

PRESIDENT

Nayan A. Shah

IMMEDIATE PAST PRESIDENT

Mayur Shah

VICE PRESIDENTS

Deepak Goradia

Boman Irani

Harish Patel

Nainesh Shah

Domnic Romell

ADDL. VICE PRESIDENT

Sukhraj Nahar

HON. SECRETARY

Bandish Ajmera

TREASURER

Mukesh Patel

SPECIAL PROJECTS

Parag Munot

Sandeep Raheja

Jayesh Shah

Sanjay Chhabria

Rasesh Kanakia

HON. JOINT SECRETARIES

Navin Makhija

Sandeep Runwal

Shailesh G. Puranik

Dhaval Ajmera

Pratik Patel

JOINT TREASURER

Nayan Bheda

Munish Doshi

CO-ORDINATORS

Sandeep Shah

Tejas Vyas

Shailesh Sanghvi

Pritam Chivukula

COMMITTEE MEMBERS

Jagdish Ahuja

Jitendra Jain

Deepak Gundecha

INVITEE MEMBERS

Praful Shah

Rajesh Prajapati

Sachin Mirani

Nikunj Sanghavi

Rajeev Jain

Shyamal Mody

Digant Parekh

Rushank Shah

Samyag Shah

Jayesh C. Shah

Sunny Bijlani

Sahil Parikh

Naman Shah

Suhail Khandwani

Ricardo Romell

PAST PRESIDENTS

Dharmesh Jain

Vyomesh Shah

Paras Gundecha

Pravin Doshi

Mohan Deshmukh

Mofatraj Munot

Rajnikant Ajmera

Late G. L. Raheja

Late Lalit Gandhi

Late Babubhai Majethia

CREDAI-MCHI UNITS

PRESIDENT, THANE

Ajay Ashar

PRESIDENT, KALYAN-DOMBIVLI

Ravi Patil

PRESIDENT, MIRA VIRAR CITY

Ashit Shah

PRESIDENT, RAIGAD

Ateeque Khot

PRESIDENT, NAVI MUMBAI

Prakash Baviskar

Ref. No. MCHI/PRES/19-20/015

August 19, 2019

To,

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

Principal Secretary - I

Urban Development Department

Government of Maharashtra

Mantralaya, Mumbai - 400 032.

Sub: Clarification under Clause 4(3) of DCPR 2034 regarding Open Space requirement for buildings as per Clause 41 read with Clause 40 of DCPR 2034 considering Artificial /Mechanical Light and Ventilation for the building

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 2034 u/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 DCPR 2034, Clause 41 deals with the open space requirements of a building deriving light and ventilation from side or rear. Further, Clause 40 deals with the provision of Artificial Lighting & Mechanical Ventilation. The said provisions are similar to the provisions of Regulation 29 and Regulation 42 respectively of DCR 1991.

The table "A" in Clause 41 of DCPR 2034 specifies the side and rear open space requirements for deriving light & Ventilation based on height of building. In most of the cases these open-spaces cannot met with while planning of the building considering the various issues such as odd shaped plots, height restriction, rehabilitation of existing tenants, full consumption of FSI from feasibility point of view, etc. In view of the powers vested with Municipal Commissioner under Clause 6 (b) of DCPR 2034, these requirements are relaxed by charging open space deficiency premiums.

However, as per Clause 40 (2), 'where Light & ventilation requirements are not met through day-lighting & natural ventilation, they shall be ensured through artificial lighting & ventilation in accordance with the provisions of Part VIII of Building Services section I, Lighting & Ventilation, National Building Code.'

Considering the above provisions of DCPR 2034, if any fully Air conditioned building is Artificially Lighted & mechanically ventilated in accordance with the provisions of Part VIII of Building Services section I, Lighting & Ventilation, NBC, then it shall be considered not to be dependent for light & ventilation on open space around building and the open spaces needs to be provided as per requirement of dead wall and requirement of Fire Engine movement in accordance with clause 47 & other services.

It may be pointed out that, such provision of permitting buildings with Artificial Light and Mechanical ventilation was there in DCR 1991 under Clause 42(3). The same provision of 42(3) of DCR 1991 is now continued under Clause 40(2) of

DCPR 2034. In fact, based on the said provisions, number of Air Conditioned buildings proposed with Artificial Light & mechanical Ventilation were approved by MCGM during 1991 to 2012 without insisting upon Open space requirement for Natural Light & Ventilation as per the then Regulation 29 of DCR 1991 but with minimum open space as per dead wall or Fire Engine requirements. The said practice was stopped after 2012 and with a view to increase the revenue, MCGM started recovering open space deficiency premium in such proposals without issuing any circular in that regard. Though the Light & Ventilation of a building is proposed to be improved artificially as per the provisions of Part VIII of Building Services section I, Lighting & Ventilation, NBC, the MCGM recovers open space deficiency premium as in the case of building not providing open spaces for Natural Light & Ventilation required as per Clause 41 of DCPR 2034, which is against the provision of Clause 40(2) DCPR 2034.

As you are aware that the real Estate industry is passing through very arduous times and the requests to reduce various development related premiums and charges have been made by the stake holders to Government. Number of meetings are also held by the Government with representatives of NAREDCO, MCHI and PEATA to reduce various premiums/charges and provide a much needed impetus to revive the sector. It would be unfair to recover such premiums which are not in accordance with the spirit of the regulation, especially when the Government is keen to revive the Real Estate sector and give relief in various premiums / charges.

Considering the above facts we request you to give necessary direction to MCGM that if any fully Air conditioned building is Artificially Lighted & mechanically ventilated in accordance with the provisions of Part VIII of Building Services section I, Lighting & Ventilation, NBC, then it shall be considered not to be dependent for light & ventilation on open space around building and the open spaces shall be provided as per requirement of dead wall and requirement of Fire Engine movement in accordance with clause 47 & other services, as per the practice that was being followed MCGM from 1991 to 2012.

Thanking You,

Your sincerely,
For CREDAI-MCHI



Nayan A. Shah
President



Bandish Ajmera
Hon. Secretary