VIEWS ON CLUSTER DEVELOPMENT

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URBAN RENEWAL SCHEME/CLUSTER DEVELOPMENT [DCR 33/9]

The Cluster Redevelopment Approach has successfully transformed the cities of Hong Kong, Singapore and Shanghai. It is proposed to adopt a similar approach for Urban Renewal in Maharashtra State. For the redevelopment of old buildings, it is proposed to undertake cluster development as strategy for expediting and to bring about planned development. In order to promote cluster redevelopment, it is proposed to give higher FSI to large cluster redevelopment. The main objectives of the cluster approach will be as follows:-

a) To transform the fractured development in to cohesive urban unit as laid down in Development Plan.

b) To provide modern accommodation and social services which raise living standards and reduce disparities amongst different sections of population.

c) To provide an environment which permits the residents of such areas to live fuller and richer lives free of physical and social stress that are generally associated with haphazard urban development.

d) To facilitate development and proper maintenance of infrastructure facilities such as sewerage / storm water drainage /DP Roads which cannot be developed because of the present haphazard Development

e) To generate maximum number of surplus tenements for rehabilitation of the occupiers who are on Master List of MHADA. The fact that MHADA will play the nodal role in the cluster approach and shall be a signatory to all the agreements will provide greater acceptability and credibility amongst the tenants and landlords.

On June 30th 2008 the State Govt issued a notification Notice No.TPB 4307 / 2346 / CR-106 / 2008 / UD-11 to modify the existing Development Control Rules 33 (9) which deals with repairs and reconstruction of cessed buildings and urban renewal schemes. The proposed notification intends to use Cluster redevelopment in the island city for a scheme with a higher FSI of 4 or the FSI required for rehabilitation of existing tenants/occupiers plus incentive FSI
whichever is more. The Maharashtra Cabinet’s decision in 2009 which amended the development control (DC) rules for Mumbai giving a green signal for cluster development and also increased the floor space index (FSI) up to 4 for such properties.

What is cluster redevelopment and what are its advantages?
Cluster redevelopment is a form of land development where principal buildings and structures are clubbed together on a site for redevelopment and a major portion of the site is left open for recreation and infrastructural facilities. Some key advantages are better planning and provision for open spaces, traffic movement, etc; better infrastructure; and greater eco-sensitivity and energy efficiency.

It is applicable to any scheme in island city of the Mumbai having a minimum area of 4000 sq. mtrs. It is applicable only in island city.

**HIGH POWER COMMITTEE COMPOSITION:**
Chairman: Municipal Commissioner. Mumbai Municipal Corporation
Members: Commissioner MMRDA
CEO Mumbai Repair and Reconstruction Board
Chief Architect. PWD
Deputy Director, Town Planning. Mumbai
Member Secretary: Director [ESP] Mumbai Municipal Corporation

**POWERS OF HIGH POWER COMMITTEE:**
• Accord approvals to proposals of Redevelopment under Urban Renewal Schemes.
• Review and suggest Improvements/ changes in urban Renewal schemes on Basic amenities and services such as Roads, Sewerage disposal, water and Electricity supply, transport, open spaces, public amenities etc.
• Issuing directions to developer to complete the project in planned and time scheduled manner.
• Ensuring that the public Reservations as per the Development is developed.
• Approvals to change the various boundaries of plots in Urban Renewal Schemes.
• Supervising and controlling the infrastructural Revenues exclusively for the infrastructural purpose.
• Implementing government directives issued from time to time in making the Urban Renewal Schemes success.

ELIGIBILITY OF BUILDINGS:
What are the characteristics of structures that are eligible to be included in the Urban Renewal scheme?

[a] Cessed buildings of A, B & C categories in Island City which attracts the provisions of the MHADA act 1976.


[c] All buildings belonging to:
   - Government
   - Semi Government
   - MCGM
   - Institutional buildings
   - Office buildings
   - Tenanted municipal buildings
   - Buildings constructed by MHADA

The above buildings must have been constructed prior to 30-09-1969 and it must have built up area of 2000 Sq. Mtrs. However prior permission of the concerned department shall be obtained before granting development permission.

[d] The buildings erected before 30/9/1969 and which are unfit for human habitation due to disrepair or have structural/sanitary defects also qualify. It also includes those buildings which are dangerous or injurious to the health of the occupants but it should be certified by the officer designated by MHADA /MCGM.

[e] There may be some buildings having conditions mentioned in para [d] but are constructed after 30/9/1969 and are to be included in the scheme. In such case prior approval of the state will be required.

[f] Slum areas declared as slums under section 4 of Slum Act or slums on public lands prior to 1-1-1995 or such other reference date notified by the government, can also
be included in the scheme. But the percentage of slum area and the buildings constructed after 30-9-1969 should not exceed 25% \([1/4th]\) of the total plot area.

[g] Any land belonging to the government, semi government, MCGM and MHADA [either vacant or built upon] which have been given on lease or have the tenure of occupant Class II which falls within the proposed URS shall be made available for the project subject to payment of premium at the rate of 25% of the Ready reckoner.

[h] If some areas already developed / are in the process of development under different provisions of DCR, such areas can be included in cluster for purpose of calculation of area of cluster but if they have slums and buildings prior to 1969, they should not exceed 25%. Of total plot area, however it shall be necessary to obtain consent of owner/owners of such areas to some part of cluster.

* Unauthorized construction shall not be taken in account while computing FSI.
* Mezzanine floors constructed prior to 13/6/1996 and regularized subsequently will be eligible for rehab and incentive FSI.
* Redevelopment or Reconstruction under URS may be permitted by written consent by not less than 70 percent of eligible tenants/occupants or as provided under MHADA Act. If MHADA/MCGM undertakes scheme, then consents are not required.
* Minimum fixed carport area of 27.88 sq. mtr \([300 \text{ Sq. feet}]\) and maximum area equivalent total occupied in the old building. In case commercial, area will be equal to area occupied in old buildings.
* Enclosed balcony area is also included in calculation of carpet area.
* If carpet area for residential purpose exceeds 70 Sq, mtr the cost of construction shall be paid by the tenant/occupant to the developer. The cost of construction shall be fixed by government from time to time.
* In case of commercial user, maximum carpet area to be provided is equal to the area occupied in old building.
* Transfer of tenement of tenants is allowed as per the provisions of Cooperative Society act but in the slum occupant in new rehab building, cannot transfer it for 10 years.
* If the property is located in CRZ, the provisions of CRZ will prevail.
* Religious structure of the original size is permitted in the scheme.
* HPC will decide the corpus fund that can take care of maintenance for 10 years.

* Where Rehab area exceeds 2.50, MHADA/MCGM shall get 5% of built area for FSI 4.00 free of cost. This additional area shall be included in rehabilitation area and incentive to the extent of 50% shall be available for this area.

* If Urban Renewal scheme is falling in CRZ, the MOEF notifications will prevail.

For slum areas one of the conditions is names on election roll as of 1/1/1995

**Who all can undertake the schemes under new 33/9?**

[a] MHADA either departmentally or through any suitable agency.

[b] MCGM either departmentally or through any suitable agency.

[c] MHADA jointly with land owners
   - MHADA jointly with Coop Housing society of tenants/occupiers.
   - MHADA and developer
   - MHADA and coop Housing society of hutment dwellers.

[d] Independently by landowners

[e] Independently by coop housing societies of tenants

[f] Occupiers of the buildings or Developer

The government of Maharashtra has granted different percentages of incentive floor space index (FSI) for various ranges of amalgamated plots that will be used for cluster development. Cluster development allows redevelopment of old cessed buildings which have been constructed prior to 30 September 1969 and which have a built-up area of up to 2,000 sq mt. There’s an FSI of 4 for cluster development of amalgamated plots.

**FSI AVAILABLE**

- FSI 4 or required for rehabilitation + incentive, whichever is more.
- Plot size should be minimum of 4000 sq.mtr. Mtr [1 acre]
- FSI for non residential user is 30% of incentive FSI.
According to Section 37(2) of the Maharashtra Regional & Town Planning Act, 1966, the incentive FSI numbers will be granted for cluster development as per the size of amalgamated plots.

- 30% of the incentive FSI can be used for non residential purposes otherwise permissible in the DCR.

After the recent nods to redevelopment of Chira Bazaar and Bhendi Bazaar, cluster development is being touted as the ideal solution for Mumbai’s crumbling housing infrastructure. However, the first such project to have taken off in the city is still mired in red-tape and faces the threat of being shelved altogether, thanks to a partisan government policy and reluctance on part of the bureaucracy to clear files.

The 6,000 occupants of Parel’s Haji Kasam Chawls now fear that their dream of living in a decent dwelling may turn into a nightmare, as the structures they are living in are way past their due date and any further delay in redeveloping them could prove disastrous.

DCR 33(7) addresses the issue of redevelopment or reconstruction of old and dilapidated cessed buildings in the island city of Mumbai by the redevelopment of the individual building while taking the consent of the landlord and 70 per cent of tenants. This regulation provides incentive FSI over and above the rehabilitation FSI to developers to cross-subsidise the cost of rehabilitating tenants free in new and structurally safe houses. The existing DCR 33(9) applies to the redevelopment of the same categories of buildings but by MHADA and where the respective building is declared structurally unsafe. The modified DCR 33(9), addresses the reconstruction or redevelopment of cessed buildings and urban renewal schemes on an extensive area of a minimum 4,000 sq m. This redevelopment is proposed to be on a JV basis with MHADA or MCGM, where a part of the developer’s revenue is used for infrastructure funds and housing for lower income groups.

Will the simultaneous implementation under 33(7) for a singular building and 33(9) for a cluster approach conflict with each other?

Yes. For example, if there is a singular building part of a bigger cluster and if both the building and cluster are being developed separately by independent permissions under 33(7)
and 33(9) respectively, there will be severe conflict between both developments as far as planning of infrastructure, layout and urban habitat in the cluster is concerned. In singular buildings, there are many cases where the plots are small and narrow. Owing to this there are planning constraints, no proper approach road or no proper access to the plot. Under such a situation, it becomes critical that a cluster approach is adopted as it involves the amalgamation of plots for organised development.

Clearly, both schemes cannot coexist. The government should encourage and incentivise the 33(9) scheme, which will take care of infrastructure. The development permission under 33(7) should be given subject to the fact that within six months, the buildings under development must become part of a bigger cluster. If permission for the whole development is given under 33(9), the developer working under 33(7) should work in tandem with the provisions of 33(9) with regard to planning of infrastructure, layout and urban habitat for development of the parent cluster. Within this six months, the tenants also be free to decide whether they would like to go with the benefits under 33(7) or under 33(9) for parent cluster development.