/4283/2015 dated 03.12.2015 as per copy enclosed.

Copy of approved plans is returned as a token of approval.

Yours faithfully,

Sd/-
 Dy.Chief Engineer
 (Building Proposal) City

No. CHE/CITY/1200/FN/302 db 07/12/15

Copy: 1. ✓
 Shri Milind Changani (Architect)
 Of M/s B. N. Shah & Associates
 316, Wadala Udyog Bhavan,
 Naigaon cross Road, Wadala,
 Mumbai - 400031.

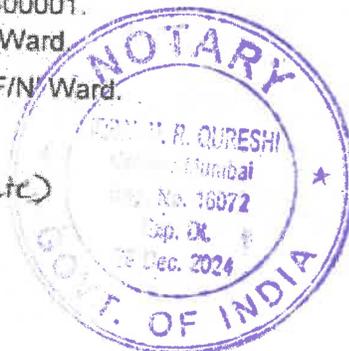
2. The Collector of Mumbai,
 Old custom House,
 Mumbai - 400001.

3. W.O. 'F/N' Ward

4. A.A. & C. 'F/N' Ward

5. E.E.(D.P.).

6. A.C (Estate)



Qureshi
 7/12/15
 Dy.Chief Engineer
 (Building Proposal) City



MUNICIPAL CORPORATION OF GREATER MUMBAI

Office of the
Chief Engineer (Development Plan)
Municipal Head Office
4th Floor, Extn. Building
Mahapalika Marg, Fort
Mumbai - 400 001

To
B. N. SHAH & ASSOCIATES,
ARCHITECTURAL DESIGN & LIASON
CONSULTANTS, 315-WADALA UDYOG BHAVAN,
PLOT NO 8, NAIGAON CROSS ROAD,
WADALA (E), MUMBAI-400 031.

No: CHE/953/DPCity/F/N

Date:

107 APR 2015

- Sub:** Sanctioned Revised Development Plan Remarks for the land bearing C. S. No 6PT, 1/6 and 1A/6 of SION Division
- Ref:** 1) Your Application u/no. 0001396 and payment of certifying charges made under Receipt no. 1001974637 dated 03/01/15.
2) Dir. (E.S.&P.)'S approval under no. Dir./E.S.&P./3900/I dtd. 31/01/2009.
3) Additional payment of certifying charges made under Receipt no. 1002039417 dated 25/02/15.

Sir/Madam,

Sanctioned Revised Development Plan Remarks for the land shown bounded blue on the accompanying plan are as under:-

Description of the Land	:	C. S. 6PT, 1/6 and 1A/6 of SION Division
Sanctioned Revised Development Plan referred to Ward	:	F/N
Reservations affecting the land [as shown on plan]	:	RECREATION GROUND (part of larger reservation) HOUSING FOR DISHOUSED (2nos) EXT. TO L.T.M.G. HOSPITAL and PRIVATE PRIMARY SCHOOL.
Reservations Abutting the land [as shown on plan]	:	PUBLIC HOUSING (2Nos)
Designations affecting the land [as shown on plan]	:	CEMETERY/CREMATION GROUND (part of larger reservation),
Designations Abutting the land [as shown on plan]	:	SECONDARY SCHOOL and WELFARE CENTRE
D.P. Roads affecting the land [as shown on plan]	:	NIL
Existing Roads [as shown on plan]	:	Present
Status of the existing road, if any and its widening shall be got confirmed from the Assistant Commissioner F/N Ward/Assistant Engineer (Survey City)/Executive Engineer (Traffic & Planning).	:	
Zone [as shown on plan]	:	RESIDENTIAL ZONE (R)

Remarks from other Departments/Offices:

The Separate remarks as per Draft Development Plan (2034) shall be obtained from the office of Town Planning Officer, Greater Mumbai whose office is situated at Kalpataru Residency, opp.Rupam Cinema,F/North Municipal Ward Chowky, 1st Floor, Sion (E), Mumbai - 400 022.

Railway 30m buffer

: CENTRAL RAILWAY HARBOUR BRANCH
LINE and CENTRAL RAILWAY HARBOUR
BRANCH LINE - BUFFER

As per Govt. directive u/S.37 (2) of M.R. & T.P. Act, 1966 issued u/no.TPB/4302/1318/CR-23/03/UD-11 dtd.05.07.2005. Railway NOC shall be obtained for the plots falling within in 30 mt. from Railway Boundary. Therefore, Railway NOC shall be obtained before initiating any development on the land under reference.

The land under reference affected by the East Island free Way and Central Island free Way hence, specific remarks from the Mumbai Road Development Design Authority should be obtained separately before taking up any development on the land

The alignment of proposed East Island free Way and Central Island free Way is subject to the actual demarcation on site by this office staff along with the representative of A. E. Survey (City) F/North Ward, E.E. (Tr. Pl.) S.L.R., Mumbai Road Development Design Authority & A.C. (Estate).

The land under reference falls under SION MATUNGA ESTATE LAYOUT scheme No. 6, hence specific remarks should be obtained separately from the concerned authority i.e. A.C. (Estates) before taking up any development on the land.

Demarcation: The boundaries of the reservations/designations are subject to the actual demarcation on site by this office staff along with the representative of A. E. Survey.

Reservation if Relocated

: PRIVATE PRIMARY SCHOOL, HOUSING
FOR DISHOUSED (2nos) and
RECREATION GROUND (3Nos)

Consequent upon the representation made in the past by the owner/developer of the land under reference and in consonance with the existing site conditions and by direction, the reservation/designation as stated above has been shifted from its position shown washed colour to that shown dotted colour lines on the plan as per sanctioned u/no CHE/633/F/DPC 23/06/1998.

If, the land under reference is affected by Nalla, Well, Pipe Line & Transmission lines specific remarks shall be obtained from the concerned Authority.

Note:

If the land under reference is a part of amalgamation/sub-division/layout, then specific remarks shall be obtained from the concerned Building Proposal office and development thereof shall be as per the terms and conditions of the approved amalgamation/sub-division/layout.

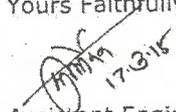
Remarks are offered only from the zoning point of view without reference to ownership and without carrying out actual site inspection and without verification of the status of the structures if any on the land under reference. Status of the existing road, if any, shall be confirmed from the concerned Ward Office.

The boundaries shown in the accompanying plan are as per the available records with this office. However the boundaries shown in the records of City Survey Office shall supercede those shown in the D. P. Remarks Plan.

Since true Extract is not submitted of the property, the boundaries of the plot under reference shall be got verified separately from S.L.R. / & approval to amalgamation /subdivision, shall be obtained from concerned authority, if necessary.

This remarks is valid for one year from the date of issue.

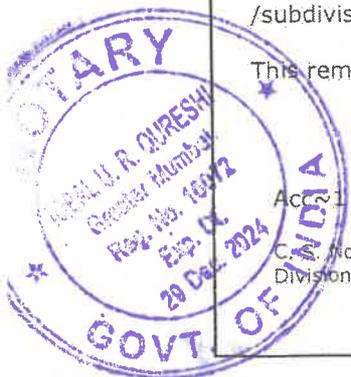
Yours Faithfully


Assistant Engineer,
Development Plan

(F/N Ward)

Accompanying plan

C.S. No 6PT, 1/6 and 1A/6 of SION
Division



occupied by warehousing user and also not being a ground floor structure), which existed on or after 10th June, 1977 which has ceased to exist in consequence of an accidental fire, natural collapse or-demolition for the reason of the same having been declared unsafe by or under a lawful order of the Corporation or the Bombay Housing and Area Development Board or is likely to be demolished for the reason of the same having been declared unsafe by or under a lawful order of the said Corporation or the said Board and duly certified by them, shall be allowed with an F.S.I. in the new building not exceeding that of the original building (or the F.S.I. permissible under these Regulations, whichever is more). This F.S.I. will be subject to the Regulations in Appendix II hereto.

1[33(7) Reconstruction or redevelopment of cessed buildings in the Island City by Co-operative Housing Societies or of old buildings belonging to the Corporation.

For reconstruction / redevelopment to be undertaken by Co-operative Housing Societies of existing tenants or by Co-op. Housing Societies of landlords and/or occupiers of cessed buildings existing prior to 30th September 1969 in Island City which attract the provisions of MHADA Act, 1976 and for reconstruction/redevelopment of the buildings of Corporation, the Floor Space Index shall be 3.00 on the gross plot area or the FSI required for rehabilitation of existing tenants plus incentive FSI as specified in Appendix-III whichever is more.]

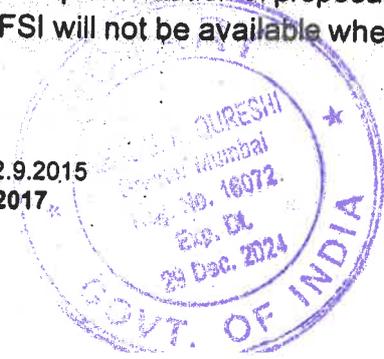
2[33(7)(A) Reconstruction or redevelopment of dilapidated/unsafe existing authorized tenant occupied building in Suburbs and extended Suburbs and existing authorized non-cessed tenant occupied buildings in Mumbai City.

For reconstruction/redevelopment of existing authorized tenant-occupied buildings, which have been declared unsafe for human habitation by or are to be demolished for the same reason under a lawful order by the Municipal Corporation of Greater Mumbai and duly certified as such, undertaken by landlord/ s or Co-operative Housing Societies of existing tenants, the permissible FSI prescribed under these regulations and Appendix-III-B, shall be admissible as under :-

- (a) In case of the plot consisting of only tenant occupied building, the F.S.I., shall be equal to F.S.I. required for rehabilitation of existing lawful tenant plus 50% incentive F.S.I.
- (b) In case of composite development i.e. the plot consisting of tenant occupied building along with non-tenanted building such as owner occupied building/existing Co-op Housing Society buildings etc., the FSI available shall be equal to FSI required for rehabilitation of existing lawful tenant plus 50% incentive FSI plus FSI that has already authorisedly been utilized /consumed by the nontenanted buildings/structures.

3[(8) Construction for housing the dishoused- For the construction of the building by the Corporation in the category of "Housing the Dishoused" in the Island City for the purpose of Housing those who are displaced by the projects undertaken by the Corporation for implementation of proposals of the development plan, the FSI shall be 4.00. Such additional FSI will not be available when owner undertakes development as in Sr. No. I(c) in Table 4.]

1. Substituted by G.N.U.D.D. No. TPB.4313 / 145 / CR-119(2) / 2013/UD-11, dated 2.9.2015
2. 33(7)(A) inserted by G.N. U.D.D.No. TPB. 4315/CR-128/2015/UD-11, dt. 8-9-2017
3. Substituted by Notification of 25-1-1999.



APPENDIX III

[Regulation 33(7)]

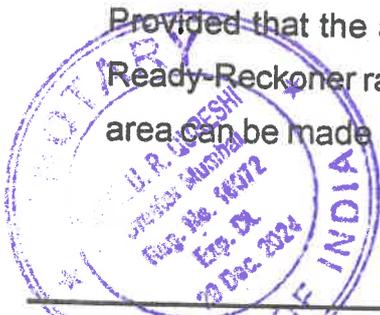
**Regulation for reconstruction of redevelopment of cessed buildings in the
Island City by the landlord and/or co-operative housing societies**

[D. C Regulation No. 33(7)]

1. (a) The new building may be permitted to be constructed in pursuance of an irrevocable written consent by not less than 70 percent of the occupiers of the old building.
- (b) All the occupants of the old building shall be reaccomodated in the redeveloper building.
2. ¹[Each occupant shall be rehabilitated and given the carpet area occupied by him for residential purpose in the old building subject to minimum fixed carpet area of 27.88 sq.mt.(300 sq.ft) as and provided in the MHADA Act, 1976. In case of non-residential occupier the area to be given in the reconstructed building will be equivalent to the area occupied in the old building :
Provided that if carpet area for residential purpose exceeds 70.00 sq.mt.(753 sq.ft.) the cost of construction shall be paid by tenant/occupant to the developer. The cost of construction shall be as per Ready Reckoner rate of that year. However, the carpet area exceeding 70.00 sq.mt. (753 sq.ft.) shall be considered for rehab FSI but shall not be considered for incentive FSI.
3. The list of occupants and area occupied by each of them in the old cessed building shall be certificate by the Mumbai Repairs and Reconstruction Board and the irrevocable written consent as specified in 1(a) above shall be certified by the Board.
4. ²[The tenements in the reconstructed building shall be allotted by the landlord/occupants co-operative housing society to the occupiers as per the list certified by the Mumbai Repairs and Reconstruction Boards.

The prescribed percentage of the surplus built-up area as provided in the Table in the Third Schedule of the MHADA Act, 1976, shall be made available to the MR & RB for accommodating the occupants in transit camps or cessed buildings which cannot be reconstructed on payment of an amount as may be prescribed under MHADA Act, 1976:

Provided that the area equivalent to the market value (The Market Value shall be as per the Ready-Reckoner rate of that year) of area admissible as per the prescribed precentage of built-up area can be made available within the same Municipal ward of MCGM.



1[(5) The FSI for rehabilitation of existing tenants/occupiers in a reconstructed building and incentive FSI that will be available shall be as under :-

(a) In case of redevelopment of ceased building existing prior to 30th September 1969 undertaken by landlord and/or Co-operative Housing Societies of landlord and/or occupiers, the total FSI shall be 3.00 of the gross plot area or the FSI required for rehabilitation of existing occupiers plus 50% incentive FSI, whichever is more.

(b) Deleted.

(c) Deleted.

(d) In case of composite redevelopment undertaken by the different landlord and/or Co-op. Housing Societies of landlord and/or occupiers jointly of 2 or more plots but not more than 5 plots with ceased buildings existing prior to 30th September 1969 the FSI permissible will be 3.00 or FSI required for rehabilitation to existing occupiers plus 60% incentive FSI, whichever is more ;

Provided, however, that if the number of plots jointly undertaken for redevelopment is six or more the incentive FSI available will be 3.00 or FSI required of rehabilitation for occupiers plus 70% incentive FSI whichever is more.

2[(e) In case of redevelopment undertaken by Co-operative Housing Society of Occupiers of building, which was earlier "A" category ceased building but thereafter due to its purchase/acquisition by Co-operative Housing Society of Occupiers it exempt from payment of cess and which have been declared unsafe by BHAD Board/BMC, the total FSI shall be 2.5 of the gross plot area or the FSI required for rehabilitation of existing occupiers plus 50% incentive FSI, whichever is more.

6. The entire FSI available under clause 5 shall be allowed to be utilised on plot/plots under redevelopment scheme. However, if the owner/society so desire can avail the incentive FSI in the same plot or can avail the benefit of transferable development rights to be used in suburbs or extended suburbs in accordance with the regulations as given in appendix VII.

7. Construction or reconstruction of old building falling under reservation/zones contemplated in the development plan shall be permitted in accordance with the provision of notification No. TPB 4392/4080/RDP/UD-11 dated 3 June 1992 issued under Section 31 of the MR & TP Act.

a) Redevelopment/reconstruction in any zone shall be allowed to be taken on site without going through the process of change of zone. For the Industrial user the existing segregating distance shall be maintained from the existing industrial unit.

1. Substituted by G.N.U.D.D. No. TPB.4312/CR-5/2012UD-11, dated 14.8.2013.
2.(e) added by G.N.U.D.D No.TPB-4303/533/CR-63/03/UD-11, dated 31.10.2011



- b) Any plot under no-buildable reservations admeasuring only upto 500 sqmts. may be cleared by shifting the existing tenants from that site.
- c) The stipulation of 33 percent of area under non-buildable reservation may be reduced by the Government/Commissioner to the extent necessary where there are height and such other restrictions.
- d) For other buildable reservations on lands where guidelines approved by Government under Section 31 of the Maharashtra Regional and Town Planning Act are not available, built-up area equal to not more than 15 percent area of the entire plot or 25 percent of the area under reservation in that plot, whichever is less, shall be made available free of cost for the municipal corporation or for any other appropriate Authority.
- e) Where a Development Plan Road passes through redevelopment scheme area, the entire FSI admissible under this regulation for the area of the road may be given in the same site on the remainder of the plot.
- f) Contravening structures in town planning scheme regulations shall be included in the redevelopment scheme FSI for the same will be as under Development Control Regulation 33(15) or as provided in this regulation whichever is more.
8. ¹Relaxation in building and other requirements for rehabilitation :- Notwithstanding anything contained in these Regulations, the relaxations incorporated in Regulation No. 33(10) of these Regulations shall apply. No further relaxation shall be applicable.
9. 20% of the incentive FSI can be used for non-residential purposes otherwise permissible in the Development Control Regulations.
10. a) ²[In the case of Redevelopment Scheme is in progress and such schemes where LOI has been issued and if ³[***] then Owner/Developer/Co-op. Housing Societies with the prior approval of Govt. may convert [the proposal in accordance with modified regulations only regarding size of tenements and loading of FSI insitu. However, such conversion is optional and shall not be binding.]
- b) In case of redevelopment of buildings undertaken by MHADA, where construction is in progress, whether the area of new tenement should be 20.90 sq.mt or otherwise the question shall be decided by MHADA in each case. However, if area of tenements is not increased to 20.90 sq.mt. then development will have to be carried out as per approved plan and FSI.
11. The FSI as in sub-regulation (7) of Regulation 33, should be allowed by the commissioner only after Mumbai Repairs and Reconstruction Board is satisfied that the said redevelopment proposal fulfils all conditions to be eligible for the benefits under these Regulations.

1. Substituted by G.N.U.D.D. No. TPB.4308/3224/CR-268/08/(B)/UD-11, dated 13.1.2012.

2. Subs by G.N of 21.5.2011

3. Substituted by G.N.U.D.D. No. TPB.4308/3224/CR-268/08/(B)/UD-11, dated 13.1.2012.



12. In case of redevelopment of cessed buildings, the concessions regarding exclusion of areas from computation of FSI for general buildings stipulated in Regulation 35(2) of DCR for Greater Mumbai 1991 shall apply.
13. Since the permissible FSI in clause 5 of this Appendix is dependent upon the number of occupiers and the actual area occupied by them no new tenancy created after 13-6-1996 shall be considered. Further unauthorised constructions made in the cessed buildings shall not be considered while computation of existing FSI. However, the occupier may be allowed to declared whether the tenement is residential or non residential.
14. For smooth implementation of the redevelopment scheme undertaken by owners and/or co-operative housing society of the occupiers the temporary transit camps may be permitted on the same land or land situated elsewhere belonging to the same owner/developer with the concessions permissible under SRS project under regulation 33(10) of these Regulations. Such transit camps should be demolished within one month from the date of occupation certificate granted by the corporation for the reconstructed buildings.
15. An amount of Rs.5000/- per sq. mt. shall be paid by the owner / developer/ society as additional development cess for the builtup area over and above the normally permissible FSI, for the rehabilitation and free sale components. This amount shall be paid to the Corporation in accordance with the time schedule for such payment as may be laid down by the Commissioner, MCGM provided the payment of installments shall not go beyond the completion of construction. This amount shall be used for Scheme to be prepared for the improvement of off-site infrastructure in the area around the development. The above development cess shall be enhanced @ 10.00% every three years.
16. As per the provision of clause 2, each residential/non residential occupant shall be rehabilitated only for carpet area mentioned in the said clause No.2 and such areas , shall be clearly shown on the building plan submitted to the Corporation/MHADA.
- [17. A corpus fund is to be created by the Developer which will take care of the maintenance of the building for a period of 10 years.
18. Restriction on transfer of tenements shall be governed by provision of Rent Control Act till Co-op. Society is formed and after that the same shall be governed by the provision of Maharashtra Co-op. Society's Act.
19. Non Deduction of non-cessed structure area in the scheme of 33(7) for FSI purpose.
In case of mix of the structures that i.e. cessed & noncessed structures and if the area of non-cessed structures existing prior to 30th September 1969 area of land component under non-cessed struture works out upto a limit of 25% of plot area, then FSI shall be considered on total plot area. If this area exceeds 25% of the total area, then area above 25% shall be deducted form plot area. FSI for deducted area shall be as per regulation 32 and the remaining plot area shall be as per 33(7)]

1. Clauses 17,18 and 19 added by G.N. of 21.5.2011



Note: All the regulations/modifications mentioned above shall not be applicable to the areas which are affected by Coastal Regulation Zone notification issued by Ministry of Environment dated 19 February 1991 and orders issued from time to time.

[Appendix-III-A

Regulation for Reconstruction or Redevelopment of Cluster(s) of buildings by implementing Urban Renewal Scheme(s).

1.1 Urban Renewal Scheme" (URS) means any scheme for redevelopment of a cluster of buildings and structures over a minimum area of 4000 sq. mt, in the Island City of Mumbai, bounded by existing distinguishing physical boundaries such as roads, nallas, railway lines etc. and accessible by an existing or proposed D.P. road which is at least 18 mt. wide-whether existing or proposed in the D.P. or URP or a road for which Regular line of street has been notified by the Municipal Corporation under Mumbai Municipal Corporation Act, 1888. Such cluster of buildings (hereinafter referred to as " Urban Renewal Cluster or URC ") shall be a cluster or a group of clusters identified for urban renewal :-

- (1) Under the Development Plan (DP), where the DP contains such well defined Clusters ; or
- (2) Under the Urban Renewal Plan (URP) for the concerned area, prepared and notified by the Commissioner, who may revise the same as and when required ; or
- (3) By the Promoter of the Urban Renewal Scheme, where such clusters are not shown on the DP and the URP is yet to be prepared :

Provided that no cluster or clusters shall be identified for redevelopment or implementation of Urban Renewal Scheme by the Municipal Commissioner without carrying out an Impact Assessment Study regarding the impact on the city and sector level infrastructure and amenities as well as traffic and environment of the implementation of URS on such cluster or clusters.

Explanation.-

1. The land under URS, irrespective of the tenure of the plots comprised therein, shall be treated as one plot for the purpose of FSI and computation of marginal distances.
2. In specific cases where URS is not bounded by roads, nallas and Railway lines, the boundary of the cluster may be decided by the Municipal Commissioner.
- 1.2. The Urban Renewal Cluster may consist of a mix of structures of different characteristics such as-

