

Municipal corporation of greater Mumbai
(Chief Engineer (Development Plan) Department)

CHE/DP/26170/Gen dt 3.01.2017

Sub:- The clarification in respect of Notification NO. TPS-1813/3067/CR- 22/MCORP/12/UD- 13 dt. 16.11.2016 in respect of TDR other than Heritage & Slum TDR.

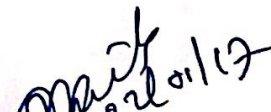
The Urban Development Department, GOM has issued notification u/no. TPS-1813/3067/CR-22/MCORP/12/UD-13 dt..16.11.2016,in respect of provision 34 of DCR 1991 (i.e generation and utilization of TDR for reservations and roads).

The various queries are being raised in respect of the said notification by the stake holders. In this respect meeting was arranged with the PEATA representatives on 15.12.2016.Based on the discussions with the PEATA architects the interpretation in respect of utilization and generation of reservation / road TDR is prepared as Annexure-I &II, which is enclosed at C – 47 to C – 53. The clarification required on certain points in the said notification is required from the Urban Development Dept. is prepared and enclosed as Annexure-III at C-57 to 59.

In view of above the guidelines for TDR generation /utilization & draft letter to the principal secretary, UD – I is submitted herewith for approval & signature please(C-47to C-61).

Submitted please.


Dy. Ch. E. (DP) I


Ch. E. (DP)

Hon'ble M.C.

Sir.

Municipal corporation of greater Mumbai
Chief Engineer(Development Plan) Department

Sub:- The clarification in respect of Notification NO. TPS-1813/3067/cr-122/MCORP/12/UD- 13 dt.16.11.2016 in respect of **generation** of TDR other than Heritage & Slum TDR.

Sr.No.	Provision No.	Brief Particulars	Clarification.
1			The effective date of notification shall be considered as 17.11.2016 i.e. date of publication of notification in Govt. Gazette.
2	2.0 (v) &(vi)	Cases eligible for TDR generation	The heritage TDR is generated as per provision 67 to be read with Appendix-VII-C of DCR-1991.Slum TDR is generated as per provision 33(10) 3(14) to be read with Appendix-VII-B of DCR 1991.Hence the provision u/r shall not be part of provision 34 of DCR 1991.
3	3.0	Cases not eligible for TDR generation.- Where lawful possession including by mutual agreement/or contract has been taken.	TDR generation is not applicable as per provision 3.0(vi) of the Notification Dt.16.11.2016. As per the present practice, the title of the land is verified by Law Officer, MCGM and the possession of land under reservation is taken over with Declaration cum Indemnity bond. Therefore, the criteria for lawful possession is required to be specified considering the ongoing proposals for DRC in process at various stages. i) Advance possession is taken over by MCGM with possession receipt signed by both by MCGM & applicant on or before 17.11.2016. ii)The Letter of Intent(LOI) is issued and not process further by applicant on or before 17.11.2016. iii)Applicant has complied with the LOI conditions, possession is takeover(in lieu of TDR/FSI) but DRC is not issued on or before 17.11.2016.

			<p>iv) Applicant has complied with the LOI conditions, possession is not taken over (in lieu of TDR/FSI).on or before 17.11.2016.</p> <p>The complete procedure for granting DRC is completed, land is transferred in the name of MCGM on PRC, but the DRC is not issued.</p> <p>v) The layout is approved and FSI advantage of reservation is used partly or fully in the layout/Building, and the land is yet to be transferred in the name of MCGM.</p>
4			<p>There is no necessity for mentioning ASR rate on Slum DRC/Heritage DRC.</p> <p>Provisions of notification dt.16/11/16 for Generation Slum DRC and Utilization of Slum TDR shall not be applicable as the same are issued and utilized as per regulation no. 67 Appendix-VII B.</p>
5	6.0/6.3.	DRC to be issued within 180 days.	<p>The application for DRC shall be submitted with latest certified documents i.e. Title of property and latest PRC in the name of owner and original Joint Measurement plan with area so as to processes the application immediately along with the legal title so that the LOI for DRC can be issued without any delay.</p>
6			<p>The notification dt.16.11.2016 is not applicable for Appendix-VII-B & VII-C of DCR-1991 as the same are not governed under regulation 34 of DCR-1991.</p>
7			<p>UDD,GOM vide notification CMS/4306/CR-192/08/UD-11 dt.09.03.2010.has added the provision in 34 of DCR-1991 in respect of proposed Nalla / Nalla Widening /Training to be considered as reservation.</p> <p>The notification dt.16.11.2016 has revised the said provisions of 34 of DCR-1991and does not include the above said provision about Nalla. Accordingly, the TDR for proposed Nalla /Nalla Widening</p>

			<p>/Training is not permitted.</p> <p>The clarification about the same in view of earlier Notification dt.09.03.2010 is therefore felt necessary. Also whether the Nalla / Nalla Widening /Training to be considered as reservation as per said notification dt.9.3.2010 and TDR for the same can be granted..</p>
8			<p>The following parameters shall be added in DRC</p> <p>i) Possession area(sqmt.)</p> <p>a) Land:-</p> <p>b) Construction amenity :-</p> <p>ii) Multiplying factor :-</p> <p>iii) Incentive factor :-</p> <p>Total Credit (Sqmt.) :-</p>

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Municipal corporation of greater Mumbai
(Chief Engineer(Development Plan) Department)

Sub:- The clarification in respect of Notification NO. TPS-1813/3067/CR- 22/MCORP/12/UD- 13 dt..16.11.2016 in respect of **UTILISATION** of TDR other than Heritage & Slum TDR

Sr.No.	Provision No.	Brief Particulars	Clarification
1	2.0 (v) &(vi)	Cases eligible for TDR generation	The heritage TDR is generated as per provision 67 to be read with Appendix-VII-C of DCR-1991. The notification dt.16.11.2016 is not applicable for Appendix-VII-B & VII-C of DCR-1991 as the same are not governed under regulation 34 of DCR-1991.
2	4.2	Construction amenity TDR formula.	The Formula shall contain Built area factor in formula.
3	5.4.1 5.4.1.iii	Total permissible BUA is Basic FSI+ Applicable TDR+ Premium FSI+ Road widening FSI.	There is no restriction on Total Permissible BUILT UP AREA. It is mentioned in the notification that "Notwithstanding anything contained in any regulation, the total maximum permissible built up area and utilization of TDR on receiving plot shall be subject to road width" The said provision itself states that the other provisions as regards to TDR utilization as per DCR 34 & Maximum Permissible built-up area in the DCR-1991 are not withstanding. Hence the total permissible built up area can be considered as per this provision. As such the Further, the clauses of earlier regulation-34,Appendix VII-A, wherever referred in other regulations of this DCR shall be read with corresponding clause of this modified regulations 34 for the sake of interpretation and its applicability in other provisions of any other regulation in said regulation. The slum TDR ,Heritage TDR is used as per 33(10) to be read with appendix-VII-B ,& Provision 67,appendix VII-C od DCR-1991.which is in context with 32 of DCRr-1991. Therefore the total maximum permissible FSI as per clause 5.4.1(iii) of notification dt. 16.11.16 shall be restricted to 2.00 in suburb as per regulation 32 of DCR-1991.Clarification from

			UDD is needed for the same.
4	5.4.1(v)		Minimum 20 % slum TDR utilization is mandatory as per 5.4.1(v) The slum TDR shall be utilized initially or simultaneously and shall be 20% of the total TDR to be utilized.
5	5.4.1.(vi)	Plot situated on internal road having dead end within 50.00 mts.	It is possible that the plot with internal roads shall have access from the public road from 2 sides within less than 100.00 mt. length. The clarification is necessary whether the dead end shall be measured as 50 mt.distance from the public road in such cases.
6	5.4.1		Minimum 20 % slum TDR utilization is mandatory as per 5.4.1(v) The slum TDR shall be utilized at initial and simultaneous stage only and shall be 20% of the total TDR to be utilized.
7	5.3		The TDR generated from any land use zone may be utilized on any receiving plot irrespective of land zone and anywhere in Island City and suburban. As per 5.3 of the notification.
8	5.4.4.	TDR is allowed on gross plot area excluding reservation or deemed to be reservation	The road area shall be considered as reservation. Therefore TDR will be allowed on gross plot area excluding reservation or deemed to be reservation and area under DP Roads. Net plot area should be after deducting area under Roads & Reservations.
9	5.4.5(d)		TDR utilization of roads and reservations is not permitted on roads specified in sub-regulations(2) of regulation 52. The provisions of appendix-VII-B & VII-C shall be read independently as the same are not included in the modification.
10	5.4.5(e)	Utilization of TDR in Coastal Zone areas	The TDR utilization is permissible as per MOEF notification dt.6.1.2011 for, redevelopment of dilapidated, unsafe structures . The clarification in respect of the same for TDR utilization for such structures in CRZ is necessary.(to check clause 5.4.5 (e)
11	8.0(a)		The Reservation/Road TDR can be utilized in city out of the old DRC, with the indexation subject to compliance of all conditions stipulated in notification dt.16/11/16.
12			In proposals on or after <u>17.11.2016</u> , the TDR generated from any land use zone may be utilized on any receiving plot irrespective of land

			zone and anywhere in Island City And suburban. As per 5.3 of the notification except TDR generated as per Appendix-VII-B and Appendix-VII-C
13			Slum TDR can be allowed in non receiving zone /corridor as per appendix VII-B. Slum TDR in city is not permissible as per VII-C of DCR-1991& 3.0(v) of notification dt.16.11.2016
14			In corridors & on plots abutting roads having width 6.00mts. to less than 9.00mts (subject to hardship and sanction of competent authority),only Slum TDR is permissible as per the provision of Appendix VII-B of DCR 33 (10) & 33 (14),appendix-IV.
15			The Slum TDR utilization is governed under 33(10) & 33(14) of DCR-1991 and not under 34 of DCR-1991. As such the applicability of utilization shall governed as per the said provision of 33(10) & 33(14) read with,Appendix-IV, Appendix VII-B of DCR 1991. Therefore Total permissible FSI as per clause 5.4.1(iii) of notification dt. 16.11.16 shall be restricted as per 32 of DCR-1991.

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Municipal corporation of greater Mumbai
(Chief Engineer (Development Plan) Department)

To,
The Principal Secretary
4th Floor, Mantralaya
Mumbai 400 020

Sub:- The clarification in respect of Notification NO. TPS-
1813/3067/CR- 22/MCORP/12/UD- 13 dt. 16.11.2016 in respect
of TDR other than Heritage & Slum TDR.

Sir,

The Urban Development Department, GOM has issued notification u/no. TPS-1813/3067/CR- 22/MCORP/12/UD- 13 dt..16.11.2016, in respect of provision 34 of DCR 1991 (i.e generation and utilization of TDR for reservations and roads).

. The various queries are raised in respect of the said notification by the stake holders. Therefore, the meeting was arranged with the PEATA representatives on 15.12.2016 & based on the discussions with the PEATA Architects; the interpretation in respect of utilization and generation of reservation / road TDR is prepared which is attached herewith as Annexure-I & II. The certain points of the said notification on which the clarification is required, are also listed.and attached separately.

In view of above, Principle Secretary, Urban Department is requested to arrange for the clarification on points of the said notification dt.16.11.2016,enclosed herewith as Annexure-III, in context with the annexure I & II above, at earliest please.

Encl:- Annexure -I,II&III

Yours faithfully


Dy. CH.E. (D.P.)

CH.E. (D.P.)

(Ajoy Mehta)
(Municipal Commissioner)

Municipal corporation of greater Mumbai
(Chief Engineer(Development Plan) Department)

Sub:- The clarification required from Govt. in respect of Notification NO.TPS-1813/3067/CR-22/MCORP/12/UD13dt.16.11.2016 in respect of utilization of TDR other than heritage & Slum TDR.

Sr.No.	Provisi on No.	Brief Description	Clarification required.
1	2.0		<p>UDD,GOM vide notification CMS/4306/CR-192/08/UD-11 dt.09.03.2010.has added the provision in 34 of DCR-1991 in respect of proposed Nalla / Nalla Widening /Training to be considered as reservation.</p> <p>The notification dt.16.11.2016 has revised the said provisions of 34 of DCR-1991and does not include the above said provision about Nalla. Accordingly, the TDR for proposed Nalla /Nalla Widening /Training is not permitted.</p> <p>The clarification about the same in view if earlier Notification dt.09.03.2010 is therefore felt necessary. Also whether the nalla / Nalla Widening /Training to be considered as reservation as per said notification dt.9.3.2010 and TDR for the same can be granted.</p>
2		TPS-1813/3067/cr-122/MCORP/12/UD-13	TPS-1813/3067/cr-122/MCORP/12UD-11. The no. on notification varies with no. mentioned on schedule attached.
3	3.0(vi)	No TDR for the reservation land handed over lawfully. Cases not eligible for TDR generation.	<p>TDR generation is not applicable as per provision 3.0(vi) of the Notification Dt.16.11.2016.</p> <p>As per the present practice, the title of the land is verified by Law Officer, MCGM and the possession of land under reservation is taken over with Declaration cum Indemnity bond.</p> <p>Therefore, the criteria for lawful possession is required to be specified considering the ongoing proposals for DRC in process at various stages.</p> <p>i) Advance possession is taken over by MCGM with</p>

			<p>possession receipt signed by both by MCGM & applicant on or before 17.11.2016.</p> <p>ii)The Letter of Intent(LOI) is issued and not process further by applicant on or before 17.11.2016.</p> <p>iii)Applicant has complied with the LOI conditions, possession is takeover(in lieu of TDR/FSI) but DRC is not issued on or before 17.11.2016.</p> <p>iv) Applicant has complied with the LOI conditions, possession is not taken over (in lieu of TDR/FSI).on or before 17.11.2016.</p> <p>The complete procedure for granting DRC is completed, land is transferred in the name of MCGM on PRC, but the DRC is not issued.</p> <p>v) The layout is approved and FSI advantage of reservation is used partly or fully in the layout/Building, and the land is yet to be transferred in the name of MCGM.</p>
4	4.2	Built Up TDR	<p>The cost of construction of road ,open space reservation and built up structures varies considerably and can not be equalize.The provision 33(1) specifies 25% addl FSI/TDR for construction of road which varies with the formula given in the said notification dt.16.11.2016.It also differs the provision about the road mentioned in Notification for AR dt.02.05.2016.The clarification is therefore necessary in this respect.</p>
5	5.4.1	Total FSI permissible	<p>The FSI is limited to 2.0 in suburbs as per 32 of DCR-1991.</p> <p>The provision 5.4.1(iii) of new notification dt.16.11.2016 specifies the total permissible FSI =FSI+TDR+Addl FSI on premium+road FSI .The clarification is required whether the FSI in Suburb will exceed total permissible FSI=2.00.</p> <p>Slum TDR is made compulsory in all the cases. The slum TDR isregulated as per provision 33(10)3.11 of DCR 1991,which restrict the total permissible FSI to 2.00 as per 32 of DCR-1991.</p>

6	5.4.1(iii)	FSI loading limit on such plot(maximum building potential) shall be the basic FSI+TDR+ addl.FSI with premium+ Road area, if any.	The provision is contradicting provision 32 of DCR-1991(Maxm. permissible FSI=2.00 in suburbs).Clarification is required for the same.
7	5.4.1.(vi)		In case of incentive/additional FSI such as 33(24),33(19),33(2),.....,whether the benefit of road area affecting plot to be considered as per new notification dt.16.11.2016 over and above the total permissible limit mentioned in the respective provision.
8	5.4.5	Utilization of TDR in Coastal Zone areas	The TDR utilization is permissible as per MOEF notification dt.6.1.2011 for, redevelopment of dilapidated, unsafe structures .The clarification in respect of the same for TDR utilization for such structures in CRZ is necessary.
9			When the proposal is processed as per regulation 33(1) of DCR-1991 and compensation in the form of FSI (partly or fully) is approved, in such cases notification issued on 16.11.16 shall not be applicable. The clarification for the same is also felt necessary
10			In case where the reservation(open/built up) FSI is proposed to be utilized, then the stage of handing over of the reservation is required to be mentioned specifically. The developer desires to handover the reservations to MCGM as late as possible. As such, the stage of handing over of reservations within the layout ,to MCGM is required to be specified
11		Separate notification issued for encumbered reservation in case of urgency.	The UDD, GOM has issued notification in respect granting 25% TDR for encumbered reservations, in case of the land is required urgently by planning Authority. The clarification is required whether the said notification still holds good.

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(Vijaypatil/desktop/tdr points)