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Prakash Baviskar

Ref. No. MCHI/PRES/19-20/036

September 11, 2019

To,

**Dr. Nitin Kareer (I.A.S.)**

Principal Secretary - I

Urban Development Department

Government of Maharashtra

Mantralaya, Mumbai - 400 032.

मिपिक  
प्रधान सचिव (नवि-१)  
उपनिवेश विभाग,  
महाराष्ट्र सरकार, मंत्रालय,  
मुंबई - ४०० ०३२.

**Sub:- Clarification under Clause 4(3) of DCPR 2034 regarding applicability of Transition policy to proposals wherein permission for conversion of zone from Industrial to Residential or Commercial use is already granted and such proposals have been permitted to carry out development under Residential or Commercial use**

Respected Sir,

The Urban Development Department vide their notification u/no. TPB-4317/629/CR-118/2017/DP/UD-11 dated 08.05.2018 has sanctioned DCPR 2034u/s 31(1) of MR & TP Act, excluding certain modifications. The UDD vide their corrigendum dated 23.10.2018, fixed the date of 13.11.2018 to be the date on which the EP shall come into force.

In the said sanctioned DCPR2034, the Regulation 9(6) of DCPR 2034 deals with applicability of the DCPR 2034 to ongoing and partially completed works. The clause 9(6)(b) deals with the manner of FSI computation in regards of the ongoing and partially completed works where owner/developer comes forth for balance development beyond the approved plans as per the erstwhile regulations and reads as follows :

“In case of such plots or layouts that started with due permission before DCPR 2034 have come into force and if the owner/developer, at his option, thereafter seeks further development of plot/layout/buildings as per DCPR 2034, then the provisions of DCPR 2034 shall apply to the balance development. The development potential of such entire plot shall be computed as per DCPR 2034 from which the sanctioned FSI of buildings/ part of buildings which are proposed to be retained as per approved plan as per then Regulations, shall be deducted to arrive at the balance development potential of such plot or layout.”

The note under Regulation 9(6)(b) allows the Hon' Municipal Commissioner to formulate a policy to tackle such situations. Accordingly, in order to deal with ongoing proposals, Transitional policy circulars (T-1), (T-2), (T-3), (T-4) & (T-5) are already issued by MCGM.

In ongoing proposals, where permission for conversion of zone from I to R/C is already granted, MCGM is insisting amenity as per Regulation 14(A) of DCPR 2034 and Inclusive Housing as per Regulation 15 on the remaining land which is already permitted to be developed for Residential or Commercial user.

Sir, the proposals which have got converted from Industrial zone to Residential / Commercial zone as per the provisions of DCR 1991 have fulfilled the obligations of providing amenity, payment of conversion premium and construction of small

apartments having BuA less than 50 sq. mtrs., as applicable from time to time. Due to such conversion, land under such proposals have now been permitted to be developed for Residential or Commercial user.

Moreover, in case of the ongoing / partially completed proposals, that have started with due permissions under the erstwhile regulations, it may be difficult to comply to such newly introduced provisions of DCPR 2034.

As per the norms of MCGM, developers/owners are required to take concession approvals for entire permissible potential of the plot. As such, planning for entire permissibility with land allocation is already done for buildings, apartments, open spaces, layout open spaces and various services required for the end users in the development. Time consuming NOCs such as MOEF and High Rise are obtained based on these plans. Commitments to customers and disclosures of layout have also been done as per RERA provisions. Furthermore, the progress of construction on any particular construction site is dependent on several factors.

In such scenario handing over of additional amenity area and/or providing inclusive housing tenements on the basis of balance development potential is not feasible. Imposing compliance of such regulation 14(A), 14(B) and 15 for ongoing proposals which have already complied with the requirements under the erstwhile regulations will not be fair and will cause disparity. Treating such proposals afresh as per provisions of DCPR 2034 and asking them to provide amenity as per Regulation 14(B) and Inclusive Housing tenements as per Regulation 15 is also against the principle of natural justice.

Hence, it is our request to honour the conversion permission granted and issue necessary clarification as follows:-

"In cases where the development permission is valid and the project proponent undertakes to comply with the provisions as stipulated therein, the requirement of amenity as per Regulation 14(A) and the requirement of Inclusive Housing as per Regulation 15 shall not be applicable while processing the proposal further."

Thanking You,

Your sincerely,  
For CREDAI-MCHI



**Nayan A. Shah**  
President



**Bandish Ajmera**  
Hon. Secretary



**Sanjiv Chaudhary MRICS**  
Chief Operating Officer