

Ref. No. MCHI/PRES/19-20/532

June 25, 2020

To,

- 1) Hon'ble Minister Shri. Eknath Shinde
Urban Development
Government of Maharashtra
Mantralaya, Mumbai
- 2) Shri Sanjay Kumar (I.A.S.)
Add. Chief Secretary (Housing)
Government of Maharashtra
Mantralaya, Mumbai
- 3) Shri Praveen Pardeshi (I.A.S.)
Additional Chief Secretary
Urban Development Department
Government of Maharashtra
Mantralaya, Mumbai 400020.
- 4) Shri Satish Lokhande (I.A.S.)
Chief Executive Officer
Slum Rehabilitation Authority
Mumbai

Sub: Construction of PAP Houses on Private Land by Private Developers for rehabilitation of slum dwellers affected by Projects of Vital Public importance.

Ref: DCPR 2034 - DC Regulation 33(10) Sub Regulation 3.11

Respected Sir,

Reference is requested to the above. In this regard, it is submitted as under :-

- 1) To encourage private land owners to provide their land and construct thereon permanent houses for Project Affected People (PAP), under the DC Regulation 1991, Regulation 33(10) sub regulation 3.11 allows private land owners to construct PAP housing on private land in lieu of TDR to be granted by MCGM. As per DC Regulation 1991, regulation 33(10) Sub Regulation 3.11, TDR equal to 100% i.e. one time of the land area is granted to the land owner and further TDR equal to 1.33 times the construction area is granted to the landowner for carrying out construction of the PAP tenements.
- 2) As per the DCPR 2034, Regulation 33(10) Sub Regulation 3.11 the scheme to allow private land owners to provide private land and construct thereon PAP housing has been continued subject to however that TDR as per Regulation 32(1) Sr.No.8 of Table 12(a) for the area of the land spared for this purpose is proposed to be granted to the owner and the TDR in lieu of cost of construction of tenement is proposed to be granted as per sub regulation 4.2 of Regulation 32(A). For the purpose of this regulation, the BUA shall be as per Clause 3.2 of this

3.11 Notwithstanding anything contained in this regulation, rehabilitation project of a slum located on land belonging to public authority and needed for a vital public purpose and where eligible slum dwellers which cannot be accommodated in the in-situ SRS of land under non-buildable reservations, is taken up on an unencumbered plot, TDR as per regulation sanctioned to the owner of the said unencumbered plot and the TDR in lieu of cost of construction of BUA as per sub regulation 4.2 of regulation 32(A) shall be permissible. For the purpose of this Regulation, the BUA shall be as per clause 3.2 of this Regulation.

- 3) As per Regulation 32(1) Sr.No.8 of Table 12(a), in case of land situated in the Island city, TDR is to be granted equal to 2.5 times the area of land surrendered whereas for the Mumbai Suburban/extended suburban area TDR equal to 2.0 times the area of land surrendered is to be granted. However, under DCR 33(10) 3.11 of DCR 1991, TDR equal to only one time of the plot area is permitted.
- 4) As per Sub-Regulation 4.2 of Regulation 32(A), a developer shall be entitled for built up area in lieu of construction of built up amenity as per the formula linked to cost of construction / rate of developed land per sq.mtrs x built up area of constructed built up amenity handed over under accommodation reservation. The Sub-Regulation 4.2 of Regulation 32(A) reads as under:

4.2 Transferable Development Rights (TDR) against Construction of Amenity-

When an owner or lessee with prior approval of Municipal Commissioner, develops or constructs the amenity on the plot to be surrendered at his own cost subject to such stipulations as may be prescribed and to the satisfaction of the Municipal Commissioner and hands over the said developed/ constructed amenity along with amenity plot free of cost to the Municipal Commissioner then in addition to land TDR he may be granted a Transferable Development Rights (TDR) against construction of such amenity as per the following formula:-

$$\text{Construction Amenity TDR in sq.m.} = A/B * 1.50 * \text{BUA}$$

Where,

A= cost of construction of amenity in rupees as per the rates of construction mentioned in Annual Statement of Rates (ASR) prepared by the Inspector General of Registration for the year in which construction of amenity is commenced.

B = land rate per sq.m. as per the Annual Statement of Rates (ASR) prepared by the Inspector General of Registration for the year in which construction of amenity is commenced.

BUA = Builtup area of constructed/developed amenity

Provided that in case Slum Redevelopment Scheme under clause 3.11 of Regulation 33(10) the Construction Amenity TDR shall be increased by 1.35 times the TDR generated as per above formula.

- 5) Reference is also requested to the Regulation 33(10) sub regulation 11.2 which deals with schemes approved prior to coming into force of these regulations. As per the said exception the slum rehab schemes where LOI has been issued by SRA prior to the date of coming into force of the Draft DCPR 2034 and which is valid may continue to be governed by regulation applicable prior to these regulations. In this regard, ongoing schemes undertaken as per DCR 1991, Regulation 33(10) sub regulation 3.11 are also covered.
- 6) However, reference is requested to the regulation 32 sub regulation 8 which deals with TDR generated prior to the draft DCPR 2034 coming into force. As per the said regulation, the provision of generation of TDR shall not be applicable where DRC has been issued prior to the publication of these regulations. However, the regulation 32 sub regulation 8, inter alia also reads as follows:

“Notwithstanding anything contained in these Regulation, at the option of owner/developer the TDR to be generated in the ongoing schemes as per Regulation 33(10) & 33(14) of DCR 1991 where CC is already issued which is valid & work is in progress accordingly, then in such cases the TDR generation & utilisation shall be allowed as per DCR 1991. Provided that the utilisation of such TDR as per then Regulation shall be allowed within period of 1 year from the date of issue of such DRC without indexation and balance quantum after one year shall be reworked as per DCPR 2034 for generation and indexed for utilisation”.

- 7) The said provision however, seems to be contradictory to Sub-Regulation 11.2 of DCPR 33(10) and does not seem to deal with ongoing schemes undertaken as per DCR 1991 Regulation 33(10) sub regulation 3.11 where further TDR is expected to be generated as the scheme progresses. It is submitted that a specific provision ought to be made in the said regulation allowing generation of TDR in the already approved/ongoing scheme under the Regulation 33(10) sub regulation 3.11 of DC Regulation 1991 as per the existing formula of 1 sq.ft construction : 1.33 sq.ft. TDR. . Further, the said TDR generated should be utilizable as per indexation formula contained in Regulation 32 of the DCPR-2034. In view thereof the following provision is required to be added in Regulation 33(10) sub regulation 11.2 (pg.233)

3) *“Notwithstanding anything contained in these regulations, the schemes undertaken in accordance with DC Regulation 33(10) sub regulation 3.11 of DCR 1991 where IOA/CC has been issued by the SRA prior to the date of coming into force of these regulations will continue to be governed by the Regulation applicable prior to these regulations i.e. DCR 1991 including with regards to the ratio of TDR granted against the construction area and ratio of utilization thereof on receiving plots, provided further, that the TDR generated from such schemes shall be linked to the ASR of generating plots in generating year and save and except regulation 32(5) of these regulations no other provisions of these regulations shall apply in respect of TDR generated from such projects”.*

It is submitted that this is necessary as the landowner in respect of existing projects has only been granted land TDR equal to 1 time of the land area and not 2/2.5 of land area as now permitted. Moreover, the present formula for grant of construction TDR will make the existing ongoing projects unviable. You are therefore, requested to recommend to the UDD to amend the DCPR 2034 to ensure that the ongoing schemes do not come to a standstill.

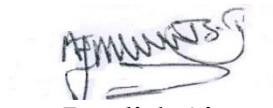
Thanking you

Yours Sincerely,

For CREDAI-MCHI



Nayan A. Shah
President



Bandish Ajmera
Hon. Secretary