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Chief Executive Officer

Ref. No. MCHI/CEO/17-18/045

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 Mitra*

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

The Works of Defence Act, 1903, is an old Act. I am 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.

I 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.

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.

Enclosed 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.

Therefore, I would like to present all the relevant details and papers in person. Kindly give an opportunity, as per your early convenience, to voice our case & concerns in the interest of people at large in these affected areas.

Best, personal regards

Yours sincerely



(S. S. Hussain)

To,
Shri Sanjay Mitra (I.A.S.)
Secretary
Ministry of Defence
Government of India
New Delhi - 110011

Encl : As above

The Times of India

Title : In city of towers, architects get power to certify only bungalow-like structures

Author : Nauzer Bharucha

Location :

Mumbai:

Article Date : 03/20/2017

Relaxation Of Rules Becomes An Object Of Ridicule

The Maharashtra government seems to be under pressure from the World Bank and Centre to improve the global 'Ease of Doing Business' ranking. But in its haste to speed up construction permission, it has evoked incredulity and smirks in the real estate industry .

The latest is a notification from the state urban development department, allowing architects to self-certify and approve their own projects instead of rushing to the civic administration with their proposals.

Bizarrely , such buildings that can be approved are only groundplus-one storey structures, which has caused much mirth among Mumbai architects who mostly design highrises in the city.

They said the entire purpose of making clearances simpler is defeated because this rule will apply only to bungalows and not towers. In Mumbai, the civic building proposals department is believed to be notoriously corrupt, although civic chief Ajoy Mehta and senior officials have attempted to clean up the department.

The March 2 state government notification meant to expedite the building approval system, said architects can approve buildings with heights of between 3.9m and 8.4m. These are mainly ground-plus-one storey buildings for residential, commercial and industrial purposes. The categories of structures have been enlisted as 'low-risk' and 'moderate-risk' buildings. The land on which they can be built must be vacant. Industry sources said in Mumbai, most projects are redevelopment projects where a structure already exists. Low-risk buildings have been defined as those with a height varying from 3.9m to 4.2m. Moderate-risk structures have been categorized as those having heights of 3.9m to 8.4m.

For low-risk buildings, architects registered with the Council of Architecture and Licensed Surveyors registered with the BMC will be entitled to certify such buildings. For moderate-risk buildings, architects registered with Council of Architecture and Licensed Surveyors registered with BMC, and who have obtained at least ten occupation certificates building completion certificates or both, will be entitled to certify them.

"The proposal shall be only on vacant plot and it shall not be affected by buffer zones of Railways, MMRDA, defence, coastal regulation zone etc," said the notification. The process of plinth checking and monitoring of the work will be the responsibility of architects. The architect will be authorized to issue approval plans and approval letter with digital signature. The architect needs to submit periodical site progress and inspection report to the BMC. On completion of work, the architect will submit the completion plans to the BMC. They will be held responsible in case of any building violation or deviation from the approved plan.

EASE OF BUSINESS BECOMING A FARCE



“ The system is not going to work for Mumbai since majority of the construction work does not fall in this category

A VETERAN ARCHITECT

► Under a state government notification issued on the March 2 meant to expedite the building approval system, architects can approve buildings with heights of between 3.9m to 8.4m. These are mainly ground-plus-one storey buildings for residential, commercial and industrial purposes

► India's global rank (Mumbai and Delhi) is an appalling 185 out of 187 countries in the Ease

of Doing Business for procuring building clearances

► The new notification has to be incorporated in new Development Control Rules 2034, but shall be immediately implemented

► This change is carried out at the instance of the World Bank to expedite the present approval process and pressure from the Department of Industrial Policy and Promotion



The Times of India

Title : Navy holds up 300 city housing projects, mostly near its colonies

Author : Nauzer Bharucha

Location :

Mumbai:

Article Date : 03/09/2017

Move Comes Despite Def Min Relaxing Rules

The Navy has blocked real estate development in large swathes of the city's eastern suburbs with an estimated 300 housing projects stalled for months.

In a major blow to builders, the BMC has stopped giving construction permissions after the Navy objected to building activity around its installations. Ironically, most of these installations are not sensitive naval bases, but housing colonies. The Navy insists on its NOC for any construction within 500 metres from its establishments. A civic official told TOI the municipal building proposals department stopped processing permissions three months ago after the Navy's objection. Ghatkopar, Kanjurmarg and Mankhurd are among the locations that have been badly affected.

The Navy's objections have stunned the construction industry in Mumbai because just last October the defence ministry had relaxed its construction ban around defence lands. The ministry's circular had brought huge relief to around 3,000 families living in dilapidated buildings around the Army's central ordnance depots in Kandivli and Malad. The circular reduced the security barrier to just 10 metres for defence establishments and installations at 193 stations across the country, including the Kandivli and Malad depots.

But in December, the Navy wrote to the BMC that the defence ministry's circular is applicable only to Army installations and not to the Navy assets. Captain Atul Raut, the Navy's controller of technical services, wrote to the BMC's executive engineer (building proposal-II) that the circular "may not be misconstrued for naval units or establishments".

"It is requested that the applications for grant of NOC for construction activity in vicinity of naval establishments or units be continued," said the letter, which was also marked to the flag officer commanding-in-chief (SSO works), Western Naval Command. A prominent developer whose residential project is stalled because of the Navy's NOC refusal told TOI, "It is affecting lakhs of people and is delaying redevelopment projects in Colaba, Worli, Ghatkopar, Kanjurmarg, Kandivli, Malad, Borivli and Thane. The Navy must follow the defence ministry's circular dated October 21, 2016, restricting the radius to 10 metres. The ministry must resolve this issue immediately."

According to municipal documents, construction projects in Kanjurmarg and Ghatkopar have been severely hit. In Ghatkopar, there are currently 148 ongoing projects in the vicinity of what records describe as the "Ghatkopar Naval Base". In Kanjurmarg, about 40 ongoing projects have been affected close to the "Kanjurmarg Naval Base". In the L ward (Kurla) documents show 32 ongoing projects as affected.

The BMC said there are many pockets that belong to the defence forces, but are not shown on the development plan sheet. "A request must be made to the defence authorities to submit the gazette showing notified areas. At present, there is no way to detect or identify defence land," said a BMC note. Last month, the municipal commissioner remarked on an internal file on this issue, "In the meantime, the proposals should not be processed till we get the Navy's NOC."

TIMES VIEW:

The defence ministry has issued clear guidelines about allowing construction activity in the vicinity of defence installations. The Navy cannot turn around and claim that these rules do not apply to it. That several hundred building projects have stalled because of the Navy's intransigence is unacceptable at a time when the construction industry is in a flux.

300 PROJECTS AFFECTED IN EAST



DEFENCE MINISTRY'S EARLIER RESTRICTION

► In 2011, a defence establishment circular, in the wake of the Adarsh housing society scam, stipulated that the local army authority (LMA) issue an NOC for any construction near defence establishments



► Thousands of families living in old buildings found themselves in a bind because the LMA refused to give permission for redevelopment

► In the Malad-Kandivli belt, 43 ongoing redevelopment projects were stalled and another 2,400 buildings were affected because of defence objections

RECENT RELAXATION

► Last October, a ministry circular reduced the security barrier to just 10 metres for

defence establishments and installations at 193 stations across the country. The circular brought relief to around 3,000 families

NAVAL INTRANSIGENCE

► Since November 2016, naval authorities have written six letters to the BMC, rejecting NOCs to various projects in the eastern suburbs

► Builders say around 300 projects stand affected in the eastern suburbs

► Construction industry sources say the restriction is "ridiculous" because many of the naval installations are naval housing colonies

► The civic chief has ordered staff not to approve building plans till the Navy gives NOC

EASTERN SUBURBS WORST HIT

► Navy insists on its NOC for any construction within 500m of its establishments

► BMC stops permissions to around 300 housing projects after Navy objects

► Most installations near projects not sensitive, but naval housing colonies

► A majority of the stalled projects are in Ghatkopar,



Kanjurmarg and Mankhurd

► Last October, defence ministry relaxed construction ban around defence lands

► Navy claims it applies to Army installations, not to Navy assets

Sr.No.	CTS No and Village Ghatkopar-Kirol	Plot distance from Ghatkopar Naval Depot Boundary	Status of NOC	Date of NOC	No. of floor	Remark
A	244, 245 of Village Ghatkopar - Kirol	72 meters	WK/3031/NOC/26/07 NOC granted by Navy	25/05/2016	8 th floors	NOC granted under the ambit of MOD circular dated 18 th March 2011, 18 th May 2015 and 17 th Nov 2015.(i.e. In the absence of MOD circular 21 st Oct 2016)
B	183 C/1, of Village Kirol	208 meters	WK/3031/NOC/27/07 NOC granted by Navy	24/06/2016	7 th floors	NOC granted under the ambit of MOD circular dated 18 th March 2011, 18 th May 2015 and 17 th Nov 2015.(i.e. In the absence of MOD circular 21 st Oct 2016)
C	182 of Village Kirol	168 meters	WK/3031/NOC/30/09 (NOC Rejected)	12-09-2016	8 th floors	NOC rejected under the ambit of MOD circular dated 18 th March 2011, 18 th May 2015 and 17 th Nov 2015.(i.e. In the absence of MOD circular 21 st Oct 2016)
D	Mahendra Park, CTS No. 175 of Village Kirol	168 meters	Existing building fully occupied	-	8 th floors	Existing Building in line with CTS No 182, so as per MOD circular dated 17th Nov 2015. NOC for plot CTS NO. 182 must be eligible.





