

BRIHANMUMBAI MAHANAGARPALIKA
No.AC/Estates/2012/AE[Imp]II of 16.05.2012.

CIRCULAR

Sub: Guidelines to processing proposal for allotments of MCGM plots to various SRA scheme 33 (10) to private developers in Mumbai

Preface:

In Mumbai City and Suburban area about 50% of total population reside in slum area. Out of total slum population approx. 20% of the slum population reside on municipal plots. These slum pockets, spreads through out Greater Mumbai, occupy prime real estate, have developed infrastructure in the neighborhoods and are usually located adjacent to developed housing colonies and industries.

Govt. of Maharashtra has launched comprehensive slum rehabilitation scheme by introducing an innovative concept of using land as a resource and allowing incentive floor space index (FSI) in the form of tenement or Slum TDR for sale in the open market to cross subsidize slum rehabilitation tenements, free of cost to eligible slum dwellers protected as per the provisions of Slum Act and Govt. orders from time to time.

Govt. of Maharashtra has formed Slum Rehabilitation Authority (SRA) for speedy implementation schemes so as to achieve the objectives of rehabilitation of slum. SRA has been empowered to scrutinise and approve proposals under D.C.R. 33 (10) of Development Control Rule 1991. The SRA has also been appointed as Planning Authority under Section 2(19) of M.R.&T.P.Act,1966 for SRA Schemes and also for modification to the Development Plan of Greater Mumbai for within the slum area.

The SRA Schemes proposed under Regulation 33 (10) are to be implemented as per Govt. of Maharashtra rules and regulation prescribed for improvement of slums area within Grater Mumbai limits. There are several Slum Rehabilitation Schemes proposed on Municipal lands as per provisions of Reg.33(10) of D.C.Regulations,1991. However, it is observed that as and when S.R.Scheme on any particular municipal plot is processed, there is no uniform policy adopted by the concerned staff. To overcome this problem it becomes necessary to standardize the procedure for processing the proposals on municipal land.

A Circular was issued by Corporation regarding processing the proposal of redevelopment under the provision of DCR 33 (10) for S.R. scheme on

MCGM lands under no. AC/Estate/8963/A.E. (I)-II of 7/08/2010. However, the circular needs to cover all cases of SRA schemes on Municipal land in comprehensive manner.

Recently the Legal Officer of S.R. Authority had obtained opinion of the Advocate General of Maharashtra in respect of availability of optio for refusal of land owning authority i.e. Corporation to grant N.O.C. for the S.R. Scheme after issuance of LOI, on the pretext that the plot is required by M.C.G.M. for the purpose of Shifting Industry.

In that case, the Advocate General of Maharashtra has in the opinion, categorically stated that prior to issuance of LOI, the formality of submission of Annexure-I, II & III is insisted by SRA which is obtained from the concerned authorities i.e. M.C.G.M. by the society/ developer. After that, in principle approval, is given to the project by S.R. authorities and then LOI is issued for the S.R. scheme with a condition of obtaining N.O.C from land owning authority i.e. Corporation in this case. As per clause 2.8 of provisions of Reg.33(10), Appendix-IV of D.C.Regulations,1991, if N.O.C. is not issued in 30 days as mentioned in L.O.I. then it shall be deemed to have been given by the concerned land owning Authority.

In view of the above opinion of the Advocate General and the said legal position, it is necessary to prepare uniform policy guidelines for the guidance of all the concerned staff for processing proposals received by the Ward Office in respect of SRA Schemes on Municipal lands.

II. PROCEDURAL ASPECTS RELATED TO PROCESSING OF PROPOSAL RECEIVED BY M.C.G.M.

There are mainly three types of the proposals to be considered

- 1) **Annexure II is issued without NOC of Asst. Comm. (Estate)'s Office** - S.R.Authority is issuing the LOI with the condition of N O C from Land owning authority within 30 days from L.O.I. date of receipt of LOI by the land owning authority i.e. MCGM. As soon as copy of the L.O.I. is received by Sr.Colony Officer / A.E.(Maint) / Ex.Eng. (Ward) office, the proposal shall be forwarded to the Asst. Comm. (Estate) office along with the requisite documents as listed in (3) herein below, for the scrutiny and approval/ rejection of technical scrutiny committee. Technical Scrutiny Committee shall take the decision on such proposal submitted to it within one months time. If for some reasons, such decision could not be taken, A.C.(Estates) shall inform A.C.(Ward) for the same who will in turn inform SRA

accordingly. In any situation such communication will be done within 30 days time from the date of receipt of LOI. Technical Committee in any case should take decision as regards the permissibility of the redevelopment scheme in 90 days from the receipt of LOI by A.C. (Ward).

2) **Annexure II is issued with NOC of Asst. Comm. (Estate)'s Office**

As soon as the copy of L.O.I. is received by St.Colony Officer / A.E.(Maint) / Ex. Eng. (Ward) office, they will ensure that the condition stipulated by Asst. Comm.(Estate)'s office / Technical Scrutiny Committee as mentioned in NOC then issued to the projects, have been incorporated in the L.O.I. If any of the condition are found not being the part of L.O.I. conditions, Ex. Eng. (Ward) shall communicate the same through Asst. Comm. (Ward) with the copy addressed to the Asst. Comm.(Estate), to the S.R. Authority within the stipulated time of 30 days date of receipt of LOI by the land owning authority i.e. MCGM.

3) **Fresh Proposal where Annexure II is not issued:-**

Henceforth: no Annexure II shall be issued unless the following procedure is followed.

Draft Annexure-II signed by Asst. Commissioner of concerned ward is to be forwarded directly to Estate Dept., for remarks along with the documents for scrutiny & not to S.R. Authority so as to complete the remaining procedure, if any, as well as to avoid any dispute with S.R. Authority.

Asst. Commissioner of concerned ward is the Competent Authority to issue Annexure-II to any 33(10) scheme on MCGM land after obtaining remarks from Asst. Commissioner (Estate). Asst. Comm.(Ward) shall forward the following documents along with the draft Annexure II to the office of Asst. Comm. (Estate) for scrutiny.

- i) Certified true copy of Plane Table Survey carried out of land under proposed S.R. scheme showing therein the existing VLT/ municipal tenants structures, common amenities such as open land, W.C, balwadi, Welfare Centre, Electric sub station or box shown in different colours and identification Nos as mentioned in Annexure-II along with the categorywise area statement of the same. The open areas shall be shown

distinctly. Plans shall be certified by the Architect and A.E.(Maint.)/ Ex.Eng.(Ward) of concerned ward shall verify such certification.

- ii) Three copies of Total Station Survey Plan, of proposed S.R. scheme superimposed on City Survey plan as well as D.P. Remarks showing therein identification Nos. of the existing structure mentioned in Annexure - II prepared and certified by the Architect. The eligible and non-eligible structures shall be shown distinctly. Plans certified by Architect shall be verified by A E (Maint.)/ Ex. Eng (Ward) of concerned ward.
- iii) Certified true copy of City Survey Plan showing therein the proposed S.R. scheme and existing adjoining structures along with boundary line of proposed S.R. scheme thereat and showing existing adjoining prominent structures, nallah D.P.Road, existing roads, etc. Plans certified by Architect shall be verified by A E (Maint.) / Ex. Eng (Ward) of concerned ward.
- iv) A certified true copy of T.P. remarks for the plots within T.P. scheme alongwith plan & remarks about proposed S.R. scheme.
- v) A.E.(DP) remarks from land acquisition point of view and copy of Award of the said land acquired by A.E.(DP) Department.
- vi) A certified true copy of Total Station Survey showing therein the adjoining on going/ proposed S.R. scheme alongwith the boundary line of proposed S.R. scheme, submitted at Ch.Eng.(SRA) alongwith Annexure-II. Certification shall be done by A.E.(Maint.) / Ex.Eng.(Ward) of concerned ward.
- vii) Estate Officer of concerned ward to verify the VLT's, Tenancies on site and also to offer the remarks as regards the area allowed as per the demand Register and the actual area occupied by VLT's/ Tenancies. The copies of VLT agreements/ Tenancy Agreement shall also have to be duly certified by them.
- viii) C.S. extract of the plots included in proposed S.R.Scheme.
- ix) Latest P.R. Card of the land within proposed S.R. Scheme. (Not prior to one year of the submission of proposal).
- x) Eligibility of hutment dwellers duly certified by Sr. Colony Officer in the form of Annexure-II.
- xi) No dues pending certificate from concerned A.E.W.W. Deptt. and A.A.& C. Deptt. of the proposed S.R. Scheme plot.
- xii) Remarks of user department in case of reservations, obtained by A.E.(Maint.)/ Ex.Eng.(Ward).

After receiving the complete aforesaid information to Estate Deptt. A.E. (Improvement) will scrutinize the proposal and obtain the remarks from Estate Officer (Lease)/ Estate Officer (A/c)/ Estate Officer of concerned ward.

- A) Estate Officer(Lease) will offer the remarks as regards the commitment of the Corporation if any for leasing/ sub-leasing/ possession given and the lease rent recovered, if any, for the land with in the proposed S.R. Scheme. Estate Officer (Lease) to offer the remarks with the details of sanctioning Authority i.e. ICR/ CR.
- B) Estate Officer (A/c) to offer the remarks as regards vacant land tenancies, rent recovered, pending arrears, verification of Municipal Tenancies along with the details of sanctioning authority i.e. ICR/ CR or competent authority.

II) Capitalization of VLT's and/or Municipal Tenants and/or open land are existing with in S.R. Scheme:

Asstt. Commissioner (Estates) will forward the proposal for technical scrutiny to the Dy.Ch.Eng. (PPPP). Dy.Ch.Engr (PPPP) will scrutinized the proposal on the following points:

- 1) Feasibility of carving out open land.
- 2) Feasibility of developing the plot by the Corporation / Agency appointed by Corporation.
- 3) Feasibility of developing VLT's / Tenant premises independently by the Corporation as per the any provisions of D.C. Regulations.
- 4) If above possibilities are not being feasible then capitalized value for VLT and/or Municipal Tenant and/or open Land to be worked out.
- 5) For the purpose of capitalization of open land area under non-eligible hutment shall be considered. Open area to be considered beyond 1.5 mtr. from the eligible hutment / structures.
- 6) User department's requirement shall be scrutinized and to incorporated in to the report to be submitted to the Technical Scrutiny Committee.

III) Technical Scrutiny Committee

A Technical Scrutiny Committee for Slum Redevelopment Schemes as per DCR 33(10) on the municipal land shall be as under

- | | | |
|-------------------------------------|---|----------|
| 1) A M C (in charge of Estate Dept) | - | Chairman |
| 2) D M C (Improvement) | - | Member |

3) D M C (In charge of Slum) -	Member
4) D M C (Zone) -	Member
5) Ch. Eng. (D.P.) -	Member
6) Dy. Ch. Eng (PPPP) -	Member
7) Law Officer -	Member
8) Asst. Comm. (Estate) -	Member - Secretary
9) Asst. Comm. (Ward) -	Member
10) H.O.D. of the user depts. -	Member

The above committee will take the decision in case of allowing the redevelopment on Municipal Land in respect of

- 1) Finalization of the Plot boundaries of the Slum Redevelopment Scheme.
- 2) Carving out of open land as per the report of Dy. Ch. Eng. (PPPP) and tentative location of relocating it abutting the Municipal road with the consent of user department.
- 3) Capitalized Value to be recovered.
- 4) Approval / Rejection of the N.O.C. to Scheme considering the benefits to the MCGM.
- 5) Decision in respect of 'a' 'b' 'c' 'd' below mentioned if the scheme is to be approved.

IV) Lease Hold Lands:

Proposed S.R. Schemes may be on the land which is given on lease/ sub-lease or on the land which is agreed to be leased and the physical possession is not given due to the encroachments. In all the cases hearing below at a), b), c) & d), while passing the order cognizance of the lease / Agreement to lease conditions will be taken in each case. The types of proposals such leasehold lands that may be received and the procedure for processing the same are as elaborated herein below:-

- a) Administrative approval is granted for leasing however no further sanction of Improvement Committee / Corporation is obtained :-

In case of the plots where administrative sanction for leasing was obtained but the sanction of the Improvement Committee / Corporation was not obtained and thereby the possession was not handed over to the prospective lessees, as and when the proposal of 33(10) is received, the administrative sanction to cancel the earlier commitment will be obtained by the Asst. Comm. (Estate) office before processing the proposal.

b) S.R. Schemes on the land agreed to be leased and possession is not given due to encroachments:-

There are cases where in Municipal lands have been agreed to be leased to the individuals with the sanction of Improvement Committee/ Corporation however the physical possession is not handed over to the lessees due to encroachments. Such lands may be classified as

- i) Where some consideration has been received by Corporation.
- ii) Where no consideration has been received.

In either case, we shall move D.L. for cancellation of earlier D.L. to Improvement Committee / Corporation. In case of consideration having had received, we shall pay back consideration with 12% rate of interest and this will be recovered from developer as a condition of NOC.

As these encroachments are prior to 01.01.1995 are protected by the State Legislation. In such cases Asstt. Commissioner (Estates) will issue a Show Cause notice to the lessees, if whereabouts of lessees are known or else will give a Public Notice in the news papers, duly approved by the Law Officer, mentioning the details of area of the plot which the Corporation can not handover to the lessees in view of protection to the eligible hutments by the State Legislation. On receipt of the reply from the lessees, if any, a reasoned orders is to be passed by the Asstt. Commissioner (Estates) and to be served on the lessees. A D.L. to M.S. shall be put-up by the A.C.(Estates) for seeking the sanction of Improvement Committee/ Corporation to delete the area of the encroached land within the purview of earlier ICR/CR. Once the sanction of Improvement Committee/ Corporation is obtained Estate Officer (Lease) of the Estate Deptt. shall update the records. Asstt. Commissioner (Estates) will then offer the remarks to the concerned Asstt. Commissioner's Ward Office.

b) S.R. schemes on the land in possession of lessees:-

Let paper / legal possession is X and let physical possession be Y
 - If it is possible to carved out Y, it will be carved out and shifting if any required shall be minimized within the scheme area. Shifting if required shall be accompanied with reasonable compensation for losses, if any, suffered due to shifting, to be finalized by Asstt. Commissioner (Estate) after giving hearing to lessee.

If not possible to carved out Y, then NOC shall be subject to development of Y area to be allotted to lessee for remaining tenure of lease.

For X area, lease shall be terminated after compensating on a pro-rata basis with 12% rate of interest and NOC shall be subject to charge on project of this value.

As per the lease conditions lessee is supposed to protect the land from the encroachments. As the lessee fails to protect the land from encroachments, Asstt. Commissioner (Estates) will issue a Show Cause notice to the lessee, if whereabouts of lessee are known or else will give a Public Notice in the news papers duly approved by the Law Officer, mentioning the details of area of the plot which the lessee has failed to protect from the encroachments. On receipt of the reply from the lessee, if any, a reasoned order to be passed by the Asstt. Commissioner (Estates) and to be served on the lessee. A D.L. to M.S. shall be put-up by the A.C.(Estates) for seeking the sanction of Improvement Committee/ Corporation to delete the area of the encroached land within the purview of earlier ICR/CR. Once the sanction of Improvement Committee/ Corporation is obtained, Estate Officer (Lease) of the Estate Deptt. shall update their records. Asstt. Commissioner (Estates) will then offer the remarks to the concerned Asstt. Commissioner's Ward Office.

c) S.R. Schemes on Lands of Central Govt./ State Govt./ BPT/ MHADA leased to MCGM and thereafter MCGM has sub-leased/ agreed to sub-lease.

If such the land is sub-leased through Asstt. Commissioner (Estates)'s office, Asstt. Commissioner of concerned wards will process the proposal to get the NOC from the principal lessor through the Asstt. Commissioner (Estates)'s office and if the land is sub-leased through the user deptt. such as H.E., Education, Ch. Engr(SWD), Ch. Engr.(SWM) then the proposal for getting the NOC from the principal lessor shall be processed by the concerned Asstt. Commissioners of the ward through respective offices. Once the NOC is received then the procedure enumerated in 'b' or 'c' herein above depending upon the applicability will be followed.

V) Lease of land to the CHS of Slum Dwellers and sale component:-

As per clause 1.11 of appendix-IV of D.C. Regulation 33(10), the part of the Government/ MCGM/ MHADA and on which the rehabilitation component of the Slum Rehabilitation scheme will be constructed shall be leased to the Co-operative housing society of the slum dwellers, on 30 years lease, at the lease rent of Rs.1001 to 4000 per Sq. mt. of the land or part thereof and renewal for

a further period of 30 years. The same condition shall prevail for the land under the free sale component and not through the society of hutment dwellers, and pending the formation of the society/ Association of the purchasers in the free sale component, it shall be leased to the developer. The said lease deed shall be executed within 60 days from the date of building permission being issued.

Senior Colony Officer (Ward) / A.E. (Maint.) / Ex. Eng. (Ward) shall forward the proposal for leasing of the land to the Society of Slum dwellers / Developer as soon as C.C. is issued by S.R.A. to the Asst. Comm. (Estate)'s Office.

Estate Officer (Society Section) of Asstt. Commissioner (Estates)'s office will co-ordinate with Slum Rehabilitation Authority and will ensure that the leasing is done within a stipulated time. For the purpose of 60 days the date of issue of Commencement Certificate to the first building in the proposed S.R. Scheme shall be considered.

VI) Recovery of Capitalised Value:-

Condition shall be incorporated in Annexure-II that capitalized value will be deposited in the office of Asstt. Commissioner (Estates) before sending remark to the Asst. Comm. (Ward) by the Asst. Comm. (Estate)'s office.

VII) Handing over of buildable / non-buildable reservations:-

A Condition shall be incorporated in Annexure -II that all buildable and non-buildable reservation along with D.P. Road, setback land affected by road widening shall be handed over to MCGM before issuing Occupation Certificate to Sale component or before issuing the recommendation letter for Development Right Certificate to MCGM as may be applicable. Ex Eng(Ward) should ensure this in consultation with the Slum Rehabilitation Authority.

On approval of this circular, this will supercede all previous circulars of Estate-Department regarding aforesaid matter.

Sd/- 03.0.03.2012
For Ex. Eng. (Estate)

Sd/- 17.3.2012
Ch. Eng. (D.P.)

Sd/- 03.03.2012
A. C. (Estates)

Sd/- 17.3.2012
D.M.C. (I)

Sd/- 30.4.2012

Municipal Commissioner

Sd/- 5.3.2012
Dy. Ch. (PPPP)

Sd/-
A.M.C.(E.S.)

No.AC/Estates/2012/AE[Imp]II of 16.05.2012

Copy is Submitted for information please.

Handwritten signature
16/5/12
Asstt. Commissioner (Estate)

1. D. M. C. (Imp)
2. D.M.C. (Zone -I)
3. D.M.C. (Zone -II)
4. D.M.C. (Zone -III)
5. D.M.C. (Zone -IV)
6. D.M.C. (Zone -V)
7. D.M.C. (Zone -VI)
8. D.M.C. (Zone -VII)
9. D. M. C. (Education)
10. Chief Engr (D.P.)
11. Chief Engineer (SWM)
12. Chief Engineer (SWD)
13. Asstt Commissioner (A- Ward)
14. Asstt Commissioner (B- Ward)
15. Asstt Commissioner (C- Ward)
16. Asstt Commissioner (D- Ward)
17. Asstt Commissioner (E- Ward)
18. Asstt Commissioner (F/South- Ward)
19. Asstt Commissioner (F/North- Ward)
20. Asstt Commissioner (G/South - Ward)
21. Asstt Commissioner (G/North- Ward)
22. Asstt Commissioner (H/East- Ward)
23. Asstt Commissioner (H/West- Ward)
24. Asstt Commissioner (K/East- Ward)
25. Asstt Commissioner (K/West- Ward)
26. Asstt Commissioner (L- Ward)
27. Asstt Commissioner (M/East- Ward)
28. Asstt Commissioner (M/West- Ward)
29. Asstt Commissioner (N- Ward)

30. Asstt Commissioner (P/South- Ward)
31. Asstt Commissioner (P/North- Ward)
32. Asstt Commissioner (R/South- Ward)
33. Asstt Commissioner (R/North- Ward)
34. Asstt Commissioner (R/Central- Ward)
35. Asstt Commissioner (S- Ward)
36. Asstt Commissioner (T- Ward)
37. Law Officer
38. Asstt. Engr (B/F) (_____ Ward)
39. Admn. Officer (Estate) (_____ Ward)
40. C. A. (Finance)
41. Dy. C. A. (Rev. -III)
42. City Engineer
43. P. R. O.
44. Municipal Chief Auditor
45. Chief Engineer (M & E)
46. Hydrochloric Engineer
47. Municipal Secretary
48. Education Officer
49. Dean KEM Hospital
50. Dean Sion Hospital
51. Chief Medical Officer (ENT Hospital)
52. Chief Medical Officer (Eye Hospital)
53. Chief Medical Supdt. (Kasturbha Hospital)
54. Medical Supdtt. (T. B. Hospital)
55. Executive Health Officer
56. Chief Security Officer
57. Chief Personal Officer