

**MUNICIPAL CORPORATION OF GREATER MUMBAI**

Ch.E./DPT/38114/Gen. MF 30.3.15

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78  
2015 -  
Defence  
file

**Sub:** Building proposals in the vicinity of Defence Establishment,  
Central Ordinance Depot, Malad & Kandivali.

- Ref:** (1) Circular of U.D. Dept., Govt. of Maharashtra u/no. सीआरझेड-  
2010/2624/प्रक्र421/10(भाग-2)/नवि-12 दि.04/11/2010.Pg. C-1  
(2) Circular of Ministry of Defence, Govt. of India u/no. 11026/2/2011 D  
(lands) dt. 18/05/2011 received on 12/02/2012. Pg. C-3 to C-5  
(3) Circular of U.D. Dept., Govt. of Maharashtra u/no. सीआरझेड-2012/  
2624/प्रक्र 12 (भाग-2) / नवि-12 दि. 21/02/2015 Pg. C-7 to C-11  
(4) Circular of Ministry of Defense, Govt. of India u/No. 11026/2/2011 D  
(lands) dt. 18/03/2015. Pg. C-13  
(5) MGC/VIP/465 dt.10.03.2015. Pg. C-15 to C-25  
(6) Letter from Hon'ble M. P. Shri.Gopal Shetty along with a copy of  
letter addressed by him to Hon'ble Defence Minister, Govt of India  
dt.23.03.15. Pg. C-27 to C-29

Reference is requested to a letter from Hon'ble M. P. Shri Kirit Somaya  
addressed to Hon'ble M. C. and letter from Hon'ble M. P. Shri Gopal Shetty regarding  
N.O.C. for development in the vicinity of Defense lands.

The Gist of the case is as below:-

Urban Development department, Govt. of Maharashtra had issued guidelines  
u/no. CRZ/2010/2634/CN421/10(part 2)/D dtd. 04.11.2010 Wherein it is mentioned in  
Para (3) as:-

"While granting any development permission in Mumbai Municipal Corporation  
limits, if there is defense, Army, Navy or any defense related establishment in  
the vicinity, prior NOC from such establishment shall be obtained".

Since, many issues were not addressed in the said circular, MGCM vide letter  
Ch.E./14909/DP/P & R dtd. 21.12.2011 has requested clarification on the  
following points.

1) To specify the peripheral distance from the boundary of the concern defence  
establishment for which NOC will be required.

2) To clarify whether the Defence NOC is required for the works in which IOD /  
CC etc. is issued for development / redevelopment and substantial work has  
been carried on site.

However till date the clarification is not received.

Since there was no distance specified in the above referred circular and hence  
the public at large were not aware of any restrictions regarding the development  
permissions in areas near defense establishments.

Subsequently Ministry of defense Govt. of India has issued instructions /  
guidelines in the interim to regulate grant of NOC to their commanding officers  
regarding No objection Certificate (NOC) for building construction u/no.  
11026/2/2011/D (Lands) dtd. 18.05.2011.

The copy of the said interim instructions/guidelines was send to UD Deptt. &  
Municipal Commissioner by defence Deptt.on 12.02.2012. (copy at page C-3 to  
C-5 )

As per the above interim instructions/guidelines it is stated that:-

- "a) In places where local municipal laws require consultation with the Station  
Commander before a building plan is approved, the Station Commander may

convey its views after seeking approval from next higher authority not below the rank of Brigadier or equivalent within four months, of receipt of such requests or within the specified period, if any required by law. Objection/views/NOC will be conveyed only to State Government agencies or to Municipal authorities, and under no circumstances shall be conveyed to builders/private parties.

- b) Where the local municipal laws do not so require, yet the Station Commander feels that any construction coming up within 100 meter (for multistory building of more than four storeys the distance shall be 500 meters) radius of defence establishment can be a security hazard, it should refer the matter immediately to its next higher authority in the chain of its command. In case the next higher authority is also so conveyed, then the Station Commander may convey its objection/views to the local municipality or State Government agencies. In case the municipal authority/State Government do not take cognizance of the said objection, then the matter may be taken up with higher authorities, if need be through AHQ/MoD.
- c) Objection/views/NOC shall not be given by any authority other than Station Commander to the local municipality or State Government agencies and shall not be given directly to private parties/builders under any circumstances.
- d) NOC once issued will not be withdrawn without the approval of the Service Hqrs.

2. These instruction will not apply where constructions are regulated by the provisions of the existing acts/notification viz. Cantonments Act, 2006, Air Craft Act, MoCA, 1934., Gazette Notification SO 84(E) dated 14.01.2011 (as revised from time to time), Works of Defence Act, 1903, etc. in such cases provisions of the concerned Act/Notification will continue to prevail."

Thus it is clear that the implementation of requirement of NOC from defence establishments was necessary only after the date of the receipt of the interim instructions/guide lines issued by Ministry of defense Govt. of India on 12/02/2012, since before the said interim guidelines, no zone was ever specified for requirement of NOC from defence establishment.

According to the above interim instructions/guidelines fresh proposals received to this office within 500m radius of defence establishments were sent to concern defence authority along with the requisite documents/ plans for their NOC. All the proposals were more than 4 stories and hence in accordance with the interim guidelines almost all these proposal are rejected by the commanding officer.

- C) Recently fresh guidelines are issued by Urban Development Department, Govt. Of Maharashtra vide circular u/No. CRZ/2012/CM-2/12/UD-12 dtd. 21.02.2015. Copy at Pg. C - 7 to Pg. C-11 thereby superseding the earlier guide lines dated 4/11/2010.

Reference is kindly requested to para (क) (ड) व (ई) of the above said circular as below:

(क) महाराष्ट्र राज्यातील सर्व नियोजन प्राधिकरणांनी / विशेष नियोजन प्राधिकरणांनी त्यांच्या संकेतस्थळावर त्यांचे कार्यक्षेत्रांतर्गत असलेल्या उपरोक्त तीनही सेनादलांचे आस्थापनापासून नियंत्रित क्षेत्रातील विकास परवानग्यांची सर्व माहिती नकाशांसह अपलोड करावी. तसेच, प्रस्तावित विकास प्रस्तावांच्या प्रती नकाशांसह संबंधीत स्टेशनकमांडरकडे / संरक्षण आस्थापनांकडे त्याच दिवशी स्पीड पोस्टाद्वारे पाठवाव्यात.

- (ड) या दिनांकापासून तीस दिवसांच्या कालावधीत स्टेशनकमांडर अथवा त्यांचे वरिष्ठानां काही आक्षेप नोंदवावयाचे असतील तर त्यांनी ते नोंदवावेत आणि काही आक्षेप असल्यास त्याबाबत नियोजन प्राधिकरणांनी / विशेष नियोजन प्राधिकरणांनी त्यांच्याशी विचार-विनिमय करून निर्णय घ्यावा आणि महाराष्ट्र प्रादेशिकनियोजन व नगररचना अधिनियम 1966 चे तरतूदीनुसार उचित कार्यवाही करावी. मात्र ज्याठिकाणी असा निर्णय घेण्याविषयी दुमत असेल अशा वेळी राज्य शासनाकडे / केंद्र शासनाकडे संदर्भ करून त्यावर उचित मार्गदर्शन घ्यावे.
- (ई) संरक्षण विभागाच्या उक्त मार्गदर्शक तत्वांनुसार जेथे ना-हरकत प्रमाणपत्र घेणेची आवश्यकता नसतानाही यापूर्वी काही प्रकल्पधारकांनी / नियोजन प्राधिकरणांनी विकास प्रस्तावासाठी संरक्षण विभागाकडे ना-हरकत प्रमाणपत्र अपेक्षिते असेल आणि जेथे सदर विकास प्रस्तावांना संरक्षण विभागाने अद्यापही ना-हरकत प्रमाणपत्र दिलेले नसेल तर अशा जुन्या प्रकरणी, या परिपत्रकाचे दिनांकापासून 30 दिवसांचे विहित कालावधीत संरक्षण विभागाने यासंबंधाने निर्णय दिला नाही तरसंबंधीत नियोजन प्राधिकरणांनी महाराष्ट्र प्रादेशिक व नगररचना अधिनियम 1966 चे तरतूदीनुसार उचित कार्यवाही करावी.

As already stated the proposals already submitted to the defence authority have already been rejected by the authority in accordance with the interim instructions/guide lines. Further any new proposals forwarded to the defence authorities are likely to be rejected in view of the interim instructions/ guide lines as all the proposals will be more than 4 stories.

Hon'ble M.P. SHRI Gopal Shetty has vide letter dated submitted a copy modification issued to the interim instructions/guidelines issued by Director (L & C), Ministry of Defence, Govt. of India u./no. 11026/2/2011/D(lands) dtd. 18.03.2015 (Copy at Pg. c-27 to C29 ).

As per the above modification in the interim instructions/ guide lines dated 18/03/2015, the proposal for which permission has been issued prior to issue of interim instructions/ guide lines dated 18/5/11 can be processed further without any amendment with respect to height.

However since the permissions are issued in stages with respect to height of the buildings, the said circular, will not be of any help for works in which only initial permissions are granted. It may be mentioned that most of the proposals are of redevelopment of the exciting old dilapidated buildings/Slum re-development(under the Slum Redevelopment Authority) and depend on the full consumption of the floor space index potential, which are approved in a phase wise manner for its viability. Thus any restrictions on height will jeopardies the proposal itself.

Hon'ble M.P. Shri.Gopal Shetty had vide letter dtd. 23.03.2015 has requested to put up a detailed note to Hon'ble M.C. It is mentioned by him that this issue is discussed in detail with Hon'ble Ministry of Defence, Govt. of India. He has also attached his letter, addressed to Hon'ble Defence Ministry.

According to Hon'ble M.P. Shri. Gopal Shetty, Hon'ble Defence Minister has asked to put up a note through U.D. Deptt., Govt. of Maharashtra, regarding the hardships faced and further clarification/modification sought, with regard to the issue of NOC for construction.

Hence in view of the above it is proposed that matter be taken up by U.D. Deptt. Govt. of Maharashtra with Defence minister for not to insist NOC from Defence establishment for the properties for which the proposals are accepted by the planning authorities prior to 12.02.2012(i.e. the date on which the guidelines are received from defence deptt. by U.D. Deptt. Govt. of Maharashtra/ Municipal Commissioner) irrespective of any subsequent amendment to the proposal, which will be strictly as per the Development control rules of the respective planning authorities.

It may be further submitted that most of the proposals are of redevelopment of the existing old buildings which have become dilapidated due to age of the structure and are in urgent need of redevelopment, else a mishap is possible. Further the development of the D.P. Roads and other public amenities will not be developed as major portion of the property around the CDO boundaries are encroached by slum and the entire development of which proposals are accepted shall come to a stand still.

In view of the above, a draft letter to U.D.D., Govt. of Maharashtra is put up at Pg. 39-45 for Hon'ble M.C.'s approval. On receipt of approval, the letter under the signature of undersigned will be issued.

Submitted please.

*Chandray*  
30/3/15  
Chief Engineer  
(Development Plan)

Hon'ble M.C.  
Sir,

*Chandray*  
30/3/15  
MUNICIPAL COMMISSIONER  
*Chandray*  
C.E.(D.P.)

हनुमानगढ़ महानगरपालिका  
आयुक्त्यांचे कार्यालय

30 MAR 2015

सं. १६, १२, १६, १४  
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प्रमुख अभियंता  
(विकास नियोजन)