

The primary objective of "MAHARASHTRA STATE HOUSING POLICY" is inter alias are;

- ✓ to facilitate affordable housing in urban and rural areas, create adequate housing stock for Lower Income Group (LIG), Economically Weaker Section (EWS) and shelters for the poorest of the poor on ownership or rental basis.
- ✓ To deregulate housing sector and encourage competition and public private partnerships in financing, construction and maintenance of houses for Lower Income Groups (LIG) and Weaker Sections of the society.
- ✓ To rationalize development control regulations and streamline approval procedures.
- ✓ And one of the strategy to achieve the above objective is to Efficient use of land through higher Floor Space Index (FSI) for Low Income Group (LIG) housing. We understand the Govt. in an endeavor to realize the above objective, the regulation 33(5) is being amended.

Our suggestion and objections to the amendments brought vide the modification filed before your goodself on 21/06/2013 is in consistence with the state housing policy as well as national housing policy 2007 which speaks about *"the Policy will seek to promote various types of public-private partnerships for realizing the goal of Affordable Housing For All"*.

In order to achieve the above goal, the only option left before the Govt. is to encourage expeditors redevelopment of Housing Colonies and remove the road blocks due to which the redevelopment of such colonies are at stand still since last three years.

In this back drop, we have suggested the following modifications to the amended regulation which are as under:-

Sr. No.	Amended Regulation No.	Suggestion
1	2	The cap of 3.00 should be deleted permitting redevelopment with permissible Rehab plus incentive FSI as admissible under the proposed amendment even in cases where such FSI exceeds 3.00
2	2.1	Specific provision for redevelopment through developer appointed by society/s or Federation of societies or tenant/occupant of colony or lessee should be inserted.
3	2.1.A&B	Rehab And Incentive area / FSI entitlement should be made dynamic as shown in table annexed herewith and as shown in the statement otherwise it would result in discrimination between the property whose basic ratio is 2.00 and the property whose basic ratio is 2.01 as there will be deference of 10% which amounts to violation of article 14 of constitution and hence the same are bad in law and to be treated as null and void. Whereas as per the statement, the entitlement of rehab area and incentive and MHADA share will be dynamic and varies in proportionate to LR and hence there is no discrimination.

4	2.1.b	All additional Rehabilitation Area entitlement should be on the proposed minimum carpet area or equal carpet area whichever is higher so that the benefit of additional carpet area is available for existing small EWS/LIG tenements also.
5		The provision of subject to the availability of the FSI on the plot under redevelopment and its distribution by MHADA should be deleted as MHADA should not discriminate any society or tenant/occupant or members on one or other pretext.
6	2.1d	d) Sharing of the balance FSI: sharing of balance FSI should be 50: 50 in all projects as this will encourage more and more redevelopment and in result more MHADA share of area.
7	2.2	Joint Venture should be permitted through Developer appointed by the society/s and or occupant and or lessee and or Federation of societies as per the procedure laid down by Govt. in Cooperative Dept., wherein the members will have a an opportunity to select the developer of their choice as well as bargain more benefit in terms of area corpus fund and other amenities.
8	9	Conversion of ongoing/ approved schemes should have the option of either to go ahead with un-amended provision or by the new amendments.
9	Explanation I to Table - A	The plot under redevelopment, means the land demarcated by MHADA for redevelopment. It may include layout open spaces and amenities, RG, PG etc. which will encourage large development and generate more FSI and better planning.
10	New	Since large development should be with cluster approach, the regulation 33(9) should apply for the plot under buildable/ non-buildable reservation.
11	New	The computation rehab F.S.I. / MHADA share should be in consonance with the provision in regulation 33(10) appendix VI clause 3.2 which reads as Built-up area for rehabilitation component shall mean total construction area of rehabilitation component, excluding what is set down in 35 (2) of D. C. Regulations, 1991 but including areas under passages, balwadis, welfarecentres, society office, religious structures,othersocial infrastructure likeSchool, Dispensary, ymnasium rub by Public authority or Charitable trust]
12	New	All Relaxations of regulation 33(7), 33(9) & 33(10) should be made applicable.

The rationale behind our above suggestions are as under:-

1. No Cap on FSI:

MHADA demarcates the land beneath and appurtenant to the building and conveys the same to the society and in some cases with some tit bit land annexed to the such land is also given the Society. While granting FSI to such societies, MHADA grants an FSI of 3.00 (after the amendment) and an FSI, available from the surplus FSI on the entire lay out on pro rata basis with premium. In few cases such FSI may be deficient to admissible Rehab plus incentive and when there is no cap on the FSI, societies will be entitled for the rehab FSI and the incentive FSI as admissible under this regulation even if it exceeds the maximum of 3.00 FSI. This is in parity with other redevelopment scheme under regulation 33(7) and 33(9). Also in some colonies the Rehab plus incentive FSI admissible under this regulation may exceed the FSI of 3.00 and in such cases, the incentive FSI will get reduced thereby making the redevelopment scheme unviable.

2. Role of Developer should be specified:

Any redevelopment scheme, be it independent or joint venture, without the participation of the Developer is impractical and will only remain on paper, and accordingly the emphasis has been laid down in the National Housing Policy as mentioned above. Hence the role of Developer should be mentioned in addition to the society/ federation/ lessee etc so as to have no ambiguity in implementation.

3. Rehab And Incentive area / FSI entitlement should be made dynamic:

In order to make the Rehab And Incentive area / FSI entitlement should be made dynamic, the slab system should be given away and table denoting the exact area admissible on the LR/RC ratio should be mentioned or a formula in which the exact area in proportionate to LR/RC ratio should replace the Table "A", "B" and "C". The slab system by which the SDRR rate between say Rs.7,00,000/- to Rs.1,40,000/- will be entitled for the same incentive of 60% which means, the incentive FSI for the project where the sale price is Rs.7,000 per Sq.ft. and another project where the sale price is Rs.14000/- per Sq.ft. are equal. As such the slab system defeats the very purpose of making the incentive FSI dynamic and hence should be wished away and replaced with the fully dynamic system wherein the entitlement of FSI should be directly proportionate to the LR/RC ratio, thereby removing the discrimination. By the slab system, in a case of the project with LRR/RC ratio is 2.00 is entitled for 60% and for project of ratio 2.01 is 50% Such discrimination will be in violation of article 14 of Constitution Of India more particularly when the sale price of both projects are same.

4. All additional Rehabilitation Area entitlement should be on the minimum carpet area or equal carpet area whichever is higher:-

At present several thousand poor families are living in small dwelling unit of 160 to 180 Sq.Ft. area and many of these tenement are of Ground Floor Structures and in many cases, the occupant is in use and occupation of appurtenant large area existing as front and rear open space area with or without enclosing such area and over the period of time such families have

grown into large combined families of several members and they are ill affordable to buy another flat or even a dwelling unit in slum due to high market price and as such two to three generations live in cramped dwelling unit

In such scenario if the additional entitlement is given on the existing area of 160 to 180 sq.ft. and by even after adding such additional area will be less than minimum entitlement 300.00 Sq.ft. which in result they will be entitled to less than what they are holding albeit the same may be unauthorized. Even in several cases of LIG tenement in multi story building they have extended the building and annexed the common passage. In case where the LIG occupant is only entitled for a carpet area of 300 Sq.ft as against the present entitlement of 45 Sq.Mtrs. which is equal to 485.00 Sq.Fts. under the present Housing Dept. circular, the redevelopment of such colonies will never be realized and such colonies are having maximum potential for the MHADA share of area, thereby objective of generating more LIG/EWS tenements will not be met.

As such we sincerely feel, the Govt. should restrain from such unpopular as well as anti poor step and should be generous enough to extend all additional Rehabilitation Area entitlement on the minimum carpet area which will result in incremental housing to LIG/EWS tenement who are the most needy one.

5. Distribution of FSI by MHADA subject to the availability:

As suggested by us, if the cap of 3.00 FSI is removed, then the question of availability of FSI will not be there as such the cap of FSI should be removed for reasons mentioned above.

6. Sharing of the balance FSI:

By these amendments, the sharing of balance FSI varies from 55% to 70% as against 66% in the prevailing regulation. Since the prevailing sharing percentage of 66% is very much high, most of the redevelopment proposals are shelved and they are insisting premium option instead. By this amendment there is no relaxation given in terms of MHADA share of area as such, the situation will not change which in result many housing colonies will be unviable for redevelopment and they will become more and more dilapidated posing danger to the lives and property of residents of such colonies and hence the sharing proposition should be brought between 40% to 60% thereby expediting redevelopment of Housing Colonies which in result will generate more affordable housing by the way of MHADA share of tenements.

7. Joint Venture should be permitted through Developer appointed:

For the reasons mentioned in point NO.2, the role of Developer is imperative and by this amendment there is additional entitlement of rehab area for joint venture and with the role of Developer, the scheme becomes all the more attractive which will lead to large planned development thereby exploiting full FSI potential of entire layout and generation of more MHADA share of tenements. In the event of MHADA developing the colony departmentally, occupants of the colony never consent for such JV and without their consent, the joint venture schemes will only remain as paper dream.

8. Conversion of ongoing/ approved schemes:

Since these amendments are stringent but more rational to that of the prevailing regulation, the option of conversion should be optional and the same should be applied to the ongoing schemes also and the same should be optional as in the case of the amendments dated 6th January, 2012. Such option are all the more legitimate in light recent Hon. High Court Judgment in case of conversion of ongoing schemes under regulation 33(7) in which Hon. High Court has struck down the provision of conversion as the same is discriminatory without any basis.

9. The definition of plot under redevelopment:

In case of redevelopment of entire housing colonies under JV, it included the areas under reservation, amenities and other services and while planning the redevelopment, such amenities, reservations, and other services gets developed on relocated for the better planning, as such the plot under redevelopment should include all the reservation, amenities and other service and onsite infrastructures which will encourage such large planned development.

10. Redevelopment / Development of plot under buildable/ non-buildable reservation.

As mentioned above, any plot under reservation also becomes part of the redevelopment and in order to exploit the higher FSI, the relaxation permitted under regulation 33(9) should be applicable where in the plot upto 40% and beyond 500 Sq.mtrs is available for redevelopment.

11&12 The computation rehab F.S.I. / MHADA share should be in consonance with the provision in regulation 33(10) appendix VI clause 3.2:

Under regulation 33(10), the entire constructed area excluding stair lift and lift lobby are considered for the computation rehab FSI whereas under regulation 33(5), only 20% is loaded are the carpet area admissible which is not justified as the actual constructed area excluding stair lift and lift lobby are considered for the construction rehab wing including fungible FSI comes to more than 80% which means there is no incentive FSI against such common areas which makes the scheme unviable. Since the existing regulation already permits all the relaxation under regulation under DCR 33(10), there should be specific explanation to that effect so that there is no discrimination between the scheme under 33(5) verses 33(7) 33(9) & 33(10).