

Ref. No. MCHI/PRES/23-25/089  
Date: 12/7/2023

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Naman Shah

**PROCUREMENT CONVENOR**  
Nimish Ajmera

**WOMEN'S WING CHAIRPERSON**  
Sejal Goradia

✓ To,

The Regional Executive Director (Mumbai region)  
7<sup>th</sup> floor, Airports Authority Of India,  
Sahar Road,  
Mumbai 400099.

✓ Mr. Gopakumar R.S.,  
GM (A.T.M.), Western Region  
Airports authority of India,  
Mumbai 400 099.



Sub: Request to issue clarification to MIAL to issue final NOC for height of the structure constructed at site at the time of issue of building completion, when the building is constructed well within the permissible Elevation height issued by the aviation authority to the structure.

Dear Sir,

1. Height clearances are assessed and duly issued under the notifications issued by the Ministry of Civil Aviation published the Ministry of Civil Aviation (Height Restrictions for Safeguarding of Aircraft Operations) Rules. Once such height clearance is issued, then the project proponent obtains building approvals and starts construction of structure thereafter. In the event where constructions of the structure are started within the validity period of the NOC issued as above, for multiple reasons the structure cannot be completed within the validity period mentioned in the NOC issued by AAI. However once permission from local authority is issued and project has been registered with RERA and construction has commenced, then third-party rights gets created by way of sale of flats in that project. Once the structure is completed, then an application is made to local airport operator (MIAL in case of MUMBAI) to measure the final height as constructed and certify that the same is within the height as prescribed by NOC. However it is noticed that at the time when structure is completed, and when MIAL is called for certifying the height of the structure as constructed, MIAL insists that NOC has to be valid as on date of the measurement of the final height as constructed. And if the validity period of NOC has expired then MIAL insists that NOC as valid on the date of final measurement has to be produced. This requires for reassessment of the height by AAI, even though the structure is already constructed within the permissible limits as prescribed by NOC issued.

**Maharashtra Chamber of Housing Industry**

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CREDAI-MCHI CHAPTERS : THANE | KALYAN-DOMBIVLI | MIRA BHAYANDAR | RAIGAD | NAVI MUMBAI |  
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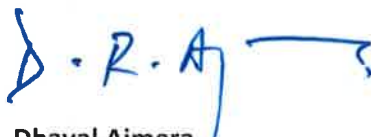
2. We state that once NOC is issued, it is always intimated to local airport operator to incorporate the hindrance as per the NOC in their operations and this hindrance is nearly permanent in case of construction of buildings for residential/commercial etc use. **NOC is issued for construction of structure which will stand for decades.** It is also to be stated that the building in question has been granted a maximum permissible top elevation, after keeping in mind all the requirements of aviation safety and Rules as amended from time to time. This would include all safety parameters from an aviation standpoint. Once the NOC is granted to a structure, for the future construction/ erection of a specified height, which is going to remain there for decades, it would stand to reason that the operations of the Aviation authorities would contemplate the existence of the subject structure of the permissible height in the project thereafter. The granting of height clearance for a structure that is going to remain at that location for decades, could not have been done on the basis that height can be revised after 12 years and if the revised height is lower than what was permitted earlier then the structure already constructed could be demolished. Once work on the structure, for which NOC is granted, has Commencement Certificate and commenced construction under valid statutory permissions including aviation NOC, then the revalidation of such NOC should not be required at all, irrespective of the time required to complete the structure or in alternate it has to be automatic up to the height for which such NOC was granted. The obstacle of such a structure in all the safety requirements of airport operation has already been examined and accepted and hence airport operations would always will be designed and developed, considering the height for which such NOC was granted.
3. Hon'ble Bombay High Court by its judgements Velsons Developers & ors Vs Vasai Virar City Municipal Corporation in Writ petition No.2825 of 2022 decided on 24<sup>th</sup> March 2023 and in case of "Ekta Parkville Homes Pvt Ltd Vs State of Maharashtra and ors (writ petition No. 7292 of 2023) decided on 28<sup>th</sup> June 2023 has held that once consent to establish and operate is issued during the validity of the environmental clearance already granted, is not required to be extended or revalidated. The issue is once the environmental clearance is granted and project has commenced within its validity, then validity of environment clearance is not required to be extended at the time of issue of completion certificate.
4. The issue of insisting of the asking the NOC already issued for height clearance of a structure to be extended at the time of building completion is similar to above and we therefore request that:-
5. **Directions to be issued to MIAL, to issue final NOC for height of the structure constructed at site at the time of issue of building completion, when the construction of the structure has commenced well within the validity of the NOC for height issued and the structure is constructed within the permissible Elevation height issued by the aviation authority and not to insist on the obtaining the extension of the validity of the NOC issued earlier**

Thank you and looking forward to hearing from you. We look forward to a favourable response.

Yours sincerely,  
For CREDAI-MCHI



**Domnic Romell**  
President



**Dhaval Ajmera**  
Hon. Secretary

**PS: Contact Person Mr. Sanjay Phope - +91 9619345193**