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25/06/24

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Date: 25/6/2024

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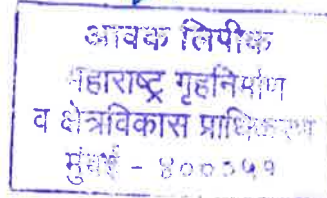
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WOMEN'S WING CHAIRPERSON
Sejal Goradia

To,
Shri Sanjeev Jaiswal (I.A.S.),
Vice President & CEO,
MHADA,
Bandra East, Mumbai - 400051.



Subject: Representation on MHADA's new methodology to compute Rehab Fungible Compensatory Area.

Respected Sir,

MHADA has recently adopted an interpretation of regulations concerning the computation of the Rehab Fungible Compensatory Area that deviates from the established DCPR provisions.

The concern is briefly outlined as follows:

As per DCPR provisions	As per MHADA adopted methodology
Existing BUA + 35% on Carpet (as per DCPR) = Carpet Area Entitlement (Rehab) + Fungible (35% of existing area) <u>(Fungible Compensatory Area)</u> Carpet Area of Rehab	Existing BUA + 35% on Carpet (as per DCPR) = Carpet Area Entitlement (Rehab) + Fungible (35% of Carpet Area Entitlement) <u>(Fungible Compensatory Area)</u> Carpet Area of Rehab

The pertinent DCPR provisions explicitly state that the calculation of the Fungible Compensatory Area should be based on the existing Built-Up Area (BUA). However, MHADA's newly adopted methodology appears to differ significantly.

This misinterpretation could potentially have adverse effects on Society as the development of MIG/HIG tenements under the provisions of 33(5) are expected to be significantly affected. **Additionally, numerous ongoing projects may face the risk of stalling due to the detrimental impact on project viability.**

We are providing a detailed representation outlining our concerns regarding this matter.

We respectfully request for a meeting with your good self and your team to discuss our concerns in detail. We are available for any further discussion or clarification required on this matter.

We request your urgent attention in this matter and appointment for a meeting at your earliest convenience.

Thanking you,

Yours sincerely,
For CREDAI-MCHI

Domnic Romell
President

Dhaval Ajmera
Hon. Secretary

Encl.: Detailed Representation

Maharashtra Chamber of Housing Industry

Maker Bhavan II, 4th Floor, 18, V. Thackersey Marg, New Marine Lines, Mumbai - 400 020.
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Rehab Fungible Compensatory Area

35% on Existing BUA or 35% on Carpet Area Entitlement?

Tabular Illustration:

Sr. No.	Particulars	As per DCPR	MHADA's new methodology
1	Existing residential tenement/Existing BUA	51.53	51.53
2	35% of entitlement as per 33(5)	18.03	18.03
3	Carpet Area Entitlement (Rehab)	69.56	69.56
4	Fungible FSI / Fungible Compensatory Area	18.03	24.35
5	Carpet Area of Rehab (3 + 4)	87.60	93.91
6	Total BUA of Rehab (Carpet x 1.10)	96.36	103.30

For example, for ~ 1,000 sq mtrs. plot area with 40 t/s:

Sr. No.	Particulars	As per DCPR	MHADA's new methodology
1	Plot Area	1000	1000
2	Permissible BUA @ 3.0 FSI	3,000	3,000
3	Pro rata layout FSI + VP Quota	2680 + 1000	2680 + 1000
4	Total permissible BUA (sq. mtrs.)	6,680	6,680
5	FSI for Rehab Entitlement (Carpet x 1.1)	3855	4132
6	Net FSI available	2825	2548

277 sq. mtrs. = ~0.30 FSI

Leading to LOSS of ~ 0.30 FSI

LEGAL INTERPRETATION

Proviso 2.1 (A) - 33 (5)

Under redevelopment of buildings in existing Housing Schemes of MHADA, the entitlement of rehabilitation area for an existing residential tenement shall be:

equal to sum total of a basic entitlement equivalent to the carpet area of the existing tenement plus 35% thereof, subject to a minimum carpet area of 35 sq. m.

Proviso 1 - 31 (3)

Provided that

In case of redevelopment under regulation 33(5), 33(6) & 33(7) (B) of the Regulation the fungible compensatory FSI area admissible on existing BUA shall be granted without charging premium.

Proviso 3 - 31 (3)

Provided further that **such** fungible compensatory area for rehabilitation component shall not be used for free sale component and shall be used to give additional area over and above eligible area to the existing tenants/occupants.

Proviso 3, which is followed by Proviso 1, states that "**such**" fungible compensatory area for the rehabilitation component shall not be used for free sale component and shall be used to give additional area over and above eligible area to the existing tenants/occupants.

With use of term "**such**", it clearly refers to the fungible compensatory FSI area permissible based on the existing BUA (as specified in Proviso 1)

IMPACT



SOCIETY

- Redevelopment under 33(5) may slow down especially plots having MIG & HIG tenants.
- Present Projects may get stalled creating uncertainties for Societies & its members due to loss of FSI.
- Offers to Societies may reduce due to FSI loss to Developers.



MHADA

- Presently, there is heavy reliance on VP Quota
- With MHADA's new approach, there shall be increased pressure on VP quota.
- Wastage of fungible FSI – Loss of revenue



DEVELOPER

- Loss of 0.30 FSI – which has considerable impact on the project.
- Increased costs due to higher area to tenants
- Reduced Revenue due to less Sale area – less revenue impacting project viability.

Our Prayer

to ~~continue~~ computation of Rehab Fungible Compensatory Area as per the way it was being done presently

1

Time being

To **maintain** the current methodology for projects where Offer Letter is issued

2

Relevant legal provisions:

31. Exempted from FSI/to be counted in FSI/Fungible Compensatory Area:

(3) Fungible Compensatory Area:

"Notwithstanding anything contained in the D.C. Regulations 30, 32 & 33, the Commissioner may, by special permission, permit fungible compensatory area, not exceeding 35% for residential/ Industrial/Commercial development, over and above admissible FSI/BUA, by charging a premium at the rate of 60% of ASR (for FSI 1), which is to be shared between MCGM, State Govt. and MSRDC (for Sea Link) in 50%, 30% and 20% respectively.

**Proviso
1**

Provided that in case of redevelopment under regulation 33(7), 33(7)(A), 33(8), 33(9), 33(9)(B), 33(20), and 33(10) excluding clause No.3.11 of the Regulation the fungible compensatory area rehabilitation component shall be granted without charging premium.

In case of redevelopment under regulation 33(5), 33(6) & 33(7)(B) of the Regulation the fungible compensatory FSI area admissible on existing BUA shall be granted without charging premium.

Provided further that for redevelopment proposal of existing buildings by availing TDR/Additional FSI on payment of Premium, the fungible compensatory area admissible on FSI consumed in existing structure building shall be granted without charging premium.

**Proviso
3**

Provided further that such fungible compensatory area for rehabilitation component shall not be used for free sale component and shall be used to give additional area over and above eligible area to the existing tenants/occupants. Fungible compensatory area admissible to one rehabilitation tenement cannot be utilized for another rehabilitation tenement.

Provided that, this Regulation shall be applicable only in respect of the buildings to be constructed or reconstructed.

Provided also that in case of development under Regulation No. 33(15), the fungible compensatory area shall be admissible without charging premium.

Provided that in case of development under Regulation No. 33(2) excluding buildings of private medical institutions under Regulation No. 33(2)(A), the fungible compensatory area shall be admissible on 50 % rebate in premium to be charged as per this regulation and the development under Regulation No 33(3) shall be admissible without charging premium for fungible compensatory area.

33 (5) Development/Redevelopment of Housing Schemes of Maharashtra Housing & Area Development Authority (MHADA)

- 1) *The FSI for a new scheme of Housing, implemented by MHADA on MHADA lands for Economically Weaker Sections (EWS), Low Income Group (LIG) and Middle Income Group (MIG) categories shall be 3.0 on the gross plot area (exclusive of the Fungible Compensatory Area) and at least 60% BUA in such scheme shall be in the form of tenements under the EWS, LIG and MIG categories, as defined by the Government in Housing Department from time to time.*

Provided that the Floor Space Indices above may be permitted to be exceeded up to 4.00 FSI in case of plots, having area of 4000 sq. m or above which front on roads having width of 18.00 m or more.

- 2) *For redevelopment of existing housing schemes of MHADA, containing (i)EWS/LIG and/or(ii)MIG and/or (iii) HIG houses with carpet area less than the maximum carpet area prescribed for MIG, the total permissible FSI shall be 3.0 on the gross plot area (exclusive of the Fungible Compensatory Area).*

Provided that the Floor Space Indices above may be permitted to be exceeded up to 4.00 FSI in case of plots, having area of 4000 sq. m or above which front on roads having width of 18.00 m or more.

- 2.1. *Where redevelopment of buildings in existing housing schemes of MHADA is undertaken by the housing co-operative societies or the occupiers of such buildings or by the lessees of MHADA, the Rehabilitation Area Entitlement, Incentive FSI and sharing of balance FSI shall be as follows:*

A) Rehabilitation Area Entitlement:

i. Under redevelopment of buildings in existing Housing Schemes of MHADA, the entitlement of rehabilitation area for an existing residential tenement shall be equal to sum total of :

(a) a basic entitlement equivalent to the carpet area of the existing tenement plus 35% thereof, subject to a minimum carpet area of 35 sq. m,

and

(b) an additional entitlement, governed by the size of the plot under redevelopment, in accordance with the Table-A below:

TABLE A

<i>Area of the Plot under Redevelopment</i>	<i>Additional Carpet Area on the Existing Carpet Area of Tenement</i>
<i>Above 4000 sq. m to 2 ha</i>	<i>15%</i>
<i>Above 2 ha to 5 ha</i>	<i>25%</i>
<i>Above 5 ha to 10 ha</i>	<i>35%</i>
<i>Above 10 ha</i>	<i>45%</i>