

PRESIDENT
Domnic Romell

IMMEDIATE PAST PRESIDENT
Boman Irani

PRESIDENT-ELECT
Ajay Ashar

STRATEGIC ADVISOR
Abhishek Lodha

SENIOR VICE PRESIDENTS
Parag Shah
Jayesh Shah
Sukhraj Nahar
Sandeep Raheja
Rasesh Kanakia

VICE PRESIDENTS
Bandish Ajmera
Shailesh Puranik
Pritam Chivukula
Amit Thacker
Jackbastian Nazareth

SECRETARY
Dhaval Ajmera

TREASURER
Nikunj Sanghavi

JOINT SECRETARIES
Tejas Vyas
Pratik Patel
Sunny Bijlani
Rushi Mehta

JOINT TREASURER
Gurminder Singh Seera

COMMITTEE MEMBERS
Shahid Balwa
Subodh Runwal
Parag Munot
Nainesh Shah
Mukesh Patel
Munish Doshi
Rajesh Prajapati
Shailesh Sanghvi
Parth Mehta
Harmohan Sahni
Jayvardhan Goenka
Urmang Kuwadia
Prashant Khandelwal
Binitha Dalal
Ayushi Ashar
Samyag Shah
Ricardo Romell

SPECIAL ADVISORS
Ar. Hafeez Contractor
Adv. Parimal Shroff
Anuj Puri

STATISTICS AND RESEARCH
Dr. Adv. Harshul Savia

INVITEE MEMBERS
Rahul Sagar
Ramkrishna Raheja
Nishant Agarwal
Harsh Hiranandani
Ajay Nahar
Azim F. Tapia
Cherag Ramakrishnan
Vijay Lakhani
Jayesh Chauhan
Aditya Shah
Shraddha Goradia
Sudhanshu Agarwal
Hussain Lalani
Sahil Parikh
Aditya Mirchandani
Rushi Ajmera

YOUTHWING CONVENOR
Naman Shah

PROCUREMENT CONVENOR
Nimish Ajmera

WOMEN'S WING CHAIRPERSON
Jesal Shah

To,
Shri Ashwini Vaishnaw,
Hon'ble Minister of Railways,
Government of India,
Rail Bhawan, Rafi Marg,
New Delhi-110001.

Send by Ref-AD
21/08/2024

Sub : Delay/Rejection of Railway NOC's by Central and Western Railway authorities in jurisdiction of Mumbai

Ref :

1. Clarification by GOM vide letter dt 28.06.1995
2. Letter from Railway Board, Ministry of Railways, GOI dt 29.08.1995
3. GOM order dt 23.05.2003
4. GOM Notification U no : TPB 4302/1318/CR-23/03/UD-11 dt 05.07.2005
5. Notification from Railway Board Ministry of Railways dt 16.05.2008 U/no.2007/LML/19/4
6. Clarification by Railway Board Ministry of Railways dt 26.05.2008 U NO 2007/LML/19/4
7. Railway Board Ministry of Railways letter Dt 06.06.2008 U/No 2008/LML/19/13
8. Railway Board Ministry of Railways letter Dt 16.02.2010 U No 2008/LML/19/17:
9. Development Control & Promotion Regulation published by GOM vide notification dt 8th May 2018
10. GOM Notification dt. 13.09.2019 UNo:TPB-4319/379/Prakra 147/2019/N vi -11

Respected Sir,

CREDAI-MCHI is an apex body consisting of members from the Real Estate Industry among Mumbai Metropolitan Region (MMR). With a strong Membership of over 1800 leading Developers in Mumbai, CREDAI-MCHI has expanded across MMR. CREDAI-MCHI is the Government recognised body for private sector developers in MMR and consistently working to make the industry more organised and progressive.

During our periodic meetings, various members are raising concerns regarding inordinate delays and rejections in Railway NOC's (by Central Railways/Western Railways) thereby various development/redevelopment projects in Mumbai are either getting delayed or being halted/stopped halfway as a result all the stakeholders are suffering. Property developers are undergoing heavy losses due to delay in completion of projects, the home buyers/tenants of redeveloped buildings are not being habilitated in time undergoing agony/financial losses and the planning authorities are not able to implement the development plans to its intended purpose in stipulated time.

Incidentally, agglomeration of developments/proliferation of hutments etc. in Mumbai city has been predominantly around railway lines. In the recent past various land parcels are being developed/redeveloped abutting to railway lines/boundaries. It is to bring to your kind notice that at many places the railway land/plot boundary is located at a definite distance from first/last railway track i.e. within 2.00 m to 6.00 m, whereas at few places the said distance is around 6.00 m to 30.00 m and also around 100.00 m. Usually, the Railway track boundary and Railway land/plot boundary is parallel to each other however due to larger distance between track boundary and plot boundary land lock portion is formed at such places.

Maharashtra Chamber of Housing Industry

Maker Bhavan II, 4th Floor, 18, V. Thackersey Marg, New Marine Lines, Mumbai - 400 020.
Tel: 42121421, Fax: 4212 1411/407 Email: secretariat@mchi.net Website: www.mchi.net

CREDAI-MCHI CHAPTERS : THANE | KALYAN-DOMBIVLI | MIRA BHAYANDAR | RAIGAD | NAVI MUMBAI |
BHIWANDI | PALGHAR BOISAR | SHAHAPUR-MURBAD | URAN-DRONAGIRI |
MUMBAI | MUMBAI | MUMBAI | MUMBAI | MUMBAI |

These huge open land spaces between actual railway track and railway land/plot boundary are either vacant or being utilised by railway authorities for purpose other than operation of railway lines such as temporary sheds, small office buildings, storage space etc. It means that the developments/redevelopments on the landward side plots beyond such huge open spaces are at a distance much away from actual railway track, does not involve severe railway safety issues and hence railway NOC's of such proposals are required to be scrutinised leniently. Also, in many

cases of developments in Eastern suburbs, there are existing /proposed DP roads between railway land/plot boundary and private lands under development. The Railway buffer zone is clearly shown in Development Plan 2034 and vide Regulation 45(c) of DCPR 2034, it is clearly stipulated that while granting NOC, the distance of a proposed building shall be reckoned from Railway track boundary and not from Railway Land/Plot boundary. However, while scrutinizing the Railway NOC proposals by Railway authority (specifically by central railway authority) there has been gross misinterpretation of existing development control regulations (i.e. DCPR 2034), guidelines/notifications/clarification of Govt. of Maharashtra/GOI/Railway board etc. and Railway NOC's are being rejected /delayed by concern officials without any valid reasons. One of the developer M/s Wheelabrator Alloy Castings Limited have represented their individual case to the level of General Manager Central Railway (for Proposed development on plot bearing CTS No: 596,596/1 to 6,597,597/1 to 7,598,598/1 to 3,599A/1 to 81,601,602,602/1 to 31,603,604,605,605/1 to 17,606,606/1 to 83,607/1 to 31,607A and 607D of village Kanjur, at LBS Marg, Bhandup (West), Mumbai.) and have been following up at various Railway offices. It is brought to the notice of this apex body that no building in the said layout is within 30.00 mtrs. from Railway track boundary, H/2 height criteria is not applicable and principally, does not attract Railway NOC, however their proposal for revised NOC (though earlier NOC was obtained in the year 2014) due to slight changes in layout has been rejected by the concern officials by turning blind eye on the provisions of law.

It would be necessary to interpret various provisions of Railway notifications/circulars and the Notifications published by Govt. of Maharashtra appropriately. It is therefore, requested, that Hon'ble Minister Sir, may please arrange go through various provisions of Railway Notifications/Circulars and also the Notifications/DCPR published by Govt. of Maharashtra as the development of properties in jurisdiction of Mumbai are governed by Development Control & Promotion Regulations (DCPR) 2034 amended up to date. Extract of some provisions are given below:

Development Control Regulation 1991 published by GOM:

The stipulations of Reg 29(8)(ii) of DCR 1991 are reproduced as below :

29(8)(ii)- Building sites abutting railway track boundary;

"Subject to the requirements of setbacks from roads and side and rear marginal open spaces under the relevant regulations, **no new construction of a building or reconstruction of a existing building shall be allowed within a distance of half the height of the said building from the railway track boundary**, and in any case at least 3 mtr., away from such boundary"

Clarification by GOM dt 28.06.1995 : (Annexure-I)

The Bombay Municipal Corporation vide their letter dt 8.5.1995 had asked the GOM to advice on the provisions of Reg 29(8)(ii) of DCR 1991, whereupon GOM had clarified vide letter dt 28.06.1995 that " **The marginal distance required to be left from Railway Track Boundary as per the provisions of Reg No 29(8)(ii) shall be measured from the Railway Track Boundary and not from the Railway Property Boundary** ".

Letter from Railway Board, Ministry of Railways, GOI dt 29.08.1995 : (Annexure-II)

Upon noticing by the Railway Board that NOC's are being denied to private parties to undertake construction on their properties adjoining to railway land the Railway Board had clarified that **"it is not expected of the land owner of a plot to leave a large vacant space between his building and railway boundary, railway's interest is adequately safeguarded if sufficient vacant space is left to ensure development of future roads, drainage and that railway should adopt a pragmatic approach and insist only the barest possible distance between railway boundary and edge of the proposed building and that the layout of the building is of a type which will not result into accrual of various easement rights"**

GOM order dt 23.05.2003 (Annexure-III)

The Govt. of Maharashtra vide its order dt. 23.05.2003 under section 154 of Maharashtra Regional & Town Planning act 1966 had directed that **"No objection certificate from the concerned railway shall be insisted before granting permission for the building plans between the railway boundary and a distance 30 mtr. from it"**

GOM Notification U no : TPB 4302/1318/CR-23/03/UD-11 dt 05.07.2005 : (Annexure-IV)

Vide above notification under section 37(2) of MR & TP Act

- A) Modification to Reg. 29(8)(ii)- Building sites situated within 30mtr from railway boundary:
No objection certificate from the concerned railway shall be insisted before granting permission for the building plans between the railway boundary and the distance of 30 mtr from it. The development of such plot shall be carried out as per terms and conditions stipulated by the railway authority.
- B) Fixes the date of publication of this notification in the official gazette as the date of coming into force of this proposal.
- C) Directs the said corporation in the schedule of modification sanctioning the said modification appended to the said notification after the last entry, the above referred (A) shall be added.

Notification from Railway Board Ministry of Railways dt 16.05.2008 U/no .2007/LML/19/4: (Annexure-V)

It is stated in clause no 3 of said notification that **"because the 'Railway Track Boundary' is not defined, problems are arising due to reckoning of horizontal clearance from railway boundary instead of 'Railway Track Boundary' as provided in the regulation No 29(8)(ii)"**

It has been therefore directed vide above notification for the purpose of DC Regulation 29(8) (ii) of the Govt of Maharashtra UD Dept DCR for Greater Mumbai 1991 that **" Railway Track Boundary be considered to be a horizontal distance of '6 m plus height of Railway embankment at the point of consideration' from the center line of the railway track nearest to the proposed building or the actual railway land boundary from the center line of the railway track nearest to the proposed building whichever is less "**.

It is also clarified in clause no 4.1 that the nearest track here will mean the existing track or proposed track in future if contemplated to be constructed in the near future, nearest to the proposed building. While considering allowance for future track, the railway should not unduly keep such allowance for individual sites when future track is not feasible.

Clarification by Railway Board Ministry of Railways dt 26.05.2008 U NO 2007/LML/19/4 (Annexure-VI)

Vide above letter Railway Board has clarified that **as the Railway Track Boundary can not be considered to be existing beyond the physical railway land boundary, the provision of letter dt 16.05.2008 is correct and had mentioned that the same shall be applied to all pending cases then and the NOC's denied.**

Railway Board Ministry of Railways letter Dt 06.06.2008 U/No 2008/LML/19/13: (Annexure-VII)

The UD dept. in GOM had asked to vide their letter dt 21.02.2008 and 21.05.2008 clarification from Railway Board on the guidelines issued by Railway as to what should be considered Railway Track boundary whereupon Railway Board vide above letter dt. 06.06.2008 had enclosed the copy of their notification dt. 16.05.2008 for reference on the issue.

As regards the margin of H/2 required to be kept from railway boundary it is advised that the same is as per the rules laid down by the state Government.

Railway Board Ministry of Railways letter Dt 16.02.2010 U No 2008/LML/19/17: (Annexure-VIII)

Vide clause 2, of above letter railway Board has again reiterated that as the land in urban areas has become very valuable, Railway should adopt a pragmatic approach, examine the plans of building should not result into accrual of various easement rights.

Vide clause 3, it is mentioned that after examining the proposal if railway is of the opinion that the proposed structure will not lead to accrual of any easement rights, issuance of NOC can be considered. As regards compliance of provisions of DC Regulations or other rules issued by state Govt./Local Authorities in this regard, it is for state Govt./Local Authority to examine and ensure compliance of the same.

Clause 4 stipulates that railway to ensure that under no circumstances safety of railway track is affected during or after construction. Railway may consider stipulations of site supervision, inspection etc. by railway during construction stage as well as inspection, during lifetime of the building to ensure that the bldg./basement shall not affect railway's operations.

Development Control & Promotion Regulation published by GOM vide notification dt. 8th May 2018:

The GOM has published the notification U No: TPB.4317/629/CR-118/2017/DP/UD-11 dt. 08.05.2018 presently applicable to the development proposals within in the jurisdiction of Greater Mumbai. The Reg. no 45(C) of the said DCPR 2034 stipulates that:

- **No new construction of a building or reconstruction of an existing building shall be allowed within a distance of half the height of the said building from the railway track boundary, and in any case not within a distance of 3 m from such boundary.**
- For building situated within 30 m from **railway track boundary** NOC from concerned railway shall be insisted upon before granting CC for the proposed bldg between the railway track boundary and distance of 30 m from it.
- **No NOC from railway authority will be required wherever any construction is undertaken beyond 30. M from railway boundary subject to the condition that no part of bldg shall project within 30 m from the railway track boundary.**

GOM Notification dt 13.09.2019 U No : TPB-4319/379/Prakra 147/2019/N vi -11 : (Annexure-IX)

The GOM vide its recent notification dt. 13.09.2019 has issued orders u/s 154 of MR & TP Act 1966 stating that **"before issuing NOC as per provision of Reg. 45(C) of DCPR 2034 it is necessary to take into consideration the proposed height of building, distance of building from railway boundary etc. As such it is not necessary to keep separate restrictions in DCPR for 30 mtr. area from railway boundary. Once the NOC is granted by railway it is not required for planning authority to put separate restrictions as per first para of Reg. 45(C). Therefore, it would be binding on land owners/developers to comply the conditions of Railway NOC"**.



Annexure - I

4/1

Government of Maharashtra

No. TPB 4395/497/UD-11
Urban Development Department
Mantralaya, Bombay-400 032.

Dated 28 June, 1995.

To,
The Director (ES&P),
Municipal Corporation of Greater Bombay,
Bombay-400 001.

Sub: Redevelopment of property bearing C.E.No. 26,
27, 28 etc. of Zion Division

Ref: Your letter No. CHE/426/DPC dated 3.5.95

Sir,

Please refer to your letter mentioned above where advice of the Government under Development Control Regulation No. 62 (3) of the Development Control Rules of Greater Bombay, 1991 regarding whether distance to the left as per provisions of Regulation No. 29 (3)(ii) should be measured from the Railway track boundary or the Railway property boundary was sought for.

Development Control Regulation No. 29 (3)(ii) is reproduced herebelow:-

29 (3)(ii) - Building sites abutting railway track boundary;
Subject to the requirements of set backs from roads and side and rear marginal open spaces under the relevant Regulations, no new construction of a building or reconstruction of an existing building shall be allowed within a distance of half the height of the said building from the railway track boundary, and in any case at least 3 mtr. away from such boundary.

From merely reading of the regulation, it is clear that the distance of the building shall be measured from the Railway track boundary and not from property boundaries of Railway.

42/c

(8)

Jagdishan

4/2

-2-

Considering the opinion expressed above, I am directed to clarify under Development Control Regulation No. 62 (3) of Development Control Regulations of Greater Bombay, 1991 is as under.

Clarification - The marginal distance required to be left from the Railway track boundary as per the provisions of Regulation No. 29 (3) (ii) shall be measured from the Railway track boundary and not from the Railway property boundary.

Yours faithfully,

N. V. Kulkarni
(N. V. Kulkarni)

Under Secretary to Government

Copy to -
Secretary, Public Works Department, Mantralaya, Bombay-400 052.
Chief Engineer (Development Plan), Municipal Corporation of Greater Bombay, Bombay-400 001.
Director of Town Planning, M.S., Pune.
Deputy Director of Town Planning, Greater Bombay, ENJA Hutments, Azad Maidan, Bombay-400 001.
PEATA, 306, Vikas, Bank Street, Bombay-400 023.
M/s. Nadkarni & Company, 106, Gundecha Chambers, 18, Nagindas Master Road, Fort, Bombay-400 001.
Select File.
Maharashtra Chamber of Housing Industry, 514, Dalamal Tower, 211, F.P.J. Marg, Nariman Point, Bombay-400 021.
Chief Engineer (Construction), Central Railway, V.T., Bombay-400 001.
Chief Engineer (Construction), Western Railway, Churchgate, Bombay.
Chief Architect, Public Works Department, Marzban, near V.T. Estate, Bombay.

18/c

(9)

mm. 1

(15) 5/1

GOVERNMENT OF INDIA (SHARAT BARKAR)
MINISTRY OF RAILWAYS (RAIL MANTRALAYA)
(RAILWAY BOARD)

No. 94/LM(L)/14/22

New Delhi, dated 29.8.95

The General Manager,
All Indian Railways Production Units.

Sub: Construction of private buildings near Railway Land.

Cases have come to the notice of the Board wherein private parties have been denied the grant of a 'No Objection Certificate' for undertaking construction on their properties which adjoin the railway land, on the plea that such construction would restrict future development needs of the Railway, and would result in land acquisition complexities at the time of actual acquisition.

The construction of private buildings near the Railway land is governed by Para 3728 of the Indian Railway Way & Works Manual. The basic intention behind the stipulations of the Para is to safeguard Railway's interests in such a manner that no future encroachments take place, and there is no accrual of 'easement rights' such as right of way and right to discharge sullage & storm water, etc. on railway land over a period of time. Although it has been mentioned that an open space of approximately 30m. between the railway land boundary and the nearest edge of the building (the exact space to be left being governed by the local conditions) should suffice, it is also stipulated that in cities & towns, where land is valuable, it is not expected of the land owner of a plot to leave a large vacant space between his building and the railway boundary; and it is deemed that Railway's interests will be adequately safeguarded if sufficient vacant space is left so as to ensure development of any future road access and drainage outside the Railway land and to avoid requests for surrender of Railway land for such facility at a future date.

- Furthermore, the provisions of the Para 3728 of the Indian Railway Way & Works Manual are not meant to unnecessarily restrict the utilisation of the land adjoining railway land on the plea that such land may be required for future development of the Railway system. In case land is required by the Railway at a future date, it is only fair that the same is acquired after paying due compensation for the land and the built-up property thereon.

2/2

5/2

CENTRAL RAILWAY

-2-

4. In view of the above and the fact that the land in the urban agglomerations has become very valuable, Board desire that the Railways should adopt a pragmatic approach and insist on only the barest possible distance between the Railway boundary and the edge of the proposed building. This minimum required distance can be ascertained by examining the building plans and ensuring that the layout of the building is of a type which will not result into encroachment of the various easement rights as mentioned in para-2 above.

Please acknowledge receipt.

(F.K. Wahi)

Executive Director Land Management

नगर परिषद, फाटोल.
आवक क्र. 113 दि. 11/05/03

**Maharashtra Regional and Town
Planning Act, 1966.**
Direction under section 154 of the ...
Permitting construction of building
in proximity to Railway Track.

GOVERNMENT OF MAHARASHTRA
URBAN DEVELOPMENT DEPARTMENT
Mantralaya, Mumbai 400.032.
Dated the 23. May, 2003.

ORDER

No. TPD 4302/1318/CR-23/03/UD-11:

The permission for construction of building on land adjoining the railway track is invariably given by the Local Body concerned viz., Corporation, Municipal Council as the case may be. Any work being undertaken in the proximity of the railway track can have serious effect on the safety of the track, it is felt necessary that "No Objection Certificate" be obtained from the Railway Authority before the Local Authority grants permission to the construction of such building. In this regard, it is desirable that a vacant space of 30 mt. be kept between the Railway Boundary and the face of any construction.

Now therefore, I am directed to issue the suitable direction under section 154 of the said Planning Authorities to the effect that they invariably insist on "No Objection Certificate" from the concerned Railway before granting permission for the building plans.

DIRECTION

All the Planning Authorities are hereby directed to incorporate the following regulation in their building bye-laws by following the procedure laid under section 37 of the Maharashtra Regional and Town Planning Act -

"No objection Certificate" from the concerned railway shall be insisted before granting permission for the building plans between the Railway Boundary and the distance 30 mt. from it.

By order and in the name of the Governor of Maharashtra

(Abhinav Girkar)

Under Secretary to Government.

Copy to -

- 1) All the Municipal Commissioners of Corporation.
- 2) All the Chief Officer, Municipal Councils.

45/c

(5)

3/1

**Maharashtra Regional &
Town Planning Act, 1966.**

**Sanction to modification
under section 37(2) of the ...
Modifications to Regulation
29(8)(1) of Development
Control Regulation for Gr.
Mumbai 1991.**

GOVERNMENT OF MAHARASHTRA

Urban Development Department

Mantralaya, Mumbai 400 032.

Date: 5th July, 2005.

NOTIFICATION

No. TPB 4302/1318/CR-23/03/UD-11.

Whereas, Government of Maharashtra vide Notification of Urban Development Department No. DCR 1090/RDP/UD-11, dated 20th February, 1991 has sanctioned the Development Control Regulations for Gr. Mumbai, 1991 (hereinafter referred to as "the said Regulations") under section 31 of the Maharashtra Regional and Town Planning Act, 1966 (hereinafter referred to as "the said Act") which came into force with effect from 25th March, 1991;

And whereas, the permission for construction of building on land adjoining the railway track is invariably given by the Local Body concerned viz., Corporation, Municipal Council as the case may be. Any work being undertaken in the proximity of the railway track can have serious effect on the safety of the track, it is felt necessary that "No Objection Certificate" be obtained from the Railway Authority before the Local Authority grants permission to the construction of such building. In this regard, it is desirable that a vacant space of 30 mt. be kept between the Railway Boundary and the face of any construction.

And whereas, the Government of Maharashtra in Urban Development Department, vide order No. TPB 4302/1318/CR-23/2003/UD-11, dated 23/5/2003 has directed Municipal Corporation of Gr. Mumbai (hereinafter referred to as "the said Corporation") to amend the relevant provisions in D.C. Regulations by following the procedure laid-down under section 37 of the said Act; so as to insist NOC from concerned Railway Authorities before granting permission for the buildings within a distance of 30 mt. from Railway boundary;

6

3/2

And whereas, the Government of Maharashtra has further directed under section 154 of the said Act to insist such NOC from Railway Authorities, pending modification to development control regulations;

And whereas, the said Corporation has been empowered to initiate the modification of any part of or any proposal made in the final Development Plan under the provisions of sub-section (1) of section 37 of the said Act and submit the same to the Govt. for final sanction;

And whereas, The said Corporation after completing the legal procedure laid under section 37 of the said Act has initiated modification proposal and accordingly submitted the modification proposal to the Govt. for final sanction vide its letter No/ CHE/GEN-346/DPC/GEN dated 8th October, 2004;

And whereas, after consulting the Director of Town Planning, Maharashtra State, Pune, Govt. find it necessary to sanction the said modification proposal;

Now, therefore, in exercise of the powers vested under section 37(2) of the said Act Govt. hereby -

A) sanctions the modification proposal as described below:

Modification to Regulation No.29(8)(ii) - Building sites situated within 30 mt. from railway boundary :

No objection certificate from the concerned railway shall be insisted before granting permission for the building plans between the Railway boundary and the distance of 30 mt. from it. The development of such plot shall be carried out as per terms and conditions stipulated by the Railway Authority.

- B) fixes the date of publication of this notification in the official gazette as the date of coming into force of this proposal.
- C) Directs the said Corporation in the schedule of modification sanctioning the said modification appended to the said notification after the last entry, the above referred (A) shall be added.

By order and in the name of the Governor of Maharashtra,

(S.B. Kini)

Under Secretary to Government.

Note:- This notification is also available on Government web site www.urban.maharashtra.gov.in

Government of India
Ministry of Railways
(Railway Board)

No.2007/LML/19/4

New Delhi, Dated: 16.5.2008

General Manager (Engg),
Western Railway, Churchgate, Mumbai

General Manager (Engg),
Central Railway
Mumbai.

Sub: Grant of 'No Objection Certificate' for construction of private buildings in private lands in vicinity of Railway Land in Mumbai Area.

Number of representations have been received by the Board due to denial of issue of 'No Objection Certificate' by the railways to construction of private buildings in private lands in vicinity of Railway Land in Mumbai area including some of the cases where the nearest track is at a considerable distance from the proposed building.

2. It is observed that extant rules on the subject in Mumbai area are governed by provisions in regulation No.29 (8) (ii) of the 'Govt. of Maharashtra, Urban Development Department Development Control Regulations for Greater Bombay-1991' which provides that "...no new construction of any building or reconstruction of an existing building shall be allowed within a distance of half the height of the said building from the Railway track boundary, and in any case at least 3m away from such boundary." Further a 'No objection Certificate' from the concerned railway is required to be submitted by the party to the local authorities for granting permission for the building plans if proposed structure lies between the railway boundary and the distance of 30 m from it.

3. Because the 'Railway Track Boundary' is not defined, problems are arising due to reckoning of horizontal clearance from railway boundary instead of 'Railway Track Boundary' as provided in the regulation No. 29(8)(ii) mentioned above.

4. Matter has been examined and it has been decided by the Board (ME) that for the purpose of regulation No.29 (8) (ii) of the 'Govt. of Maharashtra, Urban Development Department Development Control Regulations for Greater Bombay-1991' "Railway Track Boundary" be considered to be a horizontal distance of '6m plus height of railway embankment at the point of consideration' from the centre line of the railway track nearest to the proposed building or the actual railway land boundary from the centre line of the railway track nearest to the proposed building whichever is less.

741
98/4
572
6/2

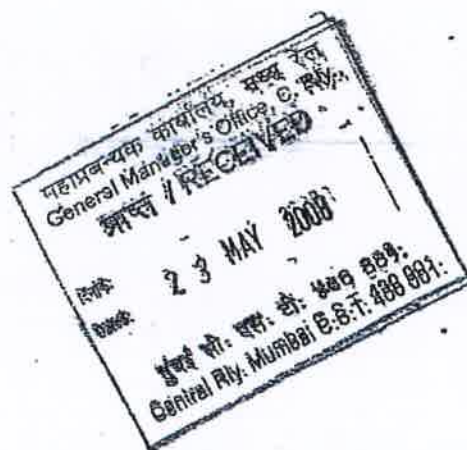
4.1 The nearest track here will mean the existing track or the proposed track in future if contemplated to be constructed in the near future, nearest to the proposed building. While considering allowance for future track, the railway should not unduly keep such allowance for individual sites when future track is not feasible on that side in view of already existing buildings or structures on either side of the proposed site. Instructions issued under Railway Board letter No.94.LM(L)/14/22 dated 29.8.95 may also be referred to in this regard.

5. It is, therefore, advised that all such cases regarding issue of grant of 'No Objection Certificate' to construction of private buildings in private lands in vicinity of Railway Land in Mumbai area may kindly be dealt with accordingly. While granting 'NOC' railway may ensure that the provisions of para 827(b) of IRWM-2000 are complied with.

6. This is for your kind information and further necessary action. Fresh remarks in the cases earlier referred by Board to railways for comments, may be advised to the Board in view of above directions for further disposal of the same at this end.


(P.D. Sharma)
Executive Director/L&A-I

16.5.08



530
2/6

(2)



196/C 37/C

(12)

7/1

Government of India
Ministry of Railways
(Railway Board)

(12)

No.2007/LML/19/4

New Delhi Dated: 26.5.2008

General Manager (Engg),
Western Railway, Churchgate, Mumbai

Sub: Grant of 'No Objection Certificate' for construction of private buildings in private lands in vicinity of Railway Land in Mumbai Area.

Ref: 1. Railway Board Letter No even dated 16.5.2008.

2. W. Railway letter No W 73/0 (Policy) (W5), dated 20.05.2008.

In reference to points raised for consideration of the railway vide its letter dated 20.05.2008 referred above, following clarifications are issued:

1. As the railway track boundary can not be considered to be existing beyond the physical railway land boundary, the provisions in para -4 of Railway Board letter dated 16.05.2008 providing as "Railway Track Boundary be considered to be a horizontal distance of '6m plus height of railway embankment at the point of consideration' from the centre line of the railway track nearest to the proposed building or the actual railway land boundary from the centre line of the railway track nearest to the proposed building whichever is less" are correct.
2. The directions issued under Railway Board letter dated 16-5-08 apply to all cases pending with the Railways on the subject whether received before issue of railway Board's letter dated 16.05.08 or after, to cases where parties have represented to Railway Board against the decision of the Railways and to all such past cases where NOC has been denied or granted as per then existing instructions but the applicant(s) requests for reconsideration of their proposals.

To be submitted
to all division, CPM.
2/5/08

Copy to:

General Manager (Engg), Central Railway, Mumbai for information and similar action in respect of cases under Central Railway.

Executive Director

26.5.08

573
16/6

3/c

7/3

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

No.2008/LML/19/13

New Delhi, dt. 06.06.2008

Under Secretary,
Urban Development Department
Mantralaya
Mumbai - 400032.

86

Sub:- NOC for slum rehabilitation scheme on bearing FP No.616(Pl.) of TPS -
IV Mahim division.Ref:- i) Your letter No. TPB 4306/2230/CR-303/07/UD 11 dated 21.2.2008
addressed to PCE/Western Railway.ii) Your letter No. TPB 4306/2230/CR-303/07/UD 11 dated 21.5.2008
addressed to PCE/WR and copy to Railway Board.

Reference above, it is advised that in view of representation from certain affected parties regarding non issue of 'No Objection Certificate' by Railways for construction of buildings in the vicinity of railway land in Mumbai area, guidelines have been issued to the Western and Central Railways clarifying as to what should be considered to be "Railway Track Boundary" in terms of regulation No.29 (8) (ii) of Government of Maharashtra. Urban Development Department, Development Control Regulation for Greater Bombay -1991. A copy of the guideline issued under Railway Board letter No. 2007/LML/19/4 dated 16.5.2008 is enclosed herewith for ready reference.

The above guidelines take care of the problem raised in your above referred letters. As regards, whether a margin of 11/2 is required to be kept from railway track boundary, it is advised that the same is as per the rules laid down by the State Government.

CE/6

ch/6

a/c

17/6

Encl: As above.

Copy for information to:

i. PCE/Churchgate, Mumbai/Western Railway

ii. PCE/Central Railway/ Mumbai.

ADEN/LM

w/a

17/6

OS(LM)

For 11/6/11

Executive Director/Land & Amenities
Railway Board.

40/c

RD/L&A No. 091/2010


New Delhi, dt.16.02.2010.

General Managers
Principal Chief Engineers
All Zonal Railways

Sub:- Issue of No Objection Certificate for construction / redevelopment of Government and Private building on land adjoining Railway boundary.

1. A number of representations have been received regarding granting of No Objection Certificate for undertaking construction/redevelopment of buildings in land adjoining Railway land.
2. Instructions have already been issued in this regard in the past vide Board's letter No. 94/LML/14/22 dated 29.08.1995; stating that as the land in urban area has become very valuable, Railways should adopt a pragmatic approach, examine building plans ensuring that layout of the building should not result into accrual of various easement rights.
3. The issue has again been examined in Board. The duties and role of Railway officials regarding dealing with utilization of land adjoining Railway land boundary have been clearly defined in Para 827 of IRWM 2000. Railways need to examine the proposal for construction/redevelopment of buildings/structures on adjoining land in an objective and pragmatic manner in terms of Railway rules/instructions accordingly. If after examining the proposal, Railway is of the opinion that the proposed structure will not lead to accrual of any easement rights, issuance of NOC can be considered. As regards compliance of provisions of development control regulations or other rules issued by State Govt./Local Authorities in this regard, it is for the State Govt./local Authority to examine and ensure compliance of the same.
4. In case of high rise buildings or buildings with basements or where deep digging is involved in close proximity to Railway track, Railway should examine the drawings and construction methodology and ensure that under no circumstances safety of Railway track is affected during or after construction. If necessary, Railway may consider stipulations of site supervision, inspection, etc., by Railway during construction stage as well as inspection during lifetime of the building to ensure that building / basements do not affect Railway's train operations.

Please acknowledge receipt.



(M. K. Panda)
Dy. Director (Land & Amenities)
Railway Board

AGM	अनप्र
ASST. (B)	सुप्रअ (नि)
ASST.	सुवाप्र
ASST.	सुपप्र
ASST.	सुसंअ
PCE	प्रमुइ
CEE	मुविइ
CME	मुयाइ
CSTE	मुसिइ
COS	भनि
FAECIO	विचतुसंअ
CPO	मुकाअ
CMD	मुसिनि
SDGM	वरमप्र
CSC	सुसुवा
OPRO	सुजसंअ
DGM	रमप्र
SECRETARY	सचिव
DRM	मंरप्र

महाराष्ट्र प्रादेशिक व नगर रचना अधिनियम, १९६६
चे कलम १५४ अन्वये निदेश.

बृहन्मुंबई विकास नियंत्रण व प्रोत्साहन
नियमावली-२०३४ चे विनियम ४५(सी) बाबत.

महाराष्ट्र शासन
नगर विकास विभाग
मंत्रालय, मुंबई : ४०० ०३२,
दिनांक :- १३ सप्टेंबर, २०१९
आदेश

क्रमांक :- टिपीबी-४३१९/३७९/प्र.क्र. १४७/२०१९/नवि-११

महाराष्ट्र प्रादेशिक व नगररचना अधिनियम, १९६६ (यापुढे याचा उल्लेख "उक्त अधिनियम" असा करणेत आलेला आहे) चे कलम ३१, पोट-कलम (१) अन्वये प्राप्त अधिकारांचा वापर करून राज्य शासनाने अधिसूचना क्र.टिपीबी-४३१७/६२९/प्र.क्र.११८/२०१७/वि.यो./नवि-११, दि.८/०५/२०१८ (यापुढे याचा उल्लेख "उक्त अधिसूचना" असा करणेत आलेला आहे) द्वारे बृहन्मुंबई प्रारूप विकास योजना-२०३४ सह विकास नियंत्रण व प्रोत्साहन नियमावली-२०३४ (यापुढे याचा उल्लेख "उक्त नियमावली" असा करणेत आलेला आहे) ला मंजूरी दिली आहे. तसेच शासनाने उक्त अधिसूचनेस सम क्रमांकाचे शुध्दीपत्रक दि.२२ जून २०१८ रोजी निर्गमित केले असून त्यानुसार उक्त नियमावली दि. १/०९/२०१८ पासून अंमलात आली आहे. तसेच शासनाने दि. २१/०९/२०१८ रोजीच्या अधिसूचनेद्वारे विकास नियंत्रण व प्रोत्साहन नियमावली-२०३४ मधील सारभूत स्वरूपाचे बदल ईपी-१ ते ईपी-१६८ ला (ठराविक ईपी व निर्णयार्थ प्रलंबित ठेवलेल्या ठराविक तरतुदी वगळून) मंजूरी प्रदान केली आहे.

उक्त नियमावलीचे विनियम ४५ मध्ये ठराविक क्षेत्रातील विकासावर निर्बंधाची तरतूद असून विनियम ४५ चे उपविनियम (सी) मध्ये रेल्वे हद्दी (Railway track Boundary) लगतचे भूमागावरील विकासावर निर्बंधाची तरतूद आहे.

उक्त नियमावलीचे विनियम ४५(सी) चे दुसऱ्या परिच्छेदामधील तरतुदीनुसार रेल्वे हद्दीपासून (Railway Track Boundary) ३० मीटर अंतरापर्यंतचे क्षेत्रात इमारतीचे बांधकामास प्रारंभ प्रमाणपत्र (CC) देण्यापूर्वी, विकास करण्यापूर्वी रेल्वेचे नाहरकत प्रमाणपत्र घेणे आवश्यक असून रेल्वेचे नाहरकत प्रमाणपत्रात नमूद अटीचे अधिन राहून सदर क्षेत्रात विकास करण्याची तरतूद आहे. तेव्हा विनियम ४५(सी) चे पहिल्या परिच्छेदामधील निर्बंधाचे आवश्यकतेबाबत तसेच विकास नियंत्रण नियमावलीतील तरतुदीबाबत सुसुत्रता व स्पष्टता करण्याची बाब शासनाच्या विचाराधिन होती.



त्यानुसार महाराष्ट्र प्रादेशिक व नगर रचना अधिनियम, १९६६ चे कलम १५४(१) खालील अधिकारात शासन याद्वारे बृहन्मुंबई महानगरपालिकेस पुढीलप्रमाणे निदेश देत आहे.

निदेश

(अ) बृहन्मुंबई विकास नियंत्रण व प्रोत्साहन नियमावली - २०३४ चे विनियम ४५(सी) नुसार रेल्वेचे नाहरकत प्रमाणपत्र घेणे आवश्यक असलेल्या प्रकरणी रेल्वेने नाहरकत प्रमाणपत्र देण्यापूर्वी प्रस्तावित इमारतीची उंची, रेल्वे हद्दीपासून इमारतीचे अंतर इत्यादी सर्व बाबी विचारात घेवून नाहरकत परवानगी देणे अभिप्रेत आहे. त्यामुळे रेल्वे हद्दीपासून ३० मिटरचे क्षेत्रात विकास नियंत्रण व प्रोत्साहन नियमावलीत वेगळे निर्बंध (Restrictions) ठेवण्याची आवश्यकता नाही. रेल्वेने अशी नाहरकत परवानगी दिल्यावर नियोजन प्राधिकरणाने विनियम ४५(सी) चे पहिले परिच्छेदामधील तरतुदीनुसार वेगळे निर्बंध लावण्याची आवश्यकता नाही. तथापि, रेल्वेने नाहरकत परवानगी देताना लागू केलेल्या अटीची पूर्तता करणे जमिनमालक / विकासक यांचेवर बंधनकारक राहिल.

(ब) सदर निदेश या शासन आदेशाच्या दिनांकापासून लगोलग अंमलात येतील.

महाराष्ट्राचे राज्यपाल यांच्या आदेशानुसार व नावाने.



(निर्मलकुमार पं. चौधरी)
अवर सचिव महाराष्ट्र शासन

- प्रत :- १) आयुक्त, बृहन्मुंबई महानगरपालिका.
२) व्यवस्थापकीय संचालक, पश्चिम रेल्वे चर्चगेट स्टेशन इमारत, दुसरा मजला, महर्षी कर्वे रोड, मुंबई- ४०००२०.
३) व्यवस्थापकीय संचालक, मध्य रेल्वे, मुंबई.

प्रत माहितीसाठी :-

- १) संचालक, नगर रचना, महाराष्ट्र राज्य, पुणे.
- २) उप सचिव (नगर रचना), मंत्रालय, मुंबई-३२.
- ३) उपसंचालक, नगर रचना, बृहन्मुंबई.
- ४) निवडनस्ती (नवि-११)
- ५) कक्षा अधिकारी, कार्यालय नवि- २८ यांना विनंती करण्यात येणे की, मोठ्याने आदेश विभागाला बेबल दिव्य प्रलिखित करावी.