

**BEFORE THE NATIONAL GREEN TRIBUNAL SITTING AT
PUNE**

MEMORANDUM OF APPLICATION

(Under Sections 15 of read with section 18 National Green Tribunal Act,
2010)

APPLICATION NO.28OF 2023

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**REJOINDER TO AFFIDAVIT-IN-REPLY OF
RESPONDENT NO. 4 (Rustomjee Construction Pvt.
Ltd./Keystone Realtors Pvt. Ltd.)**

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**BEFORE THE NATIONAL GREEN TRIBUNAL SITTING AT
PUNE**

MEMORANDUM OF APPLICATION

(Under Sections 14 & 15 of read with section 18 National
Green Tribunal Act, 2010)

APPLICATION NO. 28 OF 2023

BETWEEN:

Santosh Daundkar ... **APPLICANT**

AND

Member-Secretary, State Level Environment Impact
Assessment Authority and Ors. ... **RESPONDENTS**

**REJOINDER TO AFFIDAVIT-IN-REPLY OF RESPONDENT
NO. 4 (Rustomjee Construction Pvt. Ltd./Keystone Realtors
Pvt. Ltd.)**

I, Santosh Daundkar, the Applicant above-named, residing at
Mumbai, do hereby solemnly affirm and state as under:

- 1.** The Applicant has gone through the Affidavit-in-Reply of the abovementioned Respondent, and accordingly, tenders this Rejoinder.
- 2.** The Applicant further submits that, in this Rejoinder, he shall traverse through the core points which are pertinent to the issues at stake. Accordingly, whatever has not been denied specifically, be construed as being an admission which shall be adverse to the underlying cause of this Original Application.

3. At the outset the Applicant submits that it is indeed unfortunate that this Respondent has sought to convert an academic reference on violation of laws related to Recreation Ground, as an intimidating reply by making incorrect statements and thereupon seeking recovery of costs from the Applicant. In fact, what the Applicant had done was to have made a general list of examples, and in the Original Application had not sought any specific relief against any particular Respondent. Had this Respondent been altruistic, then he would have appreciated the profound concern of the Applicant, for enhancement of tree cover through plantation on mother earth, which would help reduce the number of more than 30000 deaths, which happen every year in Mumbai, due to air pollution, and where trees bear the attribute to cleanse poisonous gases right at the place from where they emanate.

4. Be that as it may, the reason for such uncalled-for, intimidating disposition of this Respondent would become apparent when the specific facts are quoted and evaluated. Needless to add that this Respondent has suppressed vital facts and therefore, his conduct gets adversely affected by the phenomenon of *supressio veri and suggestion falsi*.

5. It is also very pertinent to note that this is not the first time that this Respondent has taken recourse to environmental violations. In fact, there have been an adverse reference of the Project Proponent, namely, Keystone Realtors Ltd. This is apparent from the Order of the Hon'ble Supreme Court in the case of Keystone Realtors v. Anil Tharthare in Civil Appeal No. 2435 of 2019, where the Hon'ble Supreme Court observed as under:

“The **appellant did not comply with the procedure set out under paragraph 7(ii) of the EIA Notification** but rather sought an „amendment“ to the EC. The third respondent did not require the appellant to submit an updated Form 1 nor was the proposal processed and evaluated by the fourth respondent. The „amendment“ to the EC dated 13 March 2014 does not discuss the potential environmental impact of the increase in construction area, but merely records that the construction area now stands at 40,480.88 square metres. The procedure set out under paragraph 7(ii) of the EIA Notification exists to ensure that where a project is expanded in size, the environmental impact on the surrounding area is evaluated holistically considering all the relevant factors including air and water availability and pollution, management of solid and wet waste and the urban carrying capacity of the area. This was not done in the case of the appellany’s project. It was not open to the third respondent to grant an „amendment“ to the EC without following the procedure set out in paragraph 7(ii) of the EIA Notification.

18. We further note that as on the date of the impugned order construction at the project site had already been completed. A core tenet underlying the entire scheme of the EIA Notification is that construction should not be executed until ample scientific evidence has been compiled so as to understand the true environmental impact of a project. **By completing the construction of the project, the appellant denied the third and fourth respondents the ability to evaluate the environmental impact and suggest methods to mitigate any environmental damage.”**

6. It is indeed shocking to note that the observations of the Hon'ble Supreme Court, as stated above, clearly reveal the fact that alongside, a criminal offence under section 15 of the Environment Protection Act, 1986, has also taken place and also a collateral offence under the

Prevention of Money Laundering Act, 2002. However, for the reasons best known to this Respondent, the Statutory Authorities relinquished their bounden obligations and to launch prosecution in relation thereof.

7. Had it been any humane Developer, consequent upon the observations of the Hon'ble Supreme Court, he would have turned meticulous in strictly complying with the environmental requisites. However, this Respondent became more recalcitrant, and thereupon continued, nay, intensified his vigour, of indulging in serious environmental violations, which have led to devastation of the health of the people. Unfortunately, he has not displayed any deference to such uninspiring antecedents, and neither has he fostered any remorse, and nor has he retarded this quest for a pecuniary bonanza, emanating from the devastation of the environment at the cost of the innocent people and their "Right to Life". His such relentless vigour is disturbingly eloquent not only in this project, but also other projects he is executing in Mumbai.

8. In fact, the tenor, language and obstinacy of this Respondent seeks to remind one of the quote of American Thinker, John Adams:

“Power always thinks it has a great soul and vast views beyond the comprehension of the weak; and that it is doing God's service when it is violating all his laws.”

9. In fact, it would be doing a God's service, if the catalogue of violations of law done by this Respondent is prepared, and strict principles of environmental law, including the 'Polluter-Pays Principle', 'Precautionary Principle', 'Principles of Sustainable

Development' and that of 'Inter-Generational Equity' are applied on this Respondent and all other laws linked thereto.

10. Needless to reiterate that this Respondent, not only in this project, and the project on which the Hon'ble Supreme Court denigrated his conduct, but also in many other projects he is executing in Mumbai, are replete with violations of laws, which ought to be, ironically, addressed by such Statutory Authorities. Unluckily, it is such Statutory Authorities who have assisted this Respondent to violate the laws, including the environmental laws, which are no less than Laws of God.

11. *Coming to clear specifics*, this Respondent has stated that the Applicant has made a false allegation that they have not provided Recreation Ground on the mother earth. They have stated that against the RG requirement of 1117 square metres, they have provided RG of 2229 square metres. More particularly, this Respondent has stated that "RG aggregating to an area of 1124 (s). mtrs has been provided on Ground."

12. It is submitted that the Project Proponent has indulged in a complete falsity. **The obligation of the Project Proponent with respect to RG is not 1,117 square metres, but it is of 5,685, which is about 5 times higher.**

13. This obligation of providing 5,685 square metres of RG has been placed in the minutes of the SEAC-2 a copy of which is annexed hereto and marked as **ANNEXURE-'A-1'**.

14. It is a general phenomenon, where half-truth, oxymoronically, often creates a false-truth. And if full-truth is revealed, then such a false-truth, rightfully, becomes an absolute lie. This becomes apparent from the facts being stated hereinafter.

15. When the matter is looked profoundly, it is seen that this Respondent had an obligation of planting 333 trees in the layout, and that he has left an Recreation Ground on the mother earth of just 1124 square metres. If this so, then how, in such a small area he will plant 333 number of trees. Further, as apparent from the layout map, this Respondent has, with the help of the Statutory Authorities, been able to have a front and rear open space i.e. setbacks of from Zero to 1 metre (1.5 metre at ground level but cantilevers in higher floors further reduce this space at the ground level). In such setbacks, which otherwise are meant for the access of fire tender, all that the Project Proponent can do is to plant shrubs, and then the Project Proponent would call such shrubs as trees.

16. In fact, State Level Environment Impact Assessment Authority has been denigrating such practices of counting trees atop a concrete slab, and in one of the matters has stated as under:

“PP to submit revised tree list by providing shrubs on podium instead of proposed trees; PP to count trees planted on ground only for calculation of nos. of trees to be planted as per norms & revise tree list accordingly.”

17. Thus, logically, what the Project Proponent has created is an impossibility, whose inherent logical inference, would be that 333 number of trees shall be planted on a Recreation Ground of 1124 square metres as there is hardly any space otherwise, because almost the

entire layout has been concretised through the construction of huge 3-level deep basements.

18. Thus, when the Project Proponent has to execute the obligation of planting 333 number of trees, then that would mean that he would provide a self-defeating area of just 3.37 square metres (1124/333) per tree. No evergreen tropical tree i.e. tree of an indigenous variety, with wide leaves, and broad stomata to absorb poisonous gases, can go substantially beyond the sapling height in such a negligible space bearing an extremely congested plantation.

19. The role of stomata has been tersely enunciated in the statutory guidelines on “Green Belt” issued by the Central Pollution Control Board, which the Project Proponent is legally obliged to comply with as per the Environment Clearance conditions. This enunciation is as under:

“Hence stomata, their structure, position and functions are important in the entry of gas in a leaf. Once inside the leaf, it passes into the Intercellular spaces of mesophyll and gets absorbed on the wet cell-walls to finally diffuse gradually into the cell sap (Knabe, 1976).”

“The rate of pollutant removal is found to increase linearly as the concentration of the pollutant increased over the ranges of concentration that are encountered in ambient air and which are low enough not to cause stomatal closure. Pollutants are absorbed most efficiently by plant foliage near the canopy surface where diffusion process is high due to favourable light conditions.”

“The hypothesis that trees are important particulate sinks is supported by evidence obtained from studies dealing with diverse particulates including radioactive, trace element, pollen spore, salt, precipitation dust and other unspecified particles. So far as gaseous pollutants are concerned, substantial evidence is available to support the fact that plants in general and trees in particular function as sinks for gaseous pollutants. **The gaseous pollutants are transferred from the atmosphere to vegetation by the combined forces of diffusion and flowing air movement. Once in contact with the plants, gases may be bound or dissolved on exterior surfaces or taken up by the plants via stomata.**” (Emphasis supplied).

20. In view of the facts stated above, with just 3.37 square metres of area, what the Project Proponent at best can do is to have plants and shrubs and not such evergreen tropical trees, where the latter, with their giant sizes, would work like a factory of nature, to pull poisonous pollutants into the stomata of uncountable leaves and then cleanse the poison out of the pollutant gases.

21. Is it not the infringement of the "Right to Life" of the innocent residents of Mumbai, who have got a right that these 333 trees assume their full biological volumes and cleanse the poisonous gases being emitted by thousands of cars, which come in and go out from this enormous layout of the Project Proponent!

22. This quantitative requirement of plantation of 333 trees, has been detailed in the 71st Meeting of SEAC-2 (**ANNEXURE-‘A-1’**) based on which the Environment Clearance was issued on 19th January, 2019. The relevant part of these minutes are quoted hereunder:

43. Green Belt Development	Total RG area:	The provided RG area is 5685.33 Sg.mt on ground against the required RG area i.e.1117 sqm (required RG area i.e.1117 sqm +Additional RG-774.00 +Swimming pool & play Area-683.36 +Paved RG-3110.97)
	No. of trees to be cut:	289 existing trees, 22 cut, 172 to be transplanted & 95 trees to be retained as per Tree NOC received.
	No. of trees to be planted:	333 nos. of trees
	List of proposed native trees:	As stated below.
	Timeline for completion of plantation	By end of construction phase

23. What is further extremely shocking to note is that, as per the specific conditions imposed by the State Level Environment Impact Assessment Authority, the Environment Clearance was granted to the Project Proponent based Intimation of Disapproval Approval No. CHE/WS/0953/H/33(7), Approval Date 25th May, 2017. On that day, Development Control Regulations for Greater Mumbai, 1991, was in force, and not Development Control and Promotion Regulations for Greater Mumbai, 2034, which came into force on 27th June, 2018. As per Regulation 23 of the Regulations of 1991, **(ANNEXURE-‘A-2’)** 25% of the plot area i.e. area of 15,445 square metres, was required to have been kept as Recreation Ground on mother earth. This area thus works out to be 3,861 square metres.

24. This Respondent in his Affidavit-in-Reply has stated that their project carries an approval given by Development Control and Promotion Regulations for Greater Mumbai, 2034. This is incorrect.

25. The correct position is apparent from the minutes of the State Level Environment Impact Assessment Authority, mentioned above, clearly state that the approval was based on the Intimation of Disapproval dated 25th May, 2017. On that day, Development Control Regulations for Greater Mumbai, 1991, was in force, which carried a stipulation of keeping aside at least 25% of land area on mother earth as a Recreation Ground.

26. In other words, what the Project Proponent has done is to have taken an approval from the State Level Environment Impact Assessment Authority based on the approval given under the more stringent Development Control Regulations for Greater Mumbai, 1991,

and later applied this Environment Clearance on the later approvals obtained under the Development Control and Promotion Regulations for Greater Mumbai, 2034.

27. As a direct corollary to this violation, the Project Proponent was required to plant 333 trees within the premises as per the specifications placed in the “Green Belt” guidelines issued by the Central Pollution Control Board. Vide the information processed by State Level Expert Appraisal Committee-2, in its 71st meeting, Environment Clearance was recommended on the premise that the Project Proponent would plant 333 trees.

28. In this reference, it is pertinent to note from the minutes of the 71st meeting of SEAC-2, that as stated above, the Project Proponent was permitted as under:

“289 existing trees, 22 cut, 172 to be transplanted & 95 trees to be retained as per Tree NOC received.”

29. By any rudimentary logical analysis, it would become apparent that if 172 trees were to have been transplanted and that 333 trees were to have been planted on the site, **then all the 172 transplanted trees ought to have been transplanted within the same layout**, so that these old mature trees, with a substantial volume and foliage, would help neutralise poisonous gases in the local area itself. Unfortunately, the Project Proponent did not transplant the 172 trees within the same layout, notwithstanding the fact that he had to plant 333 trees in the same layout. This, by inference, clearly reveals the extraneous intentions of the Project Proponent to evade plantation as per the requisites of the Central Pollution Control Board.

30. In fact, a detailed enquiry into the matter could reveal startling facts.

31. The Applicant further submits that this Respondent has executed this project in the area by openly violating the Development Control Regulations. It was a situation as if law was not existing at all. For example, this Respondent was required to leave a front open space of 12 metres in the non-obstante provision specific to Regulation 31 of the Development Control Regulations for Greater Mumbai, 1991. Being a non-obstante provision, no relaxation on this stipulation was possible. Notwithstanding the same, the Project Proponent has left a front open space of just about 1.5 i.e. less than 5 feet at many places. This is notwithstanding the fact that as per the Development Control Regulations for Greater Mumbai, 1991 as well as Development Control and Promotion Regulations for Greater Mumbai, 2034, the Project Proponent was required to have left an open space i.e. a setback of atleast 20 metres in the rear and at least 12 metres in the front.

32 What is further shocking to note that the provision in Regulation 29 and its analogous provisions in Development Control and Promotion Regulations for Greater Mumbai, 2034, these are meant for air and ventilation. These open spaces are also required to effect requisite quantum of plantation, which cannot be accommodated in the RG on mother earth.

33. If the law mandates open spaces for air and ventilation and plantation, then this is not for the property owners in a layout. It is for the community without borders. With the eminent concepts emerging

in environmental laws, (refer ruling of the Hon'ble Supreme Court in the case of **M K Ranjitsinh & Ors. in Writ Petition (Civil) No. 838 of 2019**)

34. In short, if the law mandates open spaces of 20 metres in the rear and 12 metres in the front and against this if the Project Proponent leaves no spaces or deficient spaces of just 1.5 metres, then would it not be the case, where the Project Proponent has infringed into the living rights of the common man. The ruling of the Hon'ble Supreme Court in the above-mentioned case provides a substantive answer to such rights.

35. In fact, small bungalows in Delhi and in other cities require setbacks of at least 15 to 20 feet i.e. about 4.5 to 6 metres around the buildings. These setbacks are critical to dispersal of pollutants. However, in this case, the Project Proponent has provided negligible rear setbacks from the access roads, and at certain place it is ZERO Setback for skyscrapers which are so enormous in height. In fact, even in illegal constructions, which the Hon'ble Court have come down heavily, do not indulge in violations of such enormous scales. Just because the Project Proponent has been able to get approvals from compromised public servants, can never accord any legitimacy to such approvals and would assume the position worse than that of illegal construction.

36. In short, the Project Proponent has done the following violations in relation to this project, which ought to be addressed:

(A) The Project Proponent has misled this Hon'ble Tribunal that he has to leave a Recreation Ground only of 1117 square metres. As per the minutes of 71st meeting of SEAC-

2 (ANNEXURE-‘A-1’), the Project Proponent is required to leave a Recreation Ground of 5685.33 square metres .

- (B)** The Project Proponent has to plant at least 333 trees. However, as apparent from Google Earth Satellite Photographs, there are hardly any trees planted as per the specifications mandated in the “Green Belt” guidelines issued by the Central Pollution Control Board. All the Project Proponent has done is planted are shrubs, in tiny and narrow open spaces.
- (C)** Even though the Project Proponent was required to plant 333 number of trees, and simultaneously he had to transplant the existing 172 trees, yet the Project Proponent did not set off the transplantations with his obligation to plant 333 number of trees, within the same layout. In fact, for the reason of enormous uprooting of precious 194 trees leading to a denudation, transplantation within the same layout was a burning exigency for the inhabitants of the local area as such large trees cleanse poisonous gases within the surrounding areas. Unfortunately, the Project Proponent did not do the requisite plantation within the same layout, apparently because of serious compromises on open spaces, leading to the Project Proponent replacing trees with shrubs or slender plants, rather than with imposing and voluminous evergreen tropical trees with broad leaves and large stomata. It is thus apparent that in order to accomplish this environment-unfriendly

extraneous objective, that the Project Proponent did not do an intra-layout transplantation of the said 172 trees.

- (D)** Notwithstanding the fact that there is a stipulation in the Regulation 5 (vi) (a) of the Development Control Regulations for Greater Mumbai, 1991 (analogous provisions exist in regulations of 2034), that full construction area has to be stated for each floor, yet to conceal the basement area, the Project Proponent has not stated this area. If the Project Proponent were to have followed the law and stated exactly the covered area of the basement floor, then the violation done by the Project Proponent in misstating the ground coverage area would have got exposed. This is because, in the Environment Clearance dated 19th January, 2019 (**ANNEXURE-‘A-2’**), the Project Proponent has stated that the ground coverage area is 35.81% of the plot area, i.e. of 5685 square metres. However, the polygon area measurements of Google Earth, which are fairly accurate show that the area of basement excavation was more than double. Therefore, it is extremely necessary that the extra ground coverage area be demolished and brought down within the limits of what was permitted in the Environment Clearance issued under the provisions of Environment Impact Assessment Notification of 2006.
- (E)** The Project Proponent has shown a drive way in the centre of the layout, which is essentially a "Means of Access" to the

various RGs between the 2 building and for movement of fire tender. However, alongside this "Means of Access", the Project Proponent has shown zero setbacks as was required to have been separately provided for to the extent of 20 metres for each building, under the provisions Regulation 29. In fact, in the case of Supertech Ltd. (Civil Appeal No. 5041 of 2021), when open space was marginally reduced by the Statutory Authority, the Hon'ble Supreme Court Ordered the demolition of the towers. However, this case is far more serious, where the setback has been reduced from 20 metres to almost zero in the rear and from 12 metres to as less as 1.5 metres in the front. Since this case is far more serious than the case of Supertech Ltd. and since in this case the Project Proponent has taken recourse to extremely serious violations, accordingly, the going by the precedent mandated by the Hon'ble Supreme Court, all the skyscraper buildings of the Project Proponent in this layout, which do not abide by the health-specific open space specifications, are required to be completely demolished exactly the way it was done for the case of Supertech Ltd.

37. While the aforesaid violations stated in (A) to (E) above require due deference by this Hon'ble Tribunal, however, for that, a more evidence-specific separate Original Application would be called for. Further, the proceedings under this Original Application, are of a general nature, therefore, to connect such violations done by this Project Proponent in this Original Application would lead to

misjoinder of issues and disorient the theme of this Original Application. These violations have been catalogued by the Applicant to show that the posture of altruism assumed by the Project Proponent are specious in nature and his plea that costs be imposed on the Applicant be discarded straightaway.

38. Be that as it may, for the sake of health and "Right to Life" of the general public, these violations, as stated in (A) to (E) above, ought to be duly addressed in accordance with the law. Thus, the Applicant submits that he would be filing a separate Original Application before this Hon'ble Tribunal to address these issues linked to the violations done by the Project Proponent seeking the demolition of the buildings in the layout.

39. Needless to add that the purpose of this Rejoinder is only to assert that the Project Proponent was not required to leave just 1117 square metres of land on the mother earth for a Recreation Ground, but was required to have provided for 5685 square metres for the Recreation Ground as apparent from the minutes of the 71st meeting of SEAC-2 (**ANNEXURE-‘A-1’**). The other violations mentioned above are only to illustrate the extent of violations specific to environment have taken place. However, since the Applicant does not want to debilitate these proceeding, due to misjoinder of issues, accordingly, the Applicant submits that he is moving the State Level Environment Impact Assessment Authority to take statutory action in the matter. The Authority has been accorded statutory powers under section 5 of the Environment Protection Act, 1986, for violation of Environment Clearance conditions vide Notification dated 28th February, 2014. The

Applicant is sanguine that the Authority would invoke its statutory powers for protecting the "Right to Life" of the people as guaranteed under Article 21 of the Constitution of India , so that the requisite open spaces be provided, by conducting demolitions, and the tree plantation be done therein, as per the Central Pollution Control Board specifications.

40. Prayers:

(A) Considering the stipulations set in the 71st meeting of SEAC-2, and considering the provisions of Regulation 23 of the Development Control Regulations for Greater Mumbai, 1991, the Project Proponent be asked to provide 5685 square metres of Garden area on mother earth.

(B) That the prayers made in the Original Application be made absolute.

APPLICANT

VERIFICATION

I, Santosh Daundkar, resident of 10/37 BIT Chawl, KK Marg, Mumbai Central, Mumbai 400 008, do hereby verify that the contents of aforesaid paras 1 to 3 are true to my personal knowledge and the rest of the paragraphs are believed to be true on legal advice and that I have not suppressed any material fact.

Signature of the Applicant

BEFORE ME

M. H. CHOWDHARY
PUBLIC NOTARY
(GOVT. OF INDIA)

15 JUL 2024

15 JUL 2024

DATE: July, 2024

PLACE: Mumbai

REGISTERED /IDE
Sr. No. 742
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OF NOTARY REGISTER



38. Hazardous Waste Details

Serial Number	Description	Cat	UOM	Existing	Proposed	Total	Method of Disposal
1	Not applicable						

39. Stacks emission Details

Serial Number	Section & units	Fuel Used with Quantity	Stack No.	Height from ground level (m)	Internal diameter (m)	Temp. of Exhaust Gases
1	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable

40. Details of Fuel to be used

Serial Number	Type of Fuel	Existing	Proposed	Total
1	Not applicable	Not applicable	Not applicable	Not applicable

41. Source of Fuel

Not applicable

42. Mode of Transportation of fuel to site

Not applicable

43. Green Belt Development

Total RG area :	The provided RG area is 5685.33 Sq.mt on ground against the required RG area i.e.1117 sqm (required RG area i.e.1117 sqm +Additional RG-774.00 +Swimming pool & play Area-683.36 +Paved RG-3110.97)
No of trees to be cut :	289 existing trees, 22 cut ,172 to be transplanted & 95 trees to be retained as per Tree NOc received
Number of trees to be planted :	333 no's of trees
List of proposed native trees :	As stated below
Timeline for completion of plantation :	by the end of construction phase

44. Number and list of trees species to be planted in the ground

Serial Number	Name of the plant	Common Name	Quantity	Characteristics & ecological importance
1	Plumeria alba	Chapha	25	ornamental
2	Plumeria rubra	Deo chapha	33	ornamental
3	Michelia champaca	Son chapha	21	ornamental
4	Cordyline australis	Club Palm	30	ornamental
5	Bauhinia blakeana	Kanchan	22	ornamental
6	Lagerstroemia speciosa	Taman	23	ornamental
7	Areca catechu	Betel Palm	25	ornamental
8	Sesbania grandiflora	Grandifolia	21	ornamental
9	Caryota urens	Solitary Fish tail Palm	22	ornamental
10	Nyctanthes arbor tristis	Parijat	20	ornamental
11	Filicium decipiens	Fern Tree	18	ornamental
12	Cordia sebastena	Lal lasoda	23	ornamental

Mahendra Hajari (Secretary SEAC-II)

SEAC Meeting No: 71 Meeting Date: October 1, 2018 (SEIAA-STATEMENT-0000001128)
SEAC-MINUTES-0000001243

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Shri M.M.Adtani (Chairman SEAC-ID)

higher than the main road from where the cul-de-sac road takes off. The turning space, in each case, should not be less than 81sq.m. in area, no dimension being less than 9 m.

TABLE 7
Width of access for industrial zones

Access length in meters (m)	Width of means of access in meter (m.)
(1)	(2)
Upto 100	9.00
Above 100 upto 300	12.00
Above 300	15.00

- (2) Access for residential, commercial and industrial zones as in table 6 and 7 above-
- (a) shall be clear of marginal open spaces but not less than 3m. from the building line;
 - (b) may be reduced by 1 m. their in prescribed widths if the plots are on only one side to the access;
 - (c) shall be measured in length from the point of its origin to the next wider public street it meets.
- (3) In the interest of the general development of any area, the Commissioner may require the means of access to be of larger width than that required under these Regulations.
- (4) Notwithstanding the above, in partially built-up plots where the area still to be built upon does not exceed 5,000 sq.m. an access of 3.6m. width may be considered adequate. If such an access is through a built over arch, this access shall have a height of not less than 4.5m. If such access is atleast 3 m. in width, it shall be considered as adequate means of access for areas to be built upon not exceeding 5,000 sq.m. provided such area is used for low income group housing and the F.S.I. would be 75 per cent of the F.S.I. permissible in the zone.
- (5) In the case of a plot, surrounded on all sides by other plots i.e. a land-locked plot which has no access to any street or road, the Commissioner may require access through an adjoining plot or plots which shall, as far as possible be nearest to the street or road to the land locked plot, at the cost of owner of the land-locked plot and such other conditions as the Commissioner may specify.
- (6) Notwithstanding the provisions regarding access in these Regulations, an access provided in Town Planning Schemes and in Improvement Trust Schemes shall be deemed to be adequate.

23. Recreational / Amenity Open Spaces.-

(1) *Open spaces in residential and commercial layouts-*

- (a) *Extent.* -In any layout or sub-division of vacant land in a residential and commercial zone, open spaces shall be provided as under:

(i)	Area from 1001 SQ.M. to 2500 SQ.M.	15 per cent
(ii)	Area from 2501 SQ.M. to 10,000 SQ.M.	20 per cent
(iii)	Area above 10,000 SQ.M.	25 per cent

These open spaces shall be exclusive of areas of accesses/internal roads/designations or reservations, development plan roads and areas for road-widening and shall as far as possible be provided in one place. Where however, the area of the layout or sub-division is more than 5000 sq. m., open spaces may be provided in more than one place, but at least one of such places shall be not less than 1000 sq. m. in size. Such

recreational spaces will not be necessary in the case of land used for educational institutions with attached independent playgrounds. Admissibility of FSI shall be as indicated in Regulations 35.

- (b) *Minimum area.*- No such recreational space shall measure less than 125 sq.m.
- (c) *Minimum dimensions.*-The minimum dimension of such recreational space shall not be less than 7.5m., and if the average width of such recreational space is less than 16.6 m, the length thereof shall not exceed 2 1/2 times the average width.
- (d) *Access.*-Every plot meant for a recreational open space shall have an independent means of access, unless it is approachable directly from every building in the layout.
- (e) *Ownership.*-The ownership of such recreational space shall vest, by provision in a deed of conveyance, in all the property owners on account of whose holdings the recreational space is assigned.
- (f) *Tree growth.*-Excepting for the area covered by the structures permissible under (g) below, the recreational space shall be kept permanently open to the sky and accessible to all owners and occupants as a garden or a playground etc. and trees shall be grown as under:-
 - (a) at the rate of 5 tree per 100 sq.m. or part thereof of the said recreational space to be grown within the entire plot.
 - (b) at the rate of 1 tree per 80 sq. m. or part thereof to be grown in a plot for which a sub-division or layout is not necessary.
- (g) *Structures/uses permitted in recreational open spaces* -(i) In a recreational open spaces exceeding 400 sq.m. in area (in one piece), elevated/underground water reservoirs, electric sub-stations, pump houses may be built and shall not utilise more than 10 per cent of the open space in which they are located.
 - (ii) In a recreational open space or playground of 1000 sq.m, or more in area (in one piece and in one place), structures for pavilions, gymnasias, club houses and other structures for the purpose of sports and recreation activities may be permitted with built-up area not exceeding 15 per cent the total recreational open spaces in one place. The area of the plinth of such a structure shall be restricted to 10 per cent of the area of the total recreational open space .The height of any such structure which maybe single storey shall not exceed 8m. A swimming pool may also be permitted in such a recreational open space and shall be free of FSI. Structures for such sports and recreation activities shall conform to the following requirements: -
 - (a) The ownership of such structures and other appurtenant users shall vest, by provision in a deed of conveyance, in all the owners on account of whose cumulative holdings the recreational open space is required to be kept as recreational open space or ground viz 'R. G', in the layout or sub-division of the land.
 - (b) The proposal for construction of such structure should come as a proposal from the owner/owners/society/societies or federation of societies without any profit motive and shall be meant for the beneficial use of the owner/owners/members of such society/societies/federation of societies.
 - (c) Such structures shall not be used for any other purpose, except for recreational activities, for which a security deposit as decided by the Commissioner will have to be paid to the Corporation.
 - (d) The remaining area of the recreational open space or playground shall be kept open to sky and properly accessible to all members as a place of recreation, garden or a playground.
 - (e) The owner/owners/or society or societies or federation of the societies shall submit to the Commissioner a registered undertaking agreeing to the conditions in (a) to (d) above.
- (2) *Open spaces in industrial plots/layout of industrial plots.*- (a) In any industrial plot admeasuring 1000 sq.m. or more in area 10 per cent of the total area shall be provided as an amenity open space subject to a maximum of 2500 sq.m. and
 - (i.) such open space shall have proper means of access and shall be so located that it can be conveniently utilised by the persons working in the industry;

- (ii.) the parking and loading and unloading spaces as required under these Regulations shall be clearly shown on the plans ;
 - (iii.) such open spaces shall be kept permanently open to sky and accessible to all the owners and occupants and trees shall grown therein at the rate of 5 trees for every 100 sq.m. of the said open space to be grown within the entire plot or at the rate of 1 tree for every 80 sq.m. to be grown in a plot for which a sub-division or layout is not necessary.
- (b) In case of sub-division of land admeasuring 8000 sq.m. or more in area in an industrial zone, 5 per cent of the total area in addition to 10 per cent in (a) above shall be reserved as amenity open space, which shall also serve as general parking space. When the additional amenity open space exceeds 1500 sq.m. the excess area may be used for construction of buildings for banks, canteens, welfare centres, offices, crèches and other common purposes considered necessary for industrial users as approved by the Commissioner.

24. Minimum Widths of Pathways.-

The approach to a building from a road/street/internal means of access shall be through a paved pathway of width specified in Table 8 here-under, the length of pathway being determined by the distance from the farthest plot or building to the internal road proposed under Regulation 21 or to an existing road from which it takes off.

TABLE 8
WIDTHS OF PATHWAYS

Types of Development (1)	Length of pathway in meters (2)(m)	Width in meters (3)(m)
(i) High Density Housing	upto 50	3.00
	upto 40	2.5
	upto 30	2.0
	upto 20	1.5
(ii) A building of any other type	upto 20	1.5

25. **Shopping Centres/Departmental Stores.** -In layouts or sub-divisions of area in excess of 2 ha. in residential and commercial zones, plots may be provided for shopping centres/departmental stores. Such centre/stores may have an aggregate area upto 5 per cent of the area of the plot. The conditions governing the layout of such a centre/store shall be as under:-
- (i) The centre/store may be at one place or may be distributed within the layout to make it accessible from the different parts of layout ;
 - (ii) These centre/stores shall not abut any roads more than 31 m. wide ;
 - (iii) Within a layout the centre/stores may be provided on the ground and upper floors or on the ground floor and the upper floors may be used for residential purposes and conveniences like banks or places for medical or dental practitioners.
 - (iv) Uses shall be as defined in clause (20) of sub-Regulations (3) of Regulations 2 Additional uses may include:-
 - (a.) Stores or shops for the conduct of retail business. There will, however, be no storage or sale of combustible material except with the Commissioner's permission;
 - (b.) Personal services' establishments only in the suburbs and extended suburbs;
 - (c.) Hair dressing saloons and beauty parlours;
 - (d.) Frozen food stores;
 - (e.) Shoe shops, sports shops ,shoe repairs and shoe shining shops;
 - (f.) Shops for the collection and distribution of clothes and other materials for cleaning, pressing and dyeing establishments;