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To,

Shri Bhushan Gagarani (I.A.S.)

Additional Chief secretary UD [1] Dept.

Government of Maharashtra

Mantralaya, Mumbai - 400032

Sub: Removal and re-accommodation of tolerated/ protected structures falling in alignment of roads under Regulation 33(12)(B) of DCPR 2034.

Respected Sir,

In the overall jurisdiction of Greater Mumbai, many proposed DP Roads, new road lines or widening of existing roads could not be fully developed due to various existing structures falling in alignment of roads creating bottlenecks and hampering the vehicular and pedestrian traffic.

For expeditions removal of such bottlenecks, a special provision is made under Regulation 33(12)(B) of DCPR 2034 for Greater Mumbai for removal and re-accommodation of tolerated/protected structures falling in the alignment of road. The provisions are as reproduced below;

DCPR 33(12)(B)

"In a scheme where removal of tolerated/protected structures falling in the alignment of existing road or widening of existing road for which road line has been prescribed or DP Road and re-accommodation of these tolerated/protected structures in the same administrative ward has been proposed for the expeditious removal of bottlenecks, the FSI may be allowed to be exceeded above the permissible FSI as mentioned below subject to following condition:"

In this respect tolerated structures are defined in this Regulation as;

DCPR 33(12)(B)(a)

"a) The tolerated residential structures shall be existing since prior to 17.04.1964 and non-residential structure shall be existing since prior to 01.04.1962 falling in the alignment of existing road or widening of existing road for which road line has been prescribed or DP Road."

As regards protected structure, sub clause (o) of this Regulation provides as under.

DCPR 33(12)(B)(o)

"The protected structures falling in the alignment of Road/DP road as notified by government from time to time and as certified by competent authority shall also be eligible for the rehabilitation as per this regulation subject to condition that rehabilitation area shall be 27.88 sq.m in case of residential/residential cum commercial occupants and in case of commercial occupants, existing area or 20.90 sq.m, whichever is less".

As per this Scheme, developer needs to rehabilitate the occupants of such tolerated / protected structure with carpet area as provided in this Regulation for which developer will be eligible for incentive BUA to the extent of 50% of BUA required for rehabilitation.

Maharashtra Chamber of Housing Industry

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CREDAI-MCHI CHAPTERS : THANE | KALYAN-DOMBIVLI | MIRA BHAYANDAR | RAIGAD | NAVI MUMBAI |
BHIWANDI | PALGHAR BOISAR | SHAHAPUR-MURBAD | URAN-DRONAGIRI |
VASAI VIRAR | ALIBAG | KARJAT-KHALAPUR-KHOPOLI | YOUTH NMR

As regards the status of these structures falling in the road alignment, these are well identified structures, either tolerated i.e. existing prior to specific datum line or protected structures i.e. notified and certified by competent authority.

The present occupancy of such structures is transferable legally by following due process of law, any time before it's removal for rehabilitation in this Scheme or under any other scheme.

Further, it is felt that considering the provision of Regulation 33(12)(B) of DCPR 2034; after rehabilitation of occupants of such structure/s by developer in ongoing development/redevelopment scheme/s by obtaining requisite permissions, there is no bar or restriction or any timeframe in the Regulation for transferring the rehabilitation premises by rehabilitated occupants to any third person.

The main purpose of this Regulation is to develop the DP Roads or Road widening by removal of existing authorised/tolerated/protected structures in the alignment through private developers without acquisition of land avoiding financial burden to the BMC. Hence this is the option made available through DCPR provisions for acquiring land for DP Road and Road widening.

On re-accommodating the said occupants in new building by clearing the existing structures and taking over of possession by the BMC, it is not the concern of BMC about the further transfer/sale/transaction of the allotted tenement to any third person.

Hence, the occupancy / ownership of such structures can be transferred by the occupants prior to or after rehabilitation/allotment as well as post rehabilitation/possession of tenement under Regulation 33(12)(B) of DCPR 2034.

In absence of any specific provision of DCPR 2034 in this Regulation of 33(12) like other Regulations such as 33(10), 33(7) etc., it is clear that the said restriction is irrelevant in this Regulation due to reasons as mentioned above. However, BMC is not taking any decision on the issue. We are very clear that the said restrictions are irrelevant in the Regulation 33(12)(B) of DCPR 2034.

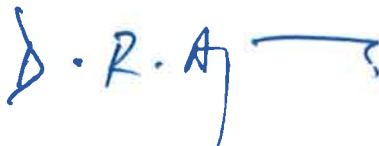
Hence, the Urban Development Department is requested to please confirm this interpretation/understanding of the prevailing provisions of Regulation 33(12)(B) of DCPR 2034 and direct BMC accordingly please.

Thanking you,

Yours sincerely,
For **CREDAI-MCHI**



Dominic Romell
President



Dhaval Ajmera
Hon. Secretary