

N/c

Cir. No. CHE/DP/145/Gen

2020-21

Municipal Corporation of Greater Mumbai

Ch.E./DP/8411/dtd. 16 OCT 2020

Sub: To allow development under accommodation reservation policy to the reservation which are part of approved layout as per DCR 1991 and the reservations are not handed over to MCGM.

Reference is requested to the report at page C-1 to C-15 requesting therein to finalize a policy regarding grant of development permission under AR policy for open space reservations under SRDP 1991 which are a part of a layout and are now continued in Sanctioned DP 2034.

This office remarks are as follows:

Initially, when DCR 1991 came in to force, the open space reservations could be developed only by way of handing over the unencumbered reservation plot in lieu of TDR. Accordingly, condition to this effect would be incorporated in the layout conditions to ensure handing over such reservation to MCGM. It is to be mentioned here that, subsequently the AR policy came into force on 02.05.2016. As per this policy, the reservations could be developed and handed over to MCGM. Accordingly, in the layouts developed after the coming in force of this policy, the reservations were developed and handed over to MCGM.

However, some layouts had been developed before coming in to force of the AR policy. In such layouts, although the layout conditions had laid down that, the Owner/ Developer is bound to hand over the reservation, these layout conditions had remained to be enforced. As such, the question of handing over of such reservations (Buildable/ Non buildable) has now come to the fore.

Insisting on handing over of these reservations in lieu of TDR only, will not be an enforceable option due to various judgements of Hon'ble Court in certain matters. It is to be further stated that, many of these layouts are old and third party interests are created in such layouts.

Hence, it is found necessary to formulate a policy regarding handing over of such reservations in consonance with provisions of DCPR 2034, more particularly on the basis of the AR principle. However, while considering this, it would be necessary to ensure that, the benefit of the reservations has not been already availed by the Owner/ Developer in the form of FSI or TDR or any other form of compensation. If any plot has already availed of such benefit, these plots will not be liable to take benefit of this policy and will have to handover the reservations forthwith.

It is further to mention that, note 20(viii) (a),(b) & (c) below table no.04 of regulation 17 (1) of DCPR 2034 provides for additional BUA in lieu of handing over of the reservations within 5 years or such extended period, to incentivize early handover of reservations. In this regards, it would be necessary to refer the issue of allowing incentive to TDR generated from any land in consonance with the circular u/no. Ch.E/DP/Gen/ 3720 dtd 18.03.2017. The said circular, however has not permitted the said incentives to the TDR of such proposals which were submitted prior to Notification dtd. 16.11.2016.

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On similar lines, there is a likelihood of the developer claiming such incentives (as permitted in the above referred note 20(viii) (a),(b) & (c)) while handing over the reservations in the situations referred above. Allowing such incentives in these cases would tantamount to encouraging noncompliance of layout conditions in other aspects too, with the intention of getting benefit of future changes in the regulations. Hence, it is felt that on the lines of stand taken in the circular Ch.E/DP/Gen/ 3720 dtd 18.03.2017, the benefit of note 20(viii) (a), (b) & (c) below table no.04 of regulation 17 (1) of DCPR 2034, shall not be extended to these cases although the reservations will be permitted to be developed as per DCPR 2034.

In the past, in some cases, reservation(s) have been considered partially/ fully for setting off amenity to be provided for conversion of plots Industrial user to Residential/ Commercial user. This policy will not be applicable for development of such reservations used as per regulation 14 (a) & (b) of DCPR 2034 or requirement of amenity as per DCR 1991.

Accordingly, it is proposed to make the AR policy applicable for development of the reservations which are part of layout approved as per DCR 1991 and which are not yet handed over to MCGM. However, this will be subject to the following conditions:

- 1) This policy will not be applicable to those plots, wherein the benefits of the reservations is already availed by the owner/ developer in the form of FSI, TDR or any other form of compensation.
- 2) The carved out plot/plots which is/are reserved for public purpose can be developed as per provisions of DCPR 2034, but without any incentive mentioned in note 20(viii) (a), (b) & (c) below table no.04 of regulation 17 (2) of DCPR 2034.
- 3) This policy will not be applicable to the reservation/ reservations which have been considered for setting off the requirement of amenity open space necessary to be provided as per relevant regulations of the then DCR 1991/ DCPR 2034.

Submitted for perusal and approval of Ch.E.(DP) / MC. If agreed, this will be accepted as policy and will be circulated to all zonal Building Proposal offices.

Submitted please.

(Signature)
13/10/20
(G.B.Nikam)
EE (DP) P&R

(Signature)
13/10/2020
(Y. S. Dalvi)
EE(DP) DCR

(Signature)
13/10/2020
(C.H. Kandalkar)
Dy.Ch.E. (DP)-II

(Signature)
13/10/2020
Dy.Ch.E. (DP)-I

(V.P. Chithore)
Ch.Eng.(DP) & Dir (ES &P)
(I.S. Chahal)
Hon'ble MC

As regards Sr.No. 2 above, and as per the provision in DCPR 2034, the incentive is admissible but as a policy the same is not considered due to condition in the layout approval. In such case against not accepting incentive is with UDD under appeal. Once this is decided, if accepted by UDD the same will be applicable prospectively. In view of above, Sr.no. ①, ② & ③ side line 'A' above is submitted for approval as recommended and as per the report of P M1/N2. Submitted please.

(Signature)
15/10/2020
Ch. Engineer (D.P.)
& Dir. (E.S. & P.)

Commissioner

MCP/4568
26.10.20

Ch.E.(D.P.)
Dir.(ES&P)