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Ref. No. MCHI/PRES/19-20/579

July 17, 2020

To,  
**Shri Praveen Pardeshi (I.A.S.)**  
**Additional Chief Secretary**  
**Urban Development Department**  
**Government of Maharashtra**  
**Mantralaya. Mumbai 400020.**

**Sub: Finalization of pending proposed modification to DCPR 2034 and issue clarifications sought by MCGM from U. D. department, Government of Maharashtra.**

**Respected Sir,**

We are grateful to the State Government for taking timely decision to consider reduction in premiums for Fungible FSI / Additional FSI in the recent past and also for allowing facility of Instalment of 5 years for payment of premium at reduced rates in 2019. This has helped to save the Industry from being closedown. However, with a slit of Corona Virus and recession set in globally, one country after the other, the rolling of funds for protecting the Economy is hampered. The current crisis is worse than 2008 Financial crisis and there is worldwide recession set in.

We request to reduce the premiums for Fungible FSI / Additional FSI further by 90 %. With reference to the aspects of provisions of DCPR 2034 for approving the building plans we submit our representation as below.

The DCPR 2034 has come into effect from 13th Nov 2018. The Transitional provisions available in the Reg 9(6) of DCPR 2034 permit ongoing development proposal approved under DCR 1991 to get converted as per provisions of DCPR 2034 with respect to utilization of the balance potential that may be available under DCPR 2034. Under the provisions of regulation 9 (6), several ongoing proposals submitted to MCGM are being dealt with in line with the transitional policy circulars formulated by MCGM from time to time.

However, there are certain issues where MCGM has sought the clarification from U.D. department for processing ongoing proposals as well as new proposals as per various provisions of DCPR 2034.

After the sanction of DCPR 2034, U. D. department have proposed modifications to some of the provisions of sanctioned DCPR 2034 by issuing various notifications in last 18 months. The proposed modifications are not yet finalized by government and as such number of building proposals are stuck due to application of stringent of sanctioned DCPR 2034 and proposed modifications by MCGM.

Hence, we request your goodself to finalise the pending proposed modification and issue the necessary clarification sought by MCGM. The pertaining issues are as detailed below.

- 1. Applicability of fungible compensatory area to already constructed building :-**  
Many already completed buildings in Mumbai for which occupation permission is obtained need to allow to use fungible compensatory area to be regulatory compliant by counting in FSI the features granted free of FSI earlier, being used for habitable purposes by the occupants of the buildings inadvertently.

The U.D. department has already proposed modification to regulation 31(3) vide notification under no. TPB - 4317/629/C.R. 118 (III)/2017/UD-11, dated 13/11/2018.

We request to finalise this modification which will help large number of occupants of the buildings for which occupation permission is already granted.

## **2. Visitor's Parking :-**

Vide the above-mentioned notification for proposed modification, U. D. department has also proposed to reduce the requirement of visitors parking in residential development / redevelopment from 25% in sanctioned DCPR 2034 to 5% of required parking spaces. The same may be finalized at earliest.

## **3. FSI in lieu of road widening or roads proposed in D.P. or the MMC Act, 1888 :-**

As per sanctioned DCPR 2034, proviso of regulation 30(A) (3) (a) stipulates as below.

"Provided further that FSI equivalent to TDR as per Table 12 A of Regulation 32, in lieu of road widening or roads proposed under D.P. or MMC Act, 1888 as per regulation 16 may be allowed to be utilised over and above the permissible FSI as per column 7 of table 12, on remainder plot. "

Vide notification under No. TPB - 4319 / CR 25?2019/UD -11 dated 7<sup>th</sup> March 2019 it is proposed to modify this provision as below.

"Provided further that FSI equivalent to TDR as per Table 12 A of Regulation 32, in lieu of road widening or roads proposed under D.P. or MMC Act, 1888 as per regulation 16 may be allowed to be utilised on remainder plot within admissible TDR limit."

It is persistently represented by us that for handing over the land for amenity , reservation, road widening or proposed roads as per DP or other provisions of DCPR 2034 or provisions of MMC Act, the plot owner shall get additional FSI over and above the normal FSI a equivalent area plot owner having no such liability would be entitled, for incentivising and stimulating the plot owners to come forward willingly to hand over such land to MCGM for proposed amenity / reservation / widening of roads/ DP roads etc. In such case, the plot owners would be happy to hand over such land and the roads or widening of roads and also the reservation amenities would get developed at earliest resulting in benefit to general public at large.

Hence, we request to delete the proposed modification to regulation 30(A)(3)(a) as per notification dated 7<sup>th</sup> March 2019 & proposed modification to regulation 30(a)(3) (b) as per notification dated 13/11/2018 and the respective provisions in sanctioned DCPR 2034 shall be continued.

## **4. Non-applicability of requirement of Amenity Open Space as per regulation 14(A) to proposals on mill land :-**

As per the transitional circulars formulated by MCGM under the provisions of regulation 9(6), the regulatory provisions of Reg 14 A i.e. provision of amenity Open Space (AOS) would be applicable for the balance potential for all ongoing proposal (on lands in Residential and commercial Zones).

The proposal pertaining to further development of the balance potential arising under DCPR 2034 in a layout of Cotton Textile Mill Lands permitted under Reg. 58 of DCR 1991 are also required to be dealt as per DCPR 9 (6) (b).

The provisions of clause 10 of regulation 35 in DCPR 2034 pertaining to Mill land development is as reproduced below. (Earlier Regulation 58(10) of DCR 1991)

*Notwithstanding anything stated or omitted to be stated in these Regulations, the development or redevelopment of all lands in Gr. Mumbai owned or held by all cotton textile mills, irrespective of the operational or other status of the said mills or of the land use zoning relating to the said lands or of the actual use for the time being of the said lands or of any other factor, circumstance or consideration whatsoever shall be regulated by the provisions of this regulation and not under any other Regulation except TDR and Fungible Compensatory FSI.*

As per clear provision as above, the regulation 14(A) of DCPR 2034 is not applicable to Mill land development. It is to mention that in view of the provision contained in regulation 58(10) of DCR 1991 as stated in para 1 above, the amenity requirement under earlier regulation 56 and 57 of DCR 1991 for allowing users permissible in Residential and Commercial zones in the Industrial zone was not applicable. Considering the merits in our representation, MCGM has sought the clarification from UD department in this respect. We request to issue the clarification at earliest.

**5. Open space requirement for building with Artificial Light and Mechanical Ventilation: -**

A few ongoing projects have opted for conversion from DCR 1991 to DCPR 2034 by exercising their option to convert fully under the new Regulations (DCPR 2034) as per provisions of regulation 9(6) of DCPR 2034.

The buildings are constructed as per approved plan under DCR 1991 with Artificial Lighting & Mechanical Ventilation provided in these centrally air-conditioned building. The open spaces provided at the ground level are adequate for movement of Fire Fighting Vehicles and were considered adequate without insisting prescribed open spaces for natural light and ventilation in earlier approvals.

Upon conversion of these approved Plans under DCPR 2034 although there is no additional construction and Façade line remaining same, the projects are now being asked to provide Open Space as per regulation 41 of DCPR 2034 for natural light and ventilation. In fact, separate provision under regulation 40(2) of DCPR 2034 allows to provide Artificial Lighting & Mechanical Ventilation in accordance with the provision of part VIII, building service section I, Lighting of Ventilation, National Building Code where Lighting and Ventilation requirements are not met through day lighting and natural ventilation.

Considering this provision, Open space requirement of such buildings should be considered at par with that for dead wall as per DCPR 41, i.e. required open space of 9 m. for height of building more than 70m. The two regulations Nos. 40 and 41 are inter-operable and if artificial lighting and mechanical ventilation are provided then the Open Spaces should be required to be provided for fire-fighting only.

The Technical Expert Committee (TEC) of the MCGM has examined this matter and a request for clarification, regarding provision of open space requirement when artificial light and mechanical ventilation is provided, from the MCGM has been sent to your office on 28.02.2020. We request for issuing the necessary clarification at the earliest.

**6. Societies that have been demolished between year 2016 & Nov 2018 they are not getting benefits u/s 33(7)(B) available to the building demolished post Nov 2016.****Recommendation:**

We suggest that the date of the first commencement certificate should be considered for benefit. For e.g if CC is granted on 15<sup>th</sup> Feb 2020, than from date of first CC the building should be 30 years old to be eligible for benefit u/s 33(7)(b).

Policy for redevelopment of societies should be at par with the policy for MHADA

**7. The second Staircase to be free of FSI without charging Premium as per Reg. 48(5)(A)(E).****8. Urban Land Ceiling – One-time settlement to be made realty**

- One-time premium payment to be charged without insisting on penalty for extension / Progress report of ULC NOC since the Repeal Act.
- Interest free deferment payment facility to be introduced for one time ULC premium payment spread over 3 to 5 years.
- 15% premium to be calculated on surplus vacant land and not on total land
- Allow partial development while charging the ULC premium on a pro-rata basis

**Sir, we request your appointment for Virtual meeting for discussing above mentioned issues as per your convenience in near future**

**Thanking you**

**Yours Sincerely,**

**For CREDAI-MCHI**



**Nayan A. Shah**  
President



**Bandish Ajmera**  
Hon. Secretary