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Chief Executive Officer

Ref. No. MCHI/CEO/17-18/044

September 22, 2017

Sub: Issue of NOC for the projects in the vicinity of Defence Establishment in the city of Mumbai.Ref: Various notifications to the Defence departments till date.Dear *Shri Mishra*

With reference to the above, I would like to state as under;

The Works of Defence Act, 1903, is an old Act. We are aware that steps are being taken to make amendments in the same but the modifications have not been carried out since a long time now.

The city of Mumbai and other cities across India are growing at a rapid speed. The Defence Establishments which were on the edge of the cities/suburbs are now almost in the middle of every locality - especially in Mumbai. Till recently, people have purchased flats near such establishments on the basis that their family would be more secure in such localities.

Over the decades, the first Development Plan of Mumbai was prepared in 1967 which came in force without any objection by any authority of the Defence Establishment against the development of area surrounding their establishments. Then the second Development Plan came into force in the year 1991. Except for 'M' ward, where the Armament Depot was proposed, buffer lines were marked, and the development around it, was controlled/restricted. Besides that, there was no restriction in entire Mumbai. Accordingly, small/big buildings are already exists around most of the Defence Establishments in the city as well as the suburbs.

However, in May 2011 a circular has been issued (interim) to act as a temporary guideline for giving NOC to the Developments which may come in the vicinity of the various Defence Establishments.

The very object of issuance of those guidelines was to strike a balance between the security and safety vis-a-vis the legal rights of the Plot-Owners /Developers / Society / Property-buyers till such a time the final amendments take place in the Act. It seems that a lot of confusion took place thereafter due to lack of co-ordination and communication between the Municipal authorities, State Government, Central Government and Ministry of Defence itself.

A deadlock thus got created as neither the security concern being raised by Defence Authorities could be ignored, nor the equitable and legitimate rights of people at large could be suppressed or withheld.

We learnt that after reviewing the matters for a period of four years between 2012 and 2016, and, post study of various representations having been made by individuals, Municipal Corporations, State Government, MLAs, MPs, the Defence Ministry tried to take a balanced view as under:

The Parameters for the guidelines were separated for the Tier II, Tier III Cities and cities like Mumbai. Finally, it was agreed that the distance of 10mtrs (maximum) shall be kept along periphery of such establishment/s and it was suggested to release all the pending permissions which were withheld for a very long time.

The Defence Ministry then issued a guideline vide Circular no.11026/2/2011/D (Lands) dated 21st October '2016. The objective of instruction right from circular dated May 2011 to October 2016 was to strike a balance between the security concern of the forces and the right of the common man to undertake the necessary construction activities on their land.

The Authorities at KanjurMarg, Malad, Kandivali (Mumbai Suburban) have started releasing the proposals which were kept on hold, and also issued NOCs for new developments in few cases based on the clarifications/guidelines dated 21st October 2016.

However, in case of Ghatkopar (Mumbai Suburban), the Defence Establishment (Naval Department to be specific) has not taken a similar view. They refuse to give their NOC/clearance to all the pending proposals as well as the new proposals. The reason cited by the Authorities is based on the fact that the annexure of the circular/guidelines dated 21st October '2016 does not include or involve them (Naval Department). Hence, they are not agreeable to giving the clearances.

It is important to note that all the correspondences made from 2011 till the above date were always addressed to all the three wings of defence i.e. surface, air and water. The annexures to guideline dated 21st October '2016 do not contain any mention of Naval Department. This seems like an oversight as it leads to the variation for the parameters/guideline for Naval establishments v/s Army/Military or Air Force establishments.

In the absence of revised guideline/s, the western Naval Command has rejected their NOC to many proposals. Due to this almost 300 housing projects are affected which all are near Navy's establishments within 500 meters' distance from the boundary of Naval establishment. There are hardly vacant lands available in the city of Mumbai from the boundary of Navy's establishment. So, most proposals are for rehabilitation of existing residents/users of those premises. Many of these buildings & chawls are in a dilapidated condition. Therefore, redevelopment is the only solution for people in such projects. The Municipal Corporation & the State Government are very much supportive by framing rules to help create large volumes of Housing stocks. The delay in issuing revised guidelines for Naval authority affects not only the dream of our Hon'ble PM Shri. Narendra Modi "Housing for All by 2022" but also basic rehab to people already existing there.

The Ministry of Urban development has taken very effective steps under ease of doing business (EODB) policy to improve construction permits. A joint meeting was also called by the Ministry on 8/2/2017 to discuss and resolve the issues related to construction permissions.

Repeating here that all the correspondences made from 2011 till the above date were always addressed to all the 3 wings of Defence i.e. Surface, Air and Water.

From the above it is very clear that there is a huge variation even in the basic guideline for Army establishments (10 mtr.) & for Navy establishments (500 mtr.). Even the Authorities have started granting NOCs within 500 mtrs to specific cases and rejecting others, so it is difficult to understand the parameters for granting in some cases and rejecting in other similar ones. Also, seeing the correspondences it seems like the top tier of the officers have clarity on granting the NOCs but the same clarity has not percolated down to their various departments. You may refer to the annexed communiques dated 03/02/2017, 16/03/2017, 09/03/2017, 05/04/17, 09/05/17 and 07/06/17 that reflect what we mean by the above statement.

Sir, the residents/society members, developers and the people at large have waited enough for unlocking their projects. There is no intention from anyone on compromising the safety and security of the people of India, or, the need for privacy of Defence Establishment Authority. In fact, none of them have breached any rule. But as the final amendment to the Act has not yet taken place and interim circulars/guidelines are confusing the matters, the rights of citizens are greatly affected. It is also clear that the quantum of such buildings/projects are not even 10% of the total number of buildings/projects already existing around the periphery of the various Defence Establishment. If there is a threat it could well be from any of the existing buildings too, not just new ones coming up.

We are enclosing herewith a Google Plan, DP Plan, and other data for Ghatkopar and Kanjurmarg (suburban of Mumbai) which clearly points out the confusion already created in the matter. We, therefore, request your urgent and immediate attention in finding a suitable way out/solution to this impasse in order to protect the affected parties and people at large.

We would like to present all the relevant details and papers in person. Kindly give an opportunity to voice our case & concerns in the interest of people at large in these affected areas.

Yours

(S. S. Hussain)

To,
Shri Durga Shanker Mishra (I.A.S.)
Secretary
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Encl : As above