

CHE/DP/74/Gen

2017-18

C/129

MUNICIPAL CORPORATION OF GREATER MUMBAI

No.: CHE/DP/26223/Gen dt 20.12.17

+ **Sub:** Charging premium for deficiency in Open Space while carrying out development in cases of Building Proposals involving clearance of built up setbacks DP Roads of width 90' & above / R.L. Roads proposed to widened to width of 90' & above.

- Ref:** 1) Circular u/no.CHE/DP/81/2005-06
2) Circular u/no.CHE/105/DPBPWS dtd.29.04.2011.
3) CHE/DP/13462/Gen dtd.08.08.2014.

Issued as per Hon Mc's approval u/no. MCP/2453 of 19-12-17

The above said Circulars were issued for charging premium for deficiency in Open Space while carrying out development. At present the premium is worked out while condoning deficiency in Open Spaces in case of utilization of TDR generated from DP reservations / DP Road / Compensatory Fungible FSI etc. in combination with Slum TDR as per Circular dtd.08.08.2014 (at Sr.No.3).

It is observed that, while developing Land / plots affected by setback of DP Road with built up setbacks, the open space deficiency premium amount to be paid by the Owners / Developers works out to quite high, which adversely affects the viability of development of such affected plots.

Roads which are affected by built up structures, if required to be acquired for road widening as per Traffic department's requirement or as per the recommendations of Comprehensive Mobility Plan (CMP), such acquisition takes considerable time and MCGM has to pay compensation as per LARR Act-2013, which is also very high. If land Owner / Developer comes forward for development when the plot is affected by Road setback along with built up structures, then they have to make considerable payment towards the premium for want of deficiency in Open Spaces as per Circular No.1 to 3 above, the premium amount to be paid is less than the compensation amount to be paid for acquisition of such stretch of road. (Test cases of acquisition of DP Road and the proposal under reference are enclosed).

Hence, it is felt and required that the further suitable and ideal modifications / changes shall have to be incorporated in the policy / circular of charging premium for deficiency in Open Space in cases of Building Proposals involving clearance of built up setbacks while carrying out development, so that

there will not be burden of payment of compensation on the MCGM towards acquisition as well as the premium charges will not adversely affect the viability of the project thereby land Owners / Developers will come forward for handing over such setbacks of DP Roads / R.L. Roads by clearing built up setbacks. In view of said circumstance the line of action / guidelines are as follows:

- 1) The deficiency in open spaces and premium thereof shall be calculated as per the circular u/no. CHE/DP/13462/Gen dtd.08.08.2014 by applying multiplying factor as per Circular u/no.CHE/105/DPBPWS dtd.29.04.2011 with a benefit of Circular u/no.CHE/DP/81/2005-06.
- 2) The premium as mentioned in the table below of premium calculated as per Sr.No.1 above shall be charged.

Ref:- Annexure III

Sr.No.	Ratio of setback area to balance Land/plot area in percentage i.e. (Y/X * 100)	Ratio of total built up setback (BUA of existing structures including all floors in setback) / setback area (Z/Y * 100%)	Percentage premium to be charged calculated as per Sr.No.1 above
(1)	(2)	(3)	(4)
1	30% & more than 30%	50% & more than 50%	25%
2	less than 30%	less than 50%	50%

Note :-If Ratio of setback area to balance plot in percentage i.e. (Y/X * 100) and Ratio of built up setback (BUA of existing structures including all floors in setback) / setback area (Z/Y * 100%) falls in different categories i.e. falls in Column No.2 & Column No.3 then in that case Percentage premium to be charged calculated as per Sr.No.1 above shall be stringent of Column No.4

- 3) This policy is applicable for removal of built up setbacks on DP Roads / R.L. Proposed/Sanctioned / public Roads to widened for removal of built up setback affected by authorized / tolerated structure /s.
- 4) If the road on which built up setback is proposed to be cleared is under acquisition then supervision charges to be levied as per policy Circular

u/no.CHE/DP/834/TDR/Gen dtd.04.07.2005 shall not be insisted from the Owner / Developer.

- 5) This policy shall be applicable prospectively and premium already paid towards open space deficiency as per earlier policies shall not be refunded / adjusted against any other payments to be made to MCGM.
- 6) Once the Land / Plot Owner / Developer opt for such clearing of built up setback by charging premium as per this circular then in future Owner / Developer shall not serve upon Purchase Notice under MR & TP Act, 1966 for such setback areas.
- 7) This circular is applicable only for those plots having built up setbacks and development and redevelopment of the same plot is proposed.
- 8) This circular shall not be applicable if Land / Plot Owner / Developer has already taken advantage / benefit of such built up setback areas under any other Act i.e. IOD / CC of the built up setback area is already taken.
- 9) This circular shall not be applicable in case of removal of contravening structures where benefit of Regulation No.33(15) of DCR-1991 is availed.
- 10) This policy shall be applicable to the plots having built up setbacks having average depth 50 mt. from the road line or for buildings in plots within 50 mt. from the road line in case of large layouts.
- 11) This circular shall not be applicable to the proposals under Regulation No.33(5), 33(7), 33(9) & 33(10).

MW etc
Dy. ChE.(BP)WS-I

D. Rand
04.12.17
Dy. ChE.(BP)WS-II

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7/12/2017
Dy. ChE.(BP)ES

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07/12/17
Dy. ChE. (DP)-I

Dy. ChE. (DP)-II

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7.12.17
 (Sanjay Darade)
ChE. (DP)

(Ajoy Mehta)
Hon.M.C.
 Sir

Annexure-I

Procedure for calculating premium for open space deficiency in cases of built up setbacks by taking cognizance of earlier circulars issued u/no.CHE/DP/81/2005-06, CHE/405/DPWS dtd.29.04.2011 & CHE/DP/13462 dtd.08.08.2014.

Case : Proposed Commercial development on land bearing CTS No.A/177 of village Bandra (W) at Hill Road, Bandra (W) in lieu of plot potential + 0.5 Govt. FSI / Slum TDR & + TDR as per road width benefit + fungible for commercial area + 200% advantage of setback area.

Sr.No.	Description	Area in sq.mt.	Denotation
1	Plot-area	597.59	(A)
2	Setback area	235.16	(B)
3	Net plot-area	362.43	(C)
4	Permissible built up area (362.43 X 2.40 as per Sr.No.4 of Table of Regulation 5.4.1 of Govt. Notification u/no. TPS-1813/3067/CR-122/12/BMC/UD-13 dtd.16.11.2016) (2.40 X (C))	869.83	(D)
	0.5 FSI claimed 0.5 X (C)	181.22	(E)
	Slum TDR claimed 0.9 X (C) =(0.9 X 362.43)	326.187	(F)
	Total = (E) + (F)	507.40	(G)
	Road setback claimed 2 X (B) =(2 X 235.16)	470.32	(H)
	Total (C) + (G) + (H)	1340.15	(I)
	Fungible FSI (0.2 X (I))	268.03	(J)
	Total built up area (I) + (J)	1608.18	(K)
5	Total area under deficiency for proposed building for total proposed area 1604.18 sq.mt.	1824.29	(L)
6	Area of deficiency for FSI 1.0	423.30	(M)
7	BUA of authorized / tolerated structure under setback (i.e. 'Z' as per Annexure III attached)	118 X 2 = 236 (Ground + One storied structure in setback)	(N)
	BUA in required Front Open Space (In this case 6.0 mt. FOS is required as per Regulation 29 of DCR-1991 since road width is 90')	72 X 2 = 144 (Ground + One storied structure in FOS)	(O)
	Total of (N) + (O) as per Sr.No.b) of policy circular u/no. CHE/DP/81/2005-06	380	(P)

Open Space deficiency for FSI One:			
Sr. No.	Description	Area in sq.mt.	Denotation
i)	(M) - (P) as per policy circular u/no. CHE/DP/81/2005-06	43.30	(Q)
	Premium = 43.30 X Rs.205500/- (RR Rate of land for FSI One for the year 2017) / 2 X 1.5 (Telescopic premium charged as per policy circular u/no. CHE/405/DPWS dtd.29.04.2011)	Rs.66,73,612.00/-	(R)

Open Space deficiency for FSI 2.4 + Fungible			
Sr. No.	Description	Area in sq.mt.	Denotation
i)	Area under deficiency for FSI 2.4 + Fungible		
	(L) - (Q) = 1824.29 - 43.30	1780.99	(S)
	Area of deficiency to be charged(Refer sketch 1 attached)		
	100% (S) X (H) + (J) / (G) + (H) + (J) (As per policy circular u/no.CHE/DP/13462 dtd.08.08.2014) = 1780.99 X (470.32 + 268.03) / (507.40 + 470.32 + 268.03) = 1780.99 X 738.35 / 1245.75 = 1780.99 X 59.27%	1055.6 sq.mt.	
	Premium 1055.6 X Rs.205500/- (RR Rate of land for FSI One for the year 2017) / 2 X 1.5 (Telescopic premium charged as per policy circular u/no. CHE/405/DPWS dtd.29.04.2011)	Rs.16,26,93,236.00/-	(T)
	Area of deficiency to be charged		
	10% (S) X (G) / (G) + (H) + (J) (As per policy circular u/no.CHE/DP/13462 dtd.08.08.2014) = 1780.99 X 40.73%	725.40	725.40
	Premium 725.40 X Rs.205500/- (RR Rate of land for FSI One for the year 2017) / 2 X 1.5 (Telescopic premium charged as per policy circular u/no. CHE/405/DPWS dtd.29.04.2011)	Rs.1,11,80,184.00/-	(U)
	Total premium (R) + (T) + (U) =Rs.66,73,612.00/- +	Rs.18,05,47,033.00/-	(V)

Rs.16,26,93,236.00/-	+		
Rs.1,11,80,184.00/-			

The aforesaid premium (V) is to be relaxed further as per Draft Policy

Sr.No.	Description	Area in sq.mt.	Denotation
	Ratio of setback area to balance plot in percentage i.e. (y/x X 100) = (B) / (C) X 100 = 235.16 / 362.43 X 100	64.88%	
	Ratio of built up setback (BUA of existing structures including all floors in setback) / setback area (z/y X 100%) = (N) / (B) X 100 = 236 / 235.16 X 100	100%	
	As such premium (V) to be charged at the rate of Sr.No.1 of circular i.e. 25% of (V)	Rs.4,51,36,759/-	

PLW are
Dy. ChE.(BP)WS-I

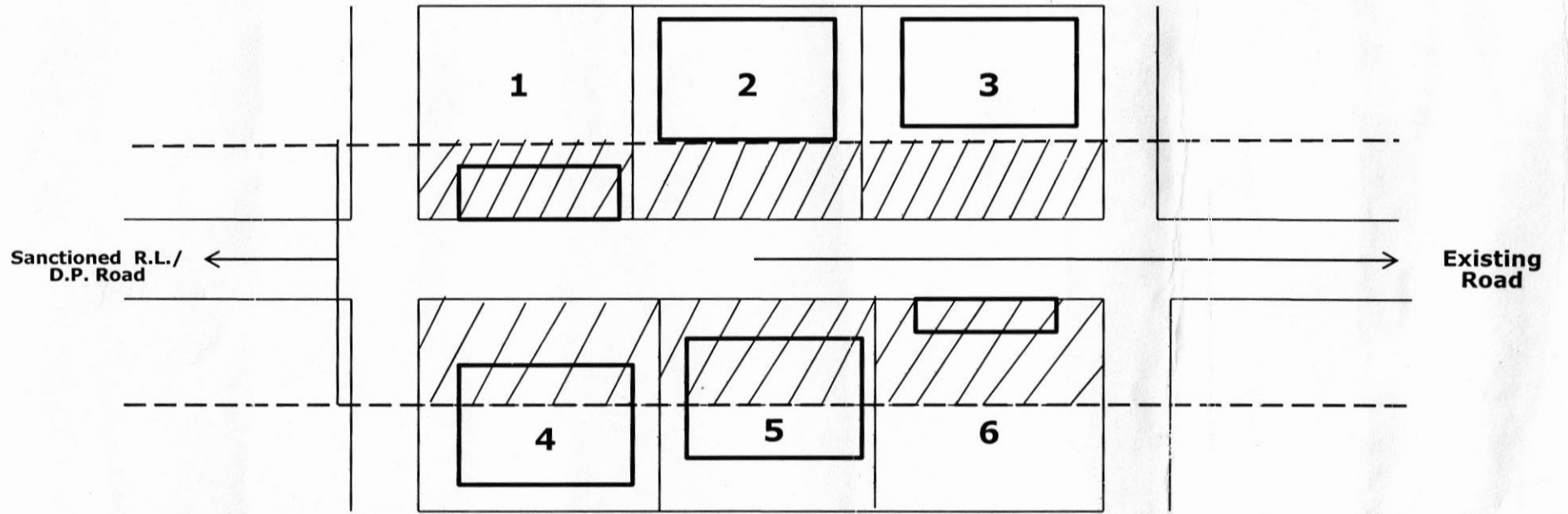
1 Draft
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Dy. ChE.(BP)ES

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Policy for charging premium for Open Space Deficiency while clearing built up set back (Sanctioned R.L. / D.P. Road)



- 1. Plot affected by Sanctioned R.L./D.P. Road with Built Up set back more than 50% of setback area.
- 2. Plot affected by Sanctioned R.L. /D.P. Road with Open set back touching existing building.
- 3. Plot affected by Sanctioned R.L. /D.P. Road with Open set back.

- 4. Plot affected by Sanctioned R.L. /D.P. Road partly affected by Built Up set back.
- 5. Plot affected by Sanctioned R.L. /D.P. Road mostly affected by Built Up set back.
- 6. Plot affected by Sanctioned R.L. /D.P. Road Built Up set back less than 50% of setback area.

- - - - - Sanctioned R.L./D.P. Road
 [Rectangle] Existing Structure
 [Outline] Plot Boundary

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Open space deficiency calculations

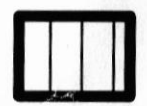
I. Area of deficiency to be reduced as per policy circular u/no CHE/DP/81/2005-06



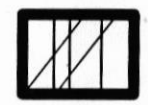
Original Plot



Balance
Net Plot Area (Gross plot area - area of reservation / road setback) = **x**



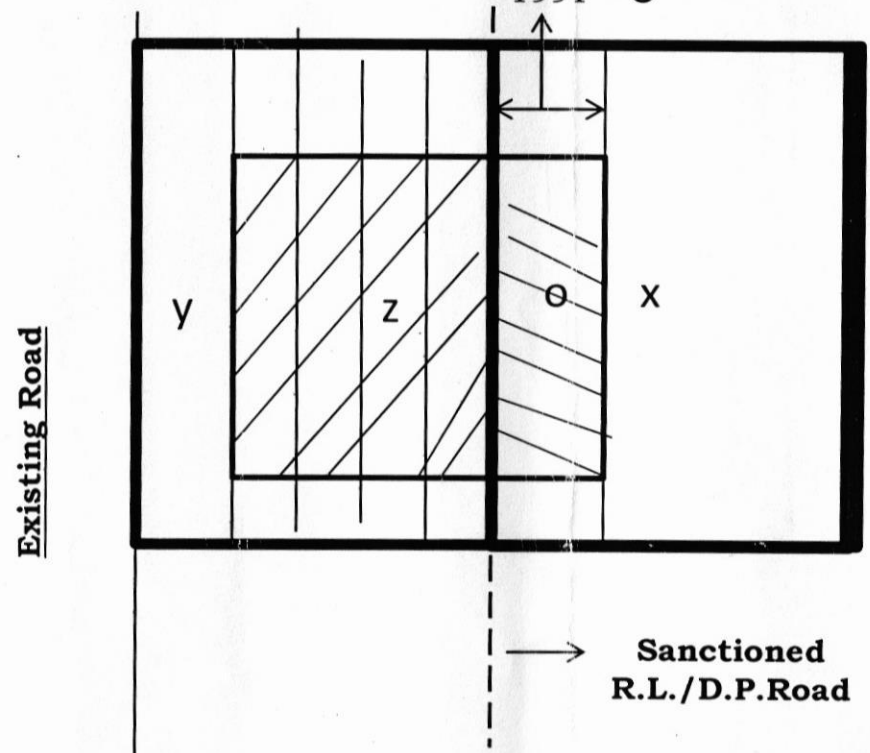
Set Back Area of plot = **y**



Built up Area of all floors on setback land = **z**

Sketch - 2

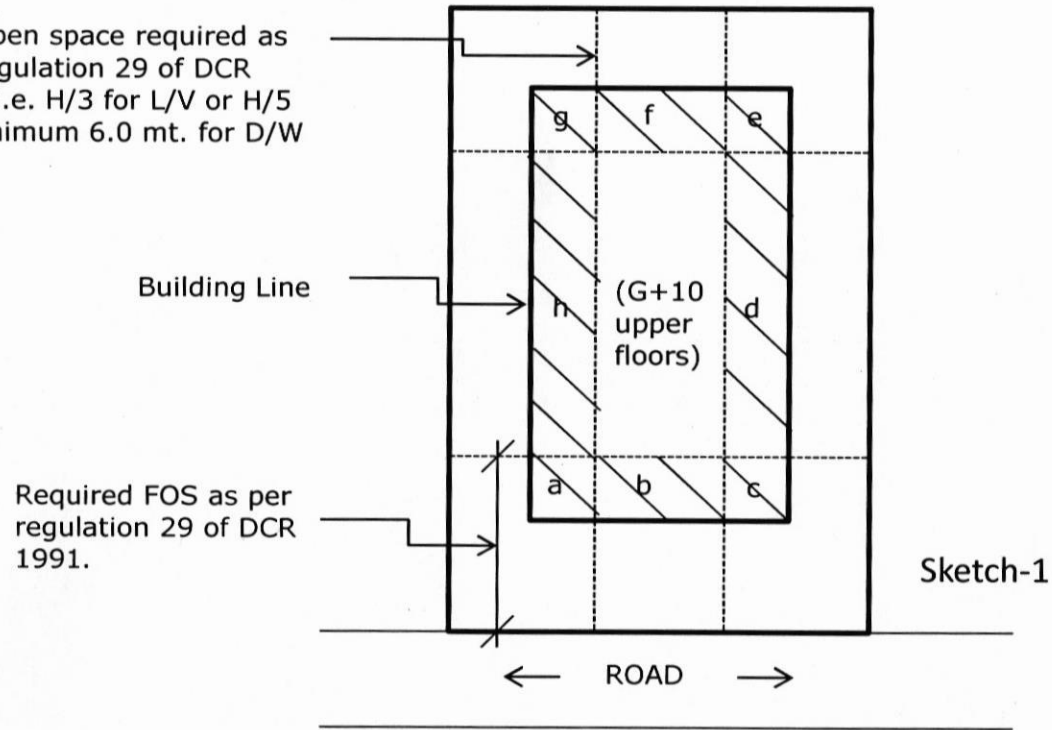
Required Front Open Space as per regulation 29 of DCR 1991 = **o**



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Open space deficiency calculations for Proposed Building

II. Open space required as per regulation 29 of DCR 1991 i.e. H/3 for L/V or H/5 or minimum 6.0 mt. for D/W



- i) Open space deficiency per floor = $(a+b+c+d+e+f+g+h) = \text{"A"}$ sq.mtr.
- ii) Open space deficiency for entire building.
 - For F.S.I. 1.0
(4 Floors in lieu of F.S.I. 1.0) = $(a+b+c) \times 4$ floors = "B" sq. mtr.
 - For F.S.I. 2.7
(10 upper floors Plot potential + permissible TDR + Fungible F.S.I.) = $\text{"A"} \times 10$ floors - $\text{"B"} = \text{"C"}$ sq. mtr.

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- iii) Open space deficiency for F.S.I. 1.0
- iv) For F.S.I. 2.7

$$= "B" - (Z + O) = "D"$$

$$= "C" - "D" = "E" \text{ sq. mtr.}$$

III. As per policy circular u/no. CHE / DP / 13462 dtd 08.08.2014. percentage of deficiency to be calculated for charging (100 % premium for deficient area due to Road Setback / Reservation TDR) & (10% premium for deficient area due to Slum TDR / 0.5 Govt)FSI

- Assuming 50% of total built up area in lieu of set back / reservation TDR (i.e. R of the sketch referred in sketch -3).
- Assuming 50% of total built up area in lieu of slum TDR / 0.5 Govt FSI (i.e. S/G of the sketch referred in sketch -3).
- As per Govt. notification dtd 06-01-2012, 0.7 Built up area in lieu of Fungible FSI (i.e. F of the sketch referred in sketch -3).

v) Percentage of deficiency to be calculated for charging **100 % premium for deficient area due to Road Setback / Reservation TDR.**

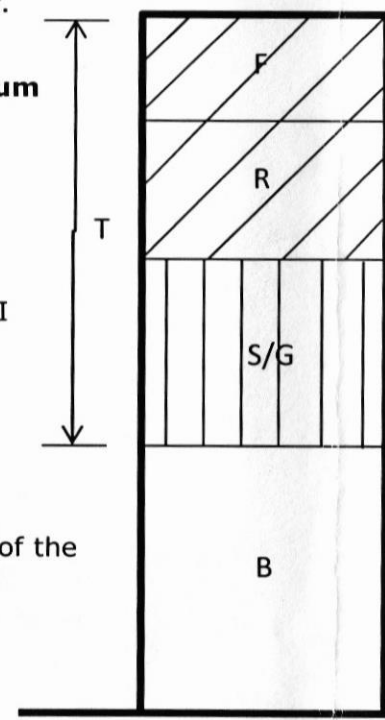
$$= "E" \times 1.2 / 1.7 \text{ (R/T of the sketch 3) } \times 100$$

$$= 70.59 \% \text{ of "E"}$$

vi) Percentage of deficiency to be calculated for charging **10% premium for deficient area due to Slum TDR / 0.5 Govt FSI.**

$$= "E" \times 0.5 / 1.7 \text{ (F/T of sketch 3) } \times 100$$

$$= 29.41 \% \text{ of "E"}$$



F = Built up area in lieu of Fungible FSI

R = Built up area in lieu of Road setback / reservation TDR

S/G = Built up area in lieu of Slum TDR /0.5 Govt. FSI

B = Built up area in lieu of Basic Potential

T = Total Built up area in lieu of = F + R + S/G

IV. As per policy under circular number ChE/105/DPBPWS dtd 29/4/2011 Telescopic Rate for charging additional premium.

	Deficiency between 30%	Deficiency between 30%-50%	Deficiency between 50%-70%	Deficiency between 70%-90%	Deficiency between 90%
Additional Premium Proposed	Normal Rates (25% of RR Rate for residential, 50% of RR Rate for commercial)	10% above Normal Rates	20% above Normal Rates	30% above Normal Rates	50% above Normal Rates

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- vii) Premium to be charged @telescopic rate as per circular u/no **ChE/105/DPBPWS** dtd **29/4/2011**(assuming "a to h" of Sketch -1) > 50% and less than 70%)
For F.S.I. 1.0

$$= 1.2 \times \text{"D"} \times \text{R.R./4 (For Residential Building)}$$

$$= 1.2 \times \text{"D"} \times \text{R.R./2 (For Commercial Building)}$$

- viii) Premium charged @telescopic rate as per circular u/no **ChE/105/DPBPWS** dtd **29/4/2011**(assuming "a to h" of Sketch -1) > 50% and less than 70%)
For F.S.I. 2.7

$$= 1.2 \times \text{"E"} \times 70.59 \% \times \text{R.R./4 (For Residential Building)}$$

$$= 1.2 \times \text{"E"} \times 70.59 \% \times \text{R.R./2 (For Commercial Building) = P}$$

$$= 1.2 \times \text{"E"} \times 29.41 \% \times \text{RR /4x 10% (For Residential Building) = Q}$$

$$= 1.2 \times \text{"E"} \times 29.41 \% \times \text{RR /2x 10% (For Commercial Building)=Total Premium (P+Q)}$$