

2015-16

CHE/DPI/41699

/GEN dtd.

04 JAN 2016

C I R C U L A R

Sub: Policy Guidelines for utilization of additional 0.40 FSI out of permissible 0.50 FSI as per Regulation 32 of DCR 1991 for starred category Hotels in Mumbai Suburbs in substitute of 0.50 TDR as contemplated in sub regulation 33(4) of DCR- 1991 on payment of premium as mentioned in the Govt. Notification u/no. TPB-4312/263/CR-77/2013/UD-11 dtd.4.12.2015 & to insist 0.10 TDR in the form of slum TDR

Ref: 1. Govt. Notification u/no. TPB-4307/815/CR-257/2003/UD-11 dtd. 14.05.2009
2. Govt. Notification u/no. TPB-4308/776/CR-127/2008/UD-11 dtd. 24.10.2011.
3. Hon'ble M.C's approval u/no. MCP/7655 dtd.24.09.2015
4. Govt. Notification u/no.TPB-4312/263/CR-77/2013/UD-11 dtd.4.12.2015

- A. As per DCR 33(4), starred category hotels in Mumbai suburbs and extended suburbs are permitted **with basic FSI (1.00) + additional FSI from Government + 0.5 TDR** (i.e. Total FSI 3.00 + 0.50 TDR). This amendment was introduced vide notification dated 14.05.2009.
- B. As per Regulation no. 32 of DCR 1991, 0.33 FSI was finally approved under section **37(2) of MR & TP Act in 2011** by amendment to Table 14 of DCR which permitted the use of 0.33 FSI in Mumbai suburbs and extended suburbs which is further modified vide Notification u/no. TPB-4312 / 263 / CR-77 / 2013/ UD-11 dtd.4.12.2015 as per clause 37 (1AA) C of MR & TP Act 1966. As per the sanctioned modification additional 0.33 FSI is enhanced to 0.50 FSI on payment of premium to be shared between Government of Maharashtra and MCGM in equal proportion i.e. 50% respectively. Sr. No. 10 of the said amendment in regulation 32 of Table No. 14 specifies the cases/categories where such additional 0.50 FSI is not permitted to be used, such as Bandra-Kurla Complex, SRA Schemes under Regulation 33(10), CRZ area and industrial users.
- C. As per the modification dtd. 04.12.2015 in Regulation 32, Table (14), Clause 1(B)(iii) item 5, the premium shall be charged for additional 0.50 FSI at the rate of 60% of the land rates of Annual Statement of Rates (ASR) of the year in which such FSI is granted.
- D. The provision of Regulation 32, Table (14), item 11 is reproduced here under,
"As per the provisions of Appendix VIIB under DCR 33(10) and 33(14), the extent of slum TDR shall be at least 20% of total permissible additional FSI (in any combination of additional FSI and TDR)"
As per the above provision 20% slum TDR is mandatory, hence maximum 0.40 additional FSI only (i.e. 80% of 0.50) instead of 0.50 in cases of Star Category Hotels proposed under 33(4) shall be allowed & 0.10 TDR in the form of slum TDR shall be insisted to be utilised simultaneously/ prior to utilization of 0.40 addition premium FSI as per regulation 32.
- E. The modifications in respect additional 0.50 FSI indicates that this 0.50 FSI will be part of maximum limit of TDR permissible.
- F. As Regulations 32 and 33(4) are distinct regulations, there was no clarity for utilization of 0.50 FSI in substitution of TDR, in cases of starred category hotels.

In order to bring clarity about allowing use of additional 0.50 FSI, in respect of proposals of starred category Hotels in suburbs and extended suburbs following guidelines are issued-

1. 0.40 additional FSI may be allowed as per provision of Regulation 32 of DCR 1991 & further modification u/no. TPB-4312/263/CR-77/2013/ UD-11 dtd. 4.12.2015 by Changing premium applicable as per the rates mentioned in the said modifications i.e. the premium shall be charged for additional 0.50 FSI at the rate of 60% of the land rates of Annual Statement of Rates (ASR) of the year in which such FSI is granted in respect of proposals of starred category hotels in suburbs and extended suburbs. **This will be allowed in view of fact that Clause No. 10 of amendment for additional 0.50 FSI dated 24.10.2011 & further modification dtd. 4.12.2015 do not "prohibit" use of such FSI for starred category residential hotels.**
2. Such maximum 0.40 additional FSI as per the provisions of regulation 32 will be **allowed if and only if additional FSI as admissible under 33(4) is availed from the State Government in Urban Development Department & 0.10 TDR in the form of slum TDR is utilised.**
3. Such additional 0.40 FSI (premium FSI) will be forming the **part of total limit of TDR admissible i.e. 0.50 TDR permissible under sub regulations 33(4).**
4. In the nutshell, when 0.50 additional FSI as per DCR 32 is allowed, TDR use will be restricted/ reduced, such that **combination of 0.40 additional FSI & TDR will not exceed 0.50 TDR permissible under Regulation 33(4).**
5. The relevant Clauses of Regulations 32 shall also be applicable for utilization of 0.40 additional FSI for starred category Hotel proposals.

The concerned staff working in the Building Proposal Section shall take note of above policy in dealing with such type of cases.

Sd/-
Ch.Eng. (DP)

sd/-
Municipal Commissioner

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For information & to take further necessary action in this regard. The copy of the notification of Sr.No.4 of the reference is available in the Govt. of Maharashtra Website www.maharashtra.gov.in under Acts / Rules links.

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