

26.12.13

MUNICIPAL CORPORATION OF GREATER MUMBAI

No. CHE/9343/DP

Sub : Policy regarding charging premium for granting concessions in open spaces in case of building proposals for utilization of Slum TDR and additional 0.33 FSI under DCR 323 including fungible compensatory FSI.

Ref : 1) MGC/A/8252 dtd. 6.11.2012 (C/3).

2) MCG/G/2234 dtd. 25.6.2013 (C/5).

The references are received from the following in respect of subject matter requesting therein to levy the premium for open space deficiency at 10% rate in case of utilization of additional BUA in lieu of slum TDR and 0.33 FSI.

- 1) Architect Shri B.H. Wadhwa vide letter dtd. 15.9.2012 (C/3).
- 2) Hon'ble M.L.C. Shri Vijay Sawant vide letter dtd. 20.6.2013 (C/5).
- 3) MCHI representation dtd. 1.7.2013 (C/7).
- 4) PEATA's representation dtd. 3.6.2013 (C/21).

The issue was also discussed with MCHI, PEATA members and main content of their submission matter are as under:-

- a) as per clause 6.22 of Appendix IV-A of DCR 1991 all relaxations outlined hereinabove shall be given to the rehabilitation component and also to composite buildings in the project. Premium shall not be charged for all or any of the relaxations given hereinabove, or for any other mentioned in DCR 35(2)(C).
- b) Further, as per regn. No. 33(10) (Slum TDR), Appendix IV, Clause 6.23, "Relaxation for the free sale component. Relaxation contained in sub regulation no. 6.13, 6.14, 6.18, 6.19, 6.20 above as well as other necessary relaxation shall be given to the free the components, on payment of 20% of the normal premium, for Dharavi redevelopment project.
- c) Slum TDR is a sale component of S.R. Scheme which one cannot or does not wish to utilize in S.R. Scheme and can be utilized outside S.R. Scheme by issuing Slum DRC. As per clause No. 17 of Appendix VII-B for issue of slum TDR, wherever TDR arising out of S.R. Scheme project is received, the relaxation as required shall be given for utilization of such slum TDR on the same basis as free sale component in the Slum Rehabilitation Project (C/47).
- d) As per 6 of 33(5) of DCR 1991 for redevelopment of MHADA's land in sub wards Not withstanding anything contained in these regulations, the relaxation incorporate in 33(10) of these regulations shall apply for Housing Schemes under these regulations for tenements under EWS/LIG & MIG categories. However, the front open space shall not be less than 3.60 mt.
- e) As per Clause 8 of Appendix-III for 33(7) for redevelopment in City area. "Relaxation in building and other requirements for rehabilitation:- Not withstanding anything contained in these regulation, the relaxation incorporated in regulation 33(10) of these regulations shall apply (No further relaxation shall be applicable).
- f) As per Clause 12 of column (1) of table 14 of DCR 32 for additional 0.33 FSI "The relaxation of premium i.e. 10% of normal premium shall be charged while condoning deficiencies in open spaces (as applicable for case of Slum TDR". (C/)

- g) The provisions of 35(4) of DCR 1991 related to grand of fungible compensatory FSI on existing structure in respect of city and Suburbs which is reproduced below:

Provided in case of redevelopment under regulation 33(7), 33(9) and 33(10) excluding clause No. 3.11 of Appendix IV of Development Control Regulation 1991, the fungible compensatory FSI admissible on rehabilitation component shall be granted without charging premium.

Provide further that redevelopment under D.C. Regulation No. 33(5) and redevelopment proposal of existing buildings in suburbs and extended suburbs by availing TDR, the fungible compensatory FSI admissible on FSI consumed in existing structure shall be granted without charging premium.

- h) The fungible compensatory FSI permissible as per DCR 35(4) is an additional FSI, Dependent on the source FSI i.e. unless TDR/additional 0.33 FSI is consumed first, fungible compensatory FSI cannot be granted on the plot. Further, no premium on fungible compensatory FSI (FCFSI) is applicable on authentic existing built up area.

In view of above, it is requested to charge the premium for open space deficiency occurred due to utilization of additional BUA of FCFSI over the slum TDR, 0.33 FSI, of which open space deficiencies premium are charged at 10% of normal premium (i.e. 10% on 25% of prevailing SDRR).

II) The remarks are as under :-

- 1) The provision of 35(4) for utilization of FCFSI is newly introduced by modification in DCR 1991 on 6.1.2012.
- 2) Accordingly, the FCFSI may be utilized by paying premium as under.
For residential 35% of permissible BUA at 60% rate of prevailing SDRR.
For commercial user 20% of permissible BUA at 100% rate of prevailing SDRR.
For industrial use at 20% of permissible BUA at 80% rate of prevailing SDRR.
- 3) The provision of relaxation in paying premium in case of redevelopment under reg. 33(5), 33(7), 33(9) & 33(10) are already included in the newly introduced provision of 35(4) of DCR 1991.
- 4) The provision of relaxation in premium for open space deficiencies occurred due to utilization of FCFSI is not available in Reg. 35(4) as it is clearly stipulated for in case utilization 0.33 FSI and redevelopment under 33(5), 33(7), 33(9) & 33(10) of DCR 1991.
- 5) As per explanatory note III of 35(4) of DCR 1991, the fungible FSI is usable as regular FSI. Further, utilization of FCFSI is not compulsory.
- 6) It needs to be also mentioned that specific provisions have been made in Reg. 34(4) itself for exemption charging of premium for certain specific cases. There is no specific provision in the Reg. 35(4) for granting any concessions in computation of premium for condonation of deficiencies generated due to fungible FSI considered while processing proposals in lieu of utilization of slum TDR/0.33 FSI. Under the circumstances, it will not be possible to consider the system unless such specific provision is made to that effect in the regulation. The aspect will have to be examined by U.D.D. and directions to that effect be made for appropriate modification in DCR.

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consider the system unless such specific provision is made to that effect in the regulation. The aspect will have to be examined by U.D.D. and directions to that effect be issued for appropriate modification in DCR.

Considering the above facts, the premium for open space deficiency arising due to utilization of FCFSI is to be charged at normal premium rate i.e. 25% of prevailing SDRR irrespective of its origination as there is no specific provision for same, as well utilization of FCFSI is not compulsory and is usable as regular FSI.

In view of above, Draft reply to Hon'ble MLC shri vijay sawant & MCHI are submitted herewith for approval and issue please.

Submitted please.

Sd/
Ch. E. (DP)