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**MUNICIPAL CORPORATION OF GREATER MUMBAI**

CHE/DP/14425/GEN /<sup>TDR</sup> Dt. 23/08/17

**Sub:** Guidelines for Utilisation of TDR with respect to clarification issued by UDD.U/No.TPB-4317/255/C.R.59/2017/UD-11 dt. 07.07.2017.

**Ref:** 1) This office report u/no CHE/DP/5510/GEN/TDR dt. 07.08.2017.  
2) Representation of PEATA dt. 10.08.2017.

Reference is requested to this office report and guidelines to be issued in respect of clarification issued by UDD dt 07.08.2017.

In the mean time representation was received from PEATA members in respect of proposals of utilisation of TDR and clarification issued by UDD under No.TPB-4317/255/C.R.59/2017/UD-11 dtd. 07.07.2017 on notification issued under No.TPS/1813/3067/CR-122/MCORP/12 UD-13 dtd.16.11.2016. As directed by Hon. MC a meeting was held on 11.08.2017 under chairmanship of Ch E (DP), PEATA members, BP and DP staff to resolve various issues raised by PEATA members. *Issues raised by PEATA members are listed below.*

**1) Insisting status of Municipal road from AE (Maint):**

- a) Not to insist status of road regarding Public Street/ Municipal road wherever, the names, numbers and sub-numbers are given to any road as per provision 327(1) of MMC Act.
- b) Not to insist status of road where R.L. is prescribed to public road as per provision 297(1)(a) of MMC Act.

**2) Public Street: Existing road maintained by Corporation except road maintained under 63(k) shall be treated as Public street.**

**3) Width of road to be considered abutting the plot only:**

As per clarification dt. 07.07.17 and policy circular dt.15.07.17, road width to be considered for utilisation of TDR shall be abutting to plot only. Hence, road width of minimum 9 mt or above is not required and utilisation of TDR should be considered as per the width of the road fronting to plot. As such the road width for minimum length of front road till the junction of 9.00 mt. and above is not required.

**4) Existing Internal Layout Road/ Right of way:**

Layouts are approved as per provisions of section 302(1)(b) read with 303(1) of MMC Act. As such TDR shall be permitted to the sub-divided plots of approved sub-division abutting of the existing road of 9 mt and more.

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**This office remarks:**

While scrutinising the proposal it is necessary to verify the existing width of road fronting to plot & status of the access road to the respective plot up to nearest junction. The brief of notification/ clarification issued earlier in respect of the TDR utilisation is as under:

**A) Modification to Regulation 34 of DCR 1991:**

The State Govt. vide notification dtd. 16.11.2016 has modified the Reg. no. 34 of the DCR 1991 and its appendix VII A by substituting it by modified Reg. No. 34.

As per the section 5.4.1 of the modified Reg. No. 34, utilization of TDR is governed on the basis of the road width on which the plot is fronting. Accordingly loading of the TDR is permissible on the plots fronting to an existing road width of 9Mts. and above so marked under the relevant Municipal Corporation Act.

As per section 5.4.1 (i), M.C.G.M. shall convert all the roads of width less than 9.00 Mt. to 9.00 Mt. and above as per site conditions through M.R.&T.P.Act or MMC Act provisions.

As per section 5.4.1 (ii), para (II), utilisation of T.D.R. would be available to the plots having existing road width of 9Mt. and above so marked under the relevant Municipal Corporation Act.

As per section 5.4.1 (vi), utilisation of T.D.R. is also permissible if a plot is situated on internal road having dead end within 50 Mts. from the Main Road considering the plot is treated as a fronting on Main Road.

**B) Guidelines** were issued u/no.CHE/DP/Gen/3720dt.18.03.17for implementation of notification dt.16.11.16. Para 6,10,11and 12 of the guidelines elaborates the provision of utilisation of TDR.

A letter to the P.S-I.UDD u/no MCP/7771 dt. 16.03.17 was also issued requesting confirmation and clarification on certain issues on notification dt.16.11.16. The UDD has issued the clarification dt 07.07.2017.

**C) The minutes** of the meeting regarding the implementation of TDR notification dt. 16.11.2016 was circulated u/no. CHE/DP/GEN/5079/TDR dtd. 17.05.2017 with respect to fronting / access to plot.

**D) Circular** is issued u/no. CHE/6120/DP/Gen dtd. 03.06.2017as regards prescribing of R.L. to roads which are not Municipal/Public Road.

E) The State Govt. has issued clarification u/no. TPS u/no. TPB-4317/255/C.R.59/2017/UD-11 dtd. 07.07.2017 to the notification dtd. 16.11.2016. C/A

As per the Sr. No. A(4) (ii) of the said clarification "उपनगरातील ६मी .ते ९मी .रुंद रस्त्यासन्मुख भूखंडावरील इमारतींचे विकास/पुनर्विकास योजनांमध्ये महापालिका आयुक्तांकडून FSI व TDR च्या ज्या क्षमतेने सवलती मंजूर करुन घेतल्या असतील व प्रकल्पाचे नकाशे मंजूर करुन IOD/CC शासन अधिसूचना दिनांक १६.११.२०१६ पूर्वी दिली असेल अशा प्रकरणांमध्ये या मंजूरीच्या मर्यादेत किमान रस्त्याची सुधारित टीडीआर नियमावलीतील तरतूद / अट लागू न करता टीडीआर अनुज्ञेय राहिल".

The above issues are discussed in the meeting with PEATA members on 11.08.2017 which are briefly elaborated as under:

**1-a )** Private roads are named as per provision 327 (1)(a) :The Commissioner may, from time to time with the sanction of the corporation, determine the name by which street shall be known & hence cannot be termed as Municipal / Public road unless they are declared as public road / Road line by following the due process of law as per regulations 291,297 & 306 of MMC Act, as applicable.

**1-b)** R.L. is prescribed under section 297(1) of MMC Act to Municipal/Public road, hence, it is necessary to ascertain minimum road width available at site, up to the nearest junction, from Asstt. Engr. (Maint) of the concerned ward & the status from the concerned Asstt. Engr.(Survey) about R.L., as required as per notification dt.16.11.16 and clarification dt.07.07.17.

**2)** The definition of Public Street & private streets as per 3(x),3(y) of MMC Act is reproduced below,

**2-a)** "Public streets means any streets here to fore levelled, paved, metalled, channelled, sewerred or repaired by the corporation and any street which become a public street under any of the provision of this act.( or which vests in the corporation as a public street)"

**2-b)** "Private Street means a street which is not a public street"

**2-c)** Provision about 63(k) MMC Act is reproduced below,

The Corporation may in their discretion, provide from time to time, either wholly or partly, for all or any of the following matters,

(k) any measure not herein before specifically named, likely to promote public safety, health, convenience or instruction.

**2-d)** Power to declare private streets when sewerred, etc. Public streets as per 306. (1) of MMC Act.



When any private street has been levelled, metalled or paved, sewered, Channelled and made good to the satisfaction of the Commissioner, he may and, upon the request of the owner or of any of the owners of such street, shall, if lamps, lamp-posts and other apparatus necessary for lighting such street have been provided to his satisfaction [and if all land-revenue payable to [the [state] Government] in respect of the land comprised in such street has been paid] by notice in writing put up in any part of such street, declare the same to be a public street, declare thereupon the same become a public street:

(2) provided that no such street shall become a public street if, within one month after such notice has been put up, the owner of such street or of the greater part thereof shall by notice in writing to the Commissioner, object thereto.

Road/access maintained under 63(K) of MMC Act cannot be treated as Municipal/Public road as ownership vests with owner and access provided under this provision is mere convenience to the public and cannot be termed as public or Mun. Road. Hence they shall have to be declared as a R.L. / Public road by following the due process of law as per regulation 291/306 of MMC Act respectively, as applicable to avail benefit of notification dt 16.11.16.

Hence it is necessary to ascertain the status as Public/Mun. road & existing width of the road from Asstt.Engr. (Maint) of concerned ward.

**3) As regards issue of quantum TDR:**

In this respect guidelines were already issued u/no. CHE/DP/Gen/3720 dt.18.03.17 for implementation of notification dt.16.11.16. Para 6,10,11 and 12 of the guidelines elaborates the provision of utilisation of TDR.

Further a letter to the P.S-I.UDD u/no MCP/7771 dt. 16.03.17 was also issued about the stand taken as per the guidelines issued on 18.03.17 and clarification on certain issues on notification dt.16.11.16. Accordingly the UDD has issued the clarification dt 07.07.2017.

**4) As regards Existing Internal Layout Road/ Right of way.**

The provision 302 (1)(d) of MMC Act is reproduced below:

To make or lay out a private street, whether it is intended to allow the public a right of passage or access over such street or not, shall give written notice of his intention to the Commissioner, and shall, along with such notice, submit plans and sections, showing the situation and boundaries of such building land and the site of the private street (if

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any) and also the situation and boundaries of all "other land, of such person of which such building land or site forms a part, and the intended development, laying out and plotting of such building land, and also the intended level, direction, and width and means of drainage of such private street and the height and means of drainage and ventilation of the building or buildings proposed to be erected on the land and, if any building when erected will not abut on a street then already existing or then intended to be made as aforesaid, the means of access from and to such building.

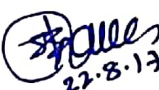
Thus roads planned as per regulation 302 of MMC Act within the layout are private layout roads. They shall have to be declared as a public road by following the due process of law as per regulation 291/306 of MMC Act, as applicable, in compliance with the provision 5.4.1.(ii) of the said notification dt 16.11.16 .


In view of above, Hon'ble M.C.'s approval is requested to the following:

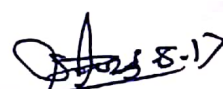
- A) To the guidelines enclosed as Annexure-I for smooth implementation of clarification issued by UDD dt. 07.07.17. e/s3-54
- B) To recover the scrutiny fees while accepting the T.D.R. utilisation proposal in the office of the zonal Building Proposal under Single Window Clearance System as elaborated in earlier report dt.07.08.2017. N/5

On receipt of Hon.M.C.'s approval, the same will be circulated to all B.P./D.P staff as a policy decision.

Submitted please.

  
(S.S.Chavan)  
Dy.Ch.Eng.(DP) -II

  
(V.R.More)  
Dy.Ch.Eng.(DP)-I

  
(S.P.Darade)  
Chief Engr. (D.P.).

(Ajoy Mehta)  
**Hon'ble M.C.**  
Sir,

  
31/8/17

**Municipal Commissioner**  
बृहन्मुंबई महानगरपालिका  
आयुक्तांचे कार्यालय

Ch.E.(D.P.)

**MUNICIPAL CORPORATION OF GREATER MUMBAI**

(Chief Engineer (Development Plan ) Department)

CHE/DP/ /GEN Dt.

**Annexure-I  
Draft policy Guidelines**

**Sub:** Guidelines for uniform and smooth implementation of clarification issued by UDD.U/No.TPB-4317/255/C.R.59/2017/UD-11 dt. 07.07.17.

**Ref:-** 1) CHE/DP/GEN/37206 dt.18.03.2017.  
2) CHE/DP/Gen/5079 /tdr DT.17.05.2017.  
3) CHE/DP/006120/Gen dt.03.06.2017.

The state Govt. has issued clarification u/no. TPS u/no. TPB-4317/255/C.R.59/2017/UD-11 dtd. 07.07.2017 to the notification dtd. 16.11.2016. As per the Sr. No. A. (4) (ii) of the said clarification ""उपनगरातील ६मी .ते ९मी .रुंद रस्त्यासन्मुख भूखंडावरील इमारतींचे विकास/पुनर्विकास योजनांमध्ये महापालिका आयुक्तांकडून FSI व TDR च्या ज्या क्षमतेने सवलती मंजूर करुन घेतल्या असतील व प्रकल्पाचे नकाशे मंजूर करुन IOD/CC शासन अधिसूचना दिनांक १६.११.२०१६ पूर्वी दिली असेल अशा प्रकरणांमध्ये या मंजूरीच्या मर्यादेत किमान रस्त्याची सुधारित टीडीआर नियमावलीतील तरतूद / अट लागू न करता टीडीआर अनुज्ञेय राहिल".

In view of above and in continuation to the above referred Guidelines/Circulars issued earlier, following guidelines shall be followed for uniform and smooth implementation of clarification issued by UDD dt.07.07.17 sr.no.4:-


Development/ Redevelopment proposals on plot in which concessions/ Relaxations, are approved and IOD/CC are issued prior to notification dt.16.11.2016 , shall be processed further as per quantum of potential approved in concessions/ Relaxations report, subject to compliance following:-


- A)**
1. Plot shall be directly fronting from road having width minimum 6.00 mt.to 9.00 mt in suburban area.
  2. Such road shall be Municipal/Public road.
  3. Utilisation TDR shall not be permissible on plots having fronting/access from roads developed under Section 63K, Right of Way, 302of M.M.C. Act (Layout road/Internal roads), Internal roads except having dead end at 50 mt.

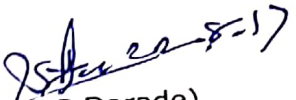


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**B)** To recover the scrutiny fees while accepting the T.D.R. utilisation proposal in the office of the zonal Building Proposal under Single Window Clearance System.

  
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Chief Engr. (D.P.).

  
(Ajoy Mehta)  
**Municipal Commissioner**