

**S. S. Hussain** I.A.S. (Ex)

Chief Executive Officer

Ref. No. MCHI/CEO/15-16/167

To,  
**Shri Ajoy Mehta (I.A.S.)**  
Hon'ble Municipal Commissioner,  
Municipal Commissioner of Greater Mumbai  
Mumbai - 400 001.



December 09, 2015

**Sub: Grant of Development Permissions by MCGM to the lands that are located in the vicinity of the Malad COD at Malad (East) and Defense Colony at Kandivali (East).**

Dear

1. A few members of MCHI would like to meet you personally to discuss the above issue.
2. Currently out of 43 proposals, 8 proposals are awaiting Occupation Certificate; none of them have a condition that NOC of Defence Authority need to be obtained.
3. A detail note in this regards is enclosed herewith.

**OUR REQUEST**

1. In this regard, I will request, on behalf of MCHI-CREDAI, that grant of Occupation Certificate could be considered to those proposals/projects, which have been granted approvals already, without any condition of NOC from Defence Authority. And they need to be given Occupation Certificate urgently.
2. A detailed letter has already been submitted to Government and you may also please consider getting a legal opinion, if you so desire and consider it appropriate, from a Senior Counsel as to whether in view of its past legal history, COD Malad Kandivali can they insist on their NOC for development and whether the circular dated 18/05/2011, 18/03/2015 and 17/11/2015 can be made applicable to the development of the lands around COD Malad Kandivali and whether BMC can approve plans for development around COD Malad Kandivali without insisting NOC from the Defence Authority.

Kindly grant us a time for meeting.

Thanking you,  
For MCHI-CREDAI

(S. S. Hussain)

Encl : Detailed note.

### IMPORTANT DATES AND EVENTS

Sr.	Date	Details
1.	Year 1942-2011	<p>1. Thousands of building have come up (this data has been completed after actually referring to the "plan registers" that are there in the B. P. Office) where in the COD authorities have not taken any objection and they have allowed these developments to come some of this developments are touching the COD Kandivali and COD Malad and the height of the buildings are 120 mtrs.</p> <p>2. COD authorities handed over part of the land at COD Kandivali to a Private Developer and this could have been possible only if the opinion was that the issue is not sensitive.</p> <p>3. Total IOD, CC, OC and BCC issued in P &amp; R ward in the year 1990 -2011 are as follows :</p> <p style="margin-left: 20px;">IOD - 329 CC - 278 OC - 217 BCC - 41</p>
2.	07.09.2001	Collector Public notice reg. Prohibited Zone around COD of Village Malad. u/no. AK/MGA/Notice/1/2001 under works of defence Act.1903
3.	19/11/2003	<p>Order passed by Shri. S. S. Zende, Collector, Mumbai Suburban District as constitutional authority as under Works of Defence Act, 1903.</p> <p>1. The office Public Notice bearing No. A1/MAG/Notice/1/2001 dated 7/9/2001 hereby declared as null and void. Hence the above Notification is withdrawn and cancelled with immediate effect.</p> <p>2. All restrictions imposed the above Notification are hereby withdrawn and vacated.</p>
4.	10/03/2011	Opinion given by Late K.K.Singhvi stating that the Letter bearing No. CRZ-2010/2634/Case No.42/10/ (Sec-2) New-12 dated 4 <sup>th</sup> November, 2010 address by Shri. G.M. Vajpayee, Section Officer, Town Development Department, Government of Maharashtra to The Municipal Commissioner is illegal
5.	10/08/2011	<p>Order of Justice Deshmukh and Justice Ketkar of Mumbai High Court</p> <p>The gist of the order are as follows;</p>

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		<p>1. Without Notification of Works of Defence Act 1903, defence can not restrict development.</p> <p>2. They were directed that if they want to restrict the development they should come out with a notification within four weeks and complete the hearing thereafter within 3 months.</p> <p>They have not taken any steps</p>
6.	30/09/2013	Review Petition dated bearing no.17 of 2014 filed by Union of India (Petitioner) V/s. Lok Holding and Constructions Limited. This petition filed against the order dated 10/08/2011.
7.	18/03/2014	<p>Order of Justice S.J. Vazifdar Justice Ketkar of Mumbai High Court</p> <p>Para 4 of the said order <i>"In view of the above, the rights of the review petitioner, if any, to raise any contentions are not affected by the order sought to be reviewed in any manner whatsoever"</i></p>
8.	10/04/2014	Letter bearing No. Dy CHE/BP/374/WS addressed by Deputy Chief Engineer (B.P.) W.S.-II to The Staff Officer (Land & Legal) HQ, Mumbai Sub Area (Station Cell) for asking plans, boundaries etc. on the subject of Redevelopment of old dilapidated building in the vicinity of the Defence Establishment, Central Ordinance Depot, Malad and Kandivali and demarcation of COD boundary. They have not yet replied.
9.	14/08/2014	Letter addressed by Dy. Ch. E. (B.P) W.S. -II, MCGM to The Defence Secretary, Ministry of Defence requesting to instruct to COD authorities to forward the plan to this office making the area in and around the periphery of COD Malad & Kandivali affected by the provision of Govt. notification CRZ/2010/2634/CN421/10/ (Part-2) U.D.12dated 04.11.2010 by Urban Development Department, Govt. of Maharashtra imposing restriction on Development activity. However no reply received.
10.	05/05/2015	Letter u/no. TPS-1215/1093/CR-40/15 addressed by The Hon'ble Chief Minister, Government of Maharashtra Shri Devendra Fadanvis to Shri. Manohar Parrikar, Hon'ble Minister of Defense, Government of India on the Subject of "Request for Modification in the policy regarding issuance of permission in the vicinity of Defense Establishment"
11.	13/05/2015	Letter u/no. TPS-1215/1093/CR-40/15 addressed by The Hon'ble Chief Minister, Government of Maharashtra Shri Devendra Fadanvis to Shri. Manohar Parrikar, Hon'ble Minister of Defense, Government of India on the Subject of "Request for Modification in the Policy regarding issuance of permission in

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		the vicinity of Defense Establishment" (Alongwith draft)
12.	01/07/2015	Internal Note bearing No. CHE/17638/DP/Gen of addressed by E.E.(D.P.) City on subject of Guidelines for controlling the development within the restricted around Defence Establishment also stating that In absence if details of defence establishments such as their location and category of defence etc. it is not possible to identify the properties failing within the restricted zone around such establishments. Also it is necessary to mark such restricted zone in the Development Plan so that the development can be restricted in such zone. However till date no reply is received.
13.	11/09/2015	<p>D.O. letter addressed by Shri. Ajoy Mehta, Municipal Commissioner, MCGM to The Defence Secretary, Ministry of Defence.</p> <ol style="list-style-type: none"> <li>1. Repeated request by MCGM, the office of the Malad and Kandivali has not yet sent any copy of the notification, Plans, boundaries, demarcation of the restricted. In view of this, the MCGM is now obliged to permit developments to be completed as per the plans approved, without requiring NOC from the Defence Authorities.</li> <li>2. Requesting to furnish information to MCGM or otherwise, the MCGM as a Planning Authority will process the granting of development permissions for building construction within the vicinity of Defence Establishment as per the prevailing Mumbai Municipal Corporation Act .1888, Maharashtra Regional &amp; Town Planning Act 1966 and the Development Control Regulations for Greater Mumbai, 1991, as amended without requiring NOC from the defence authorities.</li> </ol>
14.	17/11/2015	Circular bearing No. F.11026/2/2011/D(Land) issued by Shri. Surya Prakash, Director (L&C), Government of India, Ministry of Defence to (1) The Chief of Army Staff (2) The Chief of Air Staff and (3) The Chief of Naval Staff stating that <i>"Wherever buildings / structures of four storeys or more already exist within 500 metres of the periphery of any Defence establishment and the construction proposed is in line with or behind i.e. in the shadow or shield of such building/structure, the State Government / Municipal Corporation may, after obtaining comments from the LMA and giving due consideration to the same, decide whether to approve such proposals or not. LMA shall give his comments within a period of 30 days from the date of receipt of a reference from the State Government / Municipal Corporation. This order will be implemented prospectively.</i>

<b>Sr.</b>	<b>Date</b>	<b>Details</b>
15.	30/11/2015	Reply to letter dated 5 <sup>th</sup> May, 2015 addressed by Shri. Manohar Parrikar, Hon'ble Minister of Defense, Government of India to The Hon'ble Chief Minister, Government of Maharashtra Shri.Devendra Fadanvis