

Ref. No. MCHI/PRES/19-20/601

July 31, 2020

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To,
Shri Pradeep Singh Kharola (I.A.S.)
Hon'ble Secretary
Ministry of Civil Aviation
'B' Block, Rajiv Gandhi Bhawan,
Safdarjung Airport Area, Jor Bagh,
New Delhi - 110003, India

Subject: - Reduction of permissible building heights allowed as per Aeronautical study reports due to the implementation of Guidelines on Maximum Allowable Penetration of Obstacle Limitation Surfaces in Aeronautical Study reports (OLS Guidelines) by the Appellate Committee

Ref: -Discussions held during the 1st meeting of the Permanent Working Group

Respected Sir,

We refer to the discussions held during the 1st meeting of the Permanent Working Group held on 30th July 2020, comprising of representatives from AAI, DGCA, Real Estate Industry associations (CREDAI & NAREDCO) under your chairmanship. It was discussed that a detailed representation on the issue of OLS Guidelines be submitted to you for your kind consideration.

In this regard, we would like to submit the background and events which led to the adoption of the OLS Guidelines by the Appellate Committee and our stand viz a viz the same as under:-

<u>Sr. no</u>	Background	Our Stand
1.	The Appellate Committee in its meeting held on 24 th September 2013 concluded that permitting construction of a large number of buildings penetrating AGA surfaces through Aeronautical studies may lead to a cluster of buildings. In this regard, the Appellate Committee further opined that the extent of penetration of AGA surfaces may be restricted to ensure certain uniformity and symmetry in permitting such penetration in the overall interest of safety of operations. During the meeting of the Expert Committee constituted in MoCA to examine the Aeronautical Study reports alongwith members of the Appellate Committee, a view was taken that building heights to be granted through conduct of aeronautical study should be in a gradual and uniform manner.	Our submission is that the above conclusion/opinion/view of the Expert Committee and the Appellate Committee is without any backup study conducted by them and does not rely on any ICAO norms, standards or practices. In fact, there is no reference to any provision or regulation or recommendation by ICAO or any other regulatory body in the entire OLS Guidelines document adopted and published by the Appellate Committee. Moreover, grant of height in a gradual and uniform manner in a city like Mumbai where substantial development around the airport has already been undertaken and hundreds of buildings have been permitted by the AAI after conducting aeronautical study as per ICAO guidelines prior to adoption of OLS guidelines and uniform manner.

		It is therefore submitted that when the intent itself is impossible to achieve, the question of continuing/ implementing OLS in a city like Mumbai is not only arbitrary but discriminatory and has no parallel anywhere in the world.
2.	AAI conducted a <u>study</u> to check the deterioration in performance of NAV AIDS at Mumbai airport due to terrain in its close proximity and also obstacles penetrating the OLS of that airport. The study reflected that AAI is finding it difficult to meet the standard siting criteria for installation of CNS facilities and the performance of navigational aids is also being affected due to terrain profile and obstacles around the airport. The above study report of AAI suggested that it is essential that the obstacle profile in and around the airport be maintained so that further deterioration of NAV AIDS facilities is avoided and NOC cases for new constructions in and around Mumbai airport need to be examined carefully and no relaxation should be given for height clearance.	Our submission is that the above <u>AAI study</u> reflects only the partial findings pointed out by an agency called 'NATS' appointed by the Mumbai International Airport Ltd. while conducting feasibility study for installing a Category I Instrument Landing System to serve Runway 32. After listing the difficulties in finding suitable location, the agency has in its report concluded the issue and has still been able to suggest the proposed suitable location (siting) of the Instrument Landing System (Localizer, Glide Path & VOR-DME). In the study report, although the NATS team has qualified that both the Localizer and Glide Path will not fully meet the coverage requirement at lower levels; they have also mentioned that the coverage will be suitable to support the proposed instrument approach procedures. Further, since the conduct of the above AAI study in 2015, a number of such studies have been conducted thereafter by MIAL and several NAV AIDS facilities have been installed to augment the communication and navigation infrastructure at Mumbai airport. It is therefore submitted that not only is the study relied upon by the Appellate Committee, to impose OLS, incomplete but also obsolete. We therefore submit that the parameters as existing today be considered for carrying out a study by a neutral ICAO approved agency with a mandate to find solutions instead of finding the problem.
3.	Based on the above views of the Expert Committee and AAI study, the Appellate Committee considered it necessary to adopt the OLS Guidelines for restricting penetration above Obstacle Limitation Surfaces by objects which are granted higher heights through Aeronautical study.	In view of our above submissions, it is clear that the views of the Expert Committee were not in accordance with ICAO norms and the findings of the AAI study report (which are only partial) and therefore, it is respectfully submitted that the Appellate Committee erred in adoption of the OLS Guidelines and which need to be removed considering not only the performance criteria but also the huge economic loss to the nation.

From the above, it is evidently clear that the objective of the OLS Guidelines to allow grant of building heights in gradual and uniform manner has not been met. A detailed study report by our Consultant – Mr. T Mohanchandran (annexed herewith) clearly establishes this fact.

We would like to further state that the implementation of the OLS guidelines has led to a drastic reduction in permissible building heights in the Inner Horizontal Surface area & Conical area of the airport (i.e. upto 6kms radius) by almost 12-24 meters, thereby affecting the viability of projects situated within 6 kms from the airport. Approx. 75 projects having estimated value of approx. Rs. 80,000 Cr are affected. The Government of Maharashtra has written to MoCA on many occasions to adopt liberal parameters for Mumbai due to its typical geography.

Also as submitted above, there is no country in the world comparable to India, which adopts OLS Guidelines while conducting an aeronautical study.

Moreover, the Hon'ble Bombay High Court in W.P. 3646/2019 matter has categorically stated that any direction/rule for regulation or prohibition of the construction of buildings within 20 kms of the airport is required to be notified in the Official Gazette. It is a fact that, the implementation of OLS guidelines has neither been notified in GSR751(E) of 2015 nor proposed to be notified in the draft amendment to GSR751(E) published in April 2018. In view of the law laid down by the Hon'ble Bombay High Court, the imposition of OLS guidelines is ex-facie illegal.

Due to the above factors, it is suggested that the additional restrictions imposed by the Appellate Committee through OLS Guidelines should be done away with and the findings of site specific aeronautical study ought to be followed as the same is more scientific, precise and adhering to ICAO norms.

We request you to consider our submissions at the earliest and resolve the matter during the next meeting of the Permanent Working Group.

Thanking you,

Your sincerely,
For CREDAI-MCHI



Nayan A. Shah
President



Bandish Ajmera
Hon. Secretary

Encl: - Study conducted by Mr. T Mohanchandran