

**BEFORE THE NATIONAL GREEN TRIBUNAL,
WESTERN ZONE BENCH, PUNE**

O.A. NO. 65 OF 2019 (WZ)

Ajay Jayvantrao Bhosale) Applicant

Versus

Union of India & Ors) Respondents

WRITTEN SUBMISSIONS ON BEHALF OF PMC

1. It is submitted that the plans are sanctioned on the application made under sec. 44 of MRTP Act. 1966 through a licensed Architect, thereafter proposals are sanctioned under sec 45 of MRTP Act. In 2014 Environment Department Govt of Maharashtra also made it mandatory that EC will be granted only after sanctioning of the plans. Earlier EC was granted on conceptual plans and after 2014 is granted only after sanctioning of Plans from the Planning Authority.

Therefore, it is pertinent to be note that there is no bar for sanctioning of plans without Environment Clearance.

2. **“Project in Question”**

Bramha Exuberance and Bramha Elite, a residential project at S No. 13/1, 13/2, 13/3 at Village Kondhwa Khurd, Pune.

All the sanctions/commencement certificates (CC) granted by the PMC are as below,

Sanctions relating to Bramha Exuberance

Sanction	Date	FSI in sq.m.	Non- FSI in sq.m.	Total BUA in sq.m.
CC/2342/05	21/09/2005	10,885.9	4518.18	15404.08
CC/3387/05	30/12/2005	14121.76	5972.84	20084.6
CC/1847	28/08/2006	15,412.25	7745.57	23,157.82
CC/3582	08/01/2007	14,910.17	7745.57	22,715.74
CC/0133	11/04/2009	15,693.84	8323.41	25,017.25

Sanctions relating to Bramha Elite

Sanction	Date	FSI in sq.m.	Non- FSI in sq.m.	Total BUA in sq.m.
CC-4370	17/03/2012	49.17	23.27	72.33
CC-3954	04/03/2014	485.25	256.75	742
CC-1169	15/07/2014	1236.14	754.05	1990.19
CC-3213	30/12/2015	3183.83	1869.34	5053.17
CC-0819	21/06/2017	4706.14	2688.44	7394.58

3. It is submitted that once a construction is complete Licensed Architect submits a completion certificate to PMC certifying that all the conditions are fulfilled and the building is ready for occupation. On receiving the completion certificate PMC verifies all the permissions are in place and grants occupation certificate there are specific times in the Rules.
4. Relevant Rules regarding plinth checking, completion certificate and occupancy certificate in DC Rules, are reproduced below: -

7.4 Checking of Plinth/Column up to Plinth Level – *The owner shall give notice in prescribed form given in Appendix G to the Authority after the completion of work up to plinth level with a view to enable the Authority to ensure that the work is carried out in accordance with the sanctioned plans. The Authority shall carry out inspection within seven days from the receipt of such notice and give permission, for carrying out further construction work as per sanctioned plans in prescribed ProForma given in appendix H. Within the above period if the permission is not refused, the permission shall be deemed to have been given*

7.5 Deviation During Construction – *If during the construction of building any departure which is not of a substantial nature from the sanctioned Plan is intended to be made by way of addition which does not violate any provisions regarding general building requirements structural stability and fire safety requirements of the rules alteration may be made and sanction of the authority shall be obtained immediately and in any case before application for occupation certificate and the procedure laid down for original plans shall apply to all such amended plans except the building permission fee. Provided further that if any such alterations are likely to result in increasing the number of tenements, the built-over area/FSI or change in the marginal opens spaces or the height of the building. No such alterations shall be carried unless sanction to the amended plans is first obtained.*

7.6 Completion Certificate – *The owner through the licensed architect, engineer, structural engineer, as the case may be who has supervised the constructions, shall give notice to the Authority regarding completion of work described in the building permission. The completion certificate shall be submitted in the prescribed form by four sets of completion Plan. One of the sets, duly certified as Completion Plan shall be returned to the owner along with the issue of full occupancy certificate (see rule NO.7.7)*

7.7 Occupancy Certificate –The Authority, on receipt of the completion certificate, shall inspect the work and sanction or refuse an occupancy certificate in the ProForma given in Appendix K within 21 days from the date of receipt of completion certificate, after which period it shall be deemed to have been approved by the Authority for occupation provided the building has been constructed as per the sanction plans. Where the occupancy Certificate is refused, the various reasons shall be quoted for rejection, at the first instance itself.

7.7.1 Part Occupancy Certificate - Upon the request of the holder of the building permission the Authority may issue a part occupancy certificate for a building or part thereof, before completion of the entire work as per building or part thereof, before completion of the entire work as per building permission provided sufficient precautionary measures are taken by the holder of the building permission to ensure public safety and health safety, The part occupancy certificate shall be given by Authority subject to the owner indemnifying the authority as per the ProForma given in Appendix.1

7.7.2 In the case of building identified in rule No. 6.2.6.1 the work shall also be subject to the inspection of the Chief Fire Officer, Pune Fire Brigade and the occupancy certificate shall be issued by the

Authority only after the clearance from the Chief Fire officer regarding the completion of the work from the fire protection point of view.

5. It is submitted that the plans in said project were revised by PMC as per the applications of Project Proponent. All the said sanctions/revisions are granted by the PMC as per the provisions under Development Control Rules and Maharashtra Regional and Town Planning Act, 1966. It is submitted that as per the practice adopted, prior to the 2011, only F.S.I. area is considered to be the Built Up (BUA) Area as the DC Rules.
6. It is submitted that after following due procedure PMC has granted Occupation Certificate (OC) to the units in the said project. The details of the same are as follows: -

Wing No.	Occupation Certificate No.	Occupation Certificate date
A,B & C	BCO/14/7/148	22/10/2007
D	BCO/350	05/10/2009
FINAL OC	OCC/1333/18	18/01/2019

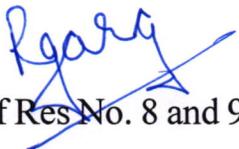
7. It is also very relevant to be noted that there was no provision in relation to Environment Clearance in DC Rules, 1987 it

was only in year 2017, the concept of Environment Clearance was inserted as Rule 13.5 Development Control Rule, 2017 which states *Environmental clearance certificate shall be obtained for the project which needs clearance from the said Authority, as may be prescribed by the Ministry of Environment from time to time.* The project in question was too prior from the introducing of DCR, 2017.

8. PMC has strictly abided with the DC Rules, Maharashtra Regional and Town Planning Act, 1966 and Maharashtra Provincial Municipal Corporation Act, 1949 and has granted all the permissions accordingly.

Pune

03/02/2023


Adv of Res No. 8 and 9