

MUNICIPAL CORPORATION OF GREATER MUMBAI

No. ChE/DP/ 29521 / Gen of: 21.12.16

Sub : Various registered undertakings / undertakings insisted from the developer / architect.

Reference is requested to the reforms the undertaken under Ease of Doing Business by Govt. of India, Govt. of Maharashtra and MCGM. In these reforms, now online Building Proposal Approval System is started and the approvals are being granted online. During the various meetings with UD – GOM, UD-GOI, it is stressed that the undertakings / registered undertakings obtained from developers or architects should not be insisted and the conditions of these undertakings should be included in the common application form to be filled up by architects / developers at the time of submitting application. It is also to be pointed out here that the various undertakings which are insisted and obtained at present are for the compliance of conditions imposed by MCGM as Planning Authority and there is no mentioned either in MMC Act, MRTTP Act or Development Control Rules to obtain such undertakings. There is no instance wherein MCGM as ever taken action based on these undertakings as per available record.

In view of above and as directed by UD – GOI to do-a-way of these undertakings and make it a part of common application form to be submitted by the developer / architect while submitting online application for obtaining permission of building proposals is to be implemented.

Law officer is therefore, requested to give specific remarks on following points –

- 1) Whether the contents of various undertakings, if made, as a part of common application form will serve the purpose for compliance of various conditions imposed on the developers in the legal manner.
- 2) Is there any provision in the Law to punish the breach if the party on other side does not comply with the conditions imposed, mentioned in the undertaking. If yes under which law / Act.
- 3) Any other points in opinion of Law Officer, which is important and in the interest of MCGM on enforcing conditions imposed while granting building permissions.

Please treat this as an urgent and forwarded the remarks immediately as the further necessary action after discussion with Hon. M.C. will have to be taken in this regard as Govt. of India is rigorously following this issue.

sd/- 21/2/16
(Vinod Chithore)
Ch. E. (D.P.)

Shri Nasir Shaikh
Law Officer

Copy to :

EE(DP) ES / AE(DP)GIS

To follow up with Law Officer & get the remarks expeditiously.

sd/- 21/2/16
Ch. E. (D.P.)

Law Officer

As discussed P. find copy of reference made on 21/2/16. The reply is required today by 3.00pm. The same is to be communicated to UD GOI in tomorrow scheduled meeting at Delhi. This was discussed several times during 21/2/16 to 01/02/17

P. treat this urgent

sd/- 21/2/16
Ch. E. (D.P.)

बृहन्मुंबई महानगरपालिका
विधी विभाग
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L.O (I/C)
01.2.17

BRIHANMUBAI MAHANAGARPALIKA

LEGAL DEPARTMENT

Dated – February 1, 2017.

Sub :- Various registered undertakings/undertakings insisted from the Developer/Architect.

Ref :- CHE/DP/2952/Gen dated 21/12/2016.

Reference is requested to reform undertaking to be submitted under Use of Doing Business. By the above referred note, this department is requested to opine on the following points:-

1. Whether the contents of various undertakings, if made, as a part of common application form will serve the purpose for compliance of various conditions imposed on the developers in the legal manner.
2. Is there any provision in the law to punish the breach if the party on other side does not comply with the conditions imposed, mentioned in the Undertaking. If yes, under which law/Act.
3. Any other points in opinion of Law officer, which is important and in the interest of MCGM on enforcing conditions imposed while granting building permissions.

As regards query No.1 above, it is to be mentioned here that Undertaking is a personal liability taken up for non-compliance of the conditions imposed under the law. Thus, if the contents of such Undertaking are required to be incorporated as a form or part of common application, it would suffice purpose only if the same is incorporated as Annexure in the Application Form itself or if the clause incorporating such compliance as necessary is a part of the Application Form.

As regards query No.2 above, on failure to comply with the conditions imposed, the person submitting Undertaking is personally liable for criminal action for untruthful act and cheating under Indian Penal Code. However, if the Undertaking forms a part of condition, the person submitted such form, cannot be personally liable unless such clause is incorporated in the common application form.

It would be therefore, advisable that a specific clause be incorporated at the end of the form that "all the aforesaid information submitted is correct to my knowledge and I shall be personally liable for legal action if the same is found to be false".

Paper received under No. LOP/440 dated 1st February 2017 is returned herewith.

LOP/440
11/11/17
Chief Engineer(D.P.)

Harwardare
Dy. Law Officer
(Conveyance-I)

वृहन्मुंबई महानगर पालिका			
प्रमुख अभियंता (विकास नियोजन)			
यांचे कार्यालय			
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क.प्र.अ/दि.नि/			
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ना. अधि.	टिडीआर	लेखा	आस्था

EE(DP)ES
 I put up note for Hon. MC's approval to include all conditions & undertakings in common application form and to include this in system through softtech.
 प्रमुख अभियंता (विकास नियोजन)
 11/11/17
 CHDP

SE. (DP) Dhanashree
 PI - SPK.
11/11/17
 EE(DP)ES.