

URBAN DEVELOPMENT DEPARTMENT

Mantralaya, Mumbai 400 032, dated 24th October 2011.

NOTIFICATION

MAHARASHTRA REGIONAL AND TOWN PLANNING ACT, 1966.

No. TPB. 4308/776/CR-127/2008/UD-11.—Whereas, the Development Control Regulations of Greater Mumbai, 1991 (hereinafter referred to as " the said Regulations ") have been sanctioned by Government *vide* Urban Development Department, Notification No. DCR. 1090/RDP/UD-11, dated 20th February 1991 under section 31(1) of Maharashtra Regional and Town Planning Act, 1966 (hereinafter referred to as " the said Act ") to come into force with effect from 25th March 1991 ;

And Whereas, as per Regulation No. 32, Table No. 14 (1) (B) (iii) and (2) (B) for the area in suburbs and extended suburbs of Greater Mumbai including gaathan and excluding the area mentioned in Table No. 14(1) (B) (i) and (ii) the permissible floor space indices in Residential and Commercial Zone is 1.00 ;

And Whereas, as per the provision of Appendix VIIA under regulation 34 of the said regulations, the FSI of receiving plot shall be allowed to be exceeded by not more than 0.8 earned either by way of DR in respect of reserved plots or by way of land surrendered for road widening or construction of new road. Also as per the provisions of Appendix VIIB, in respect of regulation No. 33(10) and 33(14), TDR receiving plot shall be eligible for not more than 100% additional FSI in whichever combination TDR's are received provided at least 20% of FSI shall be mandatorily kept for use of TDR generated as surplus from Slum Rehabilitation Scheme ;

And Whereas, as per the provisions of Regulation 33 of the said Regulation additional Floor Space Index may be allowed in certain categories like Educational, Medical, Institutional, Star Category Residential hotels etc ;

And Whereas, in Budget Session of 2008, Hon'ble Finance Minister in the Budget Speech has announced the Government's intention to increase the permissible FSI in suburban area of Greater Mumbai from 1.00 to 1.33 subject to payment of premium ;

And Whereas, in exercise of the powers vested under section 37(1) of the said Act read with provision contained in section 154 of the said Act Government *vide* order of even No. dated 10th April 2008 issued direction to the Municipal Corporation of Greater Mumbai (hereinafter referred to as " the said Corporation ") to initiate modification in Regulation No. 32 of the said regulation and pending sanction to these modification by Government under section 37(2) of said Act the same was brought into effect from the date of order ;

And Whereas, Shri Amit Maru and others had filed Public Interest Litigation No. 94/2008 in the Hon. Bombay High Court challenging notification issued by State Government *vide* order No. even dated 10th April 2008 regarding increase of 0.33 FSI over and above 1.00 FSI in the suburban district of Mumbai. In the said PIL the Hon. High Court has passed the interim order on 23rd May 2008 and directed to give only development permission to the proposals submitted for sanction and not issued commencement certificate of the development proposal in this regards ;

And Whereas, meanwhile the Government *vide* order of even No. dated 12th May 2008 had given clarification on certain points in the said directives to the said Corporation and Government *vide* letter of even No. dated 5th June 2008 has informed the said Corporation to include in the said modification, the rules regarding the levy of premium for condonation of deficiency at the rate of 10% of normal premium, as levied for TDR generated from SRA Schemes ;

And Whereas, the said Corporation has failed to publish a notice regarding the said modification in the *Official Gazette* within a period of 90 days from the date of said directives as stipulated under section 37 of the said Act ;

And Whereas, by considering the clarification and the letter issued to the said Corporation and by considering other points, Government has proposed modification in Development Control Rule No. 32 of the said regulations (hereinafter referred to as " the said modifications ") and issued notice u/s 37(1A) of the said Act on 11th July 2008 and appointed the officer (hereinafter referred to as " the said Officer ") u/s 162 of the said Act to submit the report to Government on received suggestions/objections ;

And Whereas, the said notice u/s 37(1A) was published in *Government Gazette* dated 17th July 2008 and daily newspaper ' Asian Age ' dated 25th July 2008. Total 25 suggestions/objections were received ;

And Whereas, the said officer, after giving hearing to all suggestions/objections had submitted the report through the Director of Town Planning, Pune to Government on 12th September 2008. Also the Director of Town Planning has submitted his report to Government ;

And Whereas, after considering the report of the said officer and the Director of Town Planning, Maharashtra State, Pune, the State Government had sanctioned the said modification proposal with some changes (more specifically shown in " Schedule " below) vide order of even No. dated 3rd October 2008 under section 37(2) of the said Act (hereinafter referred to as " the said modifications ") ;

And Whereas, the hearing proceedings were carried out in the Public Interest Litigation No. 94/2008 in the Hon. Bombay High Court regarding the notification issued by the State Government in the said matter. The Hon'ble High Court by its order dated 10th June 2010 has declared the notification issued by the State Government under section 37(2) of the said Act as null and void ;

And Whereas, after considering the order of Hon'ble High Court and circumstances in the case and in the large interest of the public and immediate action to be required and as both houses of the State Legislature were not in session, the Ordinance has been passed by the Hon'ble Governor on 21st September 2010 and has published as Maharashtra Ordinance No. XIII of 2010 in *Maharashtra Government Gazette*, Extra Ordinary, Part IV, dated 21st September 2010 (hereinafter referred to as " the said Ordinance ") to make provision of charging premium in the said Act to take retrospective effect from 11th January 1967 ;

And Whereas, in the Winter Session 2010, in both houses of State Legislature the said Ordinance has been converted into the Act (Maharashtra Act No. XXIX of 2010) as published in the *Maharashtra Government Gazette*, dated 21st December 2010 and by doing so the necessary changes in the said Act had been occurred and said retrospective effect for charging premium was given from 11th January 1967 ;

And Whereas, the State Government has amended the Act to incorporate the provisions of charging premium with retrospective effect from 11th January 1967 order issued by the State Government u/s 37(1) and the notice issued u/s 37(1A) of the said Act is lawful. Therefore, after consulting and taking legal opinion of the Principal Secretary, Law and Judiciary Department of the Government of Maharashtra, the Government find it necessary to sanction the said modification and issue notification u/s 37(2) of the said Act ;

Now, therefore, in exercise of the powers vested in it under section 37(2) of the said Act, Government hereby sanctions the said modification proposal as described in the Schedule given below.

SCHEDULE

SANCTIONED MODIFICATION

Rule No. 32, Table No. 14 (I) (B) (iii)—

Provision	FSI	Tenement Density	
		Max.	Min.
(1)	(2)	(3)	(4)
The remaining area in suburbs and extended suburbs including gaathan.	1.00	450	200

Provided that FSI may be permitted to exceed upto 1.33 subject to following conditions :—

(1) Additional 0.33 FSI is optional and non-transferable. It is to be granted as on application and to be used on the same plot.

(2) The total maximum permissible FSI, with 1.33 FSI, Road FSI and TDR shall be restricted to 2.00.

(3) As per concept of TDR, additional FSI shall be permissible on gross plot area.

(4) Additional FSI available as per Regulation 33, shall be related to basic FSI of 1.00 only.

(5) Premium shall be charged for additional 0.33 FSI, as per the rates mentioned in Annexure. However, the Government may revise these rates from time to time.

(6) Premium shall be shared between the State Government and MCGM on 50:50 basis. The MCGM shall utilise the premium through Escrow Account for implementation of Development Plan and infrastructure. However, Government shall have right to change this ratio, depending upon the need for providing funds from Government for infrastructure projects in Mumbai.

(7) In Mumbai Suburban District, construction upto 1.00 additional FSI is permissible through use of TDR. 0.33 FSI being optional and part of overall ceiling of use of 1.00 TDR, any disclosure made for use of TDR/FSI, while making agreements with purchasers under MOFA Act, shall be held valid for use of 0.33 FSI.

(8) No vertical extension of existing building by utilising 0.33 FSI shall be permitted with erection of columns in the required marginal open space.

(9) Tenement density shall be relatively increased as per the increase in FSI above 1.00.

(10) 0.33 additional FSI shall not be permitted in Bandra-Kurla Complex, SRA Schemes under Regulation 33(10), CRZ areas and the matters which are subjudice.

(11) As per the provisions of Appendix VIIB under DCR 33(10) and 33(14), the extent of slum TDR shall be at least 20% of total permissible additional FSI (in any combination of additional FSI and TDR).

(12) The relaxation of premium i.e. 10% of normal premium shall be charged while condoning deficiencies in open spaces (as applicable for use of slum TDR).

(13) Additional 0.33 FSI shall not be applicable for industrial user.

ANNEXURE

PREMIUM RATES FOR ADDITIONAL 0.33 FSI--

Sr. No.	Land rates/sq.mt. as per Ready Reckoner, 2008.	Illustrative list of area covered under these rates (not all the areas)	Proposed premium rates/sq.mt.
(1)	(2)	(3)	(4)
1	Upto Rs. 7,000 sq.mt.	Manori, Gorai, Turbhe, Mankhurd.	70% of land rate.
2	Rs. 7,001-10,000 sq.mt.	Madh, Aarey, Dindoshi (pt), Eraṅgal, Akse, Marve, Mahul, Chembur (pt), Deonar.	Rs. 4,900 + 30% of R/R rates exceeding Rs. 7,000 sq.mt.
3	Rs. 10,001-15,000 sq.mt.	Gorai (pt), Pahadi, Eksar (pt), Malad, Malwani (pt), Kurar (pt), Borivali (pt), Dahisar (pt), Anik (pt), Ghatkopar (pt).	Rs. 5,800 + 30% of R/R rates exceeding Rs. 10,000 sq.mt.
4	Rs. 15,001-20,000 sq.mt.	Chakala (pt), Vileparle (pt), Kandivali (pt), Oshiwara (pt), Kurla (pt), Mulund (E.) (pt),	Rs. 7,300 + 30% of R/R rates exceeding Rs. 15,000 sq.mt.
5	Rs. 20,001-25,000 sq.mt.	Bandra (E), (pt)	Rs. 8,800 + 30% of R/R rates exceeding Rs. 20,000 sq.mt.
6	Rs. 25,001-35,000 sq.mt.	Bandra (E), (pt)	Rs. 10,300 + 30% of R/R rates exceeding Rs. 25,000 sq.mt.
7	Rs. 35,001-50,000 sq.mt.	Bandra (E), (pt)	Rs. 13,300 + 20% of R/R rates exceeding Rs. 35,000 sq.mt.
8	Rs. 50,001-70,000 sq.mt.	Bandra (E), (pt)	Rs. 16,300 + 20% of R/R rates exceeding Rs. 50,000 sq.mt.
9	Rs. 70,001-1,00,000 sq.mt.	Bandra (E), (pt)	Rs. 20,300 + 10% of R/R rates exceeding Rs. 70,000 sq.mt.
10	Above Rs. 1,00,000 sq.mt.	Bandra (E), (pt)	Rs. 23,300 + 10% of R/R rates exceeding Rs. 1,00,000 sq.mt.

By order and in the name of the Governor of Maharashtra,

RAJENDRA HADDE,

Under Secretary to Government.